

Jerome E.  
McElroy  
Executive Director

**PREDICTING THE LIKELIHOOD OF  
PRETRIAL FAILURE TO APPEAR  
AND/OR RE-ARREST FOR A VIOLENT  
OFFENSE AMONG NEW YORK CITY  
DEFENDANTS: AN ANALYSIS OF  
THE 2001 DATASET**

**Qudsia Siddiqi, Ph.D.**  
*Project Director*

**FINAL REPORT**

**January 2009**

**PREDICTING THE LIKELIHOOD OF PRETRIAL FAILURE TO APPEAR AND/OR RE-ARREST FOR A VIOLENT OFFENSE AMONG NEW YORK CITY DEFENDANTS: AN ANALYSIS OF THE 2001 DATASET**

**Qudsia Siddiqi, Ph.D.**  
*Project Director*

**Research Assistance:**

**Steve Mardenfeld**  
Research Assistant

**Systems Programming:**

**Barbara Geller Diaz**  
*Associate Director, Information Systems*

**Wayne Nehwadowich**  
*Senior Programmer/Analyst*

**Administrative Support:**

**Annie Su**  
*Administrative Associate*

**January 2009**

This report can be downloaded from <http://www.cjareports.org>

© 2009 NYC Criminal Justice Agency, Inc.

When citing this report, please include the following elements, adapted to your citation style:

Siddiqi, Qudsia. 2009. *Predicting the Likelihood of Pretrial Failure to Appear and/or Re-Arrest for a Violent Offense Among New York City Defendants: An Analysis of the 2001 Dataset*. New York: New York City Criminal Justice Agency, Inc.

## **ACKNOWLEDGEMENTS**

The author wishes to thank Jerome E. McElroy, Executive Director of CJA, and Dr. Richard R. Peterson, Director of Research at CJA, for their suggestions on the final draft. The author also thanks Barbara Geller Diaz, Associate Director, Information Systems, who did the programming to extract the re-arrest data from the CJA database

The author thanks to Wayne Nehwadowich for extracting the First Quarter of 2001 Dataset, and Steve Mardenfeld for providing research assistance to the study. Special thanks to Annie Su, who provided administrative support to the study.

Finally, the author would like to thank the New York State Division of Criminal Justice Services for providing supplemental criminal history data.

The methodology, findings, and conclusions of the study, as well as any errors and omissions are the sole responsibility of the author.

# TABLE OF CONTENTS

LIST OF TABLES .....	ii
INTRODUCTION.....	1
SECTION ONE: METHODOLOGY.....	3
A. Sampling and Data Sources.....	3
B. Dependent Variable .....	4
C. Independent Variables.....	13
D. Statistical Methods.....	14
SECTION TWO: PREDICTING PRETRIAL MISCONDUCT.....	17
A. Sample Characteristics .....	17
B. What Factors Predict Pretrial Misconduct?.....	23
C. Summary and Discussion.....	26
SECTION THREE: CONSTRUCTING A POINT SCALE AND DEVELOPING A RISK CLASSIFICATION SYSTEM FOR PRETRIAL MISCONDUCT .....	28
A. Constructing a Point Scale.....	28
B. Does the Point Scale Predicting Pretrial Misconduct Differ from the Point Scale Predicting FTA?.....	33
C. Distribution of the Point Scale Scores by Pretrial Misconduct .....	35
D. Developing a Risk Classification System for Pretrial Misconduct.....	37
E. How Does the Misconduct Risk Classification System Compare with CJA’s Current ROR Recommendation System?.....	41
F. Summary .....	45
SECTION FOUR: SUMMARY AND CONCLUSIONS.....	49
REFERENCES .....	54
APPENDIX A.....	55
APPENDIX B.....	56
APPENDIX C.....	58
APPENDIX D.....	62

## LIST OF TABLES

Table 1:	Arraignment Outcome First Quarter of 2001 Dataset, Defendant-based.....	5
Table 2:	Release Status at Arraignment First Quarter of 2001 Dataset, Defendant-based.....	6
Table 3:	Distribution of Pretrial FTA First Quarter of 2001 At-Risk Sample .....	8
Table 4:	Distribution of Pretrial Re-Arrest First Quarter of 2001 At-Risk Sample .....	9
Table 5:	Severity of Re-Arrest Charge for Defendants Re-Arrested Pretrial First Quarter of 2001 At-Risk Sample .....	10
Table 6:	Top Re-Arrest Charge Type and Severity for Defendants Re-Arrested for a Violent Offense First Quarter of 2001 At-Risk Sample .....	11
Table 7:	Distribution of Pretrial Misconduct First Quarter of 2001 At-Risk Sample .....	12
Table 8:	Demographic and Case Processing Characteristics First Quarter of 2001 At-Risk Sample .....	18
Table 9:	Community Ties First Quarter of 2001 At-Risk Sample .....	19
Table 10:	Criminal History First Quarter of 2001 At-Risk Sample .....	21
Table 11:	Top Charge at Initial Arrest First Quarter of 2001 At-Risk Sample .....	22
Table 12:	Multiple Logistic Regression Model Predicting Pretrial Misconduct First Quarter of 2001 At-Risk Sample .....	24
Table 13:	Multiple Logistic Regression Model Used to Develop a Point Scale for Pretrial Misconduct First Quarter of 2001 At-Risk Sample .....	30

## LIST OF TABLES (continued)

Table 14:	Point Scale Predicting Pretrial Misconduct First Quarter of 2001 At-Risk Sample .....	32
Table 15:	A Comparison of the Point Scale Predicting Pretrial Misconduct with the Point Scale Predicting Pretrial FTA First Quarter of 2001 At-Risk Sample .....	34
Table 16:	Distribution of Point Scale Scores by Pretrial Misconduct First Quarter of 2001 At-Risk Sample .....	36
Table 17:	CJA's New ROR Recommendation System First Quarter of 2001 At-Risk Sample .....	39
Table 18:	Misconduct Risk Classification System First Quarter of 2001 At-Risk Sample .....	40
Table 19:	New ROR Recommendation System by Pretrial FTA First Quarter of 2001 At-Risk Sample .....	42
Table 20:	Risk Classification Systems by Pretrial FTA First Quarter of 2001 At-Risk Sample .....	44
Table 21:	Risk Classification Systems by Pretrial Re-Arrest for a Violent Offense First Quarter of 2001 At-Risk Sample .....	46
Table 22:	Risk Classification Systems by Pretrial Misconduct First Quarter of 2001 At-Risk Sample .....	47

# **PREDICTING THE LIKELIHOOD OF PRETRIAL FAILURE TO APPEAR AND/OR RE-ARREST FOR A VIOLENT OFFENSE AMONG NEW YORK CITY DEFENDANTS: AN ANALYSIS OF THE 2001 DATASET**

## **INTRODUCTION**

Pretrial release programs, as an alternative to the traditional bail system, have their roots in the bail reform movement of the early 1960s. The "Manhattan Bail Project," set up by the Vera Foundation in October 1961, was among the first experimental pretrial-release projects in the country. In an attempt to assist indigent defendants by establishing an alternative to the money-bail system, the project used a community-ties model to determine defendant eligibility for pretrial release on their own recognizance (ROR). Upon application, defendants who were released on recognizance were found to have low failure-to-appear (FTA) rates. Consequently, the Manhattan Bail Project was considered a great success (Ares et al. 1963). By 1965, 48 jurisdictions had instituted pretrial-release programs modeled after the Vera Project (Thomas 1976).

As more jurisdictions began to release defendants on their own recognizance, concerns about public safety began to grow. It was generally believed that the bail practices were putting the public's safety at-risk by releasing dangerous defendants back to the streets. In response to those concerns, in 1971 the first federal preventive detention statute was passed. The statute led the District of Columbia's Pretrial Services Agency to adopt a new policy, which allowed for consideration of public safety risk, as well as risk of flight. Currently, almost all of the states and the federal system consider public safety when making pretrial release decisions, and permit more restrictive pretrial release conditions, including preventive detention, where the risk is seen as great. However, the New York State Criminal Procedure Law (CPL) does not permit the explicit consideration of "dangerousness" in the setting of pretrial release conditions. In New York City, the pretrial release recommendations are based on a "risk of flight" model, and are made by the New York City Criminal Justice Agency, Inc. (CJA).

Although New York State Statute does not permit consideration of public safety in making pretrial release decisions, CJA has conducted extensive research on pretrial re-arrest (Siddiqi March 2003; June 2003). In addition, in June of 2006, using a 2001 sample of New York City defendants, a statistical model predicting both pretrial FTA and re-arrest was developed (Siddiqi 2006). Recently,

CJA shifted its focus to another form of pretrial failure, which included pretrial FTA and/or pretrial re-arrests for violent offenses (pretrial misconduct). This report presents findings from that analysis. The study addresses the following research questions:

1. What factors predict pretrial misconduct?
2. Does the point scale predicting pretrial misconduct differ from the point scale predicting the risk of pretrial FTA?
3. How does the misconduct risk classification system compare with CJA's current ROR recommendation system?

The report is organized into four sections. Section One describes the research methodology. Section Two presents multivariate analysis of pretrial misconduct. In the third section, the multivariate model was applied to develop a new point scale. The last section summarizes the research findings and offers conclusions.



## Section One

### Methodology

This section presents the research methodology used in this report. Sampling and data sources are discussed, and a description of the dependent and independent variables is provided. In addition, statistical methods used in the analysis are described.

#### **A. Sampling and Data Sources**

Data for the present analysis were drawn from a cohort of arrests made between January 1, 2001 and March 31, 2001, in which the defendants were prosecuted on new charges (as opposed to being re-arrested on a bench warrant, for example). The dataset excluded cases that were not docketed in the CJA database (UDIIS), unless there was an indication that they were prosecuted as “A” dockets in Manhattan, or as direct indictment<sup>1</sup> (cases for which prosecution information is not available in CJA’s database).

The dataset contained 91,728 docketed arrests.<sup>2</sup> A desk appearance ticket (DAT) was issued to 6% of the defendants, and the remaining 94% were held for arraignment in Criminal Court (summary arrests). Defendants issued desk appearance tickets were excluded from the study sample.

The primary data source was the CJA database.<sup>3</sup> The Criminal Court data were tracked through November 30, 2001.<sup>4</sup> By that time, 90% of the cases had reached a disposition in Criminal Court. The cutoff date for Supreme Court data was January 31, 2002. Approximately 88% of the cases had reached final outcomes by that date. The criminal history information was supplemented with data from New York State Division of Criminal Justice Services (DCJS).<sup>5</sup>

---

<sup>1</sup>CJA’s database does not contain court data for dockets with the same docket number. Thus, court data for “A” dockets in Manhattan (the designation is used in Manhattan to distinguish between two court cases with the same docket number, one of which receives a suffix “A”) were not available for analysis. Felony prosecution in the Supreme Court as the result of a direct indictment by a grand jury is also unavailable. Arrest information is available for both these types of records, and defendant information may be available for arrests receiving “A” dockets. To the extent that these records could be distinguished from other types of non-docketed arrests, they were retained in the dataset, to maintain a complete cohort of prosecuted arrests.

<sup>2</sup>This number excludes cases transferred to Family Court prior to arraignment, and voided arrests.

<sup>3</sup> Information about the arrest is provided by an on-line feed from the New York City Police Department.

