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COURT-ORDERED RELEASES - NOVEMBER 1983

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## COURT-ORDERED RELEASES - NOVEMBER 1983

### EXECUTIVE SUMMARY

The overcrowding of defendants held by the New York City Department of Correction (DOC) has been the subject of a series of civil suits in recent years. On October 31, 1983, United States District Judge Morris E. Lasker ordered that DOC release on recognizance or 10% bail sufficient numbers of defendants to comply with the previously set 1200-inmate limit on the holding capacity of their facilities. In accordance with this order, in November 1983, DOC released 611 inmates. The release raised concerns about danger to the community and about disruption of the continued prosecution of the released defendants. In response to a request from the Office of the Criminal Justice Coordinator, the New York City Criminal Justice Agency (CJA) undertook a research endeavor to assess the validity of these concerns. The attached report, "Court-Ordered Releases - November 1983," describes the 611 inmates released by DOC with respect to their characteristics at the time of discharge and focuses on the consequences of the inmate discharge, both in terms of failure to appear for scheduled court hearings and in terms of rearrest on new charges.

Defendants who were held on bail of \$1500 or less, who had no holds or warrants, were eligible for release on 10% bail. Release on recognizance was granted primarily to defendants with misdemeanor or lesser charges. No community ties screening

criteria were established nor were defendants asked to provide an address where they might receive court-date notification.

## FINDINGS

### **A. The Releases**

More than three-quarters of the 611 inmates discharged were released on 10% bail and the remaining 23% were released on their own recognizance.

More than half of the court-ordered releases were charged with felony-level offenses. Only four ROR defendants but almost three-quarters of bail defendants were charged with felonies.

One-third of the discharged defendants faced prosecution in Manhattan and a quarter were charged in Brooklyn. Queens, Bronx and Staten Island accounted for 19%, 16% and 1%, respectively.

Eight of every ten court-ordered releases had at least one prior conviction. Four of every ten releases had been convicted of at least one felony.

### **B. Failure to Appear**

Forty percent of the released defendants failed to appear for at least one pretrial hearing while only nine percent

missed the first post-release appearance.<sup>1</sup> ROR defendants were consistently more likely to fail to appear than were bail defendants.

Higher failure-to-appear rates were found among defendants charged with misdemeanor than with felony charges and among those who had been held on lesser bail amounts. Higher failure rates were also found among defendants who had a history of prior warrants. Defendants who were "recommended" or "qualified" for release on recognizance by CJA showed lower warrant rates than other defendants.

The warrant rate at the first adjournment was low in every borough except Manhattan, where 18% failed to appear. The overall warrant rate was higher for defendants who had cases pending in more than one borough, followed by those in Manhattan and Brooklyn, than for defendants charged in other boroughs.

### C. Rearrest

One-third of the court-ordered releases were rearrested pretrial. ROR defendants were more likely than bail defendants

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<sup>1</sup>The first scheduled appearance is stressed in this report since defendants' attendance at this hearing affords the court the opportunity to review the release-status decision. Thus, the failure-to-appear rates at the first post-release hearing may be considered the purest measure of the consequences of Judge Lasker's court order on court processing.

to be rearrested. Higher rearrest rates were found among defendants with misdemeanor rather than felony-level charges, those with more extensive criminal histories, and those with prior warrants.

Discharged defendants who faced prosecution in more than one borough showed a particularly high rearrest rate. Manhattan and Brooklyn releases were more likely to be rearrested than those charged in the Bronx, Queens or Staten Island.

Defendants who were "recommended" or "qualified" by CJA for ROR at arraignment showed lower rearrest rates.

#### **D. Comparison Groups**

Failure-to-appear and rearrest rates shown by the court-ordered releases were compared with those shown by two other groups of defendants in already existing research datasets who secured release without special intervention. The findings reveal higher warrant and rearrest rates among the court-ordered ROR defendants and the court-ordered bail releases charged with felonies. The court-ordered bail releases charged with misdemeanors did no worse than their counterparts in the comparison groups.

### **E. Reducing Warrant and Rearrest Rates**

The final section of the report focuses on identifying factors that might be used as screening criteria in the event that a court-ordered release effort was again implemented. The data presented demonstrate substantial potential reductions in warrant and rearrest behavior through application of various community ties and criminal history screening criteria.

## TABLE OF CONTENTS

|   | <u>PAGE</u> |
|---|-------------|
| EXECUTIVE SUMMARY.....  | i           |
| COURT-ORDERED RELEASES - NOVEMBER 1983.....   | 1           |
| I. <u>DESCRIPTION OF RELEASE POPULATION</u> .....                                     | 5           |
| A. Type of Release and Borough of<br>Prosecution.....                                 | 5           |
| B. Charges at Release.....  | 5           |
| C. Bail Amounts.....  | 6           |
| D. Length of Detention.....   | 6           |
| E. Prior Conviction History.....  | 6           |
| F. Prior Warrants.....  | 7           |
| G. CJA Recommendation.....  | 8           |
| II. <u>FAILURE TO APPEAR</u> .....  | 15          |
| A. Introduction.....  | 15          |
| B. Type of Release.....   | 16          |
| C. Borough.....   | 16          |
| D. Charges.....   | 17          |
| E. Bail.....  | 17          |
| F. Conviction History.....  | 18          |
| G. Prior Warrants.....  | 18          |
| H. CJA Recommendation.....  | 18          |
| I. Length of Case.....  | 19          |
| J. Adjournment Number.....  | 19          |
| III. <u>REARREST</u> .....  | 25          |
| A. Introduction.....  | 25          |
| B. Type of Release.....   | 26          |
| C. Borough.....   | 26          |
| D. Charges at Release.....  | 26          |
| E. Bail.....  | 26          |
| F. Conviction History.....  | 27          |
| G. Prior Warrants.....  | 27          |
| H. CJA Recommendation.....  | 27          |
| I. Length of Case.....  | 28          |
| J. The Rearrest.....  | 28          |
| IV. <u>COMPARISONS WITH OTHER DEFENDANT POPULATIONS</u> .....                         | 34          |
| A. The October 1980 Release Group<br>Comparison.....                                  | 35          |
| 1. Warrant Rate.....  | 35          |
| 2. Rearrest Rate.....   | 35          |
| B. The 1984 Manhattan Sample Comparison.....  | 36          |
| V. <u>REDUCING WARRANT AND REARREST RATES:<br/>POTENTIAL SCREENING CRITERIA</u> ..... | 40          |

LIST OF TABLES

COURT-ORDERED RELEASES - NOVEMBER 1983

|   | Page  |
|---|-------|
| EXHIBIT I.A. Borough of Prosecution by Type of Release.....   | 9     |
| EXHIBIT I.B. Severity of Most Severe Charge at Release<br>by Type of Release.....   | 10    |
| EXHIBIT I.C. Type of Most Severe Charge at Release by<br>Type of Release.....   | 11    |
| EXHIBIT I.D. Bail Amount on Which Defendants Were Held.....   | 12    |
| EXHIBIT I.E. Defendant Conviction History by Type<br>of Release.....  | 13    |
| EXHIBIT I.F. CJA Release Recommendation by Type of Release.....   | 14    |
|   |       |
| EXHIBIT II.A. Warrant Rates by Borough of Prosecution<br>Separately by Type of Release.....   | 20    |
| EXHIBIT II.B. Warrant Rates by Severity of Most Severe<br>Charge at Release.....  | 21    |
| EXHIBIT II.C. Warrant Rates by Type of Most Severe<br>Charge at Release.....  | 22    |
| EXHIBIT II.D. Warrant Rates by CJA Release Recommendation.....  | 23    |
| EXHIBIT II.E. Warrant Rates by Number of Days From Release<br>to Disposition.....   | 24    |
|   |       |
| EXHIBIT III.A. Rearrest Rates by Severity of Most Severe<br>Charge at Release.....  | 29    |
| EXHIBIT III.B. Rearrest Rates by Type of Most Severe<br>Charge at Release.....  | 30    |
| EXHIBIT III.C. Rearrest Rates by Defendant<br>Conviction History.....   | 31    |
| EXHIBIT III.D. Rearrest Rates by Number of Days from<br>Release to Disposition.....   | 32    |
| EXHIBIT III.E. Distribution of Most Severe Arrest, Affidavit<br>and Amended Arraignment and Disposition Charges<br>for Rearrests..... | 33    |
|   |       |
| EXHIBIT IV.A. Comparison Data: Citywide Warrant Rates<br>by Charge Severity.....  | 37    |
| EXHIBIT IV.B. Comparison Data: Citywide Rearrest Rates<br>by Charge Severity.....   | 38    |
| EXHIBIT IV.C. Comparison Data: Manhattan Warrant Rates<br>by Charge Severity.....   | 39    |
|   |       |
| EXHIBIT V. Potential Screening Criteria.....  | 44-45 |

## COURT-ORDERED RELEASES - NOVEMBER 1983

In November 1983, the New York City Department of Correction (DOC) released a group of inmates on 10% bail or on their own recognizance to comply with population ceilings established by the United States District Court. The release of the inmates raised concerns about danger to the community, in terms of new crimes, and about disruption of the continued prosecution of the released defendants, in terms of failure to appear for scheduled court proceedings. In response to a request from the Office of the Criminal Justice Coordinator, the New York City Criminal Justice Agency (CJA) undertook a research endeavor to assess the validity of these concerns. The research was designed to provide an understanding of who the released inmates were and what happened as a consequence of the court-ordered release program. The report that follows describes the releases with respect to their characteristics at the time of the release (e.g. charges, bail amounts, length of detention) and examines the relationship between these characteristics and failure-to-appear and rearrest rates.

### The Court Order

The overcrowding of defendants held by DOC pending trial has been the subject of a series of civil suits in recent years. A United States District Court order, dated September 3, 1980, limited the population of the House of Detention for Men (HDM) on Rikers Island to no more than 1200 inmates. A second

order, dated June 23, 1981, limited the Anna M. Kross Center (AMKC) on Riker's Island to no more than 50 inmates per dormitory. After a series of hearings, additional orders and opinions, on October 31, 1983, U.S. District Judge Morris E. Lasker ordered that DOC release on recognizance or 10% bail sufficient numbers of defendants to comply with the previously set 1200-inmate limit on the holding capacity of their facilities. Judge Lasker ordered that defendants held on the lowest bails be released first, giving priority to those confined the longest time. The order excluded from release any inmate subject to a warrant, detainer or other hold from a court or administrative agency, and inmates held on bail of more than \$1500.

