WASHINGTON STATE
MINORITY AND JUSTICE COMMISSION

A STUDY ON RACIAL AND ETHNIC DISPARITIES IN SUPERIOR COURT BAIL AND PRE-TRIAL DETENTION PRACTICES IN WASHINGTON

FINAL REPORT

George S. Bridges, Ph. D.

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George S. Bridges

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- To determine the types of data available and the means of accessing such data on bail and pre-trial detention decisions in county superior courts in Washington.

- To collect information on the outcomes of a representative sample of bail and pre-trial detention decisions in the identified county or counties.

- To determine whether racial and ethnic differences exist in the outcomes of bail and pre-trial detention decisions or in the level of bail set by the court.

- To compare anecdotal and qualitative information from judges, prosecuting attorneys and defense attorneys on the extensiveness and causes of racial and ethnic disparities in bail and pre-trial detention decisions.

In this study the word "minority" is used interchangeably with "nonwhite" and is a shorter reference to "persons of color." For further reference, we include in this category African American/Blacks, Hispanic/Latinos, Asians, and Native American/Indians.

The main source of law governing bail and pre-trial practices in the Superior Courts of the State of Washington is rules specified in the *Washington Court Rules, State (1996).* Superior Court Criminal Rule (CrR) 3.2 contains almost identical language to Criminal Rule for Courts of Limited Jurisdiction (CrRLJ) 3.2. These rules establish a general process for bail and pre-trial release decisions in Washington Superior Courts. Local court rules have also been established within each county. As a result, bail and pre-trial practices may vary somewhat across counties.

In the State of Washington, a defendant charged with a criminal offense has a constitutional right to bail prior to trial, except in capital cases "when the proof is evident, or the presumption great" (Washington Constitution, Art.1, § 20). Under the criminal rules (CrR3.2(a)), the presumption is that defendants will be released on personal recognizance (PR). These rules also specify the factors that judges should consider in determining release conditions. These include factors pertaining to the crime and prior criminal history, indicators of community ties, and other factors such as reputation, mental condition and drug or alcohol abuse.

II. DATA ON BAIL AND PRE-TRIAL DETENTION DECISIONS IN THE SUPERIOR COURTS OF WASHINGTON

A major concern in this study is the availability and accessibility of data on bail and pre-trial release decisions in counties in eastern and western Washington. This section reviews information sources in state and county agencies on bail and release practices, and summarizes the major limitations of these data for analyses of racial and ethnic bias in Superior Court decision-making.

A. DATA ON BAIL AND PRE-TRIAL RELEASE DECISIONS

Although state and county agencies routinely collect extensive information on courts and court processes in Washington, very little of the information can be used to study racial and ethnic disparities in the disposition of criminal cases. Most of the available automated information is limited to administrative aspects of court processing. Very little information is routinely maintained by the courts on defendant or case characteristics that would be useful in analyses of case dispositions. Although individual county agencies retain information on persons charged with crimes and on bail and pre-trial release decisions, often these are located in multiple systems within each county. The extensiveness and usefulness of these systems varies considerably between counties.

B. *Limitations of Data for Analyses of Bail and Pre-trial Release Decisions*

There are six major limitations in accessing and using existing data sources. *First,* there exists no set of documents summarizing the different types of information maintained in each agency system. *Second,* most of the information systems are maintained on different types of computers in different electronic forms or information structures. This complicates the sharing of data across systems and any attempt to combine information from different sources. *Third,* each information system maintains different types of information on case and defendant characteristics. *Fourth,* some information maintained in the information systems is entered or coded in ways that must be interpreted with caution. *Fifth,* a subset of felony cases is never processed through the jails. Consequently there is little background information on these defendants available for analysis purposes. *Finally,* in most instances, information on the subjective assessments of defendants by court officials is not in an accessible form for analysis. King County is the only county that routinely collects and maintains automated information on the subjective assessments and recommendations of pre-trial services officers. In other counties, this information is only available in paper form.

In short, a statewide analysis of bail and pre-trial release practices is not possible given the information currently available. Only King County has sufficient automated data, albeit in different information systems, for conducting these analyses without additional data collection.

C. *Implications for the Study and Future Research*

The limitations of existing data on bail and pre-trial release practices have two implications for this study. *First*, given time and resource constraints on the project, the data and analyses were limited to felony cases processed in King County. Including other counties would have required substantially more time and budgetary support. *Second*, the construction of a sample for analysis required data from three information systems to be merged and some information to be manually coded, due to their form in the automated data.

The limitations of data on criminal justice in the State of Washington also have significant implications for future research on racial and ethnic disparities in the processing of criminal cases. The analysis of racial bias in court decision-making is extremely difficult to complete because of the poor quality of data available in automated form. Often data must be obtained from manual files which is time consuming and resource intensive, making it impossible to perform routine analyses for planning or policy purposes. State agencies like the Office of the Administrator for the Courts (OAC), in conjunction with the Superior Courts of each county, must begin collecting and maintaining, at a minimum, information on all defendants and the disposition of their cases from filing of charges *to the imposition of sentences.*

III. THE KING COUNTY SAMPLE OF CASES

The study is based on a sample of 1,658 cases drawn from the population of all defendants charged with felony offenses in King County between 1994 and 1996. Data on the characteristics of cases were collected from three different automated sources of information maintained by the Office of the Administrator for the Courts (OAC), the King County Prosecuting Attorney and the King County Department of Corrections.

