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# ***Report Card on Crime***

## ***Runaway Losses***

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***Estimating the Costs of  
Failure to Appear  
in the Los Angeles  
Criminal Justice System***

**May 1997**

**Research Performed for the Criminal Justice Task Force**

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

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### ***Estimating the Costs of Failure to Appear in the Los Angeles Criminal Justice System***

***Research Prepared for the Criminal Justice Task Force***

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**May 1997**

***Report Card on Crime: Runaway Losses: Estimating the Costs  
of Failure to Appear in the Los Angeles Criminal Justice System***

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*Design by Noel R. Card*

# ***Runaway Losses***

*Estimating the Costs of Failure to Appear  
in the Los Angeles Criminal Justice System*

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## PREFACE

We are pleased to present *Runaway Losses*, a study of the budgetary and social costs incurred when a defendant fails to appear for court. Though the study uses data from Los Angeles, the analysis is representative of conditions in many states and localities across America.

This, the third installment in ALEC's *Report Card on Crime* series, continues a tradition established with ALEC's first *Report Card* in 1994: substantive data and analysis that takes an unflinching look at the efficacy of our criminal justice system.

ALEC has always sought cost-effective solutions to the growing burden that criminals place upon our judicial system and law enforcement. This report is no exception. When the budget cost of "failures to appear in court" are spread across all defendants, the data shows that private bail-bonds cost taxpayers 2½ times less, per defendant, than government-sponsored pretrial release.

In one sense, this disparity is astounding. It underscores the cost-inefficiency of government-sponsored pretrial release. In another light, the results aren't surprising at all: the private sector has consistently shown that it can deliver services more efficiently and cost-effectively to the taxpayer.

Unfortunately, cost issues aren't the only problem with pretrial release. There is the human tragedy of mismanaged pretrial release programs. The morning I sat down to write this preface, the local paper had a story on District of Columbia Police Officer Robert L. Johnson, who was murdered while he sat in his car. The suspect charged with his murder had a previous conviction on a drug offense, had outstanding warrants for assault and a weapons violation in an adjacent county, and was free on pretrial release awaiting trial on a drug trafficking charge. Though the pretrial release agency had been calling the suspect to ensure he was meeting his nightly curfew, the night of the murder a call wasn't made. "That's a shame," said the head of the pretrial release agency. I'm sure Officer Johnson's family would agree, as would the families and friends of anyone who has been victimized by a criminal on pretrial release.

ALEC has four model bills designed to reform OR (pretrial release) and restore accountability to the system. *The Anti-Crime (secured release) Act* requires that anyone charged with an offense other than a misdemeanor be released only when secured with a cash deposit, a secure bail bond, or real property. *The Uniform Court Appearance Act* places bail restrictions on certain crimes. Individuals charged with these crimes can only post bail with cash, a surety bond, or a bail bond secured by real property. *The Uniform Bail Act* creates uniform standards for commercial bonds, cash bonds, and personal bonds. *The Bail Agent Education and Licensing Act* establishes minimum qualifications and standards in order to become a licensed bail bondsman.

We hope that you find *Runaway Losses* a valuable resource as you develop and consider reforms to the nation's criminal justice system. For the citizens of America, action can come none to soon.

Duane Parde  
Executive Director  
April 27, 1997  
Washington, D.C.



## INTRODUCTION

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Under the scrutiny of citizens who demand both more effective law enforcement and more efficient use of tax dollars, governments have begun to examine the operation of pre-trial releases in criminal cases. The two predominate release systems in the American Criminal Justice System are private market-based bail and court-supervised releases when the defendant is released on his own recognizance ("OR"), usually through a pretrial services screening agency.

Under the former, the private market is used through the posting of money or property to secure a defendant's promise to appear at each criminal proceeding, thereby providing financial incentives to act responsibly.

Under government run OR programs, a defendant will typically be "screened" by a government run, taxpayer-funded pre-trial services program and, if approved, will be released OR without any financial security.

In an earlier study (*Evidence of a Failed System*, April 1995, American Legislative Exchange Council) ALEC reported the results of research into the effectiveness of these two systems in California to prevent "failures to appear" ("FTAs"). In that study it was reported more than 60 percent of defendants are released prior to trial by the courts of the nation's 75 most populous urban areas. In the three counties studied (San Diego, San Francisco, and Los Angeles) the number was a little more than 40 percent. Of those released in the three counties, slightly more than 50 percent were released under some form of government-financed release without the requirement to post financial security for a promise to appear. Roughly 40 percent were released with some form of financial security required.

Generally those released OR were less likely to be violent and repeat offenders. Despite the fact that the "bond" releasees tended to be more dangerous and more chronic criminals, the ALEC study found that a defendant released OR without financial security was twice as likely to fail to appear for trial. For those defendants without a prior record of arrest or conviction, OR defendants were *five times* more likely to fail to appear for trial.

In this study ALEC takes a closer look at pretrial release, this time to estimate the public costs to the Los Angeles County criminal justice system when defendants fail to appear in court when required, for any proceeding. The analysis presented here for the first time seeks to evaluate and attach dollar costs to each stage of a defendant's apprehension and adjudication and, making use of a recent national survey of pretrial release, develop the expected costs of failures to appear.

In the first section of *Runaway Losses*, the authors outline the significant events in the criminal justice process from arrest through disposition, and review the administrative and judicial consequences of each failure to appear.

In the second section the costs to the criminal justice system of each of the significant events are identified, and formulas developed, to calculate the fiscal consequences of a failure to appear.

In the third section, national, state, and county data on the release of defendants and their likelihood of appearing are presented.

In section four, actual and expected fiscal costs for failures to appear are presented; in the fifth section the social costs of these failures are analyzed, particularly with regard to the social costs presented by those who remain fugitives.

The report concludes with an evaluation of policy alternatives. ■

## EXECUTIVE SUMMARY

In this study ALEC reports significant findings from a study of the costs of failures to appear in the criminal courts in Los Angeles.

In an earlier study (*Evidence of a Failed System*, April 1995, American Legislative Exchange Council) ALEC reported the results of research into the effectiveness of two systems in California to prevent "failures to appear" ("FTAs"). *Evidence of a Failed System* showed that more than 60 percent of defendants are released prior to trial by the courts of the nation's 75 most populous urban areas. In the three counties studied (San Diego, San Francisco, and Los Angeles) the number was a little more than 40 percent. Of those released in the three counties, slightly more than 50 percent were released under some form of government-funded release without the requirement to post financial security for a promise to appear. Roughly 40 percent were released with some form of financial security required.

Generally those released OR were less likely to be violent and repeat offenders. Despite the fact that the "bond" releasees tended to be more dangerous and more chronic criminals, the ALEC study found that a defendant released OR without financial security was twice as likely to fail to appear for trial.

Every failure to appear imposes quite substantial public costs. In the case of Los Angeles, when fugitive costs are included, the weighted average cost for each failure to appear is \$1,273.81

These costs are borne in addition to the more intangible costs associated with the loss of respect for the justice system itself. In this regard, it is estimated in this study that every fugitive imposes over \$25,000 in social costs on the citizens of Los Angeles County.

Los Angeles County taxpayers bear a significantly higher burden for OR releasees than for bond releasees for failures to appear. The expected cost for OR releases is \$375.63 which is 2 ½ times the cost (\$139.19) for bond releases. In terms of the expected social costs of fugitives, OR released defendants imposed \$2,528 per releasee while bond released defendants imposed less than a third of that amount (\$758). The lower failure to appear costs themselves suggest more emphasis should be put on private market-based bond release systems than the court-based OR system.

This change in policy toward a presumption for the use of a bond in every case could be accomplished by either a change in the court's own rules, or by legislation. It would inject into the present system, now heavily dependent on tax-supported pretrial services programs, an element of rationality that springs from real-world market incentives.

Not only does the private market perform better the main task of assuring the appearance of criminal defendants, thereby reducing the social costs of crime in Los Angeles, but now we see it does it at substantially less cost to the taxpayers. These results should suggest a clear public policy agenda. ■

## **SECTION 1. THE PROCESS AND CONSEQUENCES OF A FAILURE TO APPEAR**

### **1.1. THE ARREST PHASE**

When a person is cited or arrested for an offense in Los Angeles County the events following the arrest depend on the nature of the offense and, to some extent, the arresting officer. For all traffic infractions, and for most misdemeanors, the officer will likely "cite-out" the defendant, releasing him at the scene after issuing a citation to appear in Municipal Court at a future date.

For all felonies, however, and for misdemeanors involving domestic abuse, the defendant must be transported away from the crime scene for booking.

Booking, the formal recording of the arrest and jail detention, may take place at the county jail (in the case of men), at the Sybil Brand Institute (in the case of women), at the County Medical Center, or at a law enforcement station. Typically, however, bookings occur at a sheriff's substation or local police station.

When the booking procedure is completed, the defendant faces several options. He may be held in custody, released on his own recognizance (OR) either directly or after screening by the pretrial services agency, or released on a privately issued bail bond. The defendant may, but need not appear before a judge in order for any of these options to occur. In those cases where a bail bond amount is set, Los Angeles courts have established a detailed bond schedule that makes appearance before a judge unnecessary.

If a defendant is held in custody, California law requires that his first court appearance be held within 48 hours of his arrest. During his custody the defendant may be held at the law enforcement station or at the Central Jail. In the latter case the defendant will be transported to the jail and processed at the Inmate Reception Center. If it is not possible for the defendant to be brought before the court within 48 hours of his arrest (for example, on a holiday weekend), the arresting officer must submit a Cause Declaration Form to the judge on call. The judge may order the release of the defendant, with or without financial conditions, pending the adjudication.

If the defendant has been cited-out, released on bail bond, or released OR, his next contact with the criminal justice system will be at the Municipal Court.<sup>1</sup>

### **1.2. THE ADJUDICATION PHASE**

The typical criminal case in Los Angeles County begins at the Municipal Court arraignment. At the arraignment, the charges against the suspect are formally read, and a date is set for the preliminary hearing. The judge may make a determination to drop or reduce the charges. He may also modify any prior release orders, and may grant a pretrial release directly or through the Los Angeles Pretrial Services Agency to a defendant who has been held in custody, or he may reduce the amount of bail set earlier.

The rules require that the preliminary hearing be held within 72 hours of the arraignment. At this proceeding evidence is presented to the court for the first time. The purpose of this presentation is for the court to determine if there is probable cause to believe that a crime was committed and that the defendant committed it. The defendant may choose to plead guilty at this point, in which case the matter would be set for a sentencing proceeding.

If, at the preliminary hearing, probable cause is found and the case is to continue to trial, the next scheduled appearance for the defendant is the Superior Court arraignment. At this proceeding the defendant will formally enter his plea to the charges. If the plea is "not guilty," a date will be set for trial. If the defendant pleads "guilty," the matter will be set for



a sentencing proceeding.

Between the formal arraignment in Superior Court and the trial, there is likely to be a series of pre-trial hearings. These hearings may deal with evidentiary issues, defendant's competency to stand trial, legal issues over the sufficiency of the charges, or many others matters. In California felony cases, the defendant is required to attend each of these hearings.

A Superior Court trial follows these pre-trial proceedings. If the trial, either before a judge or a jury, results in a conviction, the adjudication process concludes with a sentencing proceeding.

### **1.3. THE ADMINISTRATIVE AND JUDICIAL CONSEQUENCES OF A FAILURE TO APPEAR**

In this analysis a criminal case is analyzed in two phases: apprehension and adjudication.

**Apprehension occurs only once** (at the time of original arrest or citation)<sup>2</sup> in those cases where the defendant appears for every court proceeding through the sentencing proceeding. However, in those cases where the defendant fails to appear for any particular court proceeding, the apprehension phase will occur again if the defendant is re-arrested.

**The adjudication phase**, which begins with the Municipal Court arraignment, proceeds through several stages, including the preliminary hearing, Superior Court arraignment, pre-trial hearings, trial, and sentencing. Throughout this multi-step process, the defendant is expected to appear at each stage of the proceeding. As such, the defendant on pretrial release will have several opportunities to fail to appear. He may even fail to appear more than once.<sup>3</sup>

Generally, when a defendant fails to appear, the presiding judge or magistrate issues a Bench Warrant for his or her arrest.

On a typical day in Los Angeles County, court cases are called at 8:30 a.m. If a defendant fails to report at the time his case is called, the defendant's case will be set aside until late morning and then called again. A second failure to respond may result in the issuance of the Bench Warrant, or the judge may choose to delay the action until the afternoon session, especially if the defendant has a lawyer who is present.

If the defendant has still failed to report to the court by the afternoon session, the court will issue the Bench Warrant and order the defendant's arrest. Bench Warrants and an order for arrest are prepared regardless of whether the defendant was released OR. If the defendant has posted a bond for his release, a motion for bail forfeiture is prepared and the surety agent is notified.