<sup>4</sup> If a case had multiple dockets, the Criminal Court information, including warrants, was pulled from the docket having the most severe arraignment charge (Penal Law severity).

<sup>5</sup> DCJS did not provide data for sealed cases. The New York City Police Department, DCJS, or any agency providing data bear no responsibility for the methods of analysis used in this report or its conclusions.

In the first quarter 2001 dataset, 14% of the defendants had multiple arrests. To examine defendant behavior, the arrest-based file was converted into a defendant-based file, in which only a defendant's first arrest during the sampling period was utilized. This file contained 67,848 defendants. Their arraignment dispositions are presented in Table 1.

As shown by the table, in the first quarter of 2001, 16% of the defendants had their cases dismissed at arraignment. Defendants who pled guilty comprised one-third of cases, and one-half had their cases adjourned for further appearances.

The analyses presented in this report focused on defendants whose cases were not completed at Criminal Court arraignment, and who were at risk of pretrial failure to appear and/or re-arrest for violent offenses (i.e., released on recognizance or bail prior to the disposition of all charges in Criminal or Supreme Court). Table 2 presents the release status for defendants whose cases were adjourned at Criminal Court arraignment. As shown by the table, 62% (21,379) of the defendants were released at arraignment; 57% were released on recognizance and 5% made bail. Another 18% were released post-arraignment prior to the disposition of their case in Criminal or Supreme Court (table not shown). After excluding juvenile defendants (under 16 years), the 2001 sample contained 27,630 defendants who were released pretrial. Of those released pretrial, close to 3% were missing a CJA release recommendation. They were excluded from the study sample. To be specific, the analysis focused on 26,821 defendants who were at-risk of pretrial misconduct in Criminal or Supreme Court.

## **B. Dependent Variable**

For the present analysis, the dependent variable measured pretrial misconduct that included pretrial FTA and/or pretrial re-arrest for a violent offense (see Appendix A for classification of

**Table 1**

Arrestment Outcome  
First Quarter of 2001 Dataset  
(Defendant-based)  
(N=67,848)

<b>Arrestment Outcome</b>	<b>N</b>	<b>%</b>
Non-Disposed	34626	51
Pled Guilty	22062	33
Dismissed	11125	16
Other <sup>1</sup>	35	0
Total	67848	100

<sup>1</sup>Other includes transfer to other borough and family court.

**Table 2**

Release Status at Arraignment

First Quarter of 2001 Dataset  
(Defendant-based)

<b>Release Status</b>	<b>N</b>	<b>%</b>
Remand	497	2
Bail Set, Not Made	12388	36
Bail Made	1709	5
ROR	19670	57
Total	34264	100

violent offenses). It was dichotomized into any misconduct (pretrial FTA and/or re-arrest for a violent offense) and no misconduct. The pretrial FTA measured the issuance of a bench warrant prior to the disposition of a case in Criminal or Supreme Court. The FTA rate for the 2001 at-risk sample was 16% (Table 3). The pretrial re-arrest for a violent offense included both felony and misdemeanor charges. In the 2001 at-risk sample, 4,668 (17%) defendants were re-arrested pretrial (Table 4). Table 5 displays the distribution of these defendants by re-arrest charge severity. As shown by the table, 10% of the re-arrested defendants were charged with a violent felony offense,<sup>6</sup> whereas 8% were re-arrested for violent offenses of misdemeanor or lesser severity. The remaining 82% were re-arrested for nonviolent felony or misdemeanor (or lesser) offenses.

Table 6 displays the severity and Penal Law charges for those re-arrested for violent offenses. As shown by the table, two-fifths of the violent re-arrests were made for A misdemeanors, followed by D felonies (28%), B felonies (16%), and C felonies (10%). The remaining violent re-arrests were made for A and E felonies, and B misdemeanor or lower charges. With regard to the Penal Law charges, half of the violent felony re-arrests were made for assault or related offenses.<sup>7</sup> Robbery accounted for 40% of violent felonies.<sup>8</sup> Continuing with violent felony re-arrests, 5% of the defendants were re-arrested for murder or attempted murder charges, whereas 4% were re-arrested for rape charges. With respect to violent re-arrests of misdemeanor or lesser severity, assault or related offenses accounted for 85% of those re-arrests. The remaining 15% were made for resisting arrests.

The pretrial misconduct rate for the 2001 at-risk sample was 18% (N=4808). Table 7 presents the distribution of pretrial FTA and re-arrest for a violent offense in the 2001 at-risk sample and among those who failed pretrial. As shown by the table, the re-arrest rate for a violent

---

<sup>6</sup> The definition of a violent felony offense (VFO) used for arrest and re-arrest charges in this report differed from that used under the New York State Penal Law. It may not include all the offenses considered VFOs by the New York State Statute. Furthermore, our definition included all felonies, whereas the New York State Statute excludes violent offenses of class A felonies from its VFO definition. However, prior VFO convictions mentioned in this report were defined by the Statute.

<sup>7</sup> Of this number, 1% was re-arrested for attempted assault charges.

<sup>8</sup> Of this number, 3% were re-arrested for attempted robbery.

**Table 3**

Distribution of Pretrial FTA

First Quarter of 2001 At-Risk Sample

<b>Pretrial FTA</b>	<b>N</b>	<b>%</b>
Yes	4223	16%
No	22598	84%
Total	26821	100%

**Table 4**

Distribution of Pretrial Re-Arrest

First Quarter of 2001 At-Risk Sample

<b>Pretrial Re-Arrest</b>	<b>N</b>	<b>%</b>
Yes	4668	17%
No	22153	83%
Total	26821	100%

**Table 5**

Severity of Re-Arrest Charge  
for Defendants Re-Arrested Pretrial

First Quarter of 2001 At-Risk Sample

	<b>N</b>	<b>%</b>	<b>% All At Risk</b>
Re-Arrest for Violent Felony Offenses	484	10%	2%
Re-Arrest for Violent Misdemeanor Offenses*	351	8%	1%
Re-Arrest for Non-Violent Offenses	3832	82%	14%
Total	4667	100%	26820

\* Includes violations and infractions



**Table 6**

Top Re-Arrest Charge Type and Severity for Defendants  
Re-Arrested for a Violent Offense

First Quarter of 2001 At-Risk Sample

	<b>N</b>	<b>%<sup>1</sup></b>
<u>Re-Arrest Charge Severity</u>		
A Felony	12	1
B Felony	136	16
C Felony	81	10
D Felony	237	28
E Felony	18	2
A Misdemeanor	340	41
B Misdemeanor and Other	11	1
Total	835	99
<u>Re-Arrest Penal Law Article</u>		
<u>Violent Felony Offenses</u>		
Assault (PL 120)	248	51
Robbery (PL 160)	194	40
Homicide (PL 125)	24	5
Sex Offenses (PL 130)	17	4
Kidnapping (PL 135)	1	0
Total	484	100
<u>Violent Misdemeanor or Lesser Offenses</u>		
Assault (PL 120)	300	85
Resisting Arrest (PL 205)	51	15
Total	351	100

<sup>1</sup>The percentages do not add to 100 due to rounding.

**Table 7**

Distribution of Pretrial Misconduct

First Quarter of 2001 At-Risk Sample

	<b>N</b>	<b>%</b>	<b>% All At Risk</b>
Pretrial FTA Only	3973	83%	15%
Re-Arrest for Violent Offenses Only	585	12%	2%
Both Pretrial FTA and Violent Re-Arrests	250	5%	1%
Total	4808	100%	26821

offense was quite low when the at-risk sample was taken into consideration. In the 2001 at-risk sample, only 3% of the defendants were re-arrested for a violent offense (2% for violent offenses only and 1% for both types of failure). In the at-risk sample, 15% of the defendants failed to appear in Criminal or Supreme Court (FTA only).

Table 7 further shows that among defendants who failed pretrial, 12% were only re-arrested for a violent offense, whereas 83% failed to appear for at least one appearance in Criminal or Supreme Court. The remaining 5% had both types of failure.

### **C. Independent Variables**

In our analysis, we examined a number of independent variables. They included community-ties items, criminal-history indicators, top initial arrest charge, demographic attributes and case-processing characteristics. Prior research and a review of correlations with the dependent variable aided the selection of the independent variables.

The community-ties items contained information on whether the defendants had a working telephone in their residence or had a cellular phone, the length of time at their current address, whether they had a New York City area address, whether they expected someone at their Criminal Court arraignment, and whether they were employed, in school, or in a training program full time at the time of their initial arrest. The criminal-history variables provided data on a defendant's prior arrests, prior convictions, pending cases and prior FTA. The top charge at initial arrest considered both the type and severity of the offense. The offense "type" was based on its Uniform Crime Reports' (UCR) category. The offenses were categorized into (1) violent, (2) property, (3) drug, (4) public order offenses, and (5) other (see Appendix A for classification of offenses). These categories were similar to those used by the Bureau of Justice Statistics in its various reports on recidivism (Bureau of Justice Statistics 2002). The severity of the top arrest charge was derived from its New York State Penal Law offense class. The hierarchy from most to least serious severity level was: A felony, B felony, C felony, D felony, E felony, A misdemeanor, B misdemeanor, unclassified misdemeanor (U misdemeanor), violation and infraction. For our analysis, we used the type and severity of the arrest charge to compute a new charge variable, labeled as graded offense type. The graded offense type classified all offense types into felony and misdemeanor (or lower) level offenses. Consequently, we had felony level violent, property, drug, public

order and “other” offenses. Likewise, we had misdemeanor (or lower) level violent, property, drug, public order and “other” offenses.

The demographic variables provided information about a defendant’s sex, ethnicity, and age. The case-processing variables included information on borough of initial arrest, borough of first pretrial re-arrest, time from arraignment to disposition on the initial arrest (case-processing time), type of first release, and court of disposition. The type of first release variable indicated whether a defendant was initially released on own recognizance or by the posting of bail. The court of disposition variable accounted for whether a case was disposed in Criminal Court or was transferred to Supreme Court. Included in the borough of arrest were the five boroughs comprising the City of New York: Brooklyn, Manhattan, Queens, the Bronx, and Staten Island.

#### **D. Statistical Methods**

In the present analysis, we examined the likelihood of pretrial FTA and/or re-arrest for a violent offense. Since this variable was dichotomous (pretrial FTA and/or re-arrest for a violent offense versus no pretrial FTA and no re-arrest for a violent offense), logistic regression analysis was used to develop multivariate models (see Appendix B for coding of variables).

Multiple logistic regression analysis is a statistical technique that is used to test the individual effect of a number of independent variables on a dichotomous dependent variable, while controlling for the other variables in the model. A logistic regression procedure predicts the log-odds (the logit coefficients) of an observation being in one category of the dependent variable versus another. When reporting the results from a logistic regression model, one may also wish to transform the log-odds into odds ratios. This is accomplished by taking the antilog of the logit coefficient. The result is then interpreted as how much the odds of an outcome change, given a specific category of an independent variable. An odds ratio greater than one indicates an increase in the likelihood of an event occurring, and an odds ratio of less than one indicates a decrease in the likelihood of an event occurring. An odds ratio of one indicates the odds remain unchanged (no association between the independent and dependent variable). If the independent variable is continuous, such as age, the odds ratio measures the change in the odds of an outcome given one unit change in the independent variable. For dichotomous independent variables, such as gender, the odds ratio tells us how much the odds of an outcome change

when cases are in one category versus another category. If a categorical independent variable has more than two categories, such as borough of initial arrest, the odds ratio measures the effect of being in each category of the independent variable versus a specified reference category. In the present analysis, the effect for each category was compared to the overall effect of that variable (deviation contrast technique). The last category was specified as the excluded category.