The present study examines differences among the cases in bail and pre-trial release outcomes. The Superior Court released approximately fifty-four percent (54%) of the sample defendants pre-trial, typically with some supervision conditions. The court set bail/bond in fifty percent (50%) of the sample. Bail/bond amounts in the study sample ranged from $500 to $1,000,000. The mean (average) bail/bond amount was approximately $32,000. Because a few exceptionally large bail amounts may distort the mean, the median may more accurately reflect the true "average." The median bail/bond amount for our sample was approximately $10,000. Approximately sixty-four percent (64%) of defendants in the sample were able to meet the conditions of release either by accepting and complying with the provisions of supervision or by paying the specified amount of bail. The remaining thirty-six percent (36%) were not able to meet the court's conditions of release and remained in custody pending disposition of their cases.

IV. FINDINGS ON RACIAL AND ETHNIC DIFFERENCES IN BAIL AND PRE-TRIAL RELEASE IN KING COUNTY

The analysis of the sample data examined factors that influence the bail and pre-trial release outcomes for nonwhite or minority defendants and white defendants. Two aspects of the findings are important. The *first* is that the prosecuting attorney's recommendation and the severity of the offense consistently were associated with the court's pre-trial release and bail decisions. The court typically released defendants in the sample on personal recognizance when the prosecuting attorney favored release and granted bail in amounts quite similar to that recommended by the prosecutor. Further, the courts were least likely to release defendants on their own recognizance and very likely to set high amounts of bail if the offense was serious and involved domestic violence. *Second,* race and gender influenced the likelihood of pre-trial release and amounts of bail required, above and beyond the prosecuting attorney's recommendations, whether the case involved a serious crime and other factors. Thus, minority defendants and men were *less likely* to be released on their own recognizance than others even after adjusting for differences among defendants in the severity of their crimes, prior criminal records, ties to the community and the prosecuting attorney's recommendation.

Despite the consistency and strength of these findings, it would be inappropriate to conclude that racial and ethnic differences in pre-trial release necessarily reflect overt racial bias or discrimination in the decisions of Superior Court judges or staff. A detailed comparison of a sub-sample of cases included in the study suggests that caution in interpreting these types of empirical findings is warranted. It is possible that some of the racial and ethnic disparities in pre-trial release and bail decisions for the sample are caused by significant qualitative differences between the offenses and the personal circumstances of nonwhite or minority defendants and white defendants. To the extent that these types of differences contribute to disparities reported in the analyses, any interpretation of the disparities as solely the result of racial bias in the courts would be erroneous. Disparities have complex causes and among them are important qualitative differences among defendants in the types of crimes they have committed.

V. *PERCEPTIONS AND KNOWLEDGE ABOUT RACIAL AND ETHNIC DISPARITY AND ITS CAUSES*

As part of the project, twenty justice officials in King County were interviewed. The interviews focused on their perceptions of racial and ethnic disparities in bail decision-making, their views regarding the causes of disparity, and any remedies or solutions they may have suggested.

Many respondents expressed the concern that racial and ethnic disparities in pre-trial release and bail decisions are a significant problem. Most felt that the over-representation of minorities is a highly visible and troublesome issue in the courts. One judge stated the concern in terms of the make-up of the courtroom:

> Well, I see the disproportionate numbers. When juries come in, when they bring a jury pool in for any trial, and I see the majority is of the white population. I don't see the minorities represented in our jury pool. I don't know if that has an impact then on the individual, if they are . . . doing time in a jail. And therefore, if they don't come back to a court date, then they're back into the jail and so that creates an increase in the jail population and the unfortunate overrepresentation of minorities in the jail population.

Perceptions of the causes of disparity, however, varied widely. Some respondents identified organizational constraints on courts, while others discussed the unintended effects of cultural differences among defendants.

Throughout the interviews, specific issues about pre-trial detention and bail practices in King County surfaced as potential factors contributing to racial and ethnic disparities. The issues include the community differences in law enforcement practices within King County, intensified enforcement and prosecution of drug offenses, and the regionalization of criminal justice in King County. Illustrative of the types of concerns expressed were those on the attention devoted to drug crimes and the heightened punishment associated with such crimes. Many respondents felt that the greatest impact of intensified drug enforcement and prosecution is on minority defendants. One respondent stated:

> Without question, in any major urban area and particularly, in Seattle, the police make intentional undercover, highly concentrated efforts in the downtown corridor, or wherever it may be, to arrest dealers . . . . And, unfortunately, for whatever reason, a lot of it involves either Black or Hispanic individuals. The overwhelming majority of them are either Black or Hispanic. But [the police] are responding to a lot of pressure from the community to try to do something about these areas, wherever they may be. But what I am saying is that I don't think that same focus is involved in burglars or forgery or whatever.

In general, those interviewed identified many factors that contribute to racial and ethnic disparities in bail and pre-trial detention. Together, they felt that these factors represent constraints that conspire to keep minorities from obtaining pre-trial release. While the immediate consequences of pre-trial detention are obvious (*i.e.* denial

of freedom of movement), the consequences of release extend beyond immediate freedom. In particular, prior court decisions regarding bail and pre-trial release influence court decisions in subsequent legal proceedings. One prosecuting attorney argued forcefully that if the defendant is initially granted personal recognizance and then successfully appears at future court proceedings, the court will tend to look favorably on that defendant:

> If, in the life of the case, [defendants] have demonstrated a history of showing up, that's very powerful. For instance, on a case where we've charged somebody and they're at large, we send out a summons saying your arraignment is on this date. When you're arraigned, you're booked at that point in time. Then the issue of your continued release is litigated at that point. If you've voluntarily submitted yourself to the process and come in, that's a real powerful factor for judges. Appropriately so. To say, well, the prosecutor was right in the first place to ask for five thousand, but I'm impressed with your appearance here today and that you've come in on your own to appear. And I'm going to send you to supervised release, or maybe grant you a PR with some conditions. These people are in a whole different category from the folks that get detained or those who don't appear.