The Records and Statistics Department of the Los Angeles County Sheriff's Office receives the Bench Warrant, screens it for completeness, and enters it into the county's warrant system. The warrant is also entered into a national system to notify law enforcement agencies outside of Los Angeles.

The defendant who fails to appear may remain a fugitive, or he may return to court. Defendants return by either apprehension or surrender.

If a defendant surrenders to the court, the court staff will recall the warrant, notify the Sheriff's Office, where the warrant will be cleared, and restore the case to the Superior Court calendar. A new proceeding may be held to redetermine the conditions of release.

If a defendant is arrested, the law enforcement agency responsible for the arrest will

take the fugitive to jail for booking and detention, at which time the Sheriff's Office will clear the warrant. Upon booking, the defendant appears in court where a new determination of release conditions will be made. A hearing may be held to determine whether the original bail bond, if there was one, is to be reinstated or forfeited.

## SECTION 2. COSTS

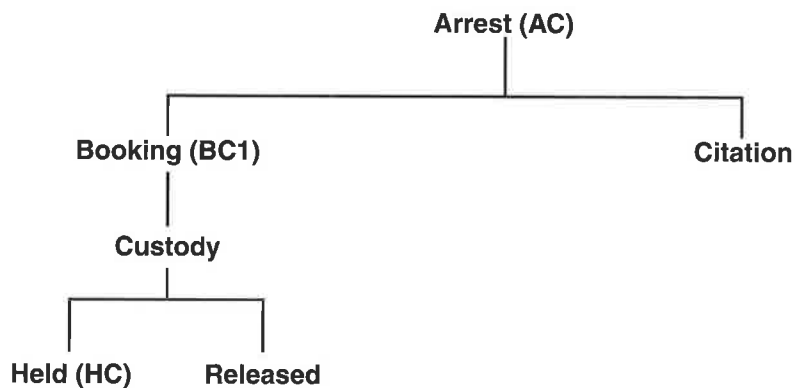
### 2.1. COST CATEGORIES

In this section we present flow charts to diagram the possible paths through the criminal justice system. With respect to the significant events along each path, cost markers are noted so they may be used to develop cost formulas.

#### *(A) Apprehension Phase*

The apprehension phase, with its associated costs in parentheses, may be represented as follows:

**FIGURE 1: FLOW CHART OF APPREHENSION PHASE  
WITH ASSOCIATED COSTS**



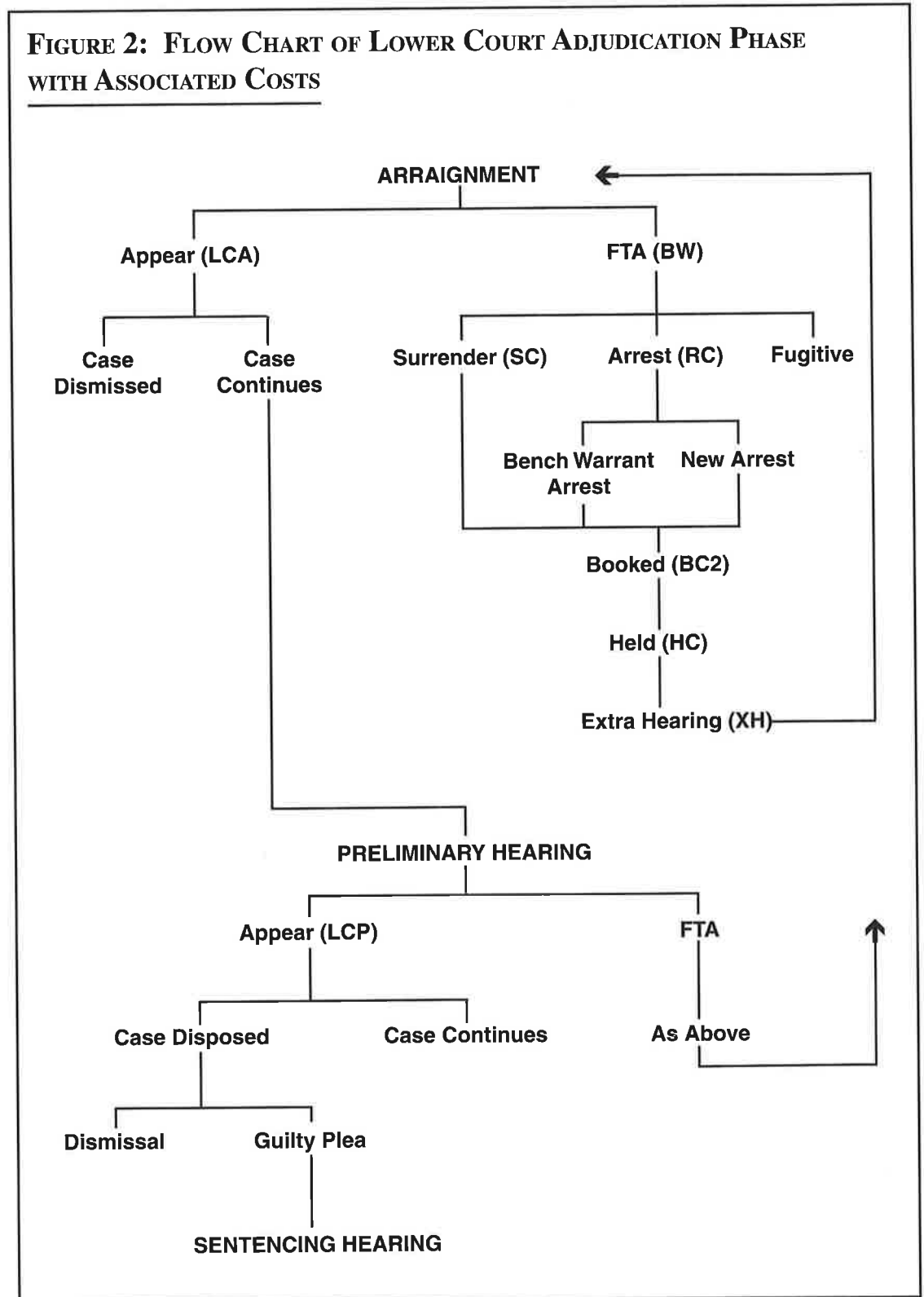
The relevant costs through this phase are:

- AC = Arrest Cost
- BC1 = Original Booking Cost
- HC = Holding Cost

### (B) Adjudication Phase

The Municipal Court (lower court) adjudication phase, and costs, may be represented as follows:

**FIGURE 2: FLOW CHART OF LOWER COURT ADJUDICATION PHASE WITH ASSOCIATED COSTS**



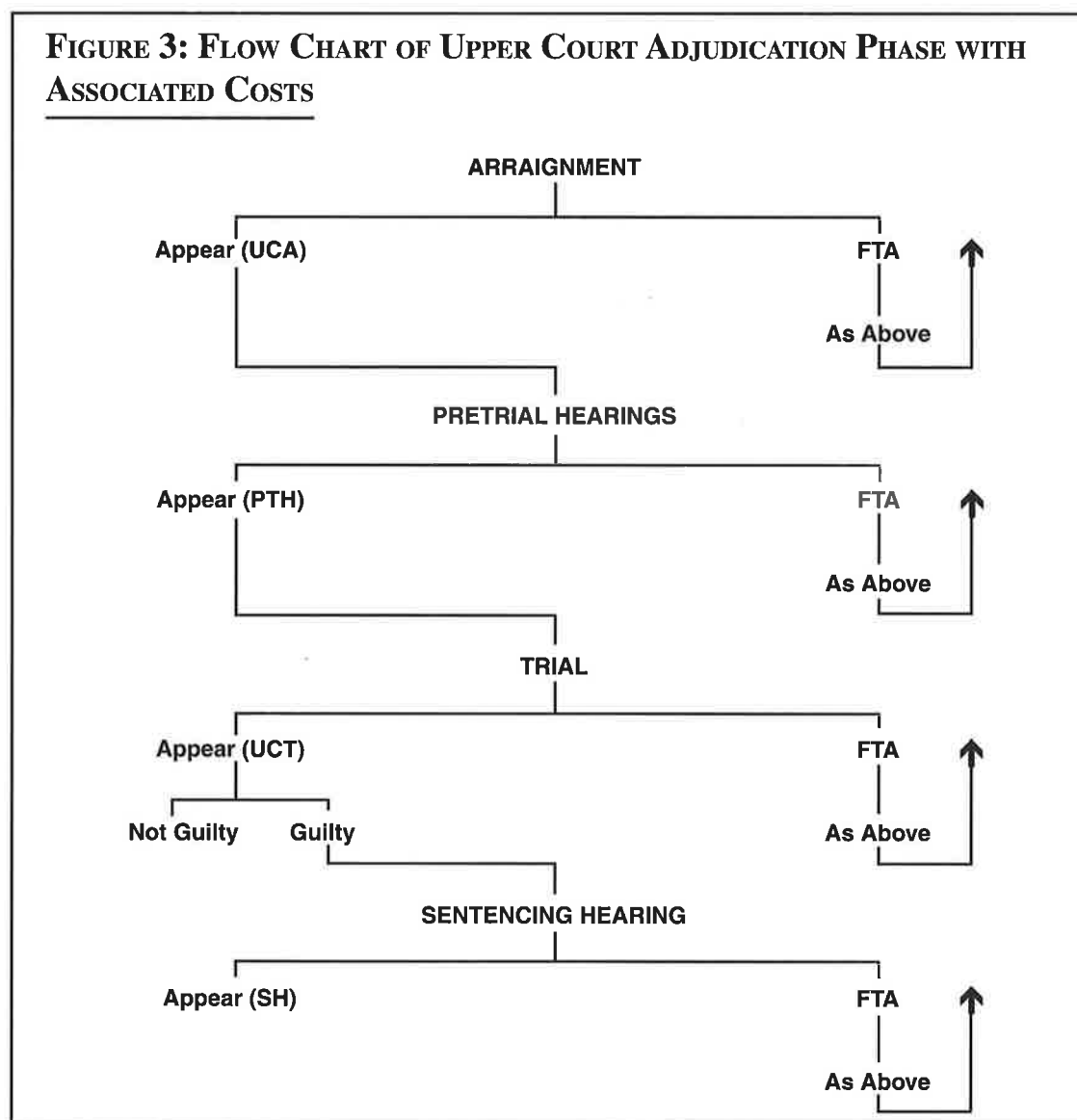
The lower court costs are thus represented:

**LCA** = **Lower Court Arraignment**  
**LCP** = **Lower Court Preliminary Hearing**

In the event of a failure to appear there may be another apprehension phase represented as follows:

**BW** = **Bench Warrant Issue Costs**  
**SC** = **Administrative Costs when a defendant surrenders**  
**RC** = **Rearrest Costs**  
**BC2** = **Booking Costs**  
**XH** = **Costs of a new hearing required because of FTA**

The Superior Court (upper court) adjudication phase and the associated costs may be represented as follows:



The costs for the upper court phase may be represented as follows:

**UCA** = **Upper Court Arraignment Costs**  
**PTH** = **Pretrial Hearing Costs**  
**UCT** = **Upper Court Trial Costs**  
**SH** = **Sentencing Costs**

If a defendant fails to appear in Superior Court, there will be another apprehension phase as well as the extra costs generated by the failure to appear (FTA) detailed in the Municipal Court phase.

## **2.2. COST FORMULAS**

The foregoing analysis presents the building blocks for presenting formulas to determine the costs associated with every possible consequence of a failure to appear. Four possibilities may occur after a failure to appear:

- (1) The defendant surrenders to the court.
- (2) The defendant is rearrested on the Bench Warrant issued after the failure to appear.
- (3) The defendant is returned to the court after being arrested for another crime.
- (4) The defendant remains a fugitive.

Each of these consequences imposes different costs on the criminal justice system. In each case, however, these costs must be added to the costs of a case in which there is no failure to appear. The costs thus presented accrue solely because of the failure to appear.

The costs involved when the defendant fails to appear and subsequently surrenders to the court are the costs of issuing the bench warrant, the administrative costs to the court at the point of surrender, booking costs, holding costs, and the costs of any extra hearing necessitated by the failure to appear.

$$\text{TOTAL SURRENDER COSTS} = \text{BW} + \text{SC} + \text{BC2} = \text{HC}(\text{DAYS HELD AFTER RETURN}) + \text{XH}$$

In those cases where the defendant is rearrested<sup>4</sup>, whether on a Bench Warrant or for a new crime, the costs will include the costs of issuing the Bench Warrant, the rearrest costs, booking costs, holding costs, and the costs of any additional hearings.

$$\text{TOTAL REARREST COSTS} = \text{BW} + \text{RC} + \text{BC2} + \text{HC}(\text{DAYS HELD AFTER RETURN}) + \text{XH}$$

Clearly, a significant component of the cost of a failure to appear will be the number of days that a defendant is held in custody before he returns to court.<sup>5</sup> The number of days in custody will vary depending upon whether the defendant is re-released or held until adjudication. That is a decision made based upon on the severity of the defendant's crime and prior record.