As an example, assume that a dichotomized independent variable is coded "1" if a defendant has a history of failure to appear, and "0" otherwise (no prior FTA). Also assume that the dependent variable, indicating pretrial misconduct, is coded "1" if a defendant fails to appear for a scheduled hearing in Criminal or Supreme Court or is re-arrested for a violent offense, and "0" if a defendant neither fails to appear nor is re-arrested for a violent offense. Estimating a multiple logistic regression model with prior FTA and several other independent variables produces a logit coefficient (log-odds) of .677. This suggests that all else being equal, when the variable of prior FTA changes from 0 to 1, there is an associated increase of .677 in the log-odds of pretrial failure. Taking the antilog of the logit coefficient gives an odds ratio of 1.963. This indicates the odds of pretrial misconduct for defendants with prior failures to appear are about 2 times greater than that for defendants who do not have a history of failure to appear.

In the present analysis, a .05 level (or less) was used to ascertain whether an observation had a statistically significant effect on the dependent variable. A .05 level of significance means that the observation could have occurred by chance alone five times in 100. The overall ability of all the independent variables in a logistic regression model to predict the outcome variable was measured by examining Nagelkerke  $R^2$  (SPSS, Inc., 1999). This statistic indicates what proportion of the variation in the dependent variable is explained by all the independent variables in the model. Its values range from 0 to 1, with 0 indicating no variation in the dependent variable and 1 suggesting that all the variation in the dependent variable was explained by the independent variables in the model.

When conducting the present analysis, we developed several models predicting the pretrial misconduct. Variables were added or dropped depending upon their contribution to the dependent variable. Only the final model from the analysis is described in the current report.

At the next step of the analysis, the final model from multivariate analysis was used as a guide to develop a point scale that would assess both pretrial FTA and/or re-arrest for a violent offense. For

policy and practical concerns, a defendant's demographics, case-processing characteristics, and graded offense type at initial arrest were dropped, and the model was re-estimated. Points were assigned to each of the independent variables based on the logit coefficients and significance levels. The effect for the excluded category was obtained by choosing an alternative reference category. Because the effect for each category was compared with the average across all categories of that variable, changing the reference category did not alter the effects of the other categories. For the purpose of standardization, the statistically significant logit coefficients were divided by .15 and were then rounded to the nearest whole number. The decision to divide by .15 was arbitrary, although consistent with several previous studies (Goldkamp et al., 1981; Goodman, 1992). If the coefficient was negative and statistically significant, a negative value was given, indicating that a defendant was less likely to FTA or be re-arrested for a violent offense. Likewise, positive values were given for positive significant coefficients, meaning that the likelihood of pretrial misconduct increased. A value of zero was given to categories that did not produce a statistically significant effect on pretrial misconduct. The total score for each defendant was obtained by summing those points. The point scale was used to develop a risk classification system. The cutoff scores from the current ROR recommendation system were used to classify defendants into low, moderate and high-risk categories. The two systems were compared with respect to their ability to predict failure.

## **Section Two**

### **Predicting Pretrial Misconduct**

This section presents results from the analysis of pretrial misconduct, which takes into consideration both pretrial FTA and pretrial re-arrest for a violent offense. The sample characteristics and findings derived from the multivariate analysis of pretrial misconduct are described. The section concludes with a summary and discussion of findings.

#### **A. Sample Characteristics**

The analysis presented in this section focused on a sample of defendants who were released pretrial in the First Quarter 2001 Dataset and were at risk for pretrial FTA and/or pretrial arrest for a violent offense. Their characteristics are described below.

##### Demographic and Case-Processing Characteristics

Table 8 displays demographic and case-processing characteristics for defendants released pretrial. As shown by the table, an overwhelming majority of the defendants were male. Slightly less than one-half of the defendants were black, about one-third were Hispanic, and the remainder were white or an “other” ethnicity. The median age was 30 years.

In the 2001 at-risk sample, Brooklyn and Manhattan had the highest proportion of defendants arrested (30% in each of these boroughs). Bronx arrestees comprised one-fifth of the defendants, and 16% were arrested in Queens. Staten Island had the lowest number of arrests (4%). Slightly more than one-tenth of the defendants had their cases disposed in Supreme Court. The majority was released on recognizance.

##### Community Ties

Table 9 presents community-ties variables for defendants released pretrial. As shown by the table, an overwhelming majority of the defendants in the 2001 at-risk sample reported living in the New York City area. Approximately three-fourths reported having a telephone in their residence, or having a cellular phone, and living at their current address for 18 months or longer.

**Table 8**

## Demographic and Case Processing Characteristics

First Quarter of 2001 At-Risk Sample

<b>Defendant Characteristics</b>	<b>N</b>	<b>%</b>
<b>DEMOGRAPHIC ATTRIBUTES</b>		
<u>Sex</u>		
Male	22455	84
Female	<u>4354</u>	<u>16</u>
Total	26809	100
<u>Ethnicity</u>		
Black	12343	47
Hispanic	9114	34
White	3476	13
Other <sup>1</sup>	<u>1484</u>	<u>6</u>
Total	26417	100
<u>Age at Arrest</u>		
18 and under	3063	12
19-20 years	2244	8
21-24 years	4132	15
25-29 years	3818	14
30-34 years	3851	14
35- 39 years	3643	14
40 and older	<u>6070</u>	<u>23</u>
Total	26821	100
Median Age (Years)	30	
<b>CASE-PROCESSING CHARACTERISTICS</b>		
<u>Borough of Arrest</u>		
Brooklyn	7938	30
Manhattan	7905	30
Queens	4397	16
Staten Island	1078	4
Bronx	<u>5503</u>	<u>20</u>
Total	26821	100
<u>Type of Court</u>		
Criminal Court	23616	88
Supreme Court	<u>3205</u>	<u>12</u>
Total	26821	100
<u>Type of First Release</u>		
ROR	21081	79
Bail	<u>5600</u>	<u>21</u>
Total	26681	100



**Table 9**

## Community Ties

First Quarter 2001 At-Risk Sample

	<b>N</b>	<b>%</b>
<b>COMMUNITY-TIES ITEMS</b>		
<u>Verified NYC Area Address</u>		
Yes Unverified	16902	65
Yes Verified	7291	28
No Unverified	1289	5
No Verified	156	1
Unresolved Conflict	314	1
Total	25952	100
<u>Verified Length of residence of at least 18 months</u>		
Yes Unverified	12696	49
Yes Verified	5811	22
No Unverified	5515	21
No Verified	1432	6
Unresolved Conflict	532	2
Total	25986	100
<u>Verified Family Ties Within Residence</u>		
Yes Unverified	9834	38
Yes Verified	5712	22
No, Unverified	8337	32
No Verified	1700	6
Unresolved Conflict	386	2
Total	25969	100
<u>Expects Someone at Arraignment</u>		
Yes	9866	38
No	16013	62
Total	25879	100
<u>Verified Telephone</u>		
Yes Unverified	12472	48
Yes Verified	7115	27
No Unverified	5380	21
No Verified	324	1
Unresolved Conflict	668	3
Total	25959	100
<u>Verified Full Time Employment/ School/ Training</u>		
Yes Unverified	9784	38
Yes Verified	4233	16
No Unverified	8657	33
No Verified	2704	10
Unresolved Conflict	563	2
Total	25941	100

Defendants reportedly living with someone at the time of initial arrest comprised three-fifths of the sample. Slightly more than one-half of the defendants reported being employed, in school, or in a training program full time and about two-fifths expected a relative or friend at Criminal Court arraignment.

### Criminal History

Table 10 provides criminal history information for defendants who were released pretrial in the 2001 at-risk sample. The table shows that almost three-fifths of the defendants had been arrested previously. Slightly more than one-fourth had been convicted previously on misdemeanor charges, and one-fifth had (a) prior felony conviction(s). Prior violent felony convictions accounted for 8% of the sample. Defendants with one or more cases pending at the time of the sample arrest comprised nearly one-fourth of the sample, and almost one-tenth had a bench warrant attached to their RAP sheet.

### Top Charge Information

Defendants initially arrested for felony charges, primarily B and D felonies, comprised slightly more than one-half of the sample (Table 11). One-third of the arrests were made for violent offenses, and one-fourth for drug offenses. Combining both type and severity, 16% of the arrests were made for violent felony offenses. The same percentage applied to violent arrests made for misdemeanor or lesser severity. The proportions of defendants initially arrested for felony level property or drug offenses were considerably higher than that for misdemeanor (or lesser) level property or drug offenses (11% versus 4% for the former, 16% versus 8% for the latter). The proportion of defendants arrested for “other” felony offenses was much lower than that for “other” misdemeanor offenses (3% versus 12%).

**Table 10**

## Criminal History

First Quarter of 2001 At-Risk Sample

	N	%
<b>CRIMINAL HISTORY</b>		
<u>First Arrest</u>		
Yes	10953	42
No	<u>15284</u>	<u>58</u>
Total	26237	100
<u>Prior Violent Felony Convictions</u>		
Yes	2031	8
No	<u>24790</u>	<u>92</u>
Total	26821	100
<u>Prior Felony Convictions</u>		
Yes	5950	23
No	<u>20287</u>	<u>77</u>
Total	26237	100
<u>Prior Misdemeanor Convictions</u>		
Yes	7505	29
No	<u>18732</u>	<u>71</u>
Total	26237	100
<u>Open Cases</u>		
Yes	6221	24
No	<u>20016</u>	<u>76</u>
Total	26237	100
<u>Type of Warrant</u>		
Attached to Rap Sheet		
Bench Warrant	2413	9
No Bench Warrant	<u>23945</u>	<u>91</u>
Total	26358	100
Prior FTA		
Yes	6924	26
No	<u>19897</u>	<u>74</u>
Total	26821	100

**Table 11**

Top Charge at Initial Arrest  
First Quarter of 2001 At-Risk Sample

	N	%
<u>Top Arrest Charge Severity</u>		
A Felony	335	1
B Felony	4275	16
C Felony	1430	5
D Felony	5114	19
E Felony	2618	10
A Misdemeanor	9956	37
B Misdemeanor	1503	6
Other <sup>1</sup>	<u>1441</u>	<u>6</u>
Total	26672	100
<u>Top Arrest Charge Type</u>		
Violent	8663	33
Property	3380	13
Drug	6221	23
Weapon	1090	4
Gambling	219	1
DUI (alcohol or drugs)	870	3
Criminal Mischief	870	3
VTL (excluding DUI)	915	3
Other	<u>4446</u>	<u>17</u>
Total	26674	100
<u>Graded Offense Type</u>		
Felony-Level Charges		
Violent	4209	16
Property	2881	11
Drug	4164	16
Public Order	1737	6
Other	781	3
<u>Misdemeanor or Lesser Charges</u>		
Violent	4454	16
Property	1066	4
Drug	2057	8
Public Order	2109	8
Other	<u>3214</u>	<u>12</u>
Total	26672	100

<sup>1</sup> OTHER includes unclassified misdemeanors, violations, infractions, and charges outside the New York State Penal Law and Vehicle & Traffic Law (e.g. Administrative and Public Health Codes).