Defendants who are released pre-trial have the opportunity to demonstrate that they will comply with court rulings and appear at future proceedings. Ultimately, this may translate into more lenient disposition of their cases, perhaps acquittal at trial or less severe punishment at sentencing. To the extent that minorities are denied initial opportunities to comply, either by stringent conditions of release or by their own inability to marshal resources for release, courts may also be denying minorities the opportunity for more lenient disposition of the criminal charges against them.

VI. SUMMARY AND CONCLUSIONS

This study has three important findings. *First,* substantial racial and ethnic disparities exist in pre-trial release and bail setting in felony cases in King County. *Second,* the disparities occur primarily because minority defendants may be charged with more serious offenses, have more extensive criminal histories than white defendants, and may be less likely to have established ties to the local community in the form of steady employment, stable residential addresses and ready references. *Third,* disparities also occur because race and ethnicity seem to matter in the disposition of criminal cases, above and beyond the influence of case-related characteristics. They matter in part because the outcomes of criminal cases, at least in relation to pre-trial release and the setting of bail, depend upon access to resources. Because minorities are less likely than whites to have extensive resources, they are less capable of affording the most effective legal representation possible. Race and ethnicity also matter because the courts have difficulty in responding to the challenges of cultural differences among defendants. Cultural differences bring problems of language and communication that make verification of employment or residence, or other evidence of ties to the local community, problematic. Yet ties to the community are critical in judicial determinations of pre-trial release and the setting of bail.

The courts must assess how the disparities observed in the present study can be remedied. The remedies must seek to alter policies and rules that militate against fairness in pre-trial release and bail outcomes. Equally important is the manner in which courts and court officials respond to the increasing cultural diversity among defendants in criminal cases. This response must address fundamental problems of communication and language that continue to complicate assessments of defendants and their cases. Finally, the remedies must look to the information needs of courts and court officials. By improving the quality of information judges and other court officials have about defendants and their cases, courts may more effectively address inequities in pre-trial release practices that disadvantage entire classes of defendants.

A STUDY ON RACIAL AND ETHNIC DISPARTITIES IN SUPERIOR COURT BAIL AND PRE-TRIAL DETENTION PRACTICES IN WASHINGTON

I. PROJECT BACKGROUND AND OBJECTIVES

A. BACKGROUND

A recurring concern in the administration of criminal justice is racial and ethnic disparity in the disposition of criminal cases. Persons of color accused of crimes are more likely to be arrested, prosecuted and punished more severely than whites. These differences raise the specter of racial discrimination in court proceedings. They imply that courts treat minorities differently than whites and that the differentials in treatment are the result of direct racial biases. In the State of Washington, racial disparity has been the subject of public concern and legislative reform for the past decade. In 1987, the Washington State Minority and Justice Task Force was established by the Supreme Court at the request of the Legislature to determine the existence of bias in the courts and to recommend appropriate action for overcoming such bias where it exists. In 1990, the Washington State Supreme Court established the Washington State Minority and Justice Commission to continue the work of the Task Force through education of judges, diversification of the court work-force, liaison with bar associations in the state, and professional research on racial and ethnic bias in courts.

In this study the word "minority" is used interchangeably with "nonwhite" and is a shorter reference to "persons of color." For further reference, we include in this category African American/Blacks, Hispanic/Latinos, Asian Americans, and Native American/Indians.

Although pronounced disparities in the dispositions of whites and minorities accused of crime exist at nearly every stage of criminal court proceedings, none has greater impact on racial differences in the actual punishments imposed in cases than those occurring in decisions to release the accused pending trial. Persons accused of crime who are released pre-trial are significantly less likely to be convicted of their charges and, among those convicted, less likely to receive the harshest punishments for their crimes.[1]

In Washington, racial and ethnic minorities are detained at rates much higher than might be expected, given their numbers in the general population. In 1995, for example, racial minorities accounted for twelve percent (12%) of the state's general population. Among persons housed in the county jails, minorities accounted for nearly twenty-two percent (22%) across the state. In some urban counties, the concentration of minorities in jail was substantially greater. For example, in King County, minorities accounted for eighteen percent (18%) of the county's total population and nearly forty-five percent (45%) of all persons held in jail. These disparities raise concern that court proceedings on pre-trial detention and bail treat minority defendants differently than whites, detaining minorities at much higher rates before trial than white defendants.

[1] Crutchfield and Bridges, 1986, Bridges et al., 1993.

Many factors may contribute to disparities in the administration of justice that include, but are not limited to, differential treatment of minorities by courts. The most important of these is the Washington Court Rules which specify criteria for detention and release. Rule 3.2 of the criminal rules of the Superior Court of the State of Washington delineates factors that judges must use in determining the conditions of release in noncapital cases. The rule specifies that the accused be released on his/her own recognizance unless the court determines that "such recognizance will not reasonably assure the accused's appearance, when required, or if there is shown a likely danger that the accused will commit a violent crime, or that the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice." CrR 3.2.