#### The Release Event

In compliance with Judge Lasker's order, DOC began releasing inmates on November 1, 1983, and continued to do so for 13 days through November 14, 1983. During the first ten days, defendants held on bail of up to \$1500<sup>1</sup> were provided the opportunity to secure release by posting 10% of their total bail amount. During the last three days when there were no more defendants in eligible categories who could post 10% bail,

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<sup>1</sup>One defendant was released on 10% of bail of \$2000.

additional defendants, primarily those charged with misdemeanors, were released on recognizance. A total of 611 inmates were released, 473 on 10% bail and 138 on recognizance.

To identify candidates for release on 10% bail, DOC posted notices addressed to detainees held on bail of \$1500 or less at each holding facility to announce that these defendants were eligible to post 10% of their bail if they had no holds or warrants. Defendants volunteered for 10% bail release and were screened to verify their bail amounts and the absence of holds and warrants and for non-violent or "minimally violent" charges. Discharge of defendants with misdemeanor charges took precedence over the discharge of felony defendants.

For ROR discharges, priority was given to defendants charged with less severe offenses. Within each severity level, priority was given to the defendants with the lowest bail amount and longest detention.

Defendants were not screened by any community ties criteria, nor were they asked prior to discharge to provide an address where they could receive court-date notification.

### Structure of the Report

The report that follows is presented in five sections. The first section describes the court-ordered releases as of the date they secured release with respect to their age, borough of

prosecution, number of pending cases, charges, bail amount, length of detention, prior criminal history and CJA release recommendation at Criminal Court arraignment. The second and third sections address warrant and rearrest rates, respectively. Section four discusses comparison data based on two existing research samples of detainees who secured release without judicial intervention. The fifth section presents various factors that might be used as screening criteria to reduce pretrial warrant and rearrest rates in the event that DOC was again ordered to release defendants to comply with inmate-population limits.

#### Data Sources

DOC provided CJA with the names, NYSID numbers, docket or indictment numbers, charges, bail amounts, admission dates, types and dates of release, and next court date for the released defendants for all the cases on which they had been held. These data were compared with information in the CJA database and updated where necessary with additional pending cases on which the defendants had been held. Criminal Court outcomes (including warrant data) and rearrest information were gathered from the CJA database while Supreme Court outcomes (including warrant data) were provided by the Office of Court Administration. Prior criminal histories of the released inmates were taken from NYSID reports, provided through the New York State Division of Criminal Justice Services.

I. DESCRIPTION OF RELEASE POPULATION

A. Type of Release and Borough of Prosecution

More than three-quarters of the 611 inmates who were released in accordance with Judge Lasker's order were released on 10% bail, and the remaining 23% were released on their own recognizance.

The court-ordered releases were not drawn equally from all boroughs. Fully one-third of the released defendants faced prosecution in Manhattan. Brooklyn, Queens, Bronx and Staten Island accounted for 27%, 19%, 16%, and 1%, respectively. Manhattan cases showed a disproportionately high rate of ROR (34%) and comprised fully half of all RORs (Exhibit I.A.).

B. Charges at Release

More than half of the court-ordered releases faced felony-level charges at the time of release, including 15% charged with A or B felonies and an additional 11% charged with C felonies. The ROR group contained overwhelmingly misdemeanor and lesser offenses (97%). The bail defendants were charged with felonies (72%), misdemeanors (27%) and lesser charges (1%, Exhibit I.B.).

The most common offenses (Exhibit I.C) were drug charges, which accounted for 16% of the releases, followed by Petit Larceny (12.6%), Burglary (12.0%), and Robbery (11.8%).

**C. Bail Amounts**

The court-ordered releases had been held on an average (mean) bail of \$782. The median bail was \$750. Sixteen percent of the releases had been held on bail of under \$500 prior to release (Exhibit I.D.).

Defendants released on 10% bail had been held on higher bail (mean \$820, median \$750) than ROR'd defendants (mean \$651, median \$500).

**D. Length of Detention**

The court-ordered releases had been held an average of 34 (median 11) days before their release, ranging from zero days for 38 defendants admitted to custody the same day they were released to one defendant who had been held 382 days. Defendants released on 10% bail had been held an average of 40 days (median 12), compared to 14 days (median 7) for the ROR group.

**E. Prior Conviction History**

The overwhelming majority of the court-ordered releases had prior contact with the criminal courts. The instant case constituted the first arrest for only six percent of the releases and an additional 13% had no prior criminal convictions. Thus, eight of every ten had at least one prior conviction. For two of every ten, the most severe conviction charge was designated

a "violent felony offense" (VFO).<sup>2</sup> An additional two of every ten had at least one non-"VFO" felony conviction and the remaining four of every ten had been convicted of one or more misdemeanor-level charges (Exhibit I.E).

**F. Prior Warrants**

Almost half (46%) of the court-ordered releases had two or more warrants listed on their NYSID<sup>3</sup> reports. A quarter had

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<sup>2</sup>The following charges, as well as their associated attempted charges (except those marked "\*"), are violent felony offenses (VFO) as defined in section 70.02 of the NYS Criminal Procedure Law.

A felony: Murder 1, Murder 2, Kidnapping 1, Arson 1

B felony: Robbery 1, Burglary 1, Rape 1, Sodomy 1, Manslaughter 1, Kidnapping 2, Possession of a Weapon 1, Criminal Use of a Firearm 1, Aggravated Sex Abuse, Aggravated Assault of a Police Officer

C felony: Assault 1, Robbery 2, Burglary 2, Possession of a Weapon 2, Criminal Use of a Firearm 2

D felony: Assault 2\*, Sexual Abuse 1\*, Possession of a Weapon 3, Criminal Sale of a Firearm\*

<sup>3</sup>The NYSID (New York State Identification) report is the defendant's criminal record as retained by the New York State Department of Criminal Justice Services. It is accessed by a NYSID number, a unique identifier assigned to each defendant at the time of the first arrest. The NYSID report reflects all arrests, with their associated dates, charges and dispositions, as well as the dates warrants were ordered and, especially, for more recent arrests, the dates of returns on warrants, if any. Sealed cases are excluded. All warrants indicated on the NYSID report were tallied for this research. Since data for older arrests vary in completeness, these tallies are likely to undercount the true numbers of warrants ordered.

one warrant listed on the NYSID report and three of every ten had no prior warrants.

G. CJA Recommendation

One-fifth of the court-ordered releases had been recommended for release on recognizance by CJA on the basis of verified community ties at the time of the arrest that most closely preceded the November court order. Another 16% were deemed qualified for release on recognizance on the basis of unverified information. More than a quarter were rated ineligible due to an outstanding bench warrant (Exhibit I.F.).

Most of the released defendants had claimed a New York City area address when interviewed by CJA. Six percent claimed no New York City area address and CJA attempts to verify the claimed address resulted in conflicting information for seven percent.

EXHIBIT I.A.

COURT-ORDERED RELEASES - November 1983

Borough of Prosecution by Type of Release

| <u>BOROUGH</u>    | <u>10% Bail</u> |               | <u>ROR</u> |               | <u>All Releases</u> |               |
|-------------------|-----------------|---------------|------------|---------------|---------------------|---------------|
| Brooklyn          | 130             | 27.5%         | 34         | 24.6%         | 164                 | 26.8%         |
|                   |                 | 79.3%         |            | 20.7%         |                     | 100.0%        |
| Bronx             | 89              | 18.8          | 10         | 7.2           | 99                  | 16.2          |
|                   |                 | 89.9          |            | 10.1          |                     | 100.0%        |
| Manhattan         | 135             | 28.5          | 70         | 50.8          | 205                 | 33.6          |
|                   |                 | 65.9          |            | 34.1          |                     | 100.0%        |
| Queens            | 98              | 20.7          | 17         | 12.3          | 115                 | 18.8          |
|                   |                 | 85.2          |            | 14.8          |                     | 100.0%        |
| Staten Island     | 4               | 0.9           | -          | -             | 4                   | 0.7           |
|                   |                 | 100.0%        |            | -             |                     | 100.0%        |
| Multiple Boroughs | 17              | 3.6           | 7          | 5.1           | 24                  | 3.9           |
|                   |                 | 70.8          |            | 29.2          |                     | 100.0%        |
| <b>TOTAL</b>      | <u>473</u>      | <u>100.0%</u> | <u>138</u> | <u>100.0%</u> | <u>611</u>          | <u>100.0%</u> |
|                   |                 | 77.4%         |            | 22.6%         |                     | 100.0%        |

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EXHIBIT I.B.

COURT-ORDERED RELEASES - NOVEMBER 1983

Severity of Most Severe Charge at Release by Type of Release

|                      | <u>10% Bail</u> |               | <u>ROR</u> |               | <u>All Releases</u> |               |
|----------------------|-----------------|---------------|------------|---------------|---------------------|---------------|
| Felony               |                 |               |            |               |                     |               |
| A or B               | 90              | 19.0%         | -          | -             | 90                  | 14.7%         |
| C                    | 69              | 14.6          | -          | -             | 69                  | 11.3%         |
| D                    | 137             | 29.0          | 2          | 1.4%          | 139                 | 22.8%         |
| E                    | 45              | 9.5           | 2          | 1.4           | 47                  | 7.7%          |
| Subtotal Felony      | <u>341</u>      | <u>72.1%</u>  | <u>4</u>   | <u>2.8%</u>   | <u>345</u>          | <u>56.5%</u>  |
| Misdemeanor          |                 |               |            |               |                     |               |
| A                    | 113             | 23.9%         | 120        | 87.0%         | 233                 | 38.1%         |
| B                    | 14              | 2.9           | 12         | 8.7           | 26                  | 4.3%          |
| Subtotal Misdemeanor | <u>127</u>      | <u>26.8%</u>  | <u>132</u> | <u>95.7%</u>  | <u>259</u>          | <u>42.4%</u>  |
| Other                | 5               | 1.1%          | 2          | 1.5%          | 7                   | 1.1%          |
| TOTAL                | <u>473</u>      | <u>100.0%</u> | <u>134</u> | <u>100.0%</u> | <u>611</u>          | <u>100.0%</u> |

EXHIBIT I.C.