## **B. What Factors Predict Pretrial Misconduct?**

Based on prior research, we selected a number of variables for our analysis of pretrial misconduct. Most of those variables were examined previously in our analyses of pretrial FTA and re-arrest. Those variables included community-ties factors, criminal history variables, graded offense type, demographic attributes, and case-processing characteristics. Before entering them into a multiple logistic regression model, their correlation with pretrial misconduct was examined (data not shown) (also see bivariate relationship in Appendix C).

Table 12 displays the findings from the logistic regression model of pretrial misconduct. Beginning with the community-ties variables, living at a New York City area address, having a telephone in their residence, and being employed, in school or in a training program full time were significantly related with a lower likelihood of pretrial misconduct. This was true regardless of verification, with the exception of living at a New York City area address. Defendants with a “yes verified” response to the New York City area address variable were less likely to fail pretrial than defendants with the average effect of that variable. The “yes” category of that variable did not attain statistical significance. In contrast, the odds of failing to appear or being re-arrested for a violent offense were higher among defendants with “no” or “no verified” response to all of these community ties variables. In addition to these variables, expecting someone at Criminal Court arraignment was also found to be a significant predictor of pretrial misconduct--defendants who expected someone were less likely to fail pretrial than defendants who did not expect anyone at arraignment.

Regarding the criminal history variables, defendants having prior arrests, open cases, and a history of FTA were more likely to FTA or be re-arrested for a violent offense than defendants who did not have such a history. Having a prior misdemeanor or felony conviction did not reach statistical significance in our model.<sup>9</sup>

---

<sup>9</sup> The variables reflecting prior misdemeanor and felony convictions were statistically significant when the prior FTA variable was not in the model. Since prior FTA was a stronger predictor of pretrial misconduct than prior convictions, it was included in the final model.

**Table 12**

## Multiple Logistic Regression Model Predicting Pretrial Misconduct

First Quarter 2001 At-Risk Sample

(N=24,666)

	<b>Logit Coefficient</b>	<b>Significance Level</b>	<b>Odds Ratio</b>
<b>TELEPHONE</b>			
Excluded Category: Unresolved Conflict			
Yes, Yes Verified	-0.172	0.001	0.842
No, No Verified	0.269	0.000	1.309
<b>EMPL/SCHOOL/TRAINING</b>			
Excluded Category: Unresolved Conflict			
Yes	-0.159	0.001	0.853
Yes Verified	-0.143	0.009	0.867
No, No Verified	0.105	0.012	1.111
<b>NYC AREA RESIDENCE</b>			
Excluded Category: Unresolved Conflict			
Yes	-0.096	0.094	0.909
Yes Verified	-0.373	0.000	0.688
No, No Verified	0.371	0.000	1.449
<b>EXPECTING SOMEONE AT ARRAIGNMENT</b>	-0.251	0.000	0.778
<b>BOROUGH OF ARREST</b>			
Excluded Category: Bronx			
Brooklyn	0.062	0.082	1.064
Manhattan	-0.054	0.113	0.947
Queens	-0.183	0.000	0.833
Staten Island	0.300	0.000	1.350
<b>SEX (FEMALE)</b>	-0.075	0.143	0.928
<b>AGE</b>	-0.026	0.000	0.975
<b>ETHNICITY</b>			
Excluded Category: Other			
Black	0.178	0.000	1.195
White	-0.160	0.001	0.852
Hispanic	0.091	0.013	1.095

**Table 12 (continued)**

	<b>Logit Coefficient</b>	<b>Significance Level</b>	<b>Odds Ratio</b>
CASE PROCESSING TIME	0.006	0.000	1.006
COURT OF DISPOSITION	-0.357	0.000	0.700
PRIOR FTA	0.675	0.000	1.963
OPEN CASES	0.169	0.000	1.184
PRIOR ARREST	0.192	0.000	1.212
PRIOR MISDEMEANOR CONVICTION	0.018	0.715	1.018
PRIOR FELONY CONVICTION	-0.025	0.594	0.975
<u>GRADED OFFENSE TYPE AT INITIAL ARREST</u>			
<u>EXCLUDED CATEGORY: MISDEMEANOR, OTHER</u>			
<u>Felony-Level Offenses</u>			
Violent	-0.260	0.000	0.771
Property	-0.115	0.030	0.891
Drug	-0.075	0.118	0.927
Public Order	-0.098	0.141	0.907
Other	-0.143	0.141	0.866
<u>Misdemeanor or Lesser Charges</u>			
Violent	-0.038	0.404	0.962
Property	0.325	0.000	1.384
Drug	0.194	0.000	1.214
Public Order	0.215	0.000	1.240

Nagelkerke R<sup>2</sup> for the Model = 14%

The graded charge type at initial arrest had a statistically significant effect on the likelihood of pretrial misconduct. The likelihood of FTA and/or re-arrest for a violent offense was lower among defendants initially arrested for felony-level violent and property offenses. In contrast, the odds of pretrial misconduct were higher among defendants initially arrested for all types of misdemeanor or lesser offenses, with the exception of those arrested for violent offenses. Defendants having been arrested for violent offenses of misdemeanor or lesser severity were neither more nor less likely to fail than defendants with the mean effect of the charge variable.

An examination of demographic variables indicated that, when controlling for the effects of the other variables in the model, the probability of FTA and/or re-arrest for a violent offense was higher among black and Hispanic defendants. When compared with the average effect of the ethnicity variable, white defendants were less likely to fail pretrial. The likelihood of failure decreased with age. With respect to case processing time, the probability of pretrial misconduct increased with an increase in case processing time. The borough where the initial arrest occurred also proved relevant: the likelihood of pretrial misconduct was lower among defendants initially arrested in Queens. In contrast, defendants initially arrested in Staten Island were more likely to be engaged in pretrial misconduct than the citywide average. Finally, the odds of pretrial misconduct were higher among defendants whose cases were disposed in Criminal Court than defendants with a disposition in Supreme Court.

As shown by Nagelkerke R Square, the total amount of variance explained by the model was 14%.

### **C. Summary and Discussion**

We developed a logistic regression model to identify variables that would significantly predict pretrial misconduct. These variables included community ties items, criminal history variables, graded offense type, demographics, and case-processing characteristics. Regarding community-ties variables, living at a New York City area address, having a telephone in the residence, being engaged in a full time activity, and expecting someone at arraignment were significantly related with a lower likelihood of pretrial misconduct. Of the criminal history variables in the model prior arrests, pending cases at the time of sample's initial arrest, and prior FTA proved to be relevant. The variables reflecting prior misdemeanor convictions and prior felony convictions did not attain statistical significance. This was



mainly due to their correlation with the prior FTA variable. When prior FTA, prior misdemeanor convictions, and prior felony convictions were simultaneously controlled for in the model, only prior FTA attained statistical significance. When prior FTA was excluded from the model, prior misdemeanor convictions and prior felony convictions became significant. Defendants with prior misdemeanor convictions and prior felony convictions were more likely to FTA or be re-arrested for a violent offense than defendants with no such convictions. Since prior FTA was a stronger predictor of pretrial misconduct than prior convictions, it was retained in the model.

**Section Three**  
**Constructing a Point Scale and Developing a**  
**Risk Classification System for Pretrial Misconduct**

This section presents a point scale which would predict both pretrial FTA and re-arrest for a violent offense. The point scale is used to classify defendants into various risk categories. Comparisons are made with the CJA's new ROR recommendation system.

**A. Constructing a Point Scale**

The model presented in Table 12 was used to guide the development of a point scale that would assess pretrial FTA and re-arrest for a violent offense. However, before constructing the point scale, we needed to re-estimate the model to address a number of policy and practical issues. To be specific, the model presented in Table 12 suggested that the likelihood of pretrial misconduct was higher among black, Hispanic and younger defendants, and defendants arrested in Staten Island. It should be noted that CJA as a policy does not discriminate against defendants on the basis of demographics or borough of arrest. Therefore, these variables were excluded from the model. The model in Table 12 also indicated that case-processing time was significantly related with pretrial misconduct. Since this information is not available at Criminal Court arraignment, it was also dropped from the model. Furthermore, in order to be consistent with the CJA's current recommendation policy, we dropped graded offense type from the model.<sup>10</sup>

In the re-estimated model (data not shown), all the variables that were significant in the original model remained significant, with the exception of expecting someone at Criminal Court arraignment.

---

<sup>10</sup> In our previous research, both the severity and the type of top initial arrest charge were significantly related to pretrial FTA (Siddiqi 1999; 2000). To be specific, when controlling for the other variables in the model, the severity of the top arrest charge was found to be a significant, but weak predictor of pretrial FTA. Furthermore, its interpretation was not consistent across different samples. In the 1989 sample, defendants arrested for an A misdemeanor were more likely to FTA than the mean effect of that variable (Siddiqi 1999). In the 1998 sample, the likelihood of FTA was lower among defendants who were arrested for A or B felonies (Siddiqi 2000). For those reasons, it was excluded from the new recommendation system.

Regarding the type of top arrest charge, all else being equal, defendants arrested for property, drug, criminal mischief, and VTL (Violation of Traffic Law, excluding DUI) offenses were more likely to FTA than those with the mean effect of that variable, and would score negative points on the point scale (Siddiqi 2000). In contrast, defendants arrested for gambling or driving while under the influence of alcohol or drugs were less likely to fail to appear, and would score positive points. When those findings were presented to the CJA staff, concern was expressed over assigning positive points to certain charge categories. After discussing a number of alternatives, it was agreed that CJA, as a policy, would not assign positive points to any category comprising the type of initial arrest charge. As such, those defendants would score zero points on this point scale item. Later, at the suggestion of Criminal Court judges, and due to the difficulties in operationalizing, this variable was excluded from the new ROR recommendation system.

Expecting someone at arraignment lost statistical significance in the re-estimated model, and was therefore dropped from further analysis. Table 13 presents the model which excluded demographic variables, case processing characteristics, graded offense type, and expecting someone at arraignment.

As shown by Table 13, all the variables in the re-estimated model were statistically significant. However, when compared with the original model, a slight shift was observed in some of the categories of the New York City area address variable. In the original model, defendants with a “yes, unverified” response to the New York City area address were neither more nor less likely to exhibit failure than defendants with the mean effect of that variable. In the re-estimated model, the odds of failure for those defendants were significantly lower. It should be noted, however, that the effect was not very strong ( $B = -.105$ ). As shown by Nagelkerke R Square, the total amount of variance explained by the model was 7%. This suggested that the re-estimated was weaker than the original model in explaining the variation in the dependent variable. However, due to its practical utility, the re-estimated model was used to develop a point scale for defendants at risk of pretrial failure to appear and/or re-arrest for a violent offense in Criminal or Supreme Court.