There are two types of costs to be considered in the case of a defendant who fails to appear and remains a fugitive; 1) **Budget costs** and 2) **Social costs**.

When the defendant fails to appear, his case is incomplete. In the case of a defendant who remains a fugitive, all of the resources expended prior to defendant's failure to appear are wasted. The budget costs associated with the significant events preceding the failure to appear may be identified.

Thus, the budget costs for a fugitive are the cost of the Bench Warrant issuance, plus the cost of all the events preceding the failure to appear. The arrest cost and the booking cost are common to all fugitives. The holding cost depends on how long the defendant was held prior to pretrial release. Budget costs will also include all court costs, preparation costs, and witness costs preceding the defendant's failure to appear.

$$\text{TOTAL FUGITIVE COSTS} = \text{AC} + \text{BC1} + \text{HC}(\text{DAYS HELD BEFORE RELEASE}) + \text{BW} + \text{(ADJUDICATION PHASE COSTS TO POINT OF FTA)}$$

In a broader sense, society bears a cost when a defendant, who should have been adjudicated, and if found guilty, punished, is instead at large, able to re-offend, and serves as

tangible evidence of how crime can pay. These less-tangible factors can be regarded as the social costs of a failure to appear. A better estimate of the cost of a fugitive would therefore incorporate both the lost budget costs and the social costs.

## **2.3. COSTS OF INDIVIDUAL EVENTS**

The analysis presented here employs cost estimates generated by Los Angeles County. In particular, the report makes extensive use of various cost studies produced by the county's Department of Auditor-Controller for a range of Sheriff's Department and Municipal/Superior Court events.<sup>6</sup> These estimates are advantageous in that they capture the full cost, including overhead, of all the relevant events. In those cases where the cost estimates do not come from county sources, the calculations and assumptions employed are identified.

### ***The Cost of an Arrest***

Rather than maintaining their own police forces, a large number of cities in Los Angeles County have contracts with the Sheriff's Department for policing services. These cities are known as "contract cities" and the Auditor - Controller has prepared a consolidated cost model to identify the appropriate prices to be charged contract cities for a variety of policing services. This cost model is used here to estimate the cost of an arrest.

To be sure, an arrest cost depends entirely on the time taken, and this will vary from case to case. In other studies the Auditor - Controller has allowed one hour for an average arrest. This study follows that convention.<sup>7</sup> Employing the consolidated cost model estimate for the annual cost of differing levels of coverage by manned patrol cars, one hour of policing is estimated to cost \$76.65. Thus, our estimate of the cost of arrest, (AC) = \$76.65.

### ***Booking Fees***

A 1994-95 study by the Auditor-Controller to determine the appropriate booking fees to be charged to non-county agencies for booking inmates into county facilities produced the following results<sup>8</sup>:

All Substations .....	\$120.94
Inmate Reception Center .....	\$184.24
Sybil Brand .....	\$174.62
County Medical .....	\$61.75

The original booking is typically at the station so for the analysis here BC1 = \$120.94. In the event of a re-arrest, the defendant typically will be booked into the County Jail and therefore, BC2 = \$184.24.

### ***Holding Costs***

For fiscal Year 1996-97 the rate used by the Sheriff's Department for billing the State of California for maintaining prisoners in the county's facilities is \$51.40 per day for male inmates. This figure is used for the holding costs used here, HC = \$51.40.

### ***Attorney Preparation Costs***

A 1995 "in-house" survey in the Los Angeles District Attorney's Office produced data regarding the standard amount of time that its attorneys expect to spend in preparation for the various events or stages of a criminal prosecution.<sup>9</sup> These time estimates appear in the

“Time in Hours” column in Table 1, below.

No similar survey has been conducted by the Public Defender’s Office. This study assumes that the time spent by its attorneys will be equal to the time spent by their counterparts in the District Attorney’s Office.

The rate of \$81.00 per hour for attorney time was used by the District Attorney’s Office in its survey. A typical criminal case is defended by a Deputy Public Defender, Grade III or IV. The 1996 hourly billing rate calculated by the Auditor-Controller for these positions were \$61.26 and \$74.04, respectively. For the analysis here we employ the average of these, \$67.65.

In Table 1, the total cost of attorney preparation time per case - exclusive of time in court - is \$1,077.72, comprising \$197.71 in preparing for Municipal Court, and \$880.01 in preparing for Superior Court. These amounts are used here to estimate the cost of wasted resources when a defendant remains a fugitive.

**TABLE 1: ATTORNEY PREPARATION COSTS**

Lower Court (LC) Upper Court (UC)	Time in Hours	District Attorney's Cost @ \$81.00/hr.	Public Defender's Cost @ \$67.65/hr.	Total Cost
Before First LC .....	0.75 .....	\$60.75 .....	\$50.74 .....	\$111.49
Between First and Second LC .....	0.58 .....	\$46.98 .....	\$39.24 .....	\$86.22
Before First UC .....	0.42 .....	\$34.02 .....	\$28.42 .....	\$62.43
Between First Surrender and Trial (UC) .....	5.00 .....	\$405.00 .....	\$338.25 .....	\$743.25
Post Trial .....	0.50 .....	\$40.50 .....	\$33.83 .....	\$74.33
<b>TOTALS .....</b>	<b>7.25 .....</b>	<b>\$587.25 .....</b>	<b>\$490.47 .....</b>	<b>\$1,077.72</b>

### ***Witness Costs***

At Preliminary Hearings, under California law, a single officer may “hearsay in” (summarize information from a third-party) the results of the investigation conducted by the law enforcement agency. At trial, however, each law enforcement witness must appear to give his or her own testimony. There are no available statistics on the number of agents who appear as witnesses for the prosecution in a typical case. For the analysis here the most conservative approach is taken and the estimates presented are based on only one officer appearing in any case.

The cost to the county for the appearance of a sheriff’s deputy as a witness varies according to the officer’s duty schedule. If the officer appears in court during her regular working hours, the cost is based upon her regular hourly rate. If she is required to appear at any other time, she is compensated at 1.5 times her hourly rate. In certain cases the prosecutor may require an officer to be “on-call” for a possible appearance. In these cases the officer is compensated at .5 times her hourly rate for those hours when she is not on duty. The calculations used here are based on the assumption that the officer is on duty and has not been required to be on-call, again both conservative assumptions. Accordingly, the hourly rate for the cost of witnesses is set at \$76.65, as derived from the contract city cost model. These costs are applied to those main events at which witnesses appear, the preliminary hearing and the trial, although an officer may be required to appear at other events, for example, a hearing on a motion to suppress evidence. Again the more conservative approach is taken.

As noted, in a typical case, the court is likely to hold over the decision to issue a Bench Warrant until the afternoon of the failure to appear. Accordingly, it is estimated that four hours of witness time will be lost for the two main witness events. Therefore, the witness

appearance cost of a failure to appear is  $\$76.65(4) = \$306.60$ . This amount is applied to those cases where a defendant is a fugitive and the witness appeared in court.

### ***Court Costs***

Table 2 shows the costs of the various court proceedings in a typical case. The hourly rates come from a 1992-93 Auditor-Controller Study which fixed the cost of one hour of Municipal Court time at \$273.60 and that of Superior Court time at \$461.40.<sup>10</sup> The time estimates for each court proceeding come from the District Attorney's survey.

**TABLE 2: COURT COSTS**

Event	Hours	Rate per Hour	Cost
LC Arraignment (LCA) .....	0.08 .....	\$273.60 .....	\$22.80
LC Preliminary (LCP) .....	0.50 .....	\$273.60 .....	\$136.80
UC Arraignment (UCA) .....	0.08 .....	\$461.40 .....	\$36.91
Hearing, Pretrial (PTH) .....	0.17 .....	\$461.40 .....	\$78.44
Trial (UCT) .....	24.00 .....	\$461.40 .....	\$11,073.60
Sentencing (SH) .....	0.17 .....	\$461.40 .....	\$78.44
<b>TOTALS .....</b>	<b>25 .....</b>		<b>\$11,426.99</b>

Table 2 displays the dollar value of each of the court proceedings. Hence:

<b>LCA</b>	<b>=</b>	<b>\$22.80</b>
<b>LCP</b>	<b>=</b>	<b>\$136.80</b>
<b>UCA</b>	<b>=</b>	<b>\$36.91</b>
<b>PTH</b>	<b>=</b>	<b>\$78.44</b>
<b>UCT</b>	<b>=</b>	<b>\$11,073.60</b>
<b>SH</b>	<b>=</b>	<b>\$78.44</b>

### ***Bench Warrant Costs***

A 1992-93 Auditor-Controller study identified the following costs associated with the issuance of a Bench Warrant and the subsequent return of the defendant:

<b>Bench Warrant Order and Issuance .....</b>	<b>BW = \$56.00</b>
<b>Administrative procedures on return:</b>	
-surrender .....	<b>SC = \$24.00</b>
-rearrest .....	<b>RC = \$70.00</b>
<b>Extra court proceeding following FTA .....</b>	<b>XH = \$182.00</b>

## **SECTION 3. DEFENDANT INFORMATION**

### **3.1. DEFENDANT STATISTICS**

The data presented here are derived from the 1994 National Pretrial Release Study conducted by the Bureau of Justice Statistics.<sup>11</sup> Tables 3A, 3B, and 3C present relevant information regarding defendants on pretrial release at the national level for all urban counties (hereinafter cited as "national"), for three major California counties (LA, SD, and SF) (hereinafter cited as "California"), and for Los Angeles County, respectively. Table 4 presents a similar three-way look at defendants who fail to appear while on pretrial release. Tables 5A, 5B, and 5C show the time to adjudication and the time in custody of defendants according to relevant characteristics.



**TABLE 3-A**

**SELECTED CHARACTERISTICS OF DEFENDANTS ON PRE-TRIAL RELEASE**

*(All U.S. Counties)*

	<b>All</b>	<b>FTA</b>	<b>non-FTA</b>
Sample Frequencies as a percentage of those released	100%	25%	75%
Percentage of released, rearrested	13%	26%	9%
Percentage of rearrested, rereleased	62%	60%	64%
Mean days from rearrest to rerelease*	12	15	10
Median days from rearrest to rerelease *	2	2	2
Mean days from rearrest to adjudication **	85	78	92
Median days from rearrest to adjudication **	64	59	70
Percentage of released in custody at adjudication.	8%	33%	3%
Percentage in custody, without being rearrested	6%	24%	2%
Mean days credit granted for pretrial detention ***	64	64	63
Median days credit granted for pretrial detention ***	39	41	32
Mean days credit granted for those not rearrested***	54	59	37
Median days credit granted for those not rearrested***	34	40	29
Mean days credit granted for those rearrested****	54	58	22
Median days credit granted for those rearrested****	22	33	22

\* Based on those observations for which defendant is rereleased prior to adjudication.

\*\* Based on those observations for which defendant is not rereleased prior to adjudication.

\*\*\* Based on those observations for which a positive number of days credit is actually granted.

\*\*\*\* Based on those observations for which a positive number of days credit is actually granted and the defendant is in custody at time of adjudication, even though originally rereleased for subsequent crime.

**TABLE 3-B**

**SELECTED CHARACTERISTICS OF DEFENDANTS ON PRE-TRIAL RELEASE**

*(3 California Counties)*

	<b>All</b>	<b>FTA</b>	<b>non-FTA</b>
Sample Frequencies as a percentage of those released	100%	33%	67%
Percentage of released, rearrested	14%	32%	8%
Percentage of rearrested, rereleased	60%	63%	55%
Mean days from rearrest to rerelease*	17	30	3
Median days from rearrest to rerelease *	2	3	2
Mean days from rearrest to adjudication **	52	54	51
Median days from rearrest to adjudication **	26	20	32
Percentage of released in custody at adjudication	11%	51%	4%
Percentage in custody, without being rearrested	7%	34%	2%
Mean days credit granted for pretrial detention ***	42	43	37
Median days credit granted for pretrial detention ***	37	37	37
Mean days credit granted for those not rearrested***	30	30	.
Median days credit granted for those not rearrested***	32	32	.
Mean days credit granted for those rearrested****	29	29	.
Median days credit granted for those rearrested****	29	29	.

\* Based on those observations for which defendant is rereleased prior to adjudication.

\*\* Based on those observations for which defendant is not rereleased prior to adjudication.

\*\*\* Based on those observations for which a positive number of days credit is actually granted.

\*\*\*\*Based on those observations for which a positive number of days credit is actually granted and the defendant is in custody at time of adjudication, even though originally rereleased for subsequent crime.

Note: Missing values correspond to lack of observations for those characteristics.