COURT-ORDERED RELEASES - NOVEMBER 1983

Type of Most Severe Charge at Release by Type of Release

|                    | <u>10% Bail</u> |             | <u>ROR</u> |             | <u>All Releases</u> |              |
|--------------------|-----------------|-------------|------------|-------------|---------------------|--------------|
| Assault            | 26              | 5.4%        | 11         | 8.0%        | 37                  | 6.1%         |
| Burglary           | 67              | 14.2        | 6          | 4.3         | 73                  | 12.0%        |
| Petit Larceny      | 36              | 7.6         | 41         | 29.7        | 77                  | 12.6%        |
| Grand Larceny      | 45              | 9.5         | 11         | 8.0         | 56                  | 9.2%         |
| Robbery            | 72              | 15.2        | -          | -           | 72                  | 11.8%        |
| Poss. Stol. Prop.  | 42              | 8.9         | 10         | 7.3         | 52                  | 8.5%         |
| Weapon             | 46              | 9.7         | 7          | 5.1         | 53                  | 8.7%         |
| Tresspass          | 7               | 1.5         | 9          | 6.5         | 16                  | 2.6%         |
| Jostling           | 7               | 1.5         | 7          | 5.1         | 14                  | 2.3%         |
| Crim. Mischief     | 5               | 1.1         | 5          | 3.6         | 10                  | 1.6%         |
| Menacing           | 6               | 1.3         | 1          | 0.7         | 7                   | 1.1%         |
| Forgery            | 5               | 1.1         | -          | -           | 5                   | 0.8%         |
| Crim. Contempt     | -               | -           | 4          | 2.9         | 4                   | 0.7%         |
| Prostitution       | -               | -           | 2          | 1.4         | 2                   | 0.3%         |
| Public Lewdness    | -               | -           | 2          | 1.4         | 2                   | 0.3%         |
| Rape               | 1               | 0.2         | -          | -           | 1                   | 0.2%         |
| Other              | 22              | 4.7         | 10         | 7.3         | 32                  | 5.2%         |
| Subtotal Non-Drugs | <u>387</u>      | <u>81.9</u> | <u>126</u> | <u>91.3</u> | <u>513</u>          | <u>84.0%</u> |
| <u>Drugs:</u>      |                 |             |            |             |                     |              |
| Felony             | 64              | 13.5        | -          | -           | 64                  | 10.5%        |
| Misdemeanor        | 8               | 1.7         | 8          | 5.8         | 16                  | 2.6%         |
| Marijuana          | 14              | 2.9         | 4          | 2.9         | 18                  | 2.9%         |
| Subtotal Drugs     | <u>86</u>       | <u>18.1</u> | <u>12</u>  | <u>8.7</u>  | <u>98</u>           | <u>16.0%</u> |
| TOTAL              | 473             | 100.0%      | 138        | 100.0%      | 611                 | 100.0%       |

Exhibit I.D.

COURT-ORDERED RELEASES - NOVEMBER 1983

Bail Amount On Which Defendants Were Held

|                | <u>10% Bail</u>           | <u>ROR</u>                | <u>All Releases</u>         |
|----------------|---------------------------|---------------------------|-----------------------------|
| Under \$500    | 69 14.6%<br>69.0%         | 31 22.4%<br>31.0%         | 100 16.3%<br>100.0%         |
| \$500-\$999    | 173 36.6<br>75.5          | 56 40.6<br>24.5           | 229 37.5<br>100.0%          |
| \$1000-\$1499  | 143 30.2<br>75.3          | 47 34.1<br>24.7           | 190 31.1<br>100.0%          |
| \$1500 or more | 88 18.6<br>95.7           | 4 2.9<br>4.3              | 92 15.1<br>100.0%           |
| TOTAL          | <u>473 100.0%</u><br>77.4 | <u>138 100.0%</u><br>22.6 | <u>611 100.0%</u><br>100.0% |

EXHIBIT I.E.

COURT-ORDERED RELEASES - November 1983

Defendant Conviction History by Type of Release

|                                    | <u>10% Bail</u>                  | <u>ROR</u>                       | <u>All Releases</u>                |
|------------------------------------|----------------------------------|----------------------------------|------------------------------------|
| First Arrest                       | 34      7.2%<br>91.9             | 3      2.2%<br>8.1               | 37      6.1%<br>100.0%             |
| Not First Arrest*                  |                                  |                                  |                                    |
| No Convictions                     | 66      14.0<br>85.7             | 11      8.0<br>14.3              | 77      12.7<br>100.0%             |
| Misdemeanor<br>Convictions<br>Only | 175      37.2<br>75.1            | 58      42.3<br>24.9             | 233      38.3<br>100.0%            |
| Non-"VFO"<br>Felony<br>Conviction  | 98      20.8<br>71.5             | 39      28.5<br>28.5             | 137      22.5<br>100.0%            |
| "VFO"<br>Felony<br>Conviction      | 98      20.8<br>79.0             | 26      19.0<br>21.0             | 124      20.4<br>100.0%            |
| SUBTOTAL                           | <u>471</u> <u>100.0%</u><br>77.5 | <u>137</u> <u>100.0%</u><br>22.5 | <u>608</u> <u>100.0%</u><br>100.0% |
| Not Available                      | <u>2</u>                         | <u>1</u>                         | <u>3</u>                           |
| TOTAL                              | 473<br>77.4                      | 138<br>22.6                      | 611<br>100.0%                      |

\* Includes defendants with other open cases at the time of the court-ordered release as well as defendants whose NYSID reports show violation convictions, dismissals, or other dispositions that should be sealed and not appear on the NYSID report.

## EXHIBIT I.F.

COURT-ORDERED RELEASES - NOVEMBER 1983

## CJA Release Recommendation by Type of Release

|   | <u>10% Bail</u>                  | <u>ROR</u>                       | <u>All Releases</u>                |
|---|----------------------------------|----------------------------------|------------------------------------|
| Recommended,<br>Verified Ties           | 104    22.7%<br>89.7             | 12    8.8%<br>10.3               | 116    19.5%<br>100.0%             |
| Qualified,<br>Unverified Ties           | 79    17.2<br>81.4               | 18    13.2<br>18.6               | 97    16.3%<br>100.0%              |
| No Recommendation,<br>Insufficient Ties | 146    31.9<br>75.6              | 47    34.6<br>24.4               | 193    32.5%<br>100.0%             |
| Bench Warrant<br>Outstanding            | 122    26.6<br>74.4              | 42    30.9<br>25.6               | 164    27.6%<br>100.0%             |
| Other                                   | 7    1.5<br>29.2                 | 17    12.5<br>70.8               | 24    4.0%<br>100.0%               |
| Subtotal                                | <u>458</u> <u>100.0%</u><br>77.1 | <u>136</u> <u>100.0%</u><br>22.9 | <u>594</u> <u>100.0%</u><br>100.0% |
| Rec. Not Available                      | 15                               | 2                                | 17                                 |
| TOTAL                                   | <u>473</u>                       | <u>138</u>                       | <u>611</u>                         |

## II. FAILURE TO APPEAR

### A. Introduction

This section examines failure to appear with respect to the various characteristics that describe the court-ordered releases as presented in the first section. In almost all of the exhibits in this section, the warrant rate is shown both as of the first court appearance scheduled after the release and over the length of the court proceedings against the defendant.

The stress on the first scheduled appearance reflects the possibility that the defendant's attendance at the first post-release hearing affords the court the opportunity to review the defendant's release status and, if deemed appropriate, reincarcerate the defendant. Thus failure-to-appear rates at the first scheduled hearing are the purest measure of the effects of Judge Lasker's court order on court processing.

It is important to note that the overall warrant rate includes any failure to appear for a scheduled appearance where the warrant was ordered, not stayed, until the case reached disposition, or the close of data collection in February 1986. Although defendants often missed more than one scheduled appearance (i.e., after the first failure to appear they again secured release), only the first warrant is considered.

**B. Type of Release**

Forty percent of the defendants who were released in accordance with Judge Lasker's court order failed to appear for at least one pretrial adjournment, while eight percent missed the first post-release appearance. The ROR defendants were more likely to fail to appear than were the bail defendants, both at the first adjournment (17% versus 6%) and over the length of the case (50% versus 37%).

**Warrants**

|              | <u>At</u><br><u>Adj.1</u> | <u>Total</u><br><u>FTA</u> | <u>N</u>   |
|--------------|---------------------------|----------------------------|------------|
| 10% Bail     | 5.7%                      | 36.6%                      | 473        |
| ROR          | 17.4%                     | 50.0%                      | <u>138</u> |
| All Releases | 8.3%                      | 39.6%                      | 611        |

**C. Borough**

The warrant rate was highest for the defendants who faced prosecution in more than one borough, followed by those in Manhattan and Brooklyn. The warrant rate at the first adjournment was comparatively low in every borough, averaging 8.3%, except Manhattan where 18% failed to appear.

**Warrants**

|                   | <u>At</u><br><u>Adj.1</u> | <u>Total</u><br><u>FTA</u> | <u>N</u>  |
|-------------------|---------------------------|----------------------------|-----------|
| Brooklyn          | 3.7%                      | 43.9%                      | 164       |
| Bronx             | 1.0%                      | 25.2%                      | 99        |
| Manhattan         | 18.0%                     | 48.8%                      | 205       |
| Queens            | 4.3%                      | 27.0%                      | 115       |
| Staten Island     | -                         | 25.0%                      | 4         |
| Multiple boroughs | 8.3%                      | 54.2%                      | <u>24</u> |
| All Releases      | 8.3%                      | 39.6%                      | 611       |

Even after controlling for borough differences in the ROR versus 10% bail distribution, Manhattan, followed by Brooklyn, showed the highest overall warrant rates (Exhibit II.A.).

**D. Charges**

Defendants charged with misdemeanors showed higher warrant rates (12% at the first adjournment and 43% overall) than those charged with felonies (6% and 37%, respectively, Exhibit II.B.). Defendants charged with criminal possession of stolen property showed the highest warrant rate at both the first post-release adjournment (15%) and overall (52%). Defendants charged with petit larceny also showed a particularly high warrant rate at the first adjournment (10%, but 43% overall) while the second highest overall warrant rate was found among defendants charged with grand larceny (48%, and 9% at the first adjournment). The lowest first-adjournment warrant rates were found among defendants in the drug, burglary, robbery and weapon categories (5.1% to 5.7%). Defendants charged with assault (27%) and those charged with drug or weapon offenses (both 32%) showed the lowest overall failure-to-appear rates (Exhibit II.C.).

**E. Bail**

Defendants who had been held on low bail (under \$500) were more likely to fail to appear (47%) than defendants who had been held on bail of \$500-\$999 (38%) or \$1000-\$1499 (40%) and were far more likely to miss a court appearance than were those who had been held on \$1500 or more (34%).

**F. Conviction History**

Defendant conviction history is related to the likelihood of failure to appear, but the relationship is neither as strong nor as consistent as expected. Defendants who had less prior contact with the criminal justice system showed lower warrant rates (32% for first arrestees and 34% for those with open cases only) than defendants with prior felony convictions (45%). Defendants with prior "VFO"-felony convictions were least likely to miss the first hearing but most likely to miss a subsequent scheduled appearance.

**G. Prior Warrants**

Court-ordered releases who had no prior warrants listed on their NYSID reports were less likely to fail to appear (32%) than were defendants who had one prior warrant (37%). The highest failure-to-appear rate was found among defendants with two or more prior warrants (45%).