When developing the point scale, points were assigned to each of the independent variables based on their estimated coefficients and significance levels. For purposes of standardization, the logit coefficients were divided by a constant (.15) and were then rounded to the nearest whole number. If the coefficient was negative and significant, a negative value was given, indicating that a defendant was less likely to fail pretrial. Likewise, positive values were given for significant positive coefficients, meaning that the likelihood of pretrial failure increased. The insignificant coefficients were assigned a value of zero. The signs for the logit coefficients were reversed when the values were translated into a point scale. To be specific, negative points indicated higher probability of failure, whereas positive points showed lower

**Table 13**

Multiple Logistic Regression Model  
Used to Develop a Point Scale for Pretrial Misconduct

First Quarter of 2001 At-Risk Sample  
(N=25,249)

<b>Variable</b>	<b>Logit Coefficient</b>	<b>Significance Level</b>	<b>Odds Ratio</b>
TELEPHONE			
Yes, Yes Verified	-0.162	0.001	0.850
No, No Verified	0.259	0.000	1.296
Unresolved Conflict	-0.097	0.274	0.907
EMPL/SCHOOL/TRAINING			
Yes	-0.164	0.000	0.849
Yes Verified	-0.140	0.008	0.869
No, No Verified	0.083	0.038	1.086
Unresolved Conflict	0.222	0.012	1.248
NYC Area Residence			
Yes	-0.105	0.049	0.900
Yes Verified	-0.390	0.000	0.677
No, No Verified	0.306	0.000	1.358
Unresolved Conflict	0.189	0.167	1.208
PRIOR FTA	0.607	0.000	1.835
OPEN CASES	0.194	0.000	1.214
PRIOR ARREST	0.260	0.000	1.297

Nagelkerke R<sup>2</sup> for the Model = 7%

probability of failure. As an example, the logit coefficient for having prior FTA was positive .607 (Table 13), indicating that a defendant was more likely to fail pretrial. When it was divided by .15, and rounded to the nearest whole number, a value of positive 4 points was obtained. Reversing the sign for that coefficient yielded a value of negative 4 points. Thus, defendants with prior FTA would lose 4 points on the point scale.

Table 14 presents the point scale for pretrial misconduct which includes both FTA and re-arrest for a violent offense. Beginning with the community-ties variables, defendants with an affirmative response (“yes” or “yes verified”) to having a telephone in their residence would score one point on the new scale whereas defendants with a negative response (“no” or “no verified”) would score negative two points. Due to statistical insignificance, no points would be assigned to defendants who were categorized as “unresolved conflict” on the telephone variable. With regard to being engaged in a full-time activity, defendants with an affirmative response (“yes” or “yes verified”) would receive one point. Defendants recorded as “no” or “no verified” responses would be assigned negative one point. Defendants categorized as “unresolved conflict” would also score negative one point. Regarding the New York City area address variable, defendants with a “yes, unverified” response would score positive one point. Defendants categorized as “yes verified” would have three points added to their point scale score. Defendants with a negative response (“no” or “no verified”) would score negative two points on the scale. Defendants categorized as “unresolved conflict” on that variable had no effect on likelihood of pretrial FTA and/or re-arrest for a violent offense, and therefore would score zero points on the scale.

Of the criminal-history variables, the prior FTA variable contributed the most to a defendant’s total score; defendants with prior FTA would lose four points on the point scale, whereas defendants with no history of failure to appear would receive four points. Defendants who had prior arrests would lose two points on the scale. Defendants who did not have a prior arrest would score two points on the scale. Finally, one point would be deducted for having an open case at the time of arrest. A defendant’s total score would range from -12 to +12 points.

**Table 14**

## Point Scale Predicting Pretrial Misconduct

First Quarter of 2001 At-Risk Sample

<b>Variable</b>	<b>Points</b>
TELEPHONE	
Yes, Yes Verified	1
No, No Verified	-2
Unresolved Conflict	0
EMPL/SCHOOL/TRAINING	
Yes, Yes Verified	1
No, No Verified	-1
Unresolved Conflict	-1
NYC AREA ADDRESS	
Yes	1
Yes Verified	3
No, No Verified	-2
Unresolved Conflict	0
PRIOR FTA	
Yes	-4
No	4
OPEN CASES	
Yes	-1
No	1
PRIOR ARRESTS	
Yes	-2
No	2

## **B. Does the Point Scale Predicting Pretrial Misconduct Differ from the Point Scale**

### **Predicting FTA?**

We compared the point scale predicting pretrial FTA and/or re-arrest for a violent offense with the point scale predicting pretrial FTA (Table 15). The objective was to determine whether the two scales differed in terms of the type and strength of the predictor variables.

The comparison revealed that the two scales differed slightly with respect to the predictor variables. Furthermore, the strength for some of the variables was slightly altered. Beginning with the community ties variables, all of the community ties variables predicted both pretrial FTA and pretrial misconduct, with the exception of expecting someone at arraignment. These variables included living at a New York City area address, having a telephone in the residence, and being employed, in school, or in a training program full time. Expecting someone at arraignment was a significant predictor of pretrial FTA only. Table 15 further shows that with the exception of having a telephone or having a cellular phone, when analyzing each variable individually, slight differences in interpretation were found. When assessing a defendant's risk of flight, defendants with an unverified affirmative response to living at a New York City area address were neither more nor less likely to FTA than defendants with the mean effect of that variable, and would score zero points on the scale. When assessing the risk of pretrial misconduct, defendants with an unverified affirmative response were less likely to fail than defendants with the average effect of that variable and would score one point on the point scale.

Continuing with the community-ties variables, the two point scales behaved similarly with respect to the "engaged in a full-time activity" variable, with the exception of the "unresolved conflict" category. When examining pretrial FTA, defendants recorded as unresolved conflict would lose two points on the scale. In comparison, when examining pretrial misconduct, those defendants would lose one point. No differences were observed with respect to the points assigned to having a telephone in the defendant's residence or having a cellular phone. More criminal history variables predicted pretrial misconduct than pretrial FTA. When predicting pretrial misconduct, having a prior arrest, an open case, and prior FTA increased the

**Table 15**

A Comparison of the Point Scale Predicting Pretrial Misconduct  
with the Point Scale Predicting Pretrial FTA

First Quarter of 2001 At-Risk Sample

Variable	Misconduct Points	FTA Points
TELEPHONE		
Yes, Yes Verified	1	1
No, No Verified	-2	-2
Unresolved Conflict	0	0
EXPECTS AT ARRAIGNMENT		
Yes	---	1
No	---	-1
EMPL/SCHOOL/TRAINING		
Yes, Yes Verified	1	1
No, No Verified	-1	-1
Unresolved Conflict	-1	-2
NYC AREA ADDRESS		
Yes	1	0
Yes Verified	3	3
No, No Verified	-2	-2
Unresolved Conflict	0	0
PRIOR FTA		
Yes	-4	-5
No	4	5
OPEN CASES		
Yes	-1	-1
No	1	1
PRIOR ARRESTS		
Yes	-2	---
No	2	---



chances that a defendant would either FTA or be re-arrested for a violent offense pretrial. When predicting pretrial FTA, only two criminal history variables were included in the point scale--open cases and prior FTA. Table 15 further shows that the effect of prior FTA was slightly stronger for the scale measuring a defendant's risk of flight than for the scale measuring risk of flight and/or re-arrest for a violent offense (five points versus four points). This was not surprising, as prior FTA was a stronger predictor of pretrial FTA than pretrial re-arrest in general. Therefore, when measuring pretrial FTA and re-arrest for a violent offense simultaneously, the strength of the variable decreased slightly. In both point scales, defendants with a pending case would lose one point.

To summarize, the two point scales were quite similar with respect to most of the predictor variables. However, the strength for some of the variables was altered, depending upon the type of failure under scrutiny.

### **C. Distribution of the Point Scale Scores by Pretrial Misconduct**

Table 16 displays the distribution of the pretrial misconduct by point-scale scores for the 2001 at-risk sample. In general, defendants scoring lower points had higher misconduct rates. As shown by the table, a few defendants (N=93) in the 2001 at-risk sample scored -12 points. Two fifths of them failed to appear for at least one scheduled court appearance and/or were re-arrested pretrial for a violent offense. This score would be given to a defendant who: did not have a telephone or cellular phone (-2 points); was not employed, in school, or in a job training program full time, or had an unresolved conflict on this item (-1); did not reside at a New York City area address (-2); had prior bench warrants (-4); had at least one prior arrest (-2); and had one or more pending cases (-1).

The highest score in the sample under study was 12 points. In our study sample, 8% of the defendants scored 12 points. Their failure rate was 7%. These defendants had a telephone or a cellular phone (1 point), were employed, in school, or in a job training program full time (1),

**Table 16**

## Distribution of Point Scale Scores by Pretrial Misconduct

First Quarter of 2001 At-Risk Sample

Points	Total Defendants		Pretrial Failure	
	N	%	N	%
-12	93	0	37	40
-11	0	0	0	0
-10	95	0	39	41
-9	564	2	206	37
-8	51	0	20	39
-7	874	4	302	35
-6	758	3	235	31
-5	432	2	112	26
-4	1731	7	490	28
-3	63	0	14	22
-2	1596	6	363	23
-1	325	1	76	23
0	458	2	87	19
1	889	4	204	23
2	884	4	185	21
3	588	2	118	20
4	2269	9	345	15
5	1059	4	259	25
6	2533	10	366	14
7	1144	5	183	16
8	2626	10	325	12
9	131	1	11	8
10	4187	17	408	10
11	11	0	1	9
12	1888	8	124	7
Total	25249	100	4510	18

\* Percentages may not add up to 100 due to rounding

were verified as living at a New York City area address (3), had no prior bench warrant (4), had no prior arrest (2), and had no open case (1).

#### **D. Developing a Risk Classification System for Pretrial Misconduct**

At the next step of the research, we were interested in developing a risk classification system that would classify defendants on the basis of their risk of pretrial misconduct on the new point scale. However, in order to create different risk groups, we needed to determine cutoff points. For the present report, we applied the cutoff points from the current ROR recommendation system to the point scale predicting pretrial FTA and/or re-arrest for a violent offense. It should be noted that those cutoff points were applied for research purposes only, so that we could develop a risk classification system and compare its performance with the ROR recommendation system. If the Statute is changed to allow consideration of public safety in making pretrial release decisions, the appropriate measure of safety risk, as well as the cutoff points will need to be redefined by criminal justice professionals.

##### **CJA's New ROR Recommendation System**

The cutoff scores for the CJA release on recognizance recommendation system were chosen by considering a number of criteria. The first criterion was to create subgroups of defendants which would have different average FTA rates, and as such represent different risk levels. It was agreed that the FTA rates for individual points comprising the low-risk group should not exceed the average FTA rate for the recommended category of the previous recommendation system. The cutoff score for the moderate-risk category was guided by the criterion that its FTA rate should be considerably higher than the FTA rate for the low-risk category. The cutoff score for the high-risk category was selected to include defendants with the highest FTA rate.

The second criterion was setting a target proportion of defendants to be recommended for ROR. It was agreed that the proportion of defendants in the low-risk category of the new ROR recommendation system should be higher than that under the previous system, without increasing the FTA rate for that category. The classification of defendants under the new ROR recommendation system and their corresponding points are displayed in Table 17.

As shown by the table, CJA's ROR recommendation system classifies defendants into four categories. The first two categories, A and B, and the fourth subcategory of category C are based on a

defendant's total score on the point scale. In order to be categorized as "Recommended for ROR," a defendant needs seven or more points. This is CJA's highest positive rating for ROR recommendation. Defendants with scores ranging from three to six points receive the second highest recommendation, "Moderate Risk for ROR."