**TABLE 3-C****SELECTED CHARACTERISTICS OF DEFENDANTS ON PRE-TRIAL RELEASE***(Los Angeles County)*

	<b>All</b>	<b>FTA</b>	<b>non-FTA</b>
Sample Frequencies as a percentage of those released	100%	27%	73%
Percentage of released, rearrested	10%	26%	6%
Percentage of rearrested, rereleased	49%	45%	54%
Mean days from rearrest to rerelease*	23	45	3
Median days from rearrest to rerelease *	3	4	2
Mean days from rearrest to adjudication **	53	49	58
Median days from rearrest to adjudication **	20	19	51
Percentage of released in custody at adjudication	10%	48%	4%
Percentage in custody, without being rearrested	6%	29%	3%
Mean days credit granted for pretrial detention ***	34	29	44
Median days credit granted for pretrial detention ***	44	29	44
Mean days credit granted for those not rearrested***	.	.	.
Median days credit granted for those not rearrested***	.	.	.
Mean days credit granted for those rearrested****	29	29	.
Median days credit granted for those rearrested****	29	29	.

\* Based on those observations for which defendant is rereleased prior to adjudication.

\*\* Based on those observations for which defendant is not rereleased prior to adjudication.

\*\*\* Based on those observations for which a positive number of days credit is actually granted.

\*\*\*\* Based on those observations for which a positive number of days credit is actually granted and the defendant is in custody at time of adjudication, even though originally rereleased for subsequent crime.

Note: Missing values correspond to lack of observations for those characteristics.

**TABLE 4****SELECTED GENERAL CHARACTERISTICS OF DEFENDANTS WHO FAIL TO APPEAR**

	<b>All U.S. Counties</b>	<b>Three California Counties</b>	<b>Los Angeles County</b>
Average Hearings Made Before 1st FTA	2.1	2.0	1.6
Median Hearings Made Before 1st FTA	1.0	1.0	1.0
% Who FTA on 1st Hearing	25%	26%	31%
% Who FTA in Lower Court	59%	84%	83%
% Who FTA in Upper Court	41%	16%	17%
Mean Days Between FTA and Return to Court (Non-fugitives)	61.0	61.1	73.8
Median Days Between FTA and Return to Court (Non-fugitives)	30.0	32.0	42.0
% of Defendants with Relationship to CJS at Time of Original Arrest	40%	38%	46%
% of FTAs who Remain a Fugitive	33%	32%	36%
% of FTAs Rearrested for a New Crime	21%	25%	19%
% of FTAs Returned to Court on FTA Warrant (No new Crime)	21%	23%	21%
% of FTAs Returned to Court not on FTA Warrant or with a New Crime	22%	19%	23%

**Note:** The last 4 rows may not add to 100%, as several defendants were returned on a FTA warrant with an unknown rearrest status. These observations were not added to any particular category. Also rearrest rates for this table may differ from other tables, due to the inclusion in the denominator of defendants with an unknown rearrest status.

**TABLE 5-A**  
**TIME TO ADJUDICATION AND TIME IN CUSTODY BY DEFENDANT GROUP**  
*(All U.S. Counties)*

		All Arrested	Not Released	All Release	Released				
					Non-FTA		FTA		
					No New Crime	Arrested for New Crime	No New Crime	Arrested for New Crime	Arrested for New Crime
							Returned on Warrant	Walk-in	
# of Days from Arrest to Adjudication	Mean:	98	73	119	106	149	165	139	179
	Median:	70	46	96	82	136	145	113	170
# of Days from Pretrial Release to Adjudication	Mean:	n.a.	n.a.	107	95	136	150	131	166
	Median:	n.a.	n.a.	84	71	124	132	109	163
# of Days Not in Custody from Arrest to Adjudication	Mean:	58	0	103	96	107	138	128	125
	Median:	19	0	79	71	87	119	103	110
# of Days in Custody from Arrest to Adjudication	Mean:	39	73	16	10	42	26	12	54
	Median:	13	46	3	2	12	9	2	26

**TABLE 5-B**  
**TIME TO ADJUDICATION AND TIME IN CUSTODY BY DEFENDANT GROUP**  
*(3 California Counties)*

		All Arrested	Not Released	All Release	Released				
					Non-FTA		FTA		
					No New Crime	Arrested for New Crime	No New Crime	Arrested for New Crime	Arrested for New Crime
							Returned on Warrant	Walk-in	
# of Days from Arrest to Adjudication	Mean:	77	61	108	96	114	160	109	178
	Median:	58	43	88	79	100	132	106	191
# of Days from Pretrial Release to Adjudication	Mean:	n.a.	n.a.	91	81	102	138	115	150
	Median:	n.a.	n.a.	72	63	84	119	101	154
# of Days Not in Custody from Arrest to Adjudication	Mean:	32	0	92	84	79	143	111	124
	Median:	0	0	71	64	53	121	100	80
# of Days in Custody from Arrest to Adjudication	Mean:	45	61	16	12	35	17	8	55
	Median:	23	43	6	5	16	10	4	28

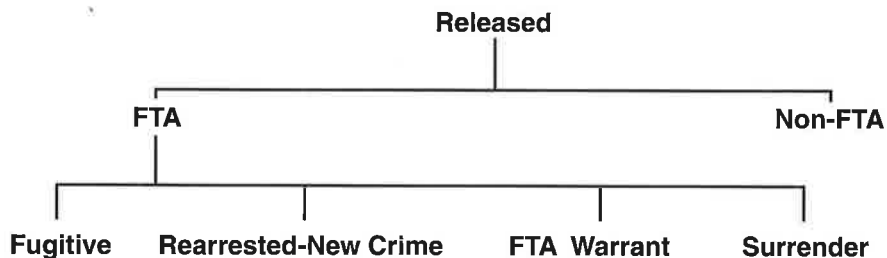
**TABLE 5-C**  
**TIME TO ADJUDICATION AND TIME IN CUSTODY BY DEFENDANT GROUP**  
*(Los Angeles County)*

		All Arrested	Not Released	All Release	Released				
					Non-FTA		FTA		
					No New Crime	Arrested for New Crime	No New Crime		Arrested for New Crime
							Returned on Warrant	Walk-in	
# of Days from Arrest to Adjudication	Mean:	76	60	107	96	117	162	123	171
	Median:	58	38	85	77	100	138	101	183
# of Days from Pretrial Release to Adjudication	Mean:	n.a.	n.a.	87	79	106	130	119	140
	Median:	n.a.	n.a.	68	60	84	114	98	148
# of Days Not in Custody from Arrest to Adjudication	Mean:	31	0	89	83	78	144	118	117
	Median:	0	0	69	63	46	122	97	80
# of Days in Custody from Arrest to Adjudication	Mean:	45	60	17	13	39	19	6	54
	Median:	24	38	7	6	18	12	3	27

### 3.2. PROBABLE PATHS OF DEFENDANTS

Using the information in Tables 3 and 4 probabilities may be estimated for the various outcomes involving defendants who fail to appear. The following flow chart demonstrates these possible outcomes.

**FIGURE 4: FLOW CHART OF PATHS TAKEN BY DEFENDENTS WHO FTA**



Using the data presented in Tables 3 and 4 along with Appendices 3a, 3b, 3c, 4a, 4b and 4c, it is possible to determine for each cohort of defendants, national, California, and Los Angeles, the percentages of defendants who fall into each failure to appear (FTA) category. These percentages are presented as follows:

<b>TABLE 6: FAILURE TO APPEAR, BY CATEGORY</b>						
<b>PERCENTAGES - TOTAL</b>		<b>FTA</b>	<b>Fugitive</b>	<b>FTA Rearrest</b>	<b>Bench Warrant</b>	<b>Surrender    Unknown</b>
NATIONAL	25	33	21	21	22	3
CALIFORNIA	33	32	25	23	19	1
LOS ANGELES	27	36	19	21	23	1
<b>PERCENTAGES - SURETY</b>		<b>FTA</b>	<b>Fugitive</b>	<b>FTA Rearrest</b>	<b>Bench Warrant</b>	<b>Surrender    Unknown</b>
NATIONAL	15	21	15	37	25	2
CALIFORNIA	18	22	22	22	33	1
LOS ANGELES	13	24	24	17	34	1
<b>PERCENTAGES - OR</b>		<b>FTA</b>	<b>Fugitive</b>	<b>FTA Rearrest</b>	<b>Bench Warrant</b>	<b>Surrender    Unknown</b>
NATIONAL	27	34	22	15	23	6
CALIFORNIA	33	30	21	25	20	4
LOS ANGELES	30	34	19	25	21	1

## SECTION 4. THE COSTS OF FAILURES TO APPEAR

### 4.1. ACTUAL COSTS

For defendants who fail to appear, (FTA) there are four possible outcomes:

- (1) Defendants who FTA and surrender to the Court;
- (2) Defendants who FTA and are rearrested on a Bench Warrant;
- (3) Defendants who FTA and are arrested for another crime; and
- (4) Defendants who remain as fugitives.

With respect to these outcomes, formulas were developed in Section 2.2. Again, these are:

**TOTAL SURRENDER COSTS = BW + SC + BC2 + HC(DAYS HELD AFTER RETURN) + XH**

**TOTAL REARREST COSTS = BW + RC + BC2 + HC(DAYS HELD AFTER RETURN) + XH**

**TOTAL FUGITIVE COSTS = AC + BC1 = HC(DAYS HELD BEFORE RELEASE) + BW +  
(ADJUDICATION PHASE COSTS TO THE POINT OF FTA)**

Each of these individual costs was calculated in Section 2.3. What remains, however, is to determine the number of days that each of these defendant types was held in custody. This information may be calculated from Table 5.

In the case of fugitives, we are interested in the mean number of days between arrest and pretrial release. This is calculated as the difference between the number of days from arrest to adjudication and the number of days from pretrial release to adjudication for all released defendants. Accordingly, the mean number of days in custody before pretrial release was<sup>12</sup>:

**NATIONAL ..... 119 - 107 = 12 DAYS**  
**CALIFORNIA ..... 108 - 91 = 17 DAYS**  
**LOS ANGELES ..... 107 - 87 = 20 DAYS**

In the cases of defendants who either surrendered or were arrested, we are interested in the amount of time spent in custody before rerelease or adjudication, whichever came first. This information may also be obtained from Table 5. To determine these averages, we compare the average number of days in custody of those defendants who did not fail to appear and were not arrested for any new crime, to the average days in custody for each of our target groups. Accordingly, the post-return number of days in custody for defendants who are arrested for a new crime was:

**NATIONAL** ..... 54 - 10 = 44 DAYS  
**CALIFORNIA** ..... 55 - 12 = 43 DAYS  
**LOS ANGELES** ..... 54 - 13 = 41 DAYS

For those who were rearrested on a bench warrant, the relevant custody days were:

**NATIONAL** ..... 26 - 10 = 16 DAYS  
**CALIFORNIA** ..... 17 - 12 = 5 DAYS  
**LOS ANGELES** ..... 19 - 13 = 6 DAYS

For those who surrendered to the court, only the national figures generate a positive number of post-return days in custody (10 days). The California and Los Angeles figures may therefore be set at zero.

**NATIONAL** ..... 12 - 10 = 2 DAYS  
**CALIFORNIA** ..... 0 DAYS  
**LOS ANGELES** ..... 0 DAYS

**TABLE 7: CHRONOLOGY OF COSTS**

Activity	Code	\$	Fugitive Cost Subtotal
1. Arrest Cost .....	AC .....	\$76.65	
2. Original Booking Cost .....	BCI .....	\$120.94	
3. Holding Cost (D = Days Held) ...	HC .....	\$51.40 (D)	
4. Attorney Preparation .....		\$111.49	\$111.49
5. Lower Court Arraignment .....	LCA .....	\$22.80	
6. Attorney Preparation .....		\$86.22	
7. Lower Court Preliminary .....	LCP .....	\$136.80	
8. Witness Costs (Preliminary) .....		\$306.60	
9. Attorney Preparation .....		\$62.43	\$111.49 + \$614.85
10. Upper Court Arraignment .....	UCA .....	\$36.91	
11. Pretrial Hearings .....	PTH .....	\$78.44	
12. Attorney Preparation .....		\$743.25	
13. Upper Court Trial .....	UCT .....	\$11,073.60	
14. Witness Cost (Trial) .....		\$306.60	
15. Attorney Preparation .....		\$74.33	
16. Sentencing Hearing .....	SH .....	\$78.44	\$111.49 + \$614.85 + \$12,391.57
<b>TOTAL</b> .....		<b>\$13,315.50</b> <b>+ \$51.40 (D)</b>	

Table 6 may be used to determine the system costs attributable to fugitives before the point of their FTA. Here the individual costs of the process, arranged in chronological order, are presented. The column labeled "FUGITIVE COST SUBTOTALS" is intended to capture the adjudication phase resources used up by fugitives whose first failure to appear was at the first court appearance, was during the lower court phase, or was during the upper court phase.