**H. CJA Recommendation**

Defendants who were "recommended" or "qualified" for release on recognizance by CJA were less likely to fail to appear for their first scheduled court appearance (4% and 5%) than were defendants who had insufficient community ties (12%) or outstanding bench warrants (8%). The differences at the first adjournment are reflected in the overall rates where 35% of recommended and qualified defendants failed to appear as compared to 43% of those with insufficient ties and 42% of those with outstanding bench warrants (Exhibit II.D.).

The small number (35) of court-ordered releases who claimed no New York City area address showed particularly high rates of failure to appear both at the first scheduled adjournment (28%) and for the duration of the case (66%).

I. Length of Case<sup>4</sup>

As expected, the longer the elapsed time from release to disposition, the greater the likelihood that the defendant missed a scheduled court appearance. Only one of every eight defendants whose cases were completed within a week of release failed to appear compared to a quarter of those whose cases were completed within a month, a third of those in the 31-to-90-day range, four of every ten in the 91-to-270-day range and fully half of defendants whose cases took more than nine months (Exhibit II.E.).

J. Adjournment Number

As discussed above, warrants were issued pre-disposition for 242 (40%) of the 611 court-ordered releases. More than a fifth of the 242 defendants for whom warrants were ordered failed to appear at the first adjournment and an additional quarter missed the second adjournment. A total of two-thirds of the released defendants issued warrants missed one of the first three scheduled appearances.

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<sup>4</sup>Length of case is calculated here as the number of days from release to disposition. For defendants who failed to appear, the number of days from the date the warrant was ordered to the date of return is subtracted. Defendants who did not return on the warrant are excluded.

## EXHIBIT II. A.

COURT-ORDERED RELEASES - NOVEMBER 1983

## Warrant Rates by Borough of Prosecution Separately by Type of Release

| <u>10% Bail</u>                      | <u>Brooklyn</u> |               | <u>Bronx</u> |               | <u>Manhattan</u> |               | <u>Queens</u> |               | <u>Staten Island</u> |               | <u>Multiple Boroughs</u> |               | <u>All Releases</u> |               |
|--------------------------------------|-----------------|---------------|--------------|---------------|------------------|---------------|---------------|---------------|----------------------|---------------|--------------------------|---------------|---------------------|---------------|
| Warrant at<br>First Adj.             | 4               | 3.1%          | -            | -             | 19               | 14.1%         | 3             | 3.1%          | -                    | -             | 1                        | 5.9%          | 27                  | 5.7%          |
| Warrant after<br>First Adj.          | 52              | 40.0          | 22           | 24.7          | 40               | 29.6          | 22            | 22.4          | 1                    | 25.0          | 9                        | 52.9          | 146                 | 30.9%         |
| Subtotal Warrant<br>Pre-disposition  | 56              | 43.1          | 22           | 24.7          | 59               | 43.7          | 25            | 25.5          | 1                    | 25.0          | 10                       | 58.8          | 173                 | 36.6%         |
| No Warrant<br>Pre-disposition        | 74              | 56.9          | 67           | 75.3          | 76               | 56.3          | 73            | 74.5          | 3                    | 75.0          | 7                        | 41.2          | 300                 | 63.4%         |
| <b>TOTAL</b>                         | <b>130</b>      | <b>100.0%</b> | <b>89</b>    | <b>100.0%</b> | <b>135</b>       | <b>100.0%</b> | <b>98</b>     | <b>100.0%</b> | <b>4</b>             | <b>100.0%</b> | <b>17</b>                | <b>100.0%</b> | <b>473</b>          | <b>100.0%</b> |
| <u>ROR</u>                           |                 |               |              |               |                  |               |               |               |                      |               |                          |               |                     |               |
| Warrant at<br>First Adj.             | 2               | 5.9           | 1            | 10.0          | 18               | 25.7          | 2             | 11.8          | -                    | -             | 1                        | 14.3          | 24                  | 17.4%         |
| Warrant after<br>First Adj.          | 14              | 41.2          | 2            | 20.0          | 23               | 32.9          | 4             | 23.5          | -                    | -             | 2                        | 28.6          | 45                  | 32.6%         |
| Subtotal Rearrest<br>Pre-disposition | 16              | 47.1          | 3            | 30.0          | 41               | 58.6          | 6             | 35.3          | -                    | -             | 3                        | 42.9          | 69                  | 50.0%         |
| No Rearrest<br>Pre-disposition       | 18              | 52.9          | 7            | 70.0          | 29               | 41.4          | 11            | 64.7          | -                    | -             | 4                        | 57.1          | 69                  | 50.0%         |
| <b>TOTAL</b>                         | <b>34</b>       | <b>100.0%</b> | <b>10</b>    | <b>100.0%</b> | <b>70</b>        | <b>100.0%</b> | <b>17</b>     | <b>100.0%</b> | <b>-</b>             | <b>-</b>      | <b>7</b>                 | <b>100.0%</b> | <b>138</b>          | <b>100.0%</b> |

EXHIBIT II.B.

COURT-ORDERED RELEASES - NOVEMBER 1983

Warrant Rates by Severity of Most Severe Charge at Release

|                | <u>Warrant<br/>At Adj.1</u> | <u>Warrant<br/>After Adj.1</u> | <u>Subtotal<br/>Warrant<br/>Pre-Disposition</u> | <u>No Warrant<br/>Pre-Disposition</u> | <u>All<br/>Releases</u>       |
|----------------|-----------------------------|--------------------------------|---|---------------------------------------|-------------------------------|
| <b>Felony:</b> |                             |                                |   |                                       |                               |
| A or B         | 3    5.9%<br>3.3            | 31   16.2%<br>34.4             | 34    14.0%<br>37.8                             | 56    15.2%<br>62.2                   | 90    14.7%<br>100.0%         |
| C              | 2    3.9<br>2.9             | 24   12.6<br>34.8              | 26    10.7<br>37.7                              | 43    11.6<br>62.3                    | 69    11.3%<br>100.0%         |
| D              | 11   21.6<br>7.9            | 41   21.5<br>29.5              | 52    21.6<br>37.4                              | 87    23.6<br>62.6                    | 139   22.8%<br>100.0%         |
| E              | 4    7.8<br>8.5             | 13    6.8<br>27.7              | 17    7.0<br>36.2                               | 30    8.1<br>66.0                     | 47    7.7%<br>100.0%          |
| All Felony     | <u>20    39.2</u><br>5.8    | <u>109   57.1</u><br>31.6      | <u>129   53.3</u><br>37.4                       | <u>216   58.5</u><br>62.6             | <u>345   56.5%</u><br>100.0%  |
| Misdemeanor    | 31   60.8<br>12.0           | 81   42.4<br>31.3              | 112   46.3<br>43.2                              | 147   39.9<br>56.8                    | 259   42.4%<br>100.0%         |
| Other          | -    -                      | 1    0.5<br>14.3               | 1    0.4<br>14.3                                | 6    1.6<br>85.7                      | 7    1.1%<br>100.0%           |
| <b>TOTAL</b>   | <u>51   100.0%</u><br>8.3   | <u>191   100.0%</u><br>31.3    | <u>242   100.0%</u><br>39.6%                    | <u>369   100.0%</u><br>60.4           | <u>611   100.0%</u><br>100.0% |

EXHIBIT II.C.

COURT-ORDERED RELEASES - NOVEMBER 1983

Warrant Rates by Type of Most Severe Charge at Release

|                                  | <u>Assault</u> |               | <u>Burglary</u> |               | <u>Petit Larceny</u> |               | <u>Grand Larceny</u> |               | <u>Robbery</u> |               | <u>Poss.Stol. Property</u> |               | <u>Drugs</u> |               | <u>Weapon</u> |               | <u>Other</u> |               | <u>All Releases</u> |               |
|----------------------------------|----------------|---------------|-----------------|---------------|----------------------|---------------|----------------------|---------------|----------------|---------------|----------------------------|---------------|--------------|---------------|---------------|---------------|--------------|---------------|---------------------|---------------|
| Warrant at First Adjournment     | 3              | 8.1%          | 4               | 5.5%          | 8                    | 10.4%         | 5                    | 8.9%          | 4              | 5.6%          | 8                          | 15.4%         | 5            | 5.1%          | 3             | 5.7%          | 11           | 11.8%         | 51                  | 8.3%          |
| Warrant After First Adjournment  | 7              | 18.9          | 24              | 32.9          | 25                   | 32.5          | 22                   | 39.3          | 27             | 37.5          | 19                         | 36.5          | 26           | 26.5          | 14            | 26.4          | 27           | 29.0          | 191                 | 31.3%         |
| Subtotal Warrant Pre-Disposition | 10             | 27.0          | 28              | 38.4          | 33                   | 42.9          | 27                   | 48.2          | 31             | 43.1          | 27                         | 51.9          | 31           | 31.6          | 17            | 32.1          | 38           | 40.8          | 242                 | 39.6%         |
| No Warrant Disposition           | 27             | 73.0          | 45              | 61.6          | 44                   | 57.1          | 29                   | 51.8          | 41             | 56.9          | 25                         | 48.1          | 67           | 68.4          | 36            | 67.9          | 55           | 59.2          | 369                 | 60.4%         |
| <b>TOTAL</b>                     | <b>37</b>      | <b>100.0%</b> | <b>73</b>       | <b>100.0%</b> | <b>77</b>            | <b>100.0%</b> | <b>56</b>            | <b>100.0%</b> | <b>72</b>      | <b>100.0%</b> | <b>52</b>                  | <b>100.0%</b> | <b>98</b>    | <b>100.0%</b> | <b>53</b>     | <b>100.0%</b> | <b>93</b>    | <b>100.0%</b> | <b>611</b>          | <b>100.0%</b> |

EXHIBIT II.D.