The rules also specify the factors that judges should consider in determining release conditions. This includes factors pertaining to the crime and prior criminal history (such as nature of charge, prior criminal record and history of response to legal process); indicators of community ties (such as family, employment, residence); and other factors such as reputation and mental condition. CrR 3.2(b) provides:

> In determining which conditions of release will reasonably assure the accused's appearance and noninterference with the administration of justice, and reduce danger to others or the community, the accused's employment status and history and financial condition; the court shall, on the available information, consider the relevant facts including but not limited to: the

> length and character of the accused's residence in the community; the accused's family ties and relationships; the accused's reputation, character and mental condition; the accused's history of response to legal process; the accused's criminal record; the willingness of responsible members of the community to vouch for the accused's reliability and assist the accused in complying with conditions of release; the nature of the charge; any other factors indicating the accused's ties to the community; the accused's past record of threats to victims or witnesses or interference with witnesses or the administration of justice; whether or not there is evidence of present threats or intimidation directed to witnesses; the accused's past record of committing offenses while on pre-trial release, probation or parole; and the accused's past record of use of or threatened use of deadly weapons or firearms, especially to victims or witnesses.

Criminal Rule (CrR) 3.2 (c) specifies conditions of release where there exists a substantial danger of other behaviors by an accused:

> Upon a showing that there exists a substantial danger that the accused will commit a violent crime or that the accused will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice, the court may impose one or more of the following conditions:
>
> > (1) Prohibit the accused from approaching or communicating in any manner with particular persons or classes of persons;
> >
> > (2) Prohibit the accused from going to certain geographical areas or premises;

> (3) Prohibit the accused from possessing any dangerous weapons or firearms, or engaging in certain described activities or possessing or consuming any intoxicating liquors or drugs not prescribed to the accused;
>
> (4) Require the accused to report regularly to and remain under the supervision of an officer of the court or other person or agency;
>
> (5) Prohibit the accused from committing any violation of criminal law;
>
> (6) Require the accused to post a secured or unsecured bond, conditioned on compliance with all conditions or release. This condition may be imposed only if no less restrictive condition or combination of conditions would reasonably assure the safety of the community or the appearance of the defendant.

It should be noted that the court is *not* limited to these factors. Moreover, the rules do not specify the relative importance of each factor—that is, which factors are most important and how they should be evaluated in release decisions. Thus, the rule affords judges extensive discretion in determining whether they should release the accused.

Although such discretion may be entirely appropriate, it may also contribute to racial disparities in pre-trial release. Lacking criteria by which judges must weigh or otherwise use the factors, Rule 3.2 creates the possibility of systematic inequity in release decisions. This inequity may take at least three forms.

First, Superior Court judges, either in the same court or in different courts, may differ in their release decisions for persons accused of crimes with *similar* backgrounds and personal circumstances. Because judges may employ different criteria or standards in assessing such factors as the accused's "reputation, character and mental condition," they may reach altogether different decisions regarding release pending trial for persons accused of similar offenses with prior criminal histories. To the extent that some judges hold prejudicial or disparaging views of some groups in the population, including racial and ethnic minorities, these views may influence how character is assessed. In the absence of uniform criteria for the assessment of such factors as character, some judges may question the character of minorities more than whites and, therefore, may be more inclined to detain minorities accused of crimes.

Second, release decisions based upon the factors specified in CrR 3.2 (b) may inadvertently, but systematically, disadvantage groups in the general population that historically have experienced hardships in employment and family life. To the extent that minorities are *less likely* than whites to have stable employment histories or family circumstances, judges may be more likely to detain them prior to trial regardless of their actual risk of flight at pre-trial proceedings. Thus, court rules such as CrR 3.2 (b) may have a disparate impact on minorities by inadvertently fostering racial inequities in release decisions. Further, these decisions may simply reflect and reproduce

differences between whites and minorities in the surrounding community in patterns of employment, financial condition, and family structure.

Third, inequities may arise from inadvertent biases in the information about defendants available to judges, regardless of judges' commitment to fairness and equality in decision-making. Although judges alone must make final decisions regarding release and bail setting, other court officials and staff typically collect and summarize information about defendants for decisions about release and bail. To the extent that this information gathering is selective or is influenced by the personal beliefs and views of staff about offenders and their crimes, the information may portray defendants inaccurately. For example, if officials or staff question the character or reputation of minorities more than whites, they may provide information to the court that is racially or ethnically biased.

B. Minority and Justice Commission Study

The research described in this report examines the extensiveness and causes of racial and ethnic disparities in the bail and pre-trial release decisions of Superior Court judges in Washington. The research is the fourth in a series of studies sponsored by the Washington State Minority and Justice Commission. The present study has four objectives in accordance with the Commission's mandate and purposes. These objectives are:

- To determine the types of data available and the means of accessing such data on bail and pre-trial detention decisions in county superior courts in Washington State.

- To collect information for felony cases on the outcomes of a representative sample of bail and pre-trial detention decisions in the identified county or counties.

- To determine whether racial and ethnic differences exist in the outcomes of bail and pre-trial detention decisions or in the level of bail set by the court.

- To compare anecdotal and qualitative information from judges, prosecutors and defense attorneys on the extensiveness and causes of racial and ethnic disparities in bail and pre-trial detention decisions.

This report summarizes the study findings for each of these objectives.

C. Bail and Pre-trial Release in Washington

Court rules relating to bail and pre-trial practices can be found in the Washington Rules of Court, and the local rules established in each county. These rules establish a general process for bail and pre-trial release decisions in Washington State Superior Courts. The existence of local jurisdictional guidelines and policies, however, results in differences in practice across counties. This section describes the general pre-trial process reflected in the state-level rules pertaining to bail and pre-trial release, and then, for illustrative purposes, outlines the way a "typical" felony case would be handled prior to trial in King County.