There are typically two chances to fail to appear in lower court, so, for this phase, the average cost is \$418.92. An upper court failure to appear typically may occur at any of four events, thus the average resources used are \$4,090.94

From Table 4 it may be determined that defendants fail to appear with the following frequencies:

	NATIONAL	CALIFORNIA	LOS ANGELES
AT THE FIRST APPEARANCE .....	25%	26%	31%
IN LOWER COURT .....	34%	58%	52%
IN UPPER COURT .....	41%	16%	17%

It should be noted that the costs employed here were specific to Los Angeles. To estimate what the FTA costs were in the three California counties and at the national level we used the Los Angeles cost data. However, for estimates at the national and state levels, it is necessary to adjust these costs by the appropriate price index. For use in the three California counties, costs have been adjusted by an index of 1.003, while for the national level, the index adjustment is .880. These reflect the differences in average wages across these regions. Applying these weights and the region differentials to the costs shown above, the following estimates for the adjudication phase resource costs of fugitives are calculated:

NATIONAL	[.25(\$111.49) + .34(\$418.92) + .41(\$4090.94)] * .880	= \$1625.88
CALIFORNIA	[.26(\$111.49) + .58(\$418.92) + .16(\$4090.94)] * 1.003	= \$929.29
LOS ANGELES	[.31(\$111.49) + .52(\$418.92) + .17(\$4090.94)] * 1.000	= \$947.86

The estimates for surrender costs are:

	(BW + SC + BC2 + HC(D) + XH) * INDEX =	
NATIONAL	(56 + 24 + 184.24 + 102.80 + 182) * .880	= \$483.16
CALIFORNIA	(56 + 24 + 184.24 + 0 + 182) * 1.003	= \$447.58
LOS ANGELES	(56 + 24 + 184.24 + 0 + 182) * 1.000	= \$446.24

The estimates for Bench Warrant arrest costs are:

	(BW + RC + BC2 + HC(D) + XH) * INDEX =	
NATIONAL	(56 + 70 + 184.24 + 822.40 + 182) * .880	= \$1156.88
LOS ANGELES	(56 + 70 + 184.24 + 257.00 + 182) * 1.003	= \$751.49
CALIFORNIA	(56 + 70 + 184.24 + 308.40 + 182) * 1.000	= \$800.64

The estimates for costs for arrests on a new crime are:

	(BW +	RC +	BC2 +	HC(D) +	XH)	*	INDEX =	
NATIONAL	(56 +	70 +	184.24 +	2261.60 +	182)	*	.880	=\$2423.38
LOS ANGELES	(56 +	70 +	184.24 +	2210.20 +	182)	*	1.003	=\$2710.55
CALIFORNIA	(56 +	70 +	184.24 +	2107.40 +	182)	*	1.000	=\$2599.64

The estimates for costs for fugitives are:

	[(AC +	BC1 +	HC(D) +	BW) * INDEX]+	RESOURCES =	
NATIONAL	[(76.65 +	120.94 +	616.80 +	56) * .880]	+ 1625.88	= \$2391.82
CALIFORNIA	[(76.65 +	120.94 +	873.80 +	56) * 1.003]	+ 929.29	= \$2060.00
LOS ANGELES	[(76.65 +	120.94 +	1028 +	56) * 1.000]	+ 947.86	= \$2229.45

## 4.2. AVERAGE COSTS

In this section the weighted average costs of a failure to appear, both with and without fugitive costs, are presented. Weights for these calculations are derived above in section 2.2.

Implicit in the preceding discussion is the assumption that the act of failing to appear is in itself responsible for the post-failure to appear (FTA) events. This is true and obvious in the cases of surrender, re-arrest on a bench warrant, and remaining a fugitive. It is less apparent in the case of a defendant who fails to appear and is returned to court on an arrest for a new offense. In this case, the formula driven expected costs for these events are likely to be over-estimates.

One extreme solution is to argue that this defendant would have been arrested anyway; the fact he failed to appear had no impact on his subsequent criminality or rearrest probability. If we take this extreme approach, we end up with a cost of zero for the arrest on new crime events.

A more realistic solution is to estimate the impact of the failure to appear on predicted rearrest rates and to weight the costs accordingly. The assumption here is that at least some rearrests of defendants on new crimes are due to the outstanding warrant for their arrest. This prediction exercise is shown in Appendices 11 and 12. Relying on this approach, the expected costs of defendants who fail to appear and are rearrested on new crimes fall to 52 percent, 48 percent, and 38 percent of their original estimated costs for the National, California, and Los Angeles totals respectively:

As Table 8 demonstrates, every failure to appear imposes quite substantial public costs. In the case of Los Angeles, when fugitive costs are included, the weighted average cost for each failure to appear is \$1,273.81. It should also be noted that a significant difference is presented in the average cost of a failure to appear for bond releasees and for OR releasees. The OR failure to appear cost is 17 percent higher than the bail bond failure to appear cost.

## 4.3. EXPECTED COSTS

The expected cost of each failure to appear event is the average cost of the event multiplied by the probability of it occurring. Overall expected costs are calculated here, as are expected costs for defendants on surety and on pretrial release.



**TABLE 8: FAILURE TO APPEAR, AVERAGE COST ANALYSIS**

NATIONAL		FREQUENCIES					
Costs		Including Fugitives			Excluding Fugitives and Unknown		
		Overall	Surety	ROR	Overall	Surety	ROR
Surrender	\$483.16	33%	25%	23%	44%	32%	38%
Bench Warrant	\$1156.88	21%	37%	15%	28%	48%	25%
New Crime	\$2,423.38	21%	15%	22%	28%	20%	37%
Fugitive	\$2,391.82	22%	21%	34%			
Unknown	n.a.	3%	2%	6%			
<b>WEIGHTED AVERAGE COST - INCLUDING FUGITIVE COST</b>							
Overall:	$[0.33*(483.16) + 0.21*(1156.88) + 0.21*(2423.38)*0.52 + 0.22*(2391.82)]/0.97 = 1231.14$						
Surety:	$[0.25*(483.16) + 0.37*(1156.88) + 0.15*(2423.38)*0.52 + 0.21*(2391.82)]/0.98 = 1265.45$						
ROR:	$[0.23*(483.16) + 0.15*(1156.88) + 0.22*(2423.38)*0.52 + 0.34*(2391.82)]/0.94 = 1462.89$						
<b>WEIGHTED AVERAGE COST - EXCLUDING FUGITIVE COST and UNKNOWN</b>							
Overall:	$0.44*(483.16) + 0.28*(1156.88) + 0.28*(2423.38)*0.52 = 889.36$						
Surety:	$0.32*(483.16) + 0.48*(1156.88) + 0.20*(2423.38)*0.52 = 961.95$						
ROR:	$0.38*(483.16) + 0.25*(1156.88) + 0.37*(2423.38)*0.52 = 939.08$						
THREE CALIFORNIA COUNTIES		FREQUENCIES					
Costs		Including Fugitives			Excluding Fugitives and Unknown		
		Overall	Surety	ROR	Overall	Surety	ROR
Surrender	\$447.58	19%	33%	20%	28%	43%	30%
Bench Warrant	\$751.49	23%	22%	25%	35%	29%	38%
New Crime	\$2,710.55	25%	22%	21%	37%	28%	32%
Fugitive	\$2,060.06	32%	22%	30%			
Unknown	n.a.	1%	1%	4%			
<b>WEIGHTED AVERAGE COST - INCLUDING FUGITIVE COST</b>							
Overall:	$[0.19*(447.58) + 0.23*(751.49) + 0.25*(2710.55)*0.48 + 0.32*(2060.06)]/0.99 = 1254.92$						
Surety:	$[0.33*(447.58) + 0.22*(751.49) + 0.22*(2710.55)*0.48 + 0.22*(2060.06)]/0.99 = 1063.11$						
ROR:	$[0.20*(447.58) + 0.25*(751.49) + 0.21*(2710.55)*0.48 + 0.30*(2060.06)]/0.96 = 1217.32$						
<b>WEIGHTED AVERAGE COST - EXCLUDING FUGITIVE COST and UNKNOWN</b>							
Overall:	$0.28*(447.58) + 0.35*(751.49) + 0.37*(2710.55)*0.48 = 869.74$						
Surety:	$0.43*(447.58) + 0.29*(751.49) + 0.28*(2710.55)*0.48 = 774.69$						
ROR:	$0.30*(447.58) + 0.38*(751.49) + 0.32*(2710.55)*0.48 = 836.18$						
LOS ANGELES		FREQUENCIES					
Costs		Including Fugitives			Excluding Fugitives and Unknown		
		Overall	Surety	ROR	Overall	Surety	ROR
Surrender	\$446.24	23%	34%	21%	37%	45%	32%
Bench Warrant	\$800.64	21%	17%	25%	33%	23%	39%
New Crime	\$2,599.64	19%	24%	19%	30%	32%	29%
Fugitive	\$2,229.45	36%	24%	34%			
Unknown	n.a.	1%	1%	1%			
<b>WEIGHTED AVERAGE COST - INCLUDING FUGITIVE COST</b>							
Overall:	$[0.23*(446.24) + 0.21*(800.64) + 0.19*(2599.64)*0.38 + 0.36*(2229.45)]/0.99 = 1273.81$						
Surety:	$[0.34*(446.24) + 0.17*(800.64) + 0.24*(2599.64)*0.38 + 0.24*(2229.45)]/0.99 = 1070.69$						
ROR:	$[0.21*(446.24) + 0.25*(800.64) + 0.19*(2599.64)*0.38 + 0.34*(2229.45)]/0.99 = 1252.09$						
<b>WEIGHTED AVERAGE COST - EXCLUDING FUGITIVE COST and UNKNOWN</b>							
Overall:	$0.37*(446.24) + 0.33*(800.64) + 0.30*(2599.64)*0.38 = 725.68$						
Surety:	$0.45*(446.24) + 0.23*(800.64) + 0.32*(2599.64)*0.38 = 701.07$						
ROR:	$0.32*(446.24) + 0.39*(800.64) + 0.29*(2599.64)*0.38 = 741.53$						

**TABLE 9A: EXPECTED FAILURE TO APPEAR COSTS**

	National	3 Calif. Counties	Los Angeles
<b>OVERALL</b> .....	\$307.76 .....	\$414.12 .....	\$343.93 .....
	0.25*(\$1231.14) .....	0.33*(\$1254.92) .....	0.27*(\$1273.81) .....
<b>SURETY</b> .....	\$189.82 .....	\$191.36 .....	\$139.19 .....
	0.15*(\$1265.45) .....	0.18*(\$1063.11) .....	0.13*(\$1070.69) .....
<b>OR</b> .....	\$394.98 .....	\$401.72 .....	\$375.63 .....
	0.27*(\$1462.89) .....	0.33*(\$1217.32) .....	0.30*(\$1252.09) .....

**TABLE 9B: EXPECTED FAILURE TO APPEAR COSTS (w/o FUGITIVES)**

	National	3 Calif. Counties	Los Angeles
<b>OVERALL</b> .....	\$222.34 .....	\$287.01 .....	\$195.93 .....
	0.25*(\$889.36) .....	0.33**(\$869.74) .....	0.27*(\$725.68) .....
<b>SURETY</b> .....	\$144.29 .....	\$139.44 .....	\$91.14 .....
	0.15*(\$961.95) .....	0.18*(\$774.69) .....	0.13*(\$701.07) .....
<b>OR</b> .....	\$253.55 .....	\$275.94 .....	\$222.46 .....
	0.27*(\$939.08) .....	0.33*(\$836.18) .....	0.30*(\$741.53) .....

The numbers derived from the expected cost calculations are, in fact, quite remarkable. When fugitive costs are figured into the calculation, a defendant released on pretrial release in Los Angeles can be expected to impose a \$375.63 failure to appear cost, more the 2½ times the expected costs for defendants released on bond (\$139.19). With fugitive costs not included, the multiple is almost 2½ times. While neither system is perfect in preventing failures to appear and, likewise, neither system is cost free, the results presented here clearly demonstrate a significant savings to Los Angeles taxpayers through the use of bond releases when measured against pretrial service agency releases.

## SECTION 5. SOCIAL COSTS

There are several approaches to estimating the costs of fugitives. The wasted resources approach, which focuses on budgetary costs, is developed above.<sup>13</sup> From a social perspective, however, this is the minimum that society loses when a defendant fails to appear. A more general approach would seek to capture the costs to society of fugitives running free; never having to stand for their crimes and be adjudicated.

In an NIJ Research Paper, "Two Views on Imprisonment Policies: Lethal Violence and the Overreach of American Imprisonment; Supply Side Imprisonment Policy," National Institute of Justice, 1997, Frank Zimring and Michael K. Block estimate that the net benefit to society of sending a guilty defendant to prison - and by definition removing that person from the streets - is \$65,000 per year. We can use this estimate to generate a cost to society when a defendant fails to make a court appearance, and as a consequence remains a fugitive and is never adjudicated for his criminal activity.