COURT-ORDERED RELEASES - NOVEMBER 1983

Warrant Rates by CJA Release Recommendation

|                                     | <u>Recommended,<br/>Verified Ties</u> |        | <u>Qualified,<br/>Unverified Ties</u> |        | <u>No Recommendation,<br/>Insufficient Ties</u> |        | <u>Bench Warrant</u> |        | <u>Other</u> |        | <u>Not<br/>Available</u> | <u>All<br/>Releases</u> |        |
|-------------------------------------|---------------------------------------|--------|---------------------------------------|--------|---|--------|----------------------|--------|--------------|--------|--------------------------|-------------------------|--------|
| Warrant at<br>First Adjourment      | 5                                     | 4.3%   | 5                                     | 5.2%   | 24  | 12.4%  | 13                   | 7.9%   | 4            | 16.6%  | -                        | 51                      | 8.3%   |
| Warrant after<br>First Adjourment   | 35                                    | 30.2   | 29                                    | 29.9   | 59  | 30.6   | 55                   | 33.6   | 10           | 41.7   | 3                        | 191                     | 31.3%  |
| Subtotal Warrant<br>Pre-disposition | 40                                    | 34.5   | 34                                    | 35.1   | 83  | 43.0   | 68                   | 41.5   | 14           | 58.3   | 3                        | 242                     | 39.6%  |
| No Warrant<br>Pre-disposition       | 76                                    | 65.5   | 63                                    | 64.9   | 110   | 57.0   | 96                   | 58.5   | 10           | 41.7   | 14                       | 369                     | 60.4%  |
| TOTAL                               | 116                                   | 100.0% | 97                                    | 100.0% | 193   | 100.0% | 164                  | 100.0% | 24           | 100.0% | 17                       | 611                     | 100.0% |

COURT-ORDERED RELEASES - NOVEMBER 1983  
Warrant Rates by Number of Days From Release to Disposition\*

| <u># of Days</u>    | <u>Warrant at<br/>Adj. 1</u>   | <u>Warrant after<br/>Adj. 1</u>  | <u>Subtotal<br/>Warrant</u>      | <u>No Warrant</u>                | <u>All Releases</u>                |
|---------------------|--------------------------------|----------------------------------|----------------------------------|----------------------------------|------------------------------------|
| Less than 8         | 6 14.6%<br>10.9                | 1 0.6%<br>1.8                    | 7 3.6%<br>12.7%                  | 48 13.2%<br>87.3%                | 55 9.8%<br>100.0%                  |
| 8 - 14              | 5 12.2<br>20.8                 | 1 0.6<br>4.2                     | 6 3.1<br>25.0%                   | 18 4.9<br>75.0%                  | 24 4.3%<br>100.0%                  |
| 15 - 30             | 6 14.6<br>10.2                 | 10 6.5<br>16.9                   | 16 8.2<br>27.1                   | 43 11.8<br>72.9                  | 59 10.5%<br>100.0%                 |
| 31 - 60             | 6 14.6<br>7.0                  | 22 14.3<br>25.6                  | 28 14.4<br>33.3                  | 58 15.9<br>66.7                  | 86 15.4%<br>100.0%                 |
| 61 - 90             | 4 9.8<br>5.6                   | 19 12.3<br>26.8                  | 23 11.8<br>32.4                  | 48 13.2<br>67.6                  | 71 12.7%<br>100.0%                 |
| 91 - 120            | 1 2.4<br>1.6                   | 24 15.6<br>37.5                  | 25 12.8<br>39.1                  | 39 10.7<br>60.9                  | 64 11.4%<br>100.0%                 |
| 121 - 180           | 7 17.1<br>9.8                  | 26 16.9<br>36.6                  | 33 16.9<br>46.5                  | 38 10.4<br>53.5                  | 71 12.7%<br>100.0%                 |
| 181 - 270           | 3 7.3<br>4.2                   | 25 16.2<br>34.7                  | 28 14.4<br>38.9                  | 44 12.1<br>61.1                  | 72 12.8%<br>100.0%                 |
| 271 - 365           | 2 4.9<br>0.8                   | 11 7.1<br>44.0                   | 13 6.7<br>52.0                   | 12 3.3<br>48.0                   | 25 4.5%<br>100.0%                  |
| 366 or more         | 1 2.4<br>3.0                   | 15 9.7<br>45.4                   | 16 8.2<br>48.5                   | 17 4.7<br>51.5                   | 33 5.9%<br>100.0%                  |
| Subtotal            | <u>41</u> <u>100.0%</u><br>7.3 | <u>154</u> <u>100.0%</u><br>27.5 | <u>195</u> <u>100.0%</u><br>34.8 | <u>365</u> <u>100.0%</u><br>65.2 | <u>560</u> <u>100.0%</u><br>100.0% |
| Days Not Available  | -                              | 4                                | 4                                | 4                                | 8                                  |
| Warrant Outstanding | 10                             | 33                               | 43                               | -                                | 43                                 |
| TOTAL               | <u>51</u>                      | <u>191</u>                       | <u>242</u>                       | <u>369</u>                       | <u>611</u>                         |

\* Minus days from date warrant was ordered to date of return.

### III. REARREST

#### A. Introduction

For the most part, the examination of rearrests presented in this section parallels the discussion of failure to appear above. Rearrest rates are examined with respect to the various characteristics of the court-ordered releases that were discussed in Section I. The rearrest rates are shown over the full term of prosecution as well as before and after the first scheduled court appearance after release. As discussed in the previous section, the stress on the first post-release adjournment reflects the fact that the first hearing offered the court the opportunity to reassess the defendant's release status. In this way, the rearrests that occurred prior to the first adjournment can be viewed as most easily attributable to Judge Lasker's court order. However, while attendance at the first adjournment is a measureable defendant accomplishment that has intrinsic meaning, the first hearing does not have any particular meaning in terms of the timing of rearrest.

It is important to note that the rearrest rates reported here include summary (not DAT) arrests that occurred after release and before the case reached disposition, or the close of data collection in February 1986. Although some defendants were rearrested more than once during this period, only the first rearrest is considered here.

**B. Type of Release**

One-third of the court-ordered releases were rearrested pre-disposition. The ROR defendants were more likely to be rearrested (46%) than were their counterparts who were released on 10% bail (30%). The ROR defendants were also more likely to be rearrested before their first adjournment than were the bail releases (10% versus 4%).

**C. Borough**

Rearrest rates were higher in Manhattan (40%) and Brooklyn (34%) than in the Bronx (28%), Queens (22%) or Staten Island (none of the four defendants). Defendants who had cases pending in more than one borough at the time of release showed a particularly high rate of rearrest (62%).

**D. Charges at Release**

Defendants charged with felonies were less likely to be rearrested than were defendants charged with misdemeanors (30% versus 39%, Exhibit III.A.). Defendants charged with criminal possession of stolen property (46%) showed the highest rearrest rate, followed by those charged with petit larceny (42%). The lowest rearrest rate was found among defendants charged with assault (24%, Exhibit III.B.).

**E. Bail**

The amount of bail on which the defendants had been held was not associated with the likelihood of rearrest after release.

**F. Conviction History**

There was a strong relationship between defendant conviction history and likelihood of rearrest. Only one of every ten defendants in the first-arrest category and a quarter of those with no convictions (but at least one prior arrest) were rearrested compared with more than a third of defendants with misdemeanor convictions, and more than four of every ten with felony convictions (Exhibit III.C.).

**G. Prior Warrants**

Defendants whose NYSID reports showed two or more prior warrants were more likely to be rearrested (41%) than were defendants with only one prior warrant (29%) or those with no prior warrants (26%). This finding probably reflects a relationship between prior warrants and criminal history.

**H. CJA Recommendations**

Defendants who were "recommended" (30%) or "qualified" (27%) for ROR by CJA were less likely to be rearrested than were defendants who were not recommended due to insufficient community ties (37%) or outstanding bench warrants (35%).

Court-ordered releases who claimed no New York City area address (40%) or for whom attempts to verify the address yielded conflicting information (54%) were more likely to be rearrested than their counterparts who claimed a local address (31%).

I. Length of Case

There was a strong relationship between length of case from release to disposition and rearrest (Exhibit III.D.). Rearrested defendants showed longer mean and median length of case from release to disposition (142 and 109 days) than those who were not rearrested (109 and 69 days).

J. The Rearrest

Two-thirds of rearrested defendants were charged with felony offenses at rearrest (Exhibit III.E.) and eight of every ten rearrests resulted in conviction by plea or trial.

EXHIBIT III.A.

COURT-ORDERED RELEASES - NOVEMBER 1983

Rearrest Rates by Severity of Most Severe Charge at Release

|             | <u>Rearrest Before First Adj.</u> |        | <u>Rearrest After First Adj.1</u> |        | <u>Subtotal Rearrest Pre-disposition</u> |        | <u>No-Rearrest Pre-disposition</u> |        | <u>All Releases</u> |        |
|-------------|-----------------------------------|--------|-----------------------------------|--------|--|--------|------------------------------------|--------|---------------------|--------|
| Felony:     |                                   |        |                                   |        |  |        |                                    |        |                     |        |
| A or B      | 2                                 | 5.7%   | 27                                | 15.9%  | 29                                       | 14.2%  | 61                                 | 15.0%  | 90                  | 14.7%  |
|             |                                   | 2.2    |                                   | 30.0   |  | 32.2   |                                    | 67.8   |                     | 100.0% |
| C           | -                                 | -      | 19                                | 11.2   | 19                                       | 9.3    | 50                                 | 12.3   | 69                  | 11.3%  |
|             |                                   | -      |                                   | 27.5   |  | 27.5   |                                    | 72.5   |                     | 100.0% |
| D           | 8                                 | 22.9   | 30                                | 17.6   | 38                                       | 18.5   | 101                                | 24.9   | 139                 | 22.8%  |
|             |                                   | 5.8    |                                   | 21.6   |  | 27.3   |                                    | 72.7   |                     | 100.0% |
| E           | 5                                 | 14.3   | 11                                | 6.5    | 16                                       | 7.8    | 31                                 | 7.6    | 47                  | 7.7%   |
|             |                                   | 10.6   |                                   | 23.4   |  | 34.0   |                                    | 66.0   |                     | 100.0% |
| All Felony  | 15                                | 42.9   | 87                                | 51.2   | 102                                      | 49.8%  | 243                                | 59.8   | 345                 | 56.5%  |
|             |                                   | 4.3    |                                   | 25.2   |  | 29.6   |                                    | 70.4   |                     | 100.0% |
| Misdemeanor | 20                                | 57.1   | 81                                | 47.6   | 101                                      | 49.2   | 158                                | 38.9   | 259                 | 42.4%  |
|             |                                   | 7.7    |                                   | 31.3   |  | 39.0   |                                    | 61.0   |                     | 100.0% |
| Other       | -                                 | -      | 2                                 | 1.2    | 2  | 1.0    | 5                                  | 1.3    | 7                   | 1.1%   |
|             |                                   | -      |                                   | 28.6   |  | 28.6   |                                    | 71.4   |                     | 100.0% |
| TOTAL       | 35                                | 100.0% | 170                               | 100.0% | 205                                      | 100.0% | 406                                | 100.0% | 611                 | 100.0% |
|             |                                   | 5.7    |                                   | 27.8   |  | 33.6   |                                    | 66.4   |                     | 100.0% |