In Washington, a defendant charged with a criminal offense has a constitutional right to bail prior to trial, except in capital cases "when the proof is evident, or the presumption great" (Washington Constitution, Art.1, § 20). Under the criminal rules (CrR 3.2(a)), the presumption is that defendants will be released on personal recognizance (PR) unless the court determines that:

> (1) this option would not reasonably assure the defendant's appearance when required,
>
> (2) there is shown a likely danger that the defendant will commit a violent crime, or
>
> (3) the defendant will seek to intimidate witnesses or otherwise unlawfully interfere with the administration of justice.

Generally, there are two methods by which a defendant may be detained in jail prior to trial. The first is being picked up on an arrest warrant. After the prosecuting attorney has filed an Information [criminal charging document], the court may issue a warrant for the defendant's arrest. If the offense is subject to release on bail, the judge issuing the warrant must set the conditions of pre-trial release considered appropriate to ensure the defendant's appearance at future hearings. Once the judge has set bail, the defendant can post the specified amount following completion of the booking process (*e.g.* photographing, fingerprinting). In some counties where a prosecutor and judge are readily available, it may be possible to secure release before the first court hearing.

Defendants can also be arrested by police officers on probable cause. Typically, the prosecutor has filed no charges in these instances and the court has set no bail or conditions of release. Ordinarily, the defendant awaits his/her first court appearance for a pre-trial determination of personal recognizance and/or bail. However, some county jails have adopted a judicially approved bail schedule, which means the defendant can post a pre-determined amount of bail based on the class of suspected offense. There is no uniform bail/bond schedule for the entire state.[2]

In many counties, pre-trial services officers will interview defendants who remain in custody. Pre-trial services officers collect and verify information about the defendant so that the court has a reliable basis for making a pre-trial determination of release. They also make recommendations as to the defendant's suitability for release under personal recognizance (PR). Within 24 hours of arrest, the defendant must appear before the court (CrR 3.2A(a)).[3] Generally, the purpose of this preliminary hearing is to inform the defendant of the charges pending and to make a preliminary release determination.

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[2] Washington State Judge's Benchbook Criminal Procedure, August 1996.

[3] The rule provides that the defendant must appear before a magistrate as soon as practicable and no later than the close of business on the next judicial day following arrest. This will usually be within 24 hours of arrest.

The court is required to impose the least restrictive conditions that will reasonably assure the appearance of the defendant (CrR 3.2(a)). Where appropriate, release can be granted under a variety of conditions, such as no contact orders and supervised release (CrR 3.2(b)). Thus, there is extensive discretion left to judges in determining the final conditions under which pre-trial release occurs. A review of the pre-trial release decision can be requested if the defendant has been unable to meet the conditions of release within 24 hours of the decision (CrR 3.2 (h)).

There are four types of pre-trial release available to criminal defendants in Washington:

(1) *Personal Recognizance (with or without conditions).* Conditions can include no contact orders, electronic monitoring, and supervised release.

(2) *Cash Bail/Surety Bond.* There are two types of cash bonds. The first is cash only (that is, it can only be satisfied by full payment in cash). The second can be secured through a surety bond from a bonding company. Bonding companies routinely require payment of a non-refundable 10-15% fee, as well as some form of collateral.

(3) *Appearance Bond.* As an alternative to the cash or surety bond, this typically requires the posting of 10% of the face amount of the bail with the court, with a promise to pay the remainder upon failure to comply with the release conditions (CrR 3.2 (a)(4)). Interviews with public defenders suggested that the court rarely uses this option.

(4) *Property Bond.* This is essentially a promise to fulfill the release conditions, which is secured by a deed of trust to real property lodged with the court. The practice of accepting this type of bond varies by county.

In King County, defendants are typically booked into the correctional facility (jail) upon arrest.[4] Usually the prosecuting attorney has not yet filed charges. At this time, a pre-trial services officer (also referred to as "PR Screener") interviews the defendant in the King County jail. The screening interview is designed to obtain reliable information about a defendant's background, employment and community ties. The pre-trial services officer attempts to verify the information, which the defendant provides by telephoning family members and employers, and checking the defendant's local criminal record. A summary report, including a recommendation about the defendant's suitability for personal recognizance, is forwarded to the bail-setting judge.

Local court rules and policies specify how pre-trial services officers conduct the interviews and must make recommendations regarding pre-trial release. For example, established policies direct officers to recommend the release of defendants in felony cases on personal recognizance (PR) if:

> (1) A residential address has been verified,
>
> (2) Community ties have been established via employment and/or network of family and friends. References are supportive of detainee's reliability; and
>
> (3) The detainee has limited/no booking history or FTA (failure to appear) history and flight does not appear to be an issue.

[4] There are also other ways for a person to enter the criminal justice system without having been arrested, for example, through citations and summonses to court.

However, the policies direct officers to recommend against PR under the following conditions:

(1) Discrepant information has been given by the detainee and his/her references;

(2) A stable address has not been established-verified;

(3) Community ties and/or a source of income has not been verified;

(4) The police have expressed serious objections to release;

(5) There is concern for the safety of alleged victims or witnesses;

(6) Prior booking history indicates that flight and danger are issues; or

(7) There is reason to believe the detainee may be a danger to self if released.