The third and fourth categories of the recommendation system reflect policy exclusions, with the exception of C-4. The "Not Recommended for ROR" category includes defendants with a bench warrant attached to their RAP sheet (C-1), defendants charged with bail jumping (C-2), defendants with conflicting residence information (C-3), and defendants considered at high risk of FTA due to receiving a total point scale score lower than "3" (C-4). No recommendation is offered to defendants with a missing NYSID (D-1), defendants charged with a homicide (D-2), or those with an incomplete interview (D-3). To ease interpretation for the present report, the third and fourth categories were collapsed into one category, and labeled "high risk".

#### Pretrial Misconduct Risk Classification System

Table 18 presents the distribution of defendants and their corresponding pretrial failure rates, when the cutoff points from the ROR recommendation system were applied to the 2001 at-risk sample of defendants, with point scale scores ranging from -12 through 12 points. As shown by the table, using that point scale, 38% of the defendants would be considered low risk for pretrial misconduct, 23% moderate risk and 39% high risk. Their pretrial FTA and/or re-arrest rates for a violent offense would be 10%, 16% and 26%, respectively.

**Table 17**

CJA's New ROR Recommendation System

First Quarter of 2001 At-Risk Sample

Recommendation Category	Points
A. Recommended for ROR	+7 Points to +12 Points
B. Moderate Risk For ROR	+3 Points to +6 Points
C. Not Recommended for ROR  Bench Warrant Attached to NYSID Bail-Jumping Charge Conflicting Residence Information High Risk for FTA	+2 Points to -12 Points
D. No Recommendation  No NYSID Available For Information Only Interview Incomplete	

**Table 18**

Misconduct Risk Classification System

First Quarter of 2001 At-Risk Sample

Risk Category	Defendants Classified		Defendants With Misconduct	
	N	%	N	%
Low Risk (7 to 10 Points)	9631	38	990	10
Moderate Risk (3 to 6 Points)	5858	23	944	16
High Risk (2 to -9 Points) <sup>1</sup>	9760	39	2576	26
<b>Total</b>	<b>25249</b>	<b>100</b>	<b>4510</b>	<b>18</b>

<sup>1</sup> This category also includes policy exclusions.

## **E. How Does the Misconduct Risk Classification System Compare with CJA's Current ROR Recommendation System?**

The two risk classification systems were compared in terms of their ability to predict different types of failures. The findings are presented as follows.

### **Prediction of Failure**

We compared the misconduct risk classification system presented in Table 18 with the CJA ROR recommendation system presented in Table 19 in terms of its ability to classify more defendants as low risk without increasing their failure rate. Since the two systems had different base rates, their failure rates could not be directly compared. To illustrate, when applied to the 2001 at-risk sample, the misconduct rate for the low-risk defendants under the misconduct risk classification system would be 10% (Table 18). In comparison, the FTA rate for the low-risk category of the ROR recommendation system would be 9% (Table 19). When comparing the two systems, this would suggest that the failure rate (FTA and/or re-arrest for a violent offense) for the low-risk category of the misconduct risk classification system would be one percentage point higher than the failure rate (FTA only) for the low-risk category of the ROR recommendation system (10% versus 9%). However, that is not the case here. Under the misconduct risk classification system, the failure rate for low-risk defendants would decrease from the base rate of 18% to 10% (an 8 percentage point decrease), whereas for the ROR recommendation system, the failure rate would decrease from the base rate of 16% to 9% (7 percentage point decrease). This suggested that the two risk classification systems would be quite similar with respect to classifying defendants on the basis of risk of failure. For this reason, we compared the failure rates for individual risk categories with the base rate for the system as a whole.

As shown by Table 19, when applying the ROR recommendation system to the 2001 at-risk sample, 42% of the defendants would be categorized as low risk. Their FTA rate would be 9%, which would be seven percentage points lower than the average FTA rate for the sample as a whole (16%). In comparison, as shown by Table 18, the misconduct risk classification system would classify fewer defendants as low risk, 38% versus 42%. The combined FTA and/or re-

**Table 19**

New ROR Recommendation System by Pretrial FTA

First Quarter of 2001 At-Risk Sample

<b>Risk Category</b>	<b>Defendants Classified</b>		<b>Defendants With FTA</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
<b>Low Risk (7 to 12 Points)</b>	10687	42	945	9
<b>Moderate Risk (3 to 6 Points)</b>	4985	20	691	14
<b>High Risk (2 to -12 Points)<sup>1</sup></b>	9624	38	2339	24
<b>Total</b>	25296	100	3975	16

<sup>1</sup> This category also includes policy exclusions.



arrest rate for a violent offense for the low-risk group of the new system would be 8 percentage points lower than the average misconduct rate for all of the defendants (10% versus 18%).

When compared with the current ROR system, the misconduct classification system would classify a slightly higher proportion of defendants as moderate risk, with no differences in their failure rate. To be specific, under the system assessing pretrial misconduct, 23% of the defendants would be considered moderate risk. In our study sample, their misconduct rate would be 16%, which would be two percentage points lower than the average misconduct rate for the at-risk sample. In comparison, the ROR recommendation system would classify 20% of the defendants as moderate risk. Their FTA rate would be two percentage points lower than the average FTA rate (14% versus 16%).

Under both systems, slightly less than two-fifths of the defendants would be considered high risk (38% under the ROR recommendation system, 39% under the misconduct risk classification system), with no differences in their failure rate. To be specific, under the ROR system, 24% of the high-risk defendants would fail to appear pretrial, which would be eight percentage points higher than the average FTA rate for the at-risk sample. Similarly, under the misconduct risk classification, the misconduct rate for the high-risk group would be eight percentage points higher than the average misconduct rate for the at-risk sample (26% versus 18%).

To summarize, relative to the ROR recommendation system, the misconduct risk classification system would classify fewer defendants as low risk with no differences in their failure rates. It would slightly increase the proportion of moderate-risk defendants, with similar increases in their failure rates over the sample's average failure rates. Finally, the two systems would be similar with respect to the proportion of high-risk defendants and shift in their failure rates over the average failure rates.

#### Prediction of FTA

The two risk classification systems were compared with respect to their ability to predict pretrial FTA. Table 20 presents FTA rates for both systems. As can be seen, the two systems are

**Table 20**

Risk Classification Systems by Pretrial FTA

First Quarter of 2001 At-Risk Sample

Risk Category	Misconduct Risk System		New ROR System	
	N with FTA	% with FTA	N with FTA	% with FTA
Low Risk	838	9	945	9
Moderate Risk	811	14	691	14
High Risk <sup>1</sup>	2313	24	2339	24

<sup>1</sup> This category also includes policy exclusions.

quite similar with respect to their FTA rates. Under both systems, 9% of the low-risk defendants, 14% of the moderate-risk defendants, and 24% of high-risk defendants would fail to appear for at least one scheduled court appearance. This is not surprising as only 3% of the defendants had been re-arrested pretrial for a violent offense. In comparison, 16% failed to appear for a scheduled appearance in Criminal or Supreme Court. Therefore, the proportion of defendants failing to appear does not alter when the two types of failure are combined.

#### Prediction of Pretrial Re-Arrest for a Violent Offense

We also compared the two risk classification systems with respect to their ability to predict the likelihood of pretrial re-arrest for a violent offense. As mentioned previously, CJA's ROR recommendation system was derived from a model that did not take into consideration a defendant's likelihood of pretrial re-arrest for a violent offense. Table 21 presents the re-arrest rates for a violent offense for both systems.

As shown by the table, the ROR recommendation system and the misconduct risk classification systems were identical with respect to re-arrest rates for a violent offense. Under both systems, the re-arrest rates for a violent offense for the low-, moderate- and high-risk categories would be 2%, 3%, and 4%, respectively.

#### Prediction of pretrial Misconduct (FTA and/or Re-Arrest for A Violent Offense)

Table 22 presents the two systems by pretrial misconduct (FTA and/or re-arrest for a violent offense). As shown by the table, the two systems were virtually similar with respect to their misconduct rates for various risk categories. To be specific, the misconduct rates for low, moderate, and high-risk categories of the misconduct risk classification system were 10%, 16%, and 26%, respectively. In comparison, the misconduct rates for the low-, moderate-, and high-risk categories of the ROR recommendation system were 11%, 16%, and 27%, respectively.

### **F. Summary**

The analysis presented in this section showed that community-ties variables, criminal-history indicators, graded offense type at initial arrest, demographic attributes, and case-

**Table 21**

Risk Classification Systems by Pretrial Re-Arrest for a Violent Offense

First Quarter of 2001 At-Risk Sample

Risk Category	Misconduct Risk System		ROR System	
	Violent Re-Arrest		Violent Re-Arrest	
	N	%	N	%
Low Risk	183	2	253	2
Moderate Risk	176	3	127	3
High Risk <sup>1</sup>	423	4	398	4

<sup>1</sup> This category also includes policy exclusions.

**Table 22**

## Risk Classification Systems by Pretrial Misconduct

First Quarter of 2001 At-Risk Sample

Risk Category	Misconduct Risk System		New ROR System	
	N with Misconduct	% with Misconduct	N with Misconduct	% with Misconduct
Low Risk	990	10	1150	11
Moderate Risk	944	16	779	16
High Risk <sup>1</sup>	2576	26	2586	27

<sup>1</sup> This category also includes policy exclusions.

processing characteristics were significantly related to pretrial misconduct. When developing a point scale, demographic attributes, case-processing characteristics, and graded offense type were dropped from the model for practical and policy reasons. Points were assigned to all the significant variables. The resulting point scale ranged from -12 points to 12 points. Defendants scoring higher points were less likely to FTA or be re-arrested pretrial, whereas defendants scoring fewer points were more likely to fail. The point scale was used to classify defendants into different risk categories.

The risk classification system predicting pretrial misconduct was compared with the ROR recommendation system with respect to the proportion of defendants in various risk categories, and their corresponding failure rates (misconduct rate for the former and FTA rate for the latter). The comparison suggested that relative to the ROR recommendation system, the misconduct risk classification system would classify fewer defendants as low risk with no differences in their failure rates. It would slightly increase the proportion of moderate-risk defendants, with similar increases in their failure rates over the sample's average failure rates. Finally, the two systems would be similar with respect to the proportion of high-risk defendants and shift in their failure rates over the average failure rates.

Our analysis also shows that when applied to the 2001 at-risk sample, the ROR recommendation system and the misconduct risk classification systems were identical with respect to respect to their ability to classify defendants on the basis of risk re-arrest for a violent offense. This is not surprising, as the misconduct risk classification system and the ROR recommendation system shared similar predictor variables, with the exception of expecting someone at arraignment and prior arrests. Expecting someone at arraignment was a significant predictor of pretrial FTA only, whereas the variable reflecting prior arrests was only included in the misconduct model. Due to similarity in variables, the ROR system, although only designed to predict risk of pretrial failure to appear, would also identify pretrial re-arrest for a violent offense.

## **Section Four**

### **Summary and Conclusions**

The analysis presented in the current report aimed at developing models of pretrial misconduct which would include pretrial FTA and pretrial re-arrest for a violent offense. The analysis focused on a sample of defendants who were arrested in the first quarter of 2001, and were released pretrial and at-risk for failure. The major findings of the study are summarized as follows:

The majority of the defendants in the 2001 at-risk sample were male. Slightly less than half were black. In that sample, Brooklyn and Manhattan had the highest proportion of defendants arrested (30% in each of these boroughs). The median age at the time of sample arrest was 30 years. The majority was released on recognizance.