Nationwide, data show that 75 percent of defendants who fail to appear and do not remain fugitives are ultimately found guilty.<sup>14</sup> Of these, 26 percent go to prison. Therefore, the probability that a defendant who fails to appear is guilty and would go to prison is  $(.75)(.26) = .195$ . In California, the percentages are 78 percent and 24 percent, respec-



tively. The probability that a defendant who fails to appear in California is guilty and would go to prison is thus  $(.78)(.24) = .187$ . In Los Angeles County, the percentages are 71 percent and 20 percent, which implies that the probability is  $(.71)(.20) = .142$ .

If we apply these probabilities to the dollar estimate of the net benefit to society of sending a guilty defendant to prison, the following dollar benefits are obtained:

REGION	PROBABILITY OF IMPRISONMENT	BENEFIT
NATIONAL .....	.195 .....	\$12,675
CALIFORNIA .....	.187 .....	\$12,155
LOS ANGELES .....	.142 .....	\$9,230

It is necessary to subtract from these the expected costs of a guilty plea or verdict. Nationwide, and in California, we estimate that guilty pleas constitute 90 percent of guilty defendant adjudications, with the remaining 10 percent coming from court verdicts. In Los Angeles, guilty pleas constitute 95 percent of guilty defendant adjudications, with five percent coming from court verdicts. We also conservatively assume that a guilty plea will only be made at the lower court Preliminary Hearing, and that any days in custody are split evenly between lower and upper court proceedings.

Employing the cost data summarized in Table 7, it is possible to generate the expected costs of guilty pleas/verdicts. One result which may be obtained from Table 7 is that the total cost of a standard case is  $\$13,315.50 + \$51.40(D)$ , where D is the number of days a defendant will remain in custody. The average number of days in custody for all defendants who are released pretrial nationwide and for California, is 16; for Los Angeles it is 17. Therefore, the total cost of a trial at Los Angeles prices is estimated at<sup>15</sup>:

NATIONAL .....	$\$14,137.90 \times 1/80 = \$17,672.38$
CALIFORNIA .....	$\$14,137.90 \times 1/80 = \$17,672.38$
LOS ANGELES .....	$\$14,189.30 \times 1/80 = \$17,736.45$

Table 7 also shows the extent of resource use through the preliminary hearing. The total cost of a guilty plea or verdict is the weighted average of these figures. At Los Angeles prices these costs are:

NATIONAL .....	$.10(\$17,672.38) + .90(\$1153.55) = \$2805.43$
CALIFORNIA .....	$.10(\$17,672.38) + .90(\$1153.55) = \$2805.43$
LOS ANGELES .....	$.05(\$17,736.45) + .95(\$1179.25) = \$2007.10$

Applying the price indices to the national and California figures, we obtain cost estimates of \$2,259.34, and \$2,813.85, respectively.

Subtracting these totals from the social benefit figures produces net annual social costs of \$10,416 nationally, \$9,341 in California, and \$7,223 in Los Angeles, for every defendant who fails to appear and remains a fugitive.

If we assume that all of the fugitives in the BJS study are never adjudicated for the crimes they are accused of, and if we multiply these by the average minimum sentences of 37, 40, and 42 months for each of our three jurisdictions, we obtain figures for the social cost of a fugitive of \$32,116 nationally, \$31,106 in California, and \$25,281 in Los Angeles.<sup>16</sup> In other words, we find that each fugitive costs society between \$25,000 and \$31,000 in lost crime control benefits.

Applying the probabilities implied by the data in section 2.2 we obtain the following values for the expected fugitive costs to society of pretrial release. It is clear from these estimates that, as with budgetary costs, the expected social costs of pretrial release on surety are only a fraction of the costs imposed by other forms of pretrial release.

	SURETY	PRETRIAL RELEASE
NATIONAL .....	\$963 .....	\$2890
CALIFORNIA .....	\$1244 .....	\$3111
LOS ANGELES .....	\$758 .....	\$2528

The differences shown here between bond releases and pretrial services releases are dramatic. For Los Angeles, the expected fugitive costs to society for pretrial services released defendants is more than three times the expected cost for bond releasees. Again the same pattern emerges as with the budgetary costs. Pretrial services releasees impose substantially greater costs on society than do defendants released on bond through the private market.

## SECTION 6. POLICY EVALUATION

The data presented here raise an important issue for policy makers.

From ALEC's earlier study of pretrial release it was apparent that the level of defendant disobedience to orders to appear was significantly higher for defendants on OR release than for defendants released on bond. This was true even in light of the fact that defendants released on bond tended to be more chronic offenders accused of more serious crimes. The report revealed the problems with too heavy a reliance on pretrial screening and court-run pretrial release systems; problems of weakened crime control and threats to social order. The report estimated that the failure to appear rate in Los Angeles County would fall from 27 percent to 19 percent if the proportion of defendants released under a surety bond rose from its then current 40 percent to 86 percent.

Now a fiscal dimension has been added to these observations.

Failures to appear impose significant public costs. For every failure to appear in the Los Angeles court system policy makers should know that another \$1,273.81 in lost cost has been imposed on the system and its carriers, the L.A. taxpayers. These costs are borne in addition to the more intangible costs associated with the loss of respect for the justice system itself.

Los Angeles County taxpayers bear a significantly higher burden for pretrial services releasees than for bond releasees for failures to appear. As noted, the expected cost for OR releasees is \$375.63 which is 2 ½ times the cost for bond releases (\$139.19). Clearly more emphasis should be put on use of the private market-based bond release system than the government-run pretrial release system.

This change in policy toward a presumption of use of a bond in every case could be accomplished by either change in the court's own rules, or by legislation. It would inject into the present system, now heavily dependent on tax-supported pretrial services programs, an element of rationality that springs from real-world market incentives.

Not only does the private market perform better the main task of assuring the appearance of criminal defendants, but now we see it does it at dramatically less cost to the taxpayers. These results should suggest a clear public policy agenda. ■

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*ALEC has prepared model legislation that addresses these issues. You may reach us at (202) 466-3800.*

## Endnotes

- <sup>1</sup> In this study no data are presented regarding the costs for the operation of the Los Angeles County Superior Court based Pretrial Services Agency and the defendant screenings which its staff performs because the agency would not make its data available for public inspection. As a consequence, all of the comparisons between bond and OR releases understate the real budgetary costs of OR releases.
- <sup>2</sup> Of course, if the defendant is rearrested for another crime, or for a violation of his release conditions, he may have a second apprehension phase prior to adjudication of the instant offense.
- <sup>3</sup> In the earlier ALEC study it was reported, for example, that one out of every 20 defendants released prior to disposition had more than one failure (page 23) to make a required court appearance.
- <sup>4</sup> For a profile of rearrest crimes see Appendix 2.
- <sup>5</sup> See Appendix 1 for details on “days in custody” calculations.
- <sup>6</sup> See Appendix 13.
- <sup>7</sup> *Id.*
- <sup>8</sup> *Id.*
- <sup>9</sup> *Id.*
- <sup>10</sup> *Id.*
- <sup>11</sup> As of the date of our research this remains the most current national pretrial release study published by the Bureau of Justice Statistics.
- <sup>12</sup> See Tables 5a, 5b, and 5c.
- <sup>13</sup> We assume for this analysis that if a defendant is listed as a fugitive in the BJS survey that he is never adjudicated on the original charge. While this is not strictly true, for our purposes it is sufficient for any reappearance to take sufficient time so that the case becomes “stale” and the previous legal process essentially wasted.
- <sup>14</sup> See Appendices 5, 6, and 7.
- <sup>15</sup> According to BJS data, the overall conviction rate at trial is 80 percent and this must be factored in to calculate the cost of convictions by trial.
- <sup>16</sup> See Appendices 8,9, and 10.

***Report Card on Crime***  
***Runaway Losses***

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***Appendices***

# APPENDIX 1: HOW DAYS IN CUSTODY WERE CALCULATED BY DEFENDANT PROFILE

Was the defendant released?	If released, was the defendant rearrested prior to adjudication?	If released and rearrested was the defendant rereleased?	Was the defendant in custody at adjudication?	Did the defendant fail to appear at one or more hearings?	Use
N	n.a.	n.a.	Y	n.a.	Days held from arrest to adjudication.
Y	N	n.a.	N	-	Days from arrest to pretrial release.
Y	Y	N	Y	-	Days from arrest to pretrial release plus days from rearrest to adjudication.
Y	Y	Y	N	-	Days from arrest to pretrial release plus days from rearrest to rerelease.
Y	Y	Y	Y	Y	Days from arrest to pretrial release plus days from rearrest to rerelease, plus days from date returned to court to adjudication.
Y	Y	Y	Y	N	22 Days *
Y	N	n.a.	Y	N	33.6 Days *
Y	N	n.a.	Y	Y	Days from arrest to pretrial release plus days from return to court to adjudication.

\* Based on mean days of credit granted for pretrial detention based on this profile using all US counties in the study.  
Note: n.a. refers to not applicable, while "-" implies irrelevant for purposes of the particular calculation.

## APPENDIX 2A: DISTRIBUTIONS OF CRIMES COMMITTED BY DEFENDANT GROUPS

(All U.S. Counties)

	Murder	Rape	Robbery & Assault	Theft and Burglary	Drug	Other	Number of Observations
<b>ORIGINAL CRIMES</b>							
All Arrested .....	1%	1%	25%	21%	30%	21%	13143
Those Not Released .....	2%	2%	28%	23%	26%	19%	4584
Those Released .....	0%	1%	24%	20%	32%	23%	8078
FTAs .....	0%	1%	30%	15%	36%	19%	1989
Fugitives .....	0%	1%	31%	16%	35%	18%	658
Non-Fugitives .....	0%	0%	30%	14%	36%	20%	1274
non-FTAs .....	1%	1%	22%	21%	31%	24%	5991
Surety .....	1%	1%	21%	16%	35%	26%	1595
ROR .....	0%	1%	26%	25%	28%	21%	3036
<b>REARREST CRIMES</b>							
All Rearrests .....	1%	0%	20%	12%	30%	36%	937
FTA Rearrests .....	0%	0%	22%	12%	29%	37%	423
non-FTA Rearrests .....	1%	0%	18%	13%	31%	36%	503
Surety Rearrests .....	2%	0%	9%	11%	31%	46%	137
ROR Rearrests .....	0%	0%	18%	12%	30%	39%	356

## APPENDIX 2B: DISTRIBUTIONS OF CRIMES COMMITTED BY DEFENDANT GROUPS

(3 California Counties)

	Murder	Rape	Robbery & Assault	Theft and Burglary	Drug	Other	Number of Observations
<b>ORIGINAL CRIMES</b>							
All Arrested .....	1%	1%	25%	21%	30%	21%	13143
All Arrested .....	1%	2%	33%	17%	30%	17%	2116
Those Not Released .....	2%	2%	35%	22%	21%	17%	1255
Those Released .....	0%	0%	29%	9%	45%	17%	831
FTAs .....	0%	0%	28%	7%	57%	8%	269
Fugitives .....	0%	0%	30%	6%	56%	8%	86
Non-Fugitives .....	0%	0%	27%	7%	59%	7%	178
non-FTAs .....	1%	1%	30%	9%	38%	21%	554
Surety .....	1%	1%	25%	13%	37%	23%	325
ROR .....	0%	0%	33%	6%	47%	13%	325
<b>REARREST CRIMES</b>							
All Rearrests .....	1%	0%	10%	11%	46%	32%	111
FTA Rearrests .....	0%	0%	16%	13%	42%	28%	67
non-FTA Rearrests .....	3%	0%	0%	5%	55%	38%	40
Surety Rearrests .....	3%	0%	3%	13%	55%	26%	31
ROR Rearrests .....	0%	0%	10%	8%	28%	54%	39

## APPENDIX 2C: DISTRIBUTIONS OF CRIMES COMMITTED BY DEFENDANT GROUPS

(Los Angeles County)

	Murder	Rape	Robbery & Assault	Theft and Burglary	Drug	Other	Number of Observations
<b>ORIGINAL CRIMES</b>							
All Arrested .....	2%	1%	35%	17%	26%	19%	1600
Those Not Released .....	2%	2%	35%	23%	19%	19%	973
Those Released .....	1%	1%	33%	8%	38%	20%	599
FTAs .....	0%	0%	35%	5%	48%	13%	162
Fugitives .....	0%	0%	40%	7%	41%	12%	58
Non-Fugitives .....	0%	0%	31%	4%	52%	13%	102
non-FTAs .....	1%	1%	33%	9%	34%	22%	434
Surety .....	1%	1%	27%	11%	35%	26%	239
ROR .....	0%	0%	34%	7%	43%	15%	276
<b>REARREST CRIMES</b>							
All Rearrests .....	2%	0%	9%	13%	39%	38%	56
FTA Rearrests .....	0%	0%	17%	13%	30%	40%	30
non-FTA Rearrests .....	4%	0%	0%	8%	52%	36%	25
Surety Rearrests .....	5%	0%	5%	11%	58%	21%	19
ROR Rearrests .....	0%	0%	11%	4%	30%	56%	27



**APPENDIX 3-A: CHARACTERISTICS OF DEFENDANTS ON PRE-TRIAL RELEASE***(All U.S. Counties)*

	All	FTA	non-FTA
Sample Frequencies as a percentage of those released .....	100%	25%	75%
Percentage of released, rearrested .....	13%	26%	9%
Percentage of rearrested, rereleased .....	62%	60%	64%
Mean days from rearrest to rerelease* .....	12	15	10
Median days from rearrest to rerelease* .....	2	2	2
Mean days from rearrest to adjudication** .....	85	78	92
Median days from rearrest to adjudication** .....	64	59	70
Percentage of released in custody at adjudication .....	8%	33%	3%
Percentage in custody, without being rearrested .....	6%	24%	2%
Mean days credit granted for pretrial detention*** .....	64	64	63
Median days credit granted for pretrial detention*** .....	39	41	32
Mean days credit granted for those not rearrested*** .....	54	59	37
Median days credit granted for those not rearrested*** .....	34	40	29
Mean days credit granted for those rearrested**** .....	54	58	22
Median days credit granted for those rearrested**** .....	22	33	22

\* Based on those observations for which defendant is rereleased prior to adjudication.