The policies also direct pre-trial services officers to recommend release conditions, if appropriate, that include the following types of provisions:

(1) No contact with a particular victim;

(2) No contact with minors;

(3) Abstain from the use of alcohol/non-prescribed drugs;

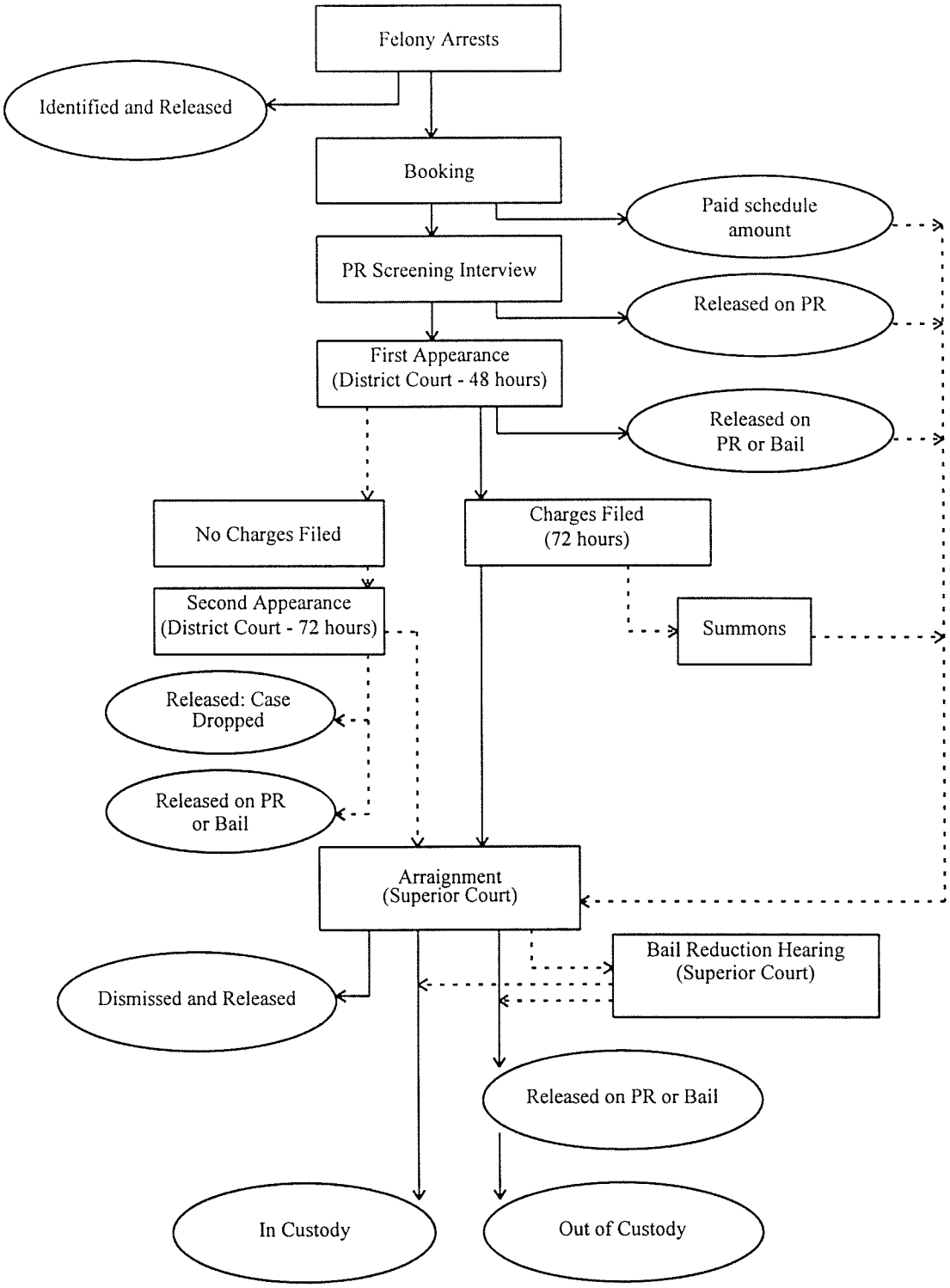
(4) Stay at a specified address; or

(5) Stay away from a particular location.

Where an accused appears before the District Court for a preliminary hearing to answer for a felony, the accused is entitled to a judicial determination of probable cause no later than 48 hours following the person's arrest. At this first appearance, the judge decides whether there is probable cause that the offense occurred (based on the police report), and whether the defendant should be released and, if so, on what conditions. In making this decision, the judge will refer to the pre-trial services officer's report and recommendation. The prosecuting attorney must file charges by Information within 72 hours of the defendant's arrest.[5] Attached to the Information detailing the charges is a recommendation about bail. If the defendant is out on bail, a summons is sent to his/her mailing address. An arraignment is held in the Superior Court, usually within a week of the charges being filed. At this hearing, bail is reconsidered: the Superior Court judge can confirm, increase or reduce the previously set bail. In some cases, the determination of bail is reserved and a later special bail hearing occurs during which arguments on bail reductions are made.

[5] If charges are not filed within 72 hours of arrest, a second hearing is held. If the prosecutor does not file charges at that hearing, the defendant is released. See Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 3.2.1.

FIGURE 1: BAIL AND PRE-TRIAL PROCESS FOR FELONY DEFENDANTS IN KING COUNTY



D. OUTLINE OF REPORT

The remainder of this report is divided into the other four sections corresponding to each of the study's main objectives.

Section I, immediately preceeding, has provided information on the background and objectives of the project.

Section II examines the nature of information on bail and pre-trial release practices in Washington, focusing on the strengths and limitations of existing sources of data in state and county agencies.

Section III describes the procedures used in drawing the sample of cases from King County included in the study. In describing these procedures, this section also illustrates some of the challenges for research on bail and pre-trial release in Washington. These challenges are the direct result of the limitations described in Section II regarding extant information on court proceedings and the legal process. Section III also offers descriptive information on the detention and pre-trial release of minorities or persons of color accused of crimes in King County based upon descriptive analyses of the King County sample.