COURT-ORDERED RELEASES - NOVEMBER 1983

## Rearrest Rates by Type of Most Severe Charge at Release

|                   | <u>Rearrest Before<br/>First Adj.</u> | <u>Rearrest After<br/>First Adj.</u> | <u>Subtotal<br/>Rearrests<br/>Pre-disposition</u> | <u>No<br/>Rearrests<br/>Pre-disposition</u> | <u>All<br/>Releases</u>            |
|-------------------|---------------------------------------|--------------------------------------|---|---|------------------------------------|
| Assault           | 2      5.7%<br>5.4                    | 7      4.1%<br>18.9                  | 9      4.4%<br>24.3                               | 28     6.9%<br>75.7                         | 37     6.1%<br>100.0%              |
| Burglary          | 4      11.4<br>5.5                    | 22     12.9<br>30.1                  | 26     12.7<br>35.6                               | 47     11.6<br>64.4                         | 73     11.9%<br>100.0%             |
| Petit Larceny     | 7      20.0<br>9.1                    | 25     14.7<br>32.5                  | 32     15.6<br>41.6                               | 45     11.1<br>58.4                         | 77     12.6%<br>100.0%             |
| Grand Larceny     | 7      20.0<br>12.5                   | 11     6.5<br>19.6                   | 18     8.8<br>32.1                                | 38     9.4<br>67.9                          | 56     9.2%<br>100.0%              |
| Robbery           | -      -                              | 21     12.4<br>29.2                  | 21     10.2<br>29.2                               | 51     12.6<br>70.8                         | 72     11.8%<br>100.0%             |
| Poss. Stol. Prop. | 4      11.4<br>7.7                    | 20     11.8<br>38.5                  | 24     11.7<br>46.4                               | 28     6.9<br>53.8                          | 52     8.5%<br>100.0%              |
| Drugs             | 4      11.4<br>4.1                    | 26     15.3<br>26.5                  | 30     14.6<br>30.6                               | 68     16.7<br>69.4                         | 98     16.0%<br>100.0%             |
| Weapon            | 4      11.4<br>7.5                    | 11     6.5<br>20.8                   | 15     7.3<br>28.3                                | 38     9.4<br>71.7                          | 53     8.7%<br>100.0%              |
| Other             | 3      8.6<br>3.2                     | 27     15.9<br>29.0                  | 30     14.6<br>32.3                               | 63     15.5<br>67.7                         | 93     15.2%<br>100.0%             |
| TOTAL             | <u>35</u> <u>100.0%</u><br>5.7        | <u>170</u> <u>100.0%</u><br>27.8     | <u>205</u> <u>100.0%</u><br>33.6                  | <u>406</u> <u>100.0%</u><br>66.4            | <u>611</u> <u>100.0%</u><br>100.0% |

COURT-ORDERED RELEASES - NOVEMBER 1983

## Rearrest Rates by Defendant Conviction History

|                                    | Rearrest<br>Before<br>First Adj. |               | Rearrest<br>After<br>First Adj. |               | Subtotal<br>Rearrest<br>Pre-disposition |               | No Rearrest<br>Pre-Disposition |               | All<br>Releases |               |
|------------------------------------|----------------------------------|---------------|---------------------------------|---------------|---|---------------|--------------------------------|---------------|-----------------|---------------|
| First Arrest                       | 1                                | 2.9%          | 3                               | 1.8%          | 4                                       | 2.0%          | 33                             | 8.2%          | 37              | 6.1%          |
|                                    |                                  | 2.7           |                                 | 8.1           |   | 10.8          |                                | 89.2          |                 | 100.0%        |
| Not First Arrest*<br>No Conviction | 2                                | 5.7           | 17                              | 10.0          | 19                                      | 9.3           | 58                             | 14.4          | 77              | 12.7%         |
|                                    |                                  | 2.6           |                                 | 22.1          |   | 24.7          |                                | 75.3          |                 | 100.0%        |
| Misdemeanor<br>Convictions Only    | 14                               | 40.0          | 64                              | 37.6          | 78                                      | 38.0          | 155                            | 38.5%         | 233             | 38.3%         |
|                                    |                                  | 6.0           |                                 | 27.5          |   | 33.5          |                                | 66.5          |                 | 100.0%        |
| Non -"VFO" Felony<br>Convictions   | 10                               | 28.6          | 39                              | 22.9          | 49                                      | 23.9          | 88                             | 21.8          | 137             | 22.5%         |
|                                    |                                  | 7.3           |                                 | 28.5          |   | 35.8          |                                | 64.2          |                 | 100.0%        |
| "VFO" Felony<br>Convictions        | 8                                | 22.9          | 47                              | 27.6          | 55                                      | 26.8          | 69                             | 17.1%         | 124             | 20.4%         |
|                                    |                                  | 6.5           |                                 | 37.9          |   | 44.4          |                                | 55.6          |                 | 100.0%        |
| SUBTOTAL                           | <u>35</u>                        | <u>100.0%</u> | <u>170</u>                      | <u>100.0%</u> | <u>205</u>                              | <u>100.0%</u> | <u>403</u>                     | <u>100.0%</u> | <u>608</u>      | <u>100.0%</u> |
|                                    |                                  | 5.7           |                                 | 28.0          |   | 33.7          |                                | 66.3          |                 | 100.0%        |
| Not Available                      | -                                |               | -                               |               | -                                       |               | 3                              |               | 3               |               |
| TOTAL                              | <u>35</u>                        |               | <u>170</u>                      |               | <u>205</u>                              |               | <u>406</u>                     |               | <u>611</u>      |               |
|                                    |                                  | 5.7           |                                 | 27.8          |   | 33.6          |                                | 66.4          |                 | 100.0%        |

\* Includes defendants with other open cases at the time of court-ordered release as well as defendants whose NYSID reports show violation convictions, dismissals, or other dispositions that should be sealed and not appear on the NYSID report.

EXHIBIT III.D.

COURT-ORDERED RELEASES - NOVEMBER 1983

Rearrest Rates by Number of Days from Release to Disposition\*

|                                   | <u>0 - 7</u>     | <u>8 - 30</u>    | <u>31 - 60</u>   | <u>61 - 90</u>   | <u>91 - 120</u>  | <u>121 - 180</u> | <u>181 - 270</u> | <u>271 or More</u> | <u>Subtotal</u>   | <u>Not Available</u> | <u>All Releases</u> |
|-----------------------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------------------|-------------------|----------------------|---------------------|
| Rearrest Before First Adj.        | - -              | 7 8.4%           | 9 10.5%          | 6 8.5%           | 3 4.7%           | 3 4.2%           | 3 4.2%           | 2 3.4%             | 33 5.9%           | 2                    | 35 5.7%             |
|                                   | -                | 21.2             | 27.3             | 18.2             | 9.1              | 9.1              | 9.1              | 6.1                | 100.0%            |                      |                     |
| Rearrest After First Adj.         | 3 5.5            | 15 18.1          | 19 22.1          | 16 22.5          | 26 40.6          | 27 38.0          | 29 40.3          | 21 36.2            | 156 27.9          | 14                   | 170 27.8%           |
|                                   | 1.9              | 9.6              | 12.2             | 10.2             | 16.7             | 17.3             | 18.6             | 13.5               | 100.0%            |                      |                     |
| Subtotal Rearrest Pre-disposition | 3 5.5            | 22 26.5          | 28 32.6          | 22 31.0          | 29 45.3          | 30 42.2          | 32 44.5          | 23 39.6            | 189 33.8          | 16                   | 205 33.5%           |
|                                   | 1.6              | 11.6             | 14.8             | 11.6             | 15.3             | 15.9             | 16.9             | 12.2               | 100.0%            |                      |                     |
| No Rearrest Pre-disposition       | 52 94.5          | 61 73.5          | 58 67.4          | 49 69.0          | 35 54.7          | 41 57.8          | 40 55.5          | 35 60.4            | 371 66.2          | 35                   | 406 66.5%           |
|                                   | 14.0             | 16.4             | 15.6             | 13.2             | 9.4              | 11.0             | 10.8             | 9.4                | 100.0%            |                      |                     |
| <b>TOTAL</b>                      | <u>55 100.0%</u> | <u>83 100.0%</u> | <u>86 100.0%</u> | <u>71 100.0%</u> | <u>64 100.0%</u> | <u>71 100.0%</u> | <u>72 100.0%</u> | <u>58 100.0%</u>   | <u>560 100.0%</u> | <u>51</u>            | <u>611 100.0%</u>   |
|                                   | 9.8              | 14.8             | 15.4             | 12.7             | 11.4             | 12.7             | 12.8             | 10.4               | 100.0%            |                      |                     |

\* Minus days from date warrant was ordered to date of return.

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EXHIBIT III.E.

COURT ORDERED RELEASES - NOVEMBER 1983

Distribution of Most Severe Arrest, Affidavit and Amended Arraignment and Disposition Charges for Rearrests

|                       | <u>Arrest Charge</u> |               | <u>Affidavit Charge</u> |               | <u>Amended Arraignment Charge</u> |               | <u>Disposition Charge</u> |               |
|-----------------------|----------------------|---------------|-------------------------|---------------|-----------------------------------|---------------|---------------------------|---------------|
| FELONY:               |                      |               |                         |               |                                   |               |                           |               |
| A or B                | 37                   | 18.1%         | 28                      | 14.1%         | 27                                | 13.5%         | 24                        | 12.5%         |
| C                     | 20                   | 9.8           | 20                      | 10.0          | 18                                | 9.0%          | 14                        | 7.3%          |
| D                     | 49                   | 24.0          | 33                      | 16.6          | 30                                | 14.9%         | 26                        | 13.6%         |
| E                     | 29                   | 14.2          | 25                      | 12.6          | 22                                | 10.9%         | 12                        | 6.2%          |
| All Felony            | <u>135</u>           | <u>66.1</u>   | <u>106</u>              | <u>53.3</u>   | <u>97</u>                         | <u>48.3%</u>  | <u>76</u>                 | <u>30.6%</u>  |
| Misdemeanor and Other | 69                   | 33.9          | 93                      | 46.7          | 104                               | 51.7%         | 116                       | 60.4%         |
| Subtotal              | <u>204</u>           | <u>100.0%</u> | <u>199</u>              | <u>100.0%</u> | <u>201</u>                        | <u>100.0%</u> | <u>192</u>                | <u>100.0%</u> |
| Not Available         | 1                    |               | 6                       |               | 4                                 |               | 13                        |               |
| TOTAL                 | <u>205</u>           |               | <u>205</u>              |               | <u>205</u>                        |               | <u>205</u>                |               |

#### IV. COMPARISONS WITH OTHER DEFENDANT POPULATIONS

Thus far this report has described some characteristics of the defendants who were released in Fall 1983 in accordance with Judge Lasker's court order and has discussed the relationship between these characteristics and court-related outcomes. It is also important to assess the extent to which the failure-to-appear and rearrest behavior of these released defendants are typical of other groups of released defendants. To address this question, this section compares the pretrial warrant and rearrest rates of the court-ordered releases with those shown by two other groups of defendants who secured release without special court intervention. Both comparison groups were drawn from existing datasets for other research projects.