\*\* Based on those observations for which defendant is not rereleased prior to adjudication.

\*\*\* Based on those observations for which a positive number of days credit is actually granted.

\*\*\*\* Based on those observations for which a positive number of days credit is actually granted and the defendant is in custody at time of adjudication, even though originally rereleased for subsequent crime.

**APPENDIX 3-B: CHARACTERISTICS OF DEFENDANTS ON PRE-TRIAL RELEASE***(3 California Counties)*

	All	FTA	non-FTA
Sample Frequencies as a percentage of those released .....	100%	33%	67%
Percentage of released, rearrested .....	14%	32%	8%
Percentage of rearrested, rereleased .....	60%	63%	55%
Mean days from rearrest to rerelease* .....	17	30	3
Median days from rearrest to rerelease* .....	2	3	2
Mean days from rearrest to adjudication** .....	52	54	51
Median days from rearrest to adjudication** .....	26	20	32
Percentage of released in custody at adjudication .....	11%	51%	4%
Percentage in custody, without being rearrested .....	7%	34%	2%
Mean days credit granted for pretrial detention*** .....	42	43	37
Median days credit granted for pretrial detention*** .....	37	37	37
Mean days credit granted for those not rearrested*** .....	30	30	
Median days credit granted for those not rearrested*** .....	32	32	
Mean days credit granted for those rearrested**** .....	29	29	
Median days credit granted for those rearrested**** .....	29	29	

\* Based on those observations for which defendant is rereleased prior to adjudication.

\*\* Based on those observations for which defendant is not rereleased prior to adjudication.

\*\*\* Based on those observations for which a positive number of days credit is actually granted.

\*\*\*\* Based on those observations for which a positive number of days credit is actually granted and the defendant is in custody at time of adjudication, even though originally rereleased for subsequent crime.

Note: Missing values correspond to lack of observations for those characteristics.

**APPENDIX 3-C: CHARACTERISTICS OF DEFENDANTS ON PRE-TRIAL RELEASE***(Los Angeles County)*

	All	FTA	non-FTA
Sample Frequencies as a percentage of those released .....	100%	27%	73%
Percentage of released, rearrested .....	10%	26%	6%
Percentage of rearrested, rereleased .....	49%	45%	54%
Mean days from rearrest to rerelease* .....	23	45	3
Median days from rearrest to rerelease* .....	3	4	2
Mean days from rearrest to adjudication** .....	53	49	58
Median days from rearrest to adjudication** .....	20	19	51
Percentage of released in custody at adjudication .....	10%	48%	4%
Percentage in custody, without being rearrested .....	6%	29%	3%
Mean days credit granted for pretrial detention*** .....	34	29	44
Median days credit granted for pretrial detention*** .....	44	29	44
Mean days credit granted for those not rearrested*** .....			
Median days credit granted for those not rearrested*** .....			
Mean days credit granted for those rearrested**** .....	29	29	
Median days credit granted for those rearrested**** .....	29	29	

\* Based on those observations for which defendant is rereleased prior to adjudication.

\*\* Based on those observations for which defendant is not rereleased prior to adjudication.

\*\*\* Based on those observations for which a positive number of days credit is actually granted.

\*\*\*\* Based on those observations for which a positive number of days credit is actually granted and the defendant is in custody at time of adjudication, even though originally rereleased for a subsequent crime.

Note: Missing values correspond to lack of observations for those characteristics.



## APPENDIX 4A: GENERAL CHARACTERISTICS OF DEFENDANTS WHO FAIL TO APPEAR BY TYPE OF RELEASE

(All U.S. Counties)

	All Released	Released on Surety	R.O.R
Average Hearings Made Before 1st FTA .....	2.1	2.4	1.7
Median Hearings Made Before 1st FTA .....	1.0	2.0	1.0
% Who FTA on 1st Hearing .....	25%	28%	28%
% Who FTA in Lower Court .....	59%	35%	74%
% Who FTA in Upper Court .....	41%	64%	26%
Mean Days Between FTA and Return to Court (Non-fugitives) .....	61.0	43.4	58.8
Median Days Between FTA and Return to Court (Non-fugitives) .....	30.0	22.5	30.0
% of Defendants with Relationship to CJS at Time of Original Arrest .....	40%	37%	42%
% of FTA who Remain a Fugitive .....	33%	21%	34%
% of FTAs Rearrested for a New Crime .....	21%	15%	22%
% of FTAs Returned to Court on FTA Warrant (No new Crime) .....	21%	37%	15%
% of FTAs Returned to Court not on FTA Warrant or with a New Crime .....	22%	25%	23%

Note: The last 4 rows may not add to 100%, as several defendants were returned on an FTA warrant, with an unknown rearrest status. These observations were not added to any particular category. Also rearrest rates for this table may differ from other tables, due to the inclusion in the denominator of defendants with an unknown rearrest status.

## APPENDIX 4B: GENERAL CHARACTERISTICS OF DEFENDANTS WHO FAIL TO APPEAR

(3 California Counties)

	All Released	Released on Surety	R.O.R
Average Hearings Made Before 1st FTA .....	2.0	2.6	2.1
Median Hearings Made Before 1st FTA .....	1.0	1.0	2.0
% Who FTA on 1st Hearing .....	26%	19%	15%
% Who FTA in Lower Court .....	84%	76%	82%
% Who FTA in Upper Court .....	16%	24%	17%
Mean Days Between FTA and Return to Court (Non-fugitives) .....	61.1	36.2	55.1
Median Days Between FTA and Return to Court (Non-fugitives) .....	32.0	16.0	30.0
% of Defendants with Relationship to CJS at Time of Original Arrest .....	38%	45%	45%
% of FTAs who Remain a Fugitive .....	32%	22%	30%
% of FTAs Rearrested for a New Crime .....	25%	22%	21%
% of FTAs Returned to Court on FTA Warrant (No new Crime) .....	23%	22%	25%
% of FTAs Returned to Court not on FTA Warrant or with a New Crime .....	19%	33%	20%

Note: The last 4 rows may not add to 100%, as several defendants were returned on a FTA warrant, with an unknown rearrest status. These observations were not added to any particular category. Also rearrest rates for this table may differ from other tables, due to the inclusion in the denominator of defendants with an unknown rearrest.

## APPENDIX 4C: GENERAL CHARACTERISTICS OF DEFENDANTS WHO FAIL TO APPEAR

(Los Angeles County)

	All Released	Released on Surety	R.O.R
Average Hearings Made Before 1st FTA .....	1.6	1.8	1.9
Median Hearings Made Before 1st FTA .....	1.0	1.0	2.0
% Who FTA on 1st Hearing .....	31%	26%	13%
% Who FTA in Lower Court .....	83%	78%	81%
% Who FTA in Upper Court .....	17%	22%	19%
Mean Days Between FTA and Return to Court (Non-fugitives) .....	73.8	47.0	64.0
Median Days Between FTA and Return to Court (Non-fugitives) .....	42.0	23.5	38.0
% of Defendants with Relationship to CJS at Time of Original Arrest .....	46%	61%	47%
% of FTAs who Remain a Fugitive .....	36%	24%	34%
% of FTAs Rearrested for a New Crime .....	19%	24%	19%
% of FTAs Returned to Court on FTA Warrant (No new Crime) .....	21%	17%	25%
% of FTAs Returned to Court not on FTA Warrant or with a New Crime .....	23%	34%	21%

Note: The last 4 rows may not add to 100%, as several defendants were returned on a FTA warrant, with an unknown rearrest status. These observations were not added to any particular category. Also rearrest rates for this table may differ from other tables, due to the inclusion in the denominator of defendants with an unknown rearrest status.

**APPENDIX 5A: GUILTY RATES BY CRIME*****All U.S. Counties - All Defendants (Adjudication Known)***

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	74	107	2140	1342	2451	1705	7819
Number Arrested .....	102	169	2983	2395	3475	2506	11630
Percent Guilty .....	73%	63%	72%	56%	71%	68%	67%

**SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY  
BY CRIME*****All U.S. Counties - All Defendants***

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	7%	11%	16%	13%	24%	21%	19%
Probation .....	12%	44%	51%	44%	51%	54%	50%
Jail .....	9%	28%	35%	30%	33%	34%	33%
Prison .....	70%	52%	32%	35%	32%	26%	32%
Other .....	15%	7%	7%	11%	9%	9%	9%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

**APPENDIX 5B: GUILTY RATES BY CRIME*****All U.S. Counties - Defendants Released Making all Court Appearances (Adjudication Known)***

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	14	33	780	515	1074	835	3251
Number Arrested .....	21	74	1261	1158	1746	1323	5583
Percent Guilty .....	67%	45%	62%	44%	62%	63%	58%

**SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME*****All U.S. Counties - Defendants Released Making All Court Appearances***

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	14%	24%	21%	15%	26%	27%	23%
Probation .....	36%	61%	68%	59%	62%	69%	65%
Jail .....	14%	30%	32%	29%	31%	29%	30%
Prison .....	43%	33%	14%	14%	20%	13%	16%
Other .....	21%	15%	9%	18%	11%	10%	11%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

**APPENDIX 5C: GUILTY RATES BY CRIME*****All U.S. Counties - Defendants Who Failed to Make One or More Court Appearances & Did not Remain a Fugitive (Adjudication Known)***

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	1	1	268	96	353	179	898
Number Arrested .....	2	2	354	162	441	232	1193
Percent Guilty .....	50%	50%	76%	59%	80%	77%	75%

**SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME*****All U.S. Counties - Defendants Who Failed to Make One or More Court Appearances & Did not Remain a Fugitive***

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	0%	0%	11%	6%	21%	18%	16%
Probation .....	0%	0%	45%	38%	49%	44%	46%
Jail .....	100%	0%	33%	29%	33%	33%	33%
prison .....	0%	100%	28%	25%	26%	24%	26%
Other .....	0%	0%	15%	24%	18%	16%	17%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation



## APPENDIX 6A: GUILTY RATES BY CRIME

### 3 California Counties - All Defendants (Adjudication Known)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	13	26	545	251	390	279	1504
Number Arrested .....	21	32	660	329	578	346	2116
Percent Guilty .....	62%	81%	83%	76%	67%	81%	71%

## SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME

### 3 California Counties - All Defendants

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	0%	0%	8%	4%	20%	4%	10%
Probation .....	15%	54%	62%	47%	67%	63%	61%
Jail .....	15%	38%	57%	43%	63%	56%	56%
Prison .....	77%	50%	34%	51%	27%	32%	35
Other .....	8%	0%	1%	1%	2%	1%	1%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

## APPENDIX 6B: GUILTY RATES BY CRIME

### 3 California Counties - Defendants Released Making all Court Appearances (Adjudication Known)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	9	18	404	183	193	219	1026
Number Arrested .....	17	22	492	252	332	273	1388
Percent Guilty .....	53%	82%	82%	73%	58%	80%	74%

## SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME

### 3 California Counties - Defendants Released Making All Court Appearances

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	0%	0%	2%	1%	2%	2%	2%
Probation .....	22%	44%	62%	47%	64%	63%	59%
Jail .....	22%	39%	58%	45%	65%	55%	56%
Prison .....	78%	61%	35%	52%	33%	33%	38%
Other .....	0%	0%	0%	1%	0%	1%	0%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

## APPENDIX 6C: GUILTY RATES BY CRIME

### 3 California Counties - Defendants Who Failed to Make One or More Court Appearances & Did not Remain a Fugitive (Adjudication Known)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	0	0	34	11	74	11	130
Number Arrested .....	0	0	45	13	95	13	166
Percent Guilty .....	-	-	76%	85%	78%	85%	48%

## SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME

### 3 California Counties - Defendants Who Failed to Make One or More Court Appearances & Did not Remain a Fugitive

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	-	-	6%	0%	20%	0%	13%
Probation .....	-	-	79%	73%	64%	55%	68%
Jail .....	-	-	76%	73%	54%	73%	63%
Prison .....	-	-	18%	18%	28%	18%	24%
Other .....	-	-	0%	9%	4%	9%	4%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

**APPENDIX 7A: GUILTY RATES BY CRIME*****Los Angeles County - All Defendants (Adjudication Known)***

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	9	18	426	189	230	235	1107
Number Arrested .....	17	22	528	261	385	291	1504
Percent Guilty .....	53%	82%	81%	72%	60%	81%	74%

**SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME*****Los Angeles County - All Defendants***

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	0%	0%	2%	1%	2%	2%	2%
Probation .....	22%	44%	64%	47%	64%	62%	60%
Jail .....	22%	39%	59%	44%	63%	56%	56%
Prison .....	78%	61%	34%	52%	32%	33%	37%
Other .....	0%	0%	0%	1%	1%	1%	1%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

**APPENDIX 7B: GUILTY RATES BY CRIME*****Los Angeles County - Defendants Released Making all Court Appearances (Adjudication Known)***

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	9	18	404	183	193	219	1026
Number Arrested .....	17	22	492	252	332	273	1388
Percent Guilty .....	53%	82%	82%	73%	58%	80%	74%

**SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME*****Los Angeles County - Defendants Released Making All Court Appearances***

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	0%	0%	2%	1%	2%	2%	2%
Probation .....	22%	44%	62%	47%	64%	63%	59%
Jail .....	22%	39%	58%	45%	65%	55%	56%
Prison .....	78%	61%	35%	52%	33%	33%	38%
Other .....	0%	0%	0%	1%	0%	1%	0%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

**APPENDIX 7C: GUILTY RATES BY CRIME*****Los Angeles County - Defendants Who Failed to Make One or More Court Appearances & Did not Remain a Fugitive (Adjudication Known)***

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Number Found Guilty .....	0	0	20	3	36	11	70
Number Arrested .....	0	0	30	5	50	13	98
Percent Guilty .....	-	-	67%	60%	72%	85%	71%

**SENTENCES IMPOSED AS A PERCENTAGE OF THOSE FOUND GUILTY BY CRIME*****Los Angeles County- Defendants Who Failed to Make One or More Court Appearances & Did not Remain a Fugitive***

Sentence/Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
Fine .....	-	-	0%	0%	3%	0%	1%
Probation .....	-	-	90%	67%	64%	55%	70%
Jail .....	-	-	80%	67%	58%	73%	67%
Prison .....	-	-	10%	0%	28%	18%	20%
Other .....	-	-	0%	33%	8%	9%	7%

Note: Numbers will not add to 100% due to multiple sentences for individual defendants. For example a defendant might receive a fine and probation.

### APPENDIX 8A: SENTENCES IMPOSED - MEAN LEVELS

(All U.S. Counties - All Defendants found guilty)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount .....	580	732	413	370	2281	831	1259
Probation Months .....	48	121	31	32	34	39	35
Jail Months .....	15	8	6	8	6	5	6
Minimum Prison Months .....	103	59	31	50	30	33	37
Maximum Prison Months .....	230	90	54	96	71	56	73
Suspended Months .....	548	234	20	60	18	21	41
Days Credit for Pre-trial Detention .....	78	60	31	46	27	30	33

### APPENDIX 8B: SENTENCES IMPOSED - MEDIAN LEVELS

(All U.S. Counties - All Defendants found guilty)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount .....	500	471	255	255	375	350	300
Probation Months .....	36	36	36	36	36	36	36
Jail Months .....	12	7	5	6	4	3	4
Minimum Prison Months .....	76	52	24	36	24	21	24
Maximum Prison Months .....	174	60	36	65	48	36	48
Suspended Months .....	0	0	0	0	0	0	0
Days Credit for Pre-trial Detention .....	0	0	0	0	0	0	0

### APPENDIX 8B: SENTENCES IMPOSED - NUMBER OF OBSERVATIONS USED

(All U.S. Counties - All Defendants found guilty)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount .....	5	12	334	170	584	359	1464
Probation Months .....	9	47	1086	593	1247	918	3900
Jail Months .....	7	30	757	402	812	583	2591
Minimum Prison Months .....	22	11	248	215	309	138	943
Maximum Prison Months .....	36	46	485	377	577	283	1804
Suspended Months .....	44	53	688	467	780	435	2467
Days Credit for Pre-trial Detention .....	41	64	1114	706	1344	822	4091

**APPENDIX 9A: SENTENCES IMPOSED - MEAN LEVELS***(3 California Counties - All Defendants found guilty)*

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount .....	0	0	274	175	331	1046	352
Probation Months .....	36	39	34	36	36	35	35
Jail Months .....	9	9	6	7	5	5	6
Minimum Prison Months .....	222	0	34	64	24	40	43
Maximum Prison Months .....	120	56	31	60	34	29	40
Suspended Months .....	0	0	11	5	18	17	12
Days Credit for Pre-trial Detention .....	90	58	36	80	45	38	47

**APPENDIX 9B: SENTENCES IMPOSED - MEDIAN LEVELS***(3 California Counties - All Defendants found guilty)*

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount .....	0	0	200	200	200	636	200
Probation Months .....	36	36	36	36	36	36	36
Jail Months .....	9	10	6	6	4	3	6
Minimum Prison Months .....	222	0	23	36	22	24	24
Maximum Prison Months .....	132	36	24	36	24	24	24
Suspended Months .....	0	0	0	0	0	0	0
Days Credit for Pre-trial Detention .....	0	31	14	53	26	6	19

**APPENDIX 9C: SENTENCES IMPOSED - NUMBER OF OBSERVATIONS USED***(3 California Counties - All Defendants found guilty)*

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount .....	0	0	45	10	76	10	141
Probation Months .....	2	14	340	119	260	175	910
Jail Months .....	2	10	311	109	247	156	835
Minimum Prison Months .....	2	0	30	17	21	10	80
Maximum Prison Months .....	7	13	155	110	81	78	444
Suspended Months .....	9	13	187	128	104	88	529
Days Credit for Pre-trial Detention .....	5	14	265	125	216	131	756

### APPENDIX 10A: SENTENCES IMPOSED - MEAN LEVELS

(Los Angeles County - All Defendants found guilty)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount	0	0	486	300	327	932	564
Probation Months	36	42	33	35	36	35	34
Jail Months	9	8	6	7	5	5	5
Minimum Prison Months	312	0	31	36	30	18	44
Maximum Prison Months	125	60	32	61	36	30	42
Suspended Months	0	0	12	7	12	17	11
Days Credit for Pre-trial Detention	0	19	19	47	21	32	27

### APPENDIX 10B: SENTENCES IMPOSED - MEDIAN LEVELS

(Los Angeles County - All Defendants found guilty)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount	0	0	338	300	50	567	345
Probation Months	36	36	36	36	36	36	36
Jail Months	9	8	6	6	6	3	6
Minimum Prison Months	312	0	22	36	24	16	24
Maximum Prison Months	132	36	24	41	24	24	24
Suspended Months	0	0	0	0	0	0	0
Days Credit for Pre-trial Detention	0	0	0	12	0	0	0

### APPENDIX 10C: SENTENCES IMPOSED - NUMBER OF OBSERVATIONS USED

(Los Angeles County - All Defendants found guilty)

Crime	Murder	Rape	Theft & Burglary	Robbery & Assault	Drug Crimes	Other Crimes	All Crimes
\$Fine Amount	0	0	8	1	4	5	18
Probation Months	2	8	272	88	148	145	663
Jail Months	2	7	252	84	146	131	622
Minimum Prison Months	1	0	6	1	5	4	17
Maximum Prison Months	5	11	137	96	67	73	389
Suspended Months	6	11	145	98	74	77	411
Days Credit for Pre-trial Detention	2	9	164	70	85	96	426

### APPENDIX 11: ESTIMATED COEFFICIENTS FOR REARREST LOGIT REGRESSION

Variable Description	Coefficient	Standard Error	t-value	P-Value
Constant	-3.35	0.15	-22.14	0%
Arrested for Theft or Burglary	0.40	0.12	3.43	0%
Arrested for Robbery or Assault	0.31	0.13	2.45	1%
Arrested for Drug Crime	0.45	0.11	4.18	0%
Relationship with CJS at Arrest	0.78	0.09	8.56	0%
Prior Conviction	0.50	0.11	4.71	0%
Sex=Male	0.32	0.12	2.74	1%
Race=White	-0.29	0.08	-3.46	0%
Hispanic=Yes	0.24	0.10	2.43	2%
Prior Prison Record	0.34	0.14	2.49	1%
County=Los Angeles	-0.36	0.16	-2.27	2%
County=San Diego	-0.45	0.42	-1.06	29%
County=San Francisco	1.09	0.21	5.12	0%
FTA on Current Charge	0.99	0.08	12.56	0%
Released on Surety	-0.29	0.10	-2.73	1%

Note: P-values indicate the probability of observing a coefficient of this magnitude simply by chance.

Control Group: Non-white, non-Hispanic female, with no prior conviction, prior prison term or relationship with criminal justice system at time of arrest. Defendant was arrested in a non-California urban county for a crime other than those listed above. Defendant was released pre-trial, but not on surety bail. Finally, defendant has not failed to appear on current charge.

Coefficients in the logit regression indicate the impact on the index function, associated with changing various features of the control group. Once the index function is calculated, the estimated probability of rearrest is given by:  $\exp(\text{Index Function}) / (1 + \exp(\text{Index Function}))$ , where the index function is the sum of all relevant coefficients including the constant and  $\exp(\text{Index Function})$ , is the number  $e=2.7183$  raised to the exponent of the value of the index function.



**APPENDIX 12: IMPACT OF FAILURE TO APPEAR ON REARREST RATES***(Controlling for Defendant Characteristics)***All U.S. Counties**

	All Release			Surety			ROR		
	All	FTA	non-FTA	All	FTA	non-FTA	All	FTA	non-FTA
Actual Rearrest Rate .....	13%	27%	9%	9%	17%	8%	15%	31%	10%
Predicted Rearrest Rate .....	13%	27%	9%	9%	20%	7%	14%	28%	10%
Predicted Rearrest Rates Assuming no FTA .....	10%	13%	9%	8%	9%	7%	11%	13%	10%
Impact of FTA .....	3%	14%	0%	2%	11%	0%	4%	14%	0%

**IMPACT OF FAILURE TO APPEAR ON REARREST RATES***(Controlling for Defendant Characteristics)***California**

	All Release			Surety			Ror		
	All	FTA	non-FTA	All	FTA	non-FTA	All	FTA	non-FTA
Actual Rearrest Rate .....	15%	32%	8%	10%	27%	7%	13%	27%	7%
Predicted Rearrest Rate .....	15%	31%	8%	10%	27%	7%	14%	28%	8%
Predicted Rearrest Rates Assuming no FTA .....	10%	16%	8%	8%	13%	7%	10%	14%	8%
Impact of FTA .....	4%	15%	0%	2%	14%	0%	4%	14%	0%

**IMPACT OF FAILURE TO APPEAR ON REARREST RATES***(Controlling for Defendant Characteristics)***Los Angeles County**

	All Release			Surety			Ror		
	All	FTA	non-FTA	All	FTA	non-FTA	All	FTA	non-FTA
Actual Rearrest Rate .....	10%	26%	6%	8%	30%	6%	11%	25%	6%
Predicted Rearrest Rate .....	10%	22%	7%	8%	20%	6%	12%	24%	7%
Predicted Rearrest Rates Assuming no FTA .....	8%	10%	7%	7%	9%	6%	8%	11%	7%
Impact of FTA .....	3%	12%	0%	1%	12%	0%	3%	13%	0%

**APPENDIX 13: COUNTY OF LOS ANGELES DATA SOURCES\***

1. Report to the Public Defender's Office: "Public Defender Hourly Billing Rates," County of Los Angeles, Department of Auditor-Controller, January 22, 1996.
2. Letter to Sheriff, "Fiscal Year 1994-1995 Booking Fees," County of Los Angeles, Department of Auditor-Controller, August 16, 1994.
3. Letter to Sheriff, "Prisoner Maintenance Rates, Fiscal Year 1995-1996," County of Los Angeles, Department of Auditor-Controller.
4. Letter to Sheriff, "Los Angeles County Sheriff's Department Contract City Consolidated Station Cost Model, Fiscal Year 1996-1997," County of Los Angeles, Department of Auditor-Controller.
5. Report to District Attorney's Office, "Cost of Processing Superior Court Bench Warrant and Extradition" -- Ref. 1-HT, County of Los Angeles, Department of Auditor-Controller.
6. "Estimated Three Strikes Trial Unit and Case Costs Potentially Reimbursable under SB90," Los Angeles District Attorney's Office.

\*Copies of all documents on file with Mr. Michael Coffey, Tucson, Arizona

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