Section IV summarizes the study's statistical analyses of race and ethnicity in detention and pre-trial release decisions for felony cases. It reports the results of multivariate analyses of the King County cases, examining factors influencing the outcomes of pre-trial screening and bail decisions by the Superior Court in King County.

Section V examines the perceptions and views of justice officials in King County on the extensiveness and causes of disparities in pre-trial detention and release. This section is based on taped interviews with numerous officials employed in the King County Superior and District Courts, King County correctional facilities, the Office of the King County Prosecuting Attorney and the Offices of the Public Defender.

II. DATA ON BAIL AND PRE-TRIAL RELEASE DECISIONS IN THE SUPERIOR COURTS OF WASHINGTON

A major concern in this study is the availability and accessibility of data on bail and pre-trial release decisions in counties in eastern and western Washington. The project's first objective is to determine the types of data available on superior court bail and pre-trial release and the means of accessing such data in county superior courts. This section of the report summarizes information on the availability of data.[6] The section is divided into two parts. The first reviews information sources in state and county agencies on bail and release practices. The second summarizes limitations of these data for analyses of racial and ethnic bias in superior court decision-making.[7]

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[6] In accordance with the project's first objective, the research staff contacted the Office of the Administrator for the Courts (OAC) regarding the availability of statewide data and agencies in six individual counties in Washington State regarding data maintained at the county level. The individual counties contacted were King, Pierce, Snohomish, Yakima, Benton/Franklin and Spokane. Following the initial contacts, project staff visited four of the six counties to discuss further data on bail and pre-trial release practices collected and maintained in the individual counties. The counties visited were King, Pierce, Yakima and Snohomish. Benton/Franklin and Spokane counties were excluded from consideration because of inaccessibility to data in a timely manner. A jail/official in Benton/Franklin County expressed strong reservations about granting access to data on bail or pre-trial release decisions. He expressed concerns about confidentiality and privacy of the data. In Spokane County, the jail currently is undergoing a major restructuring of its automated data systems. Although there was no unwillingness to share data on bail and pre-trial release practices, the restructuring of the data systems prevented the county from giving the project any data until long after the scheduled date of completion for the project.

[7] Although this study focuses on superior court cases, preliminary release and bail decisions in King County are made in the district court. District court judges make preliminary - *i.e.*, first appearance - decisions on release and bail even though the cases are felonies which are tried in superior court.

A. *Data on Bail and Pre-trial Release Decisions*

Although state and county agencies routinely collect extensive information on courts and court processes in Washington, little of this information is useful for studying racial and ethnic disparities in the disposition of criminal cases or other issues about criminal justice in the Washington courts. Most of the automated information collected by state agencies such as the Office of the Administrator for the Courts (OAC) is limited to administrative aspects of court processing rather than to judicial decision-making and case processing in the courts. Little information is routinely maintained by the courts on defendant or case characteristics that would be useful in analyses of case dispositions.

Information on final bail and pre-trial release conditions for all criminal cases filed in Washington Superior Courts is available from the OAC. The OAC maintains an information system, the Superior Court Management Information System (SCOMIS), on all cases filed in the superior courts of Washington. SCOMIS is essentially a docketing system that holds information on all court actions in criminal and civil cases, along with very limited, but relevant, information on case-related characteristics. The SCOMIS system documents and records information on the characteristics of court activities and events, but not on the characteristics of persons or cases processed through the courts. For example, SCOMIS retains valuable information on the final outcomes of bail decisions in all felony cases filed in superior courts, recording the final

amounts and conditions of bail set in each case. However, SCOMIS does not routinely include data on the parties in these cases, such as a defendant's race or ethnicity. Because SCOMIS has very limited amounts of information on defendant characteristics, it is inadequate as the sole source of information for the analyses in this study or for any study examining factors associated with judicial decision-making in the superior courts.

Information on pre-trial release and bail are also available from two other state agencies. The Washington Association of Sheriffs and Police Chiefs (WASPIC) routinely surveys county jails in Washington for information on client populations. The survey results are tabulated annually and published in WASPIC reports on jail statistics. The reports disaggregate the population data by race, revealing the racial composition of county jails across the state. Although useful for documenting changes over time in jail composition, WASPIC collects no information on individual defendants that would permit more in-depth analyses of factors associated with detention and release in criminal cases.

The other state agency maintaining data on the characteristics of defendants and their cases in Washington is the Sentencing Guidelines Commission (SGC). The SGC collects and maintains extensive information on all persons convicted and sentenced for crimes in Washington. The information is maintained and readily available in an electronic form, permitting the types of analyses specified for this study.

Two limitations of these data preclude their use in our study of racial and ethnic disparities in bail and pre-trial release decisions despite the data's extremely high quality and accessibility. First, the SGC does not routinely collect information on conditions of bail and pre-trial release. Second, the data are limited to only those cases with criminal convictions and sentences. Since many cases never reach conviction or sentencing, the SGC data omit many important cases in which bail and release decisions are made.

Although individual county agencies retain information on persons charged with crimes and on bail and pre-trial release decisions, often these are located in multiple information systems within each county. In King County, for example, an extensive file of automated data exists on all cases brought to the jail following arrest. This system has extensive background and bail-related information on cases, including the racial and ethnic origin of the accused, the offense, the preliminary outcomes of bail and release decisions, and notes on the offender made by screening intake officers.[8] A second information system in King County is the Prosecutor's Management Information System (PROMIS), housed and maintained in the Office of the King County Prosecuting Attorney. This system holds information on prosecutors' recommendations regarding bail and other data on defendants and on the disposition

[8] Data have been maintained in this system since 1984.

of criminal cases processed through the Superior and District Courts in King County.