The first comparison group is comprised of the defendants who were arraigned between October 12 and 25, 1980, and secured release on bail (N=449) or ROR (N=278) subsequent to arraignment. The second group is comprised of a sample of defendants arrested in Manhattan between March and October 1984 who secured release on bail (N=270) or ROR (N=506) post-arraignment (rearrest data are not available for this group). The first part of this section compares the court-ordered releases with the October 1980 group, while the second part compares the court-ordered releases who faced prosecution in Manhattan with the 1984 sample.

A. The October 1980 Release Group Comparison

1. Warrant Rate

The court-ordered releases were more likely to miss a scheduled pretrial appearance than were released defendants from October 1980 (Exhibit IV.A). Only a quarter of the 1980 bail releases and a third of the ROR defendants failed to appear compared to 37% of the court-ordered bail releases and half of the court-ordered ROR defendants. However, the court-ordered bail releases and October 1980 bail releases charged with misdemeanors showed identical warrant rates (33%). The court-ordered bail releases charged with felonies were far more likely to fail to appear (38%) than were their October 1980 counterparts (22%).

2. Rearrest Rate

Overall, the court-ordered releases were also more likely to be rearrested pretrial than were defendants released post-arraignment in the October 1980 group (Exhibit IV.B.). Three of every ten court-ordered bail releases and 46% of the ROR defendants in that group were rearrested compared with little more than two of every ten October 1980 bail releases and roughly a quarter of the October 1980 RORs.

Specifically, only the court-ordered RORs, who were virtually all misdemeanor-level, and the court-ordered bail cases charged with felonies consistently performed worse than their

1980 counterparts. Court-ordered bail releases charged with misdemeanors did no worse on appearance or rearrest rates than did the 1980 group.

**B. The 1984 Manhattan Sample Comparison**

The Manhattan court-ordered releases were more likely to miss a scheduled pretrial hearing than were the defendants in the 1984 Manhattan sample (Exhibit IV.C.). Among bail cases, 44% of the court-ordered releases and 35% of the 1984 sample failed to appear. Among ROR cases, the comparable figures are 59% and 47%, respectively. For the bail cases, however, the overall difference in the warrant rate reflects the pattern that is evident for felony-level defendants only. For A or B, C, or D felony bail cases, the court-ordered releases showed very high warrant rates (42%, 50% and 53% versus 29%, 30% and 29%). For the small number of E felony bail cases, and for misdemeanor and lesser severity bail cases, it is the 1984 sample that shows the higher warrant rates (52% versus 36% and 43% versus 37%, respectively).

EXHIBIT IV.A

COURT-ORDERED RELEASES - NOVEMBER 1983

Comparison Data: Citywide Warrant Rates By Charge Severity

| <u>BAIL DEFENDANTS</u>          | <u>COURT-ORDERED RELEASES</u> |       |                   |        |              |        | <u>OCTOBER 1980 RELEASES</u> |       |                   |       |              |        |
|---------------------------------|-------------------------------|-------|-------------------|--------|--------------|--------|------------------------------|-------|-------------------|-------|--------------|--------|
|                                 | <u>Warrant</u>                |       | <u>No Warrant</u> |        | <u>Total</u> |        | <u>Warrant</u>               |       | <u>No Warrant</u> |       | <u>Total</u> |        |
| <u>Felony:</u>                  |                               |       |                   |        |              |        |                              |       |                   |       |              |        |
| A or B                          | 32                            | 37.8% | 53                | 62.2%  | 90           | 100.0% | 20                           | 20.6% | 77                | 79.4% | 97           | 100.0% |
| C                               | 24                            | 37.7  | 38                | 62.3   | 69           | 100.0% | 12                           | 17.9  | 55                | 82.1  | 67           | 100.0% |
| D                               | 50                            | 38.0  | 86                | 62.0   | 137          | 100.0% | 31                           | 23.3  | 102               | 76.7  | 133          | 100.0% |
| E                               | 17                            | 37.8  | 26                | 62.2   | 45           | 100.0% | 9                            | 25.0  | 27                | 75.0  | 36           | 100.0% |
| All Felony                      | <u>123</u>                    | 37.8  | <u>203</u>        | 62.2   | <u>341</u>   | 100.0% | <u>72</u>                    | 21.6  | <u>261</u>        | 78.4  | <u>333</u>   | 100.0% |
| Misd. & Other                   | 50                            | 33.3  | 97                | 66.7   | 132          | 100.0% | 29                           | 33.0  | 58                | 66.7  | 87           | 100.0% |
| Subtotal                        | <u>173</u>                    | 36.6  | <u>300</u>        | 63.4   | <u>473</u>   | 100.0% | <u>101</u>                   | 24.0  | <u>319</u>        | 76.0  | <u>420</u>   | 100.0% |
| Warrant Status<br>Not Available |                               |       |                   |        | -            |        |                              |       |                   |       | 29           |        |
| TOTAL                           |                               |       |                   |        | <u>473</u>   |        |                              |       |                   |       | <u>449</u>   |        |
| <u>ROR DEFENDANTS</u>           |                               |       |                   |        |              |        |                              |       |                   |       |              |        |
| Felony                          | -                             | -     | 4                 | 100.0% | 4            | 100.0% | 74                           | 33.2  | 149               | 66.8  | 223          | 100.0% |
| Misd. & Other                   | 69                            | 51.5  | 65                | 48.5   | 134          | 100.0% | 17                           | 37.0  | 29                | 63.0  | 46           | 100.0% |
| Subtotal                        | <u>69</u>                     | 50.0  | <u>69</u>         | 50.0   | <u>138</u>   | 100.0% | <u>91</u>                    | 33.8  | <u>178</u>        | 66.2  | <u>269</u>   | 100.0% |
| Warrant Status<br>Not Available |                               |       |                   |        | -            |        |                              |       |                   |       | 9            |        |
| TOTAL                           |                               |       |                   |        | <u>138</u>   |        |                              |       |                   |       | <u>278</u>   |        |

EXHIBIT IV.B.

COURT-ORDERED RELEASES - NOVEMBER 1983

Comparison Data: Citywide Rearrest Rates By Charge Severity

| <u>BAIL DEFENDANTS</u>           | <u>COURT-ORDERED RELEASES</u> |       |                    |       |              |        | <u>OCTOBER 1980 RELEASES</u> |       |                    |       |              |        |
|----------------------------------|-------------------------------|-------|--------------------|-------|--------------|--------|------------------------------|-------|--------------------|-------|--------------|--------|
|                                  | <u>Rearrest</u>               |       | <u>No Rearrest</u> |       | <u>Total</u> |        | <u>Rearrest</u>              |       | <u>No Rearrest</u> |       | <u>Total</u> |        |
| <u>Felony:</u>                   |                               |       |                    |       |              |        |                              |       |                    |       |              |        |
| A or B                           | 29                            | 32.2% | 61                 | 67.8% | 90           | 100.0% | 21                           | 20.2% | 83                 | 79.8% | 104          | 100.0% |
| C                                | 19                            | 27.5  | 50                 | 72.5  | 69           | 100.0% | 9                            | 13.0  | 60                 | 87.0  | 69           | 100.0% |
| D                                | 38                            | 27.7  | 99                 | 72.3  | 137          | 100.0% | 30                           | 22.7  | 102                | 77.3  | 132          | 100.0% |
| E                                | 15                            | 33.3  | 30                 | 66.7  | 45           | 100.0% | 6                            | 16.7  | 30                 | 83.3  | 36           | 100.0% |
| All Felony                       | <u>101</u>                    | 29.6  | <u>240</u>         | 70.4  | <u>341</u>   | 100.0% | <u>66</u>                    | 19.4  | <u>275</u>         | 80.6  | <u>341</u>   | 100.0% |
| Misd. & Other                    | 41                            | 31.1  | 91                 | 68.9  | 132          | 100.0% | 25                           | 27.8  | 65                 | 72.2  | 90           | 100.0% |
| Subtotal                         | <u>142</u>                    | 30.0  | <u>331</u>         | 70.0  | <u>473</u>   | 100.0% | <u>91</u>                    | 21.1  | <u>340</u>         | 72.2  | <u>431</u>   | 100.0% |
| Rearrest Status<br>Not Available |                               |       |                    |       | -            |        |                              |       |                    |       | 18           |        |
| TOTAL                            |                               |       |                    |       | <u>473</u>   |        |                              |       |                    |       | <u>449</u>   |        |
| <u>ROR DEFENDANTS</u>            |                               |       |                    |       |              |        |                              |       |                    |       |              |        |
| Felony                           | 1                             | 25.0  | 3                  | 75.0  | 4            | 100.0% | 58                           | 25.8  | 167                | 74.2  | 225          | 100.0% |
| Misd. & Other                    | 62                            | 46.3  | 72                 | 53.7  | 134          | 100.0% | 14                           | 31.8  | 30                 | 68.2  | 44           | 100.0% |
| Subtotal                         | <u>63</u>                     | 45.7  | <u>75</u>          | 54.3  | <u>138</u>   | 100.0% | <u>72</u>                    | 26.8  | <u>197</u>         | 73.2  | <u>269</u>   | 100.0% |
| Rearrest Status<br>Not Available |                               |       |                    |       | -            |        |                              |       |                    |       | 9            |        |
| TOTAL                            |                               |       |                    |       | <u>138</u>   |        |                              |       |                    |       | <u>278</u>   |        |

EXHIBIT IV.C.