In the 2001 at-risk sample, 16% of the defendants failed to appear for at least one scheduled appearance in Criminal or Supreme Court, whereas 3% were re-arrested pretrial for a violent offense. Approximately two-thirds of violent re-arrests were made for felonies. Assault was the most common charge among those re-arrested for a violent offense. The pretrial misconduct rate (FTA and/or re-arrest for a violent offense) for the 2001 at-risk sample was 18%.

Using the 2001 at-risk sample, we developed a number of models that would predict both FTA and re-arrest for a violent offense. Variables were added or deleted depending upon their contribution to the dependent variable. The model presented in the current report contained community-ties variables, criminal-history indicators, graded offense type, demographic attributes, and case-processing characteristics. The model showed that when controlling for the effects of the other variables in the model, the probability of pretrial misconduct was lower among defendants who lived at a New York City area address, had a phone in their residence, expected someone at arraignment, and were engaged in a full-time activity. Defendants with no criminal history were less likely to FTA or be re-arrested for a violent offense than defendants with a criminal history. The graded offense type at initial arrest also proved to be a significant predictor of pretrial misconduct. The odds of failure were lower among defendants initially arrested for felony-level violent or property offenses. The probability of pretrial FTA and/or re-arrest for a violent offense was higher for defendants initially arrested for all types of misdemeanor or lesser offenses, with the exception of those arrested for violent offenses. Defendants

having been arrested for violent offenses of misdemeanor or lesser severity had no significant effect on the likelihood of pretrial misconduct. The probability of failure was higher among Hispanic, black and younger defendants. Defendants whose cases were disposed in Criminal Court were more likely to be engaged in pretrial misconduct than defendants whose cases were disposed in Supreme Court. Finally, the likelihood of pretrial misconduct increased with case-processing time. The model was used to guide the development of a point scale that would predict both FTA and re-arrest for a violent offense.

When developing the point scale, we dropped a number of variables from the model for practical and policy reasons. They included the graded offense type at initial arrest, demographic attributes, and case-processing characteristics. We re-estimated the model and assigned points to each of the predictor variables based on their estimated coefficients and significance levels. The resulting point scale ranged from -12 to 12 points. Generally speaking, defendants scoring lower points had higher misconduct rates. Few defendants had very high or very low scores. The point scale was used to classify defendants into different risk categories. For comparison purposes, we used the same cutoff scores as those applied under CJA's current ROR recommendation system.

When applied to the 2001 at-risk sample, the misconduct risk classification system would classify 38% of the defendants as low risk, 23% as moderate risk, and 39% as high risk. Their misconduct rates would be 10%, 16%, and 26%, respectively. In order to be consistent with the current ROR recommendation system, the high-risk group also includes defendants whom CJA does not recommend for ROR or offers no recommendation due to policy exclusions.

The misconduct risk classification system was compared with the ROR recommendation system with respect to the proportion of defendants in various risk categories, and their corresponding failure rates (misconduct rate for the former and FTA rate for the latter). For each system, the average failure rate for the system as a whole was used to determine increases and decreases in the failure rate for each risk category. The comparison suggested that relative to the ROR recommendation system, the misconduct risk classification system would classify fewer defendants as low risk, with similar differences in their failure rate over the average failure rate. The misconduct risk classification system would classify more defendants as moderate risk, while decreasing the proportion of failed defendants at the same rate. Finally, when compared with the ROR recommendation system, the misconduct risk



classification system would classify similar proportion of defendants as high risk, and increase their failure rate at the same level.

The two risk classification systems were compared with respect to their ability to predict pretrial FTA. The findings showed that when applied to the 2001 at-risk sample, the two systems behaved similarly with respect to the FTA rates for different risk groups. The two risk classification systems were also compared with respect to their ability to predict pretrial re-arrest for a violent offense. The comparison showed that when applied to the 2001 at-risk sample, the violent re-arrest rates corresponding to the low-, moderate- and high-risk categories of both systems would be quite similar.

To summarize, the two classification systems were quite similar with respect to their ability to predict different kinds of failure. This was not surprising as the outcome variables in the FTA and misconduct models were quite similar. To be specific, the outcome variable in the FTA analysis included defendants who failed to appear for at least one scheduled appearance in Criminal or Supreme Court. In comparison, the outcome variable in the pretrial misconduct analysis measured FTA and re-arrest for a violent offense. However, an overwhelming majority of the defendants included in that variable exhibited pretrial FTA, which made it quite similar to the FTA variable. Consequently, the two models shared similar predictor variables. The final FTA model was comprised of six variables (Siddiqi 2006). These variables included living at a New York City area address, having a telephone in the defendant's residence or having a cellular phone, expecting someone at arraignment, being engaged in a full-time activity, pending cases, and prior FTA. All of these variables were included in the pretrial misconduct model, with the exception of expecting someone at arraignment. Expecting someone at arraignment lost statistical significance in the final model of pretrial misconduct. Due to similarity in predictor variables, the FTA model, although only designed to predict risk of pretrial failure to appear, would take into consideration risk of pretrial re-arrest for a violent offense. Furthermore, as shown by our previous research, the new ROR system would also predict pretrial re-arrest in general (Siddiqi 2006).

To conclude, our findings suggest that although the current New York State statute does not permit the consideration of public safety risk in making pretrial release or detention decisions, CJA's new ROR recommendation system, which was implemented citywide in June of 2003, would predict both pretrial FTA and pretrial re-arrest for a violent offense. Defendants considered low risk for FTA would also be at low risk for pretrial re-arrest for a violent offense. By the same token, defendants

categorized as high risk for FTA would have the highest re-arrest rate for violent offenses. The re-arrest rate for defendants considered moderate risk for FTA would fall midway between that reported for low-risk and high-risk defendants. We would like to point out that the FTA rate in our sample was much higher than the re-arrest rate for a violent offense (16% versus 3%). Therefore, the ROR system is much stronger in distinguishing defendants on the likelihood of pretrial FTA than on the likelihood of re-arrest for a violent offense.

Our findings suggest that releasing high-risk defendants would increase their risk of flight as well as risk of re-arrest. By engaging in pretrial crimes of a violent nature, the high-risk defendants could put the public's safety in danger. Our previous research shows that in the 2003-04 dataset, one-third of high risk defendants were ROR'd at arraignment (Siddiqi 2004). Currently, we don't know whether those defendants were re-arrested pretrial after their release. However, based on the findings from the present research, we suggest that the current release practices need to be reviewed. We would like to make it clear that our intent is not to criticize the current release or detention policies nor are we proposing an increase in the current detention rate. The same release rates could be maintained by considering other release options, such as supervised release or under third party custody release. These release conditions, although practiced in several jurisdictions, are currently not an option in New York City. Since the current Statute limits our ability to make recommendations that would take public safety into consideration, the other release options could aim at reducing a defendant's risk of flight. We expect that a reduction in flight risk would be followed by a reduction in pretrial criminality. This would apply to both re-arrests in general and re-arrests for violent offenses. We would like to make similar suggestions for moderate-risk defendants. Since the re-arrest rate for violent offenses was quite low in our sample, we would like to warn that our findings or recommendations should not be used to detain defendants who could safely be released pretrial. One example would be defendants who would pose lowest risk within the moderate-risk category. More research is needed to study pretrial recidivism among moderate and high risk defendants. We also recommend validating the current findings on more recent datasets.

Finally, we would like to mention that the public safety measure used in the present report was limited to re-arrests made for violent offenses. Further research is needed to examine other indicators of public safety. In our June 2006 report, the combined measure of failure included pretrial FTA and re-

arrest in general (Siddiqi 2006). Other measures could include pretrial re-arrest for a felony offense, pretrial re-arrest for a violent felony offense, or pretrial re-arrest for certain offenses including drugs. Should the Statute allow consideration of dangerousness in making pretrial release decisions, the findings would aid criminal justice practitioners in defining appropriate indicators to measure public safety as well as cutting scores for various risk groups.

## REFERENCES

- Ares, C., Rankin, A., and Sturz, H. 1963. "The Manhattan Bail Project: An Interim Report on the Use of Pre-trial Parole." *New York University Law Review* 39: 67-95.
- Bureau of Justice Statistics. 2002. *Recidivism of Prisoners Released in 1994*. Washington D.C.: U.S. Department of Justice, Special Report, NCJ-193427.
- Goldkamp, John S., Michael R Gottfredson, and Susan Mitchell Herzfeld. 1981. *Bail Decisionmaking: A Study of Policy Guidelines*. Washington, D.C.: U.S. Department of Justice, National Institute of Corrections.
- Goodman, Rebecca. 1992. *Hennepin County Bureau of Community Corrections Pretrial Release Study*. Minneapolis, Minnesota: Planning and Evaluation Unit.
- Siddiqi, Qudsia. 1999. *Assessing Risk of Pretrial Failure to Appear in New York City: A Research Summary and Implications for Developing Release Recommendation Schemes*. New York: New York City Criminal Justice Agency.
- 2000. *Prediction of Pretrial Failure to Appear and Alternative Pretrial Release Risk Classification Schemes in New York City: A Validation Study*. New York: New York City Criminal Justice Agency.
- March 2003. *Predicting the Likelihood of Pretrial Re-Arrest: An Examination of New York City Defendants*. New York: New York City Criminal Justice Agency.
- June 2003. *Predicting the Likelihood of Pretrial Re-Arrest Among New York City Defendants: An Analysis of the 2001 Dataset*. New York: New York City Criminal Justice Agency.
- 2004. *An Evaluation of the New Pretrial Release Recommendation System in New York City: Phase I of the Post-Implementation Research*. New York: NYC Criminal Justice Agency.
- 2006. *Predicting the Likelihood of Pretrial Re-Arrest for Violent Felony Offenses and Examining the Risk of Pretrial Failure among New York City Defendants: An Analysis of the 2001 Dataset*. New York: NYC Criminal Justice Agency.
- SPSS, Inc. 1999. *SPSS Advanced Statistics User's Guide*. Chicago, Illinois: SPSS, Inc.
- Thomas, Wayne. 1976. *Bail Reform in America*. Berkeley, CA: University of California Press.

## **Appendix A**

### **Classification of Offenses**

Violent offenses include murder, non-negligent murder, negligent murder, forcible rape, robbery, aggravated assault, simple assault and kidnapping.

Property offenses include burglary, larceny-theft, arson, motor vehicle theft, possession of burglar's tools, embezzlement, fraud, forgery and counterfeiting, unauthorized use of vehicle and stolen property.

Drug offenses include: A) sale/manufacture of controlled substance including opium, cocaine or derivatives, marijuana, synthetic narcotics and other dangerous drugs, and B) use/possession of controlled substance including opium, cocaine or derivatives, marijuana, synthetic narcotics and other dangerous drugs.

Public-order offenses include coercion, criminal mischief, fraud, gambling, offenses against public order, bribery, promoting prostitution, prostitution, patronizing prostitutes, offense against family, unauthorized use of vehicle, disorderly conduct, liquor-law violation, public narcotic intoxication, sex offenses (excluding forcible rape and prostitution) and use/possession of dangerous weapons.

The other category consists of all other offenses not included in the aforementioned categories but which are included in the UCR codes.