COURT-ORDERED RELEASES - NOVEMBER 1983

Comparison Data: Manhattan Warrant Rates by Charge Severity

| <u>BAIL DEFENDANTS</u> | <u>MANHATTAN COURT-ORDERED RELEASES</u> |             |                   |             |              |               | <u>MANHATTAN MARCH-OCTOBER 1984 SAMPLE</u> |             |                   |             |              |               |
|------------------------|---|-------------|-------------------|-------------|--------------|---------------|--|-------------|-------------------|-------------|--------------|---------------|
|                        | <u>Warrant</u>                          |             | <u>No Warrant</u> |             | <u>Total</u> |               | <u>Warrant</u>                             |             | <u>No Warrant</u> |             | <u>Total</u> |               |
| <u>Felony:</u>         |   |             |                   |             |              |               |  |             |                   |             |              |               |
| A or B                 | 11                                      | 42.3%       | 15                | 57.7%       | 26           | 100.0%        | 16   | 28.6        | 40                | 71.4%       | 56           | 100.0%        |
| C                      | 11                                      | 50.0        | 11                | 50.0        | 22           | 100.0%        | 12   | 30.0        | 28                | 70.0        | 40           | 100.0%        |
| D                      | 16                                      | 53.3        | 14                | 46.7        | 30           | 100.0%        | 20   | 28.6        | 50                | 71.4        | 70           | 100.0%        |
| E                      | 5                                       | 35.7        | 9                 | 64.3        | 14           | 100.0%        | 11   | 52.4        | 10                | 47.6        | 21           | 100.0%        |
| All Felony             | <u>43</u>                               | <u>46.7</u> | <u>49</u>         | <u>53.3</u> | <u>92</u>    | <u>100.0%</u> | <u>59</u>                                  | <u>31.6</u> | <u>128</u>        | <u>68.4</u> | <u>187</u>   | <u>100.0%</u> |
| Misd. & Other          | 16                                      | 37.2        | 27                | 62.8        | 43           | 100.0%        | 39   | 42.9        | 52                | 57.1        | 91           | 100.0%        |
| TOTAL                  | <u>59</u>                               | <u>43.7</u> | <u>76</u>         | <u>56.3</u> | <u>135</u>   | <u>100.0%</u> | <u>98</u>                                  | <u>35.3</u> | <u>180</u>        | <u>64.7</u> | <u>278</u>   | <u>100.0%</u> |
| <br>                   |   |             |                   |             |              |               |  |             |                   |             |              |               |
| <u>ROR DEFENDANTS</u>  |   |             |                   |             |              |               |  |             |                   |             |              |               |
| Felony                 | -                                       | -           | 1                 | 100.0%      | 1            | 100.0%        | 173  | 46.5        | 199               | 53.5        | 372          | 100.0%        |
| Misd. & Other          | 41                                      | 59.4        | 28                | 40.6        | 69           | 100.0%        | 64   | 47.8        | 70                | 52.2        | 134          | 100.0%        |
| TOTAL                  | <u>41</u>                               | <u>58.6</u> | <u>29</u>         | <u>41.4</u> | <u>70</u>    | <u>100.0%</u> | <u>237</u>                                 | <u>46.8</u> | <u>269</u>        | <u>53.2</u> | <u>506</u>   | <u>100.0%</u> |

V. REDUCING WARRANT AND REARREST RATES: POTENTIAL SCREENING CRITERIA

This section focuses on identifying factors that might be used as screening criteria in the event that a court-ordered release effort was again implemented. The screening criteria discussed below were chosen to restrict eligibility for release to defendants likely to show lower failure to appear and rearrest rates based on the analysis of the release population presented above. Obviously, only factors that are available to the criminal justice system at the time of release can be considered here. Thus, although length of case until disposition, for example, was strongly related to both warrant and rearrest rates, defendant scores on that factor cannot be available at the release decision and cannot be used to predict future failures. Conversely, factors such as charge severity and length of detention are conveniently available at the time of the release decision but they fail to distinguish high and low risk defendants adequately. In addition, some potential screening criteria are so restrictive that almost no defendants qualify for release. For example, exclusion of all but first-arrest defendants would have yielded only 37 somewhat low-risk defendants (with a 32% warrant rate and 11% rearrest rate).

This section also stresses the importance of failure-to-appear rates at the first post-release appearance. As mentioned earlier in this report, the first scheduled adjournment affords the court the opportunity to review the defendant's release

status. Warrants at subsequent appearances reflect the tacit approval of a Criminal Court judge to have continued the defendant's release on bail or recognizance and, in this way, warrants at later appearances are not solely attributable to Judge Lasker's court order. Although slightly over 8 percent of the released defendants overall missed the first hearing, the screening criteria discussed below demonstrate that some simple screening criteria based on community ties and prior criminal record can reduce the risk of failure at the first adjournment for certain subgroups to much lower levels, on the order of one or two percent.

Previous research has documented the value of community-ties based screening criteria to reduce failure to appear within defendant release populations. However, only 19% of the court-ordered releases had received CJA's highest release recommendation at the time of their arraignment. Little more than a third of the released defendants received one of the two highest ratings (recommended for release on the basis of verified community ties or qualified for release on the basis of unverified community ties). If release eligibility had been restricted only to the 213 defendants who were recommended or qualified by CJA the warrant rate at the first adjournment would have been almost four percentage points lower (4.7%) and the rearrest rate would have been slightly more than four percentage points lower (28.6%).

Since the CJA recommendation was relatively restrictive with respect to the number of court-ordered releases who would have qualified for early discharge, we identified one component of the CJA community ties point scale - namely, a claimed New York City area address - that would have permitted more releases. All but 94 of the releases claimed a New York City area address, but this criterion alone had little impact on rearrest rates and reduced warrant rates by only one or two percentage points.

In a similar vein, many defendants had prior warrants on their NYSID reports. If the 278 defendants with more than one prior warrant had been excluded from court-ordered release, the failure-to-appear rate would have been as low and the rearrest rate lower than the rates for defendants who qualified for one of the top community ties ratings.

Combinations of factors considered together further reduce warrants and rearrests, but also volume of releases, to varying extents. The table that follows presents a variety of potential screening factors, the number of released defendants who met these criteria, and the warrant rates (both at the first adjournment and overall) and rearrest rates these defendants exhibited. For example, 277 defendants claimed a NYC area address and had fewer than two prior warrants. A third of these defendants failed to appear (an 18% reduction), and a quarter were rearrested (a 21% reduction). Among the 167 defendants

who claimed a NYC area address, had fewer than two prior warrants, and had no felony convictions, three of every ten failed to appear (a 23% reduction) and two of every ten were rearrested pretrial (a 38% reduction). For both sets of screening criteria just mentioned, the failure-to-appear rate at the first adjournment shows the strongest decrease, declining by almost half to little more than four percent.

If a court-ordered release effort was implemented when overcrowding put population levels within a hundred beds of facility ceilings, more dramatic reductions in warrant and rearrest behavior could be obtained. There were 93 defendants who were recommended or qualified for release at arraignment by CJA who had fewer than two prior warrants and fewer than three prior convictions. Little more than a quarter of these defendants failed to appear (32% reduction) with only two percent missing the first adjournment (73% reduction) and less than a fifth were rearrested (44% reduction). There were 75 defendants who had received one of CJA's highest ratings, had fewer than two prior warrants, and no felony convictions. Less than one of every four of these defendants failed to appear (a 39% reduction) with a first-adjournment warrant rate of only 1.3% (an 84% reduction) and roughly one of every seven were rearrested (a 55% reduction).

EXHIBIT V.

Potential Screening Criteria

Warrants

|  | <u>N</u> | <u>At<br/>Adj.1</u> | <u>Total<br/>FTA</u> | <u>Rearrest</u> |
|--|----------|---------------------|----------------------|-----------------|
| Full release population                                      | 611      | 8.3                 | 39.6%                | 33.0%           |
| I.a. Claims NYC area address                                 | 517      | 7.2                 | 37.6                 | 32.9            |
| b. Less than 2 warrants                                      | 333      | 5.7                 | 35.1                 | 27.0            |
| c. No VFO convictions  | 487      | 9.4                 | 38.6                 | 30.8            |
| d. No felony convictions                                     | 350      | 7.1                 | 35.7                 | 28.9            |
| e. Less than 5 convictions                                   | 405      | 6.2                 | 35.3                 | 28.1            |
| f. Less than 4 convictions                                   | 351      | 5.7                 | 35.6                 | 28.8            |
| g. Less than 3 convictions                                   | 304      | 4.9                 | 33.8                 | 25.7            |
| h. Less than 3 misdemeanor convs.                            | 348      | 5.5                 | 36.5                 | 28.2            |
| i. Less than 2 misdemeanor convs.                            | 269      | 5.6                 | 33.8                 | 26.0            |
| j. Recommended or Qualified by CJA                           | 213      | 4.7                 | 34.7                 | 28.6            |
| k. Recommended by CJA  | 116      | 4.3                 | 34.5                 | 30.2            |
| II. Claims NYC area address and<br>less than 2 warrants, and | 277      | 4.3                 | 32.5                 | 26.0            |
| a. No VFO convictions  | 215      | 5.1                 | 33.0                 | 22.3            |
| b. No felony convictions                                     | 167      | 4.2                 | 30.5                 | 20.4            |
| c. Less than 5 convictions                                   | 231      | 3.0                 | 31.2                 | 25.1            |
| d. Less than 4 convictions                                   | 217      | 3.2                 | 31.3                 | 25.8            |
| e. Less than 3 convictions                                   | 195      | 3.1                 | 32.3                 | 24.1            |
| f. Less than 3 misdemeanor convs.                            | 218      | 3.2                 | 32.1                 | 26.1            |
| g. Less than 2 misdemeanor convs.                            | 176      | 3.4                 | 28.4                 | 24.4            |
| III. Recommended or Qualified by CJA, and                    |          |                     |                      |                 |
| a. Less than 5 convictions                                   | 151      | 3.3                 | 31.8                 | 22.5            |
| b. Less than 4 convictions                                   | 135      | 2.2                 | 30.4                 | 22.2            |
| c. Less than 3 convictions                                   | 117      | 2.6                 | 29.9                 | 19.7            |
| d. Less than 3 misdemeanor convs.                            | 137      | 2.9                 | 33.6                 | 23.4            |
| e. Less than 2 misdemeanor convs.                            | 101      | 2.0                 | 28.7                 | 21.8            |
| f. No VFO convictions  | 156      | 5.8                 | 33.3                 | 22.4            |
| g. No felony convictions                                     | 118      | 3.4                 | 26.3                 | 20.3            |

|   |          | <u>Warrants</u>     |                      |                 |
|---|----------|---------------------|----------------------|-----------------|
|   | <u>N</u> | <u>At<br/>Adj.1</u> | <u>Total<br/>FTA</u> | <u>Rearrest</u> |
| h. Less than 2 warrants, and              | 128      | 3.1                 | 28.9                 | 25.0            |
| 1) Less than 5 convictions                | 107      | 1.9                 | 26.2                 | 20.6            |
| 2) Less than 4 convictions                | 102      | 2.0                 | 25.5                 | 20.6            |
| 3) Less than 3 convictions                | 93       | 2.2                 | 26.9                 | 18.3            |
| 4) Less than 3 misdemeanor<br>convictions | 105      | 2.9                 | 27.6                 | 21.9            |
| 5) Less than 2 misdemeanor<br>convictions | 83       | 2.4                 | 24.1                 | 20.5            |
| 6) No VFO convictions, and                | 93       | 3.2                 | 27.9                 | 17.2            |
| - Less than 5 non-VFO convs.              | 84       | 1.2                 | 26.2                 | 14.3            |
| - Less than 4 non-VFO convs.              | 80       | 1.3                 | 26.3                 | 15.0            |
| - Less than 3 non-VFO convs.              | 77       | 1.3                 | 27.3                 | 14.3            |
| 7) No felony convictions                  | 75       | 1.3                 | 24.0                 | 14.7            |