## Appendix B

### Coding of Variables for Regression Models

Variable	Codes	Variable	Codes
PRETRIAL MISCONDUCT		BOROUGH OF ARREST	
No	0	Brooklyn	1
Yes	1	Manhattan	2
		Queens	3
EMPL/SCHOOL/TRAINING		Staten Island	4
Yes	1	Bronx	5
Yes Verified	2		
No	3	TIME FROM ARRAIGNMENT TO DISPOSITION	Days
No Verified	4		
Unresolved Conflict	5	TYPE OF FIRST RELEASE	
		Bail	0
NYC AREA ADDRESS		ROR	1
Yes	1		
Yes Verified	2	PRIOR MISDEMEANOR CONVICTIONS	
No, No Verified	3	No	0
Unresolved Conflict	4	Yes	1
SEX		PRIOR FELONY CONVICTIONS	
Female	0	No	0
Male	1	Yes	1
ETHNICITY		AGE	Years
Black	1		
White	2	GRADED ARREST CHARGE FELONY-LEVEL CHARGES	
Hispanic	3	Violent	1
Other	4	Property	2
		Drug	3
COURT OF DISPOSITION		Public Order	4
Criminal Court	0	Other	5
Supreme Court	1		
OPEN CASES		MISDEMEANOR OR LESSER CHARGES	
No	0	Violent	6
Yes	1	Property	7
		Drug	8
PRIOR FTA		Public Order	9
No	0	Other	10
Yes	1		

## Appendix B (continued)

### Coding of Variables for Regression Models

Variable	Codes	Variable	Codes
ARREST CHARGE SEVERITY		ARREST CHARGE TYPE	
A Felony	1	Violent	1
B Felony	2	Property	2
C Felony	3	Drug	3
D Felony	4	Public Order	4
E Felony	5	Other	5
A Misdemeanor	6		
B Misdemeanor/Other	7		
EXPECTING SOMEONE AT ARRAIGNMENT		TELEPHONE/CELLULAR PHONE	
No	0	Yes, Yes Verified	1
Yes	1	No, No Verified	2
		Unresolved Conflict	3
PRIOR ARRESTS			
No	0		
Yes	1		

## Appendix C

### Defendant Characteristics by Pretrial Misconduct

#### First Quarter of 2001 At-Risk Sample

Defendant Characteristics	Pretrial Misconduct				Total	
	Yes		No		N	%
	N	%	N	%		
<u>Demographic Attributes</u>						
<u>Gender</u>						
Male	4118	18	18337	82	22455	100
Female	689	16	3665	84	4354	100
Total	4807		22002		26809	
<u>Ethnicity</u>						
Black	2458	20	9885	80	12343	100
White	470	14	3006	86	3476	100
Hispanic	1632	18	7482	82	9114	100
Other <sup>1</sup>	178	12	1306	88	1484	100
Total	4738		21679		26417	
<u>Age at Initial Arrest</u>						
18 and under	603	20	2460	80	3063	100
19-20 years	458	20	1786	80	2244	100
21-24 years	814	20	3318	80	4132	100
25-29 years	682	18	3136	82	3818	100
30-34 years	672	17	3179	83	3851	100
35-39 years	666	18	2977	82	3643	100
40 and higher	913	15	5157	85	6070	100
Total	4808		22013		26821	
<u>Case Processing Characteristics</u>						
<u>Borough of Initial Arrest</u>						
Brooklyn	1416	18	6522	82	7938	100
Manhattan	1637	21	6268	79	7905	100
Queens	590	13	3807	87	4397	100
Staten Island	221	21	857	79	1078	100
Bronx	944	17	4559	83	5503	100
Total	4808		22013		26821	
<u>Type of First Release</u>						
Bail	877	16	4723	84	5600	100
ROR	3885	18	17196	82	21081	100
	4762		21919		26681	
<u>Court of Disposition</u>						
Criminal Court	4137	18	19479	82	23616	100
Supreme Court	671	21	2534	79	3205	100
Total	4808		22013		26821	

1 OTHER includes Asian, American Indian, and others.



### Appendix C (continued)

#### Defendant Characteristics by Pretrial Misconduct

First Quarter of 2001 At-Risk Sample

Defendant Characteristics	Pretrial Misconduct				Total	
	Yes		No		N	%
	N	%	N	%		
<b>Community-Ties Items</b>						
<u>Verified Telephone</u>						
Yes Unverified	2055	16	10417	84	12472	100
Yes Verified	954	13	6161	87	7115	100
No Unverified	1418	26	3962	74	5380	100
No Verified	62	19	262	81	324	100
Unresolved Conflict	<u>140</u>	21	<u>528</u>	79	668	100
Total	4629		21330		25959	
<u>Verified Full Time Employment/ School/ Training</u>						
Yes Unverified	1599	16	8185	84	9784	100
Yes Verified	505	12	3728	88	4233	100
No Unverified	1988	23	6669	77	8657	100
No Verified	430	16	2274	84	2704	100
Unresolved Conflict	<u>107</u>	19	456	81	563	100
Total	4629		21312		25941	
<u>Verified Length of Residence of at Least 18 Months</u>						
Yes Unverified	2239	18	10457	82	12696	100
Yes Verified	765	13	5046	87	5811	100
No Unverified	1295	23	4220	77	5515	100
No Verified	221	15	1211	85	1432	100
Unresolved Conflict	<u>118</u>	22	<u>414</u>	78	532	100
Total	4638		21348		25986	
Expects Someone at Arraignment						
Yes	1567	16	8299	84	9866	100
No	3043	19	12970	81	<u>16013</u>	100
Total	4610		21269		25879	
<u>Verified NYC Area Address</u>						
Yes Unverified	3218	19	13684	81	16902	100
Yes Verified	970	13	6321	87	7291	100
No Unverified	332	26	957	74	1289	100
No Verified	35	22	121	78	156	100
Unresolved Conflict	<u>82</u>	26	<u>232</u>	74	<u>314</u>	100
Total	4637		21315		25952	
<u>Family Ties</u>						
Yes Unverified	2711	28	7123	72	9834	100
Yes Verified	1287	23	4425	77	5712	100
No Unverified	2628	32	5709	68	8337	100
No Verified	401	24	1299	76	1700	100
Unresolved Conflict	132	34	254	66	<u>386</u>	100
Total	7159		18810		25969	

**Appendix C (continued)**

Defendant Characteristics by Pretrial Misconduct

First Quarter of 2001 At-Risk Sample

Defendant Characteristics	Pretrial Misconduct				Total	
	Yes		No		N	%
	N	%	N	%		
<u>Criminal History</u>						
<u>First Arrest</u>						
Yes	1345	12	9608	88	10953	100
No	<u>3348</u>	22	<u>11936</u>	78	<u>15284</u>	100
Total	4693		21544		26237	
<u>Prior Misdemeanor Convictions</u>						
Yes	1819	24	5686	76	7505	100
No	2890	15	<u>15842</u>	85	<u>18732</u>	100
Total	4709		21528		26237	
<u>Prior Felony Convictions</u>						
Yes	1449	24	4501	76	5950	100
No	3260	16	<u>17027</u>	84	<u>20287</u>	100
Total	4709		21528		26237	
<u>Prior Violent Felony Convictions</u>						
Yes	800	39	1231	61	2031	100
No	6618	27	<u>18172</u>	73	<u>24790</u>	100
Total	7418		19403		26821	
<u>Open Cases</u>						
Yes	1548	25	4673	75	6221	100
No	<u>3161</u>	16	<u>16855</u>	84	<u>20016</u>	100
Total	4709		21528		26237	
<u>Prior FTA</u>						
Yes	1980	29	4944	71	6924	100
No	<u>2828</u>	14	17069	86	19897	100
Total	4808		22013		26821	
<u>Bench Warrant Attached to Rap Sheet</u>						
Yes	1008	42	1405	58	2413	100
No	<u>6283</u>	26	17696	74	23979	100
Total	7291		19101		26392	

**Appendix C (continued)**

Defendant Characteristics by Pretrial Misconduct

First Quarter of 2001 At-Risk Sample

Defendant Characteristics	Pretrial Misconduct				Total	
	Yes		No		N	%
	N	%	N	%		
Graded Offense Type						
<u>Felony-Level Charges</u>						
Violent	646	15	3563	85	4209	100
Property	489	17	2392	83	2881	100
Drug	814	20	3350	80	4164	100
Public Order	292	17	1445	83	1737	100
Other	<u>130</u>	17	<u>651</u>	83	<u>781</u>	100
Total	2371		11401		13772	
Misdemeanor or Lesser Charges						
Violent	684	15	3770	85	4454	100
Property	265	25	801	75	1066	100
Drug	509	25	1548	75	2057	100
Public Order	423	20	1686	80	2109	100
Other	529	16	<u>2685</u>	84	<u>3214</u>	100
Total	2410		10490		12900	

## Appendix D

Multiple Logistic Regression Model Predicting Pretrial Misconduct (Excludes prior FTA)

First Quarter of 2001 At-Risk Sample  
(N=24,666)

	Logit Coefficient	Significance Level	Odds Ratio
<b>TELEPHONE</b>			
Excluded Category: Unresolved Conflict			
Yes, Yes Verified	-0.172	0.001	0.842
No, No Verified	0.284	0.000	1.329
<b>EMPL/SCHOOL/TRAINING</b>			
Excluded Category: Unresolved Conflict			
Yes	-0.164	0.001	0.849
Yes Verified	-0.143	0.009	0.867
No, No Verified	0.107	0.011	1.112
<b>NYC AREA RESIDENCE</b>			
Excluded Category: Unresolved Conflict			
Yes	-0.101	0.077	0.904
Yes Verified	-0.385	0.000	0.680
No, No Verified	0.361	0.000	1.435
<b>EXPECTING SOMEONE AT ARRAIGNMENT</b>			
	0.032	0.000	1.032
<b>BOROUGH OF ARREST</b>			
Excluded Category: Bronx			
Brooklyn	0.069	0.052	1.071
Manhattan	-0.053	0.124	0.949
Queens	-0.194	0.000	0.824
Staten Island	0.303	0.000	1.354
<b>SEX (FEMALE)</b>			
	-0.060	0.236	0.941
<b>AGE</b>			
	-0.025	0.000	0.976
<b>ETHNICITY</b>			
Excluded Category: Other			
Black	0.185	0.000	1.203
White	-0.170	0.001	0.843
Hispanic	0.094	0.010	1.098

**Appendix D (continued)**

	<b>Logit Coefficient</b>	<b>Significance Level</b>	<b>Odds Ratio</b>
CASE PROCESSING TIME	0.006	0.000	1.006
COURT OF DISPOSITION	-0.364	0.000	0.695
OPEN CASES	0.239	0.000	1.269
PRIOR ARREST	0.295	0.000	1.344
PRIOR MISDEMEANOR CONVICTION	0.262	0.000	1.300
PRIOR FELONY CONVICTION	0.135	0.003	1.144
<b>GRADED OFFENSE TYPE AT INITIAL ARREST</b>			
<b>EXCLUDED CATEGORY: MISDEMEANOR_OTHER</b>			
<b>Felony-Level Offenses</b>			
Violent	-0.267	0.000	0.766
Property	-0.112	0.034	0.894
Drug	-0.074	0.124	0.929
Public Order	-0.109	0.102	0.897
Other	-0.173	0.075	0.841
<b>Misdemeanor or Lesser Charges</b>			
Violent	-0.050	0.273	0.951
Property	0.359	0.000	1.432
Drug	0.209	0.000	1.233
Public Order	0.219	0.000	1.245

Nagelkerke R<sup>2</sup> for the Model = 13%