Other counties have information systems in their jails similar to that in King County.[9] However, none of the other counties visited as part of this study had established automated information systems in their county prosecuting attorney's offices. Instead, county personnel typically rely on court-based systems developed especially for the Superior Court in their respective counties. These systems are, in effect, systems parallel to SCOMIS, providing offender-based data on cases and persons processed through the Superior Court. In some counties, these data may be easily linked with data on persons detained in the county jail. In others, relevant jail data, such as screening intake interviews, are not in automated form and are available only in manual files.

[9] Three other counties were visited as part of the project: Snohomish, Pierce and Yakima counties. Each county had a slightly different type of information system to meet the jail's needs. In Pierce County, for example, the county-wide justice information system retains information on all criminal defendants processed through the county Superior, District and juvenile courts.

B. *Limitations of Data for Analyses of Bail and Pre-trial Release Decisions*

Given the nature of criminal justice data in Washington, empirically-based research on racial and ethnic disparities on bail and pre-trial release faces at least six major challenges in the acquisition of data.

First, no set of documents summarizes the various types of information maintained in the different agency data systems. Although some state reports have recently attempted to summarize information across sources, the reports offer no guidance or information on the content of each system and how the systems may vary.

Second, most of the information systems are maintained on different types of computers with different electronic formats or information structures. This complicates the sharing of data across systems and, ultimately, attempts to integrate or combine information from different sources.

Third, each information system maintains different types of information on the characteristics of cases and persons processed through the Superior Courts. For example, the King County Jail information system has data on social and demographic characteristics of cases, while the PROMIS system in the King County Prosecuting Attorney's Office maintains information on the handling of cases from the point of first filing.

Fourth, some information maintained in the information systems is entered or coded in ways that must be interpreted with caution. For example, the factor "amount of bail" recorded in the PROMIS system is, in fact, not the final amount of bail set by the Superior Court, but rather the amount of bail recommended to the court by the prosecuting attorney. PROMIS has no information on the final amount of bail set by the court in criminal cases.

A *fifth* limitation is that a subset of all felony cases is never processed through the jails. Typically, the Superior Court issues a summons in these cases because the defendant named in charges filed by the prosecuting attorney has not been arrested and booked into jail. These cases present a unique dilemma for the analysis because neither the court nor the jail routinely collects background information on defendants named in these cases. The jail will only interview these defendants if the court, defense attorney, or the prosecutor requests the information. As a result, the cases represent "orphans" for the analysis of bail decision-making; there is very limited information available to analyze correlates of bail and pre-trial release outcomes.

A *final* challenge for research is the limited availability of information on the subjective assessments of defendants by court officials that are important to legal decision-making. Only one county routinely collects and retains automated information on subjective assessments and recommendations regarding defendants. In King County, pre-trial services officers prepare written commentaries on defendants that are

forwarded to judges for pre-trial release decisions. In every other court, these data are available only in manual files retained by the pre-trial services or intake staff.

In sum, there exist many limitations in existing data on criminal cases processed in the Superior Courts in Washington. These limitations preclude any statewide analysis of bail and pre-trial release practices. Data on all criminal defendants are not located in central computer facilities and are not necessarily comparable across counties. Further, statewide information systems do not routinely require counties to record information on the characteristics of defendants (*e.g.* race, pre-trial detention status) that are necessary for performing the types of analyses proposed in this study. Finally, much of the most important data reside in county information systems and manual files. Only King County has sufficient automated data, albeit in different information systems, for conducting these analyses without additional manual data collection.

C. *Implications for the Minority and Justice Commission Study and Future Research*

The limitations of existing data on bail and pre-trial release in the courts have two implications for the present study and for future research on criminal justice in Washington. *First,* given time and resource constraints on the immediate project, the data and analyses were limited to felony cases processed in King County. The study

focused solely on information on bail and pre-trial release from three sources—SCOMIS, PROMIS and the information system maintained by the King County jail. Although three other counties were visited as part of the project, the challenges of data collection in those counties were substantial. It would have been impossible to collect the needed information in multiple counties without additional time and budgetary support for the collection of data from manual files.

The *second* implication is that, given the complexity of information in King County on pre-trial release, it was necessary to merge data from three sources in order to conduct the research. Further, it was necessary to code manually some aspects of the merged data for the proposed analyses, given problems we encountered with their automated form. For example, pre-trial services officer summaries of cases were coded for the content of their comments about defendants and their backgrounds. This task proved difficult, albeit necessary, given the form and size of the data file. Nevertheless, an integrated file of information on 1,658 felony cases was established for the analyses reported in Section IV of the report. The sample of cases is discussed in greater detail in the report's next section.

The limitations of data on criminal justice in Washington also have significant implications for future research on racial and ethnic disparities in bail and in other aspects of the legal process. Most important, the limitations make analyses of issues like racial bias in decision-making extremely challenging and, therefore, difficult to complete without extensive resources. In effect, the poor quality of data available from most state agencies has a chilling effect on criminal justice research; analyses become impossible to conduct because necessary data are not readily available in automated form. Often data must be obtained from manual files at enormous expense, making impossible to perform routine analyses for planning or policy purposes.

III. THE KING COUNTY SAMPLE OF CASES

This section of the report describes the sample of cases selected in King County for the analyses reported in Section IV. It discusses how the sample was selected and provides a brief overview of the types of information collected on sample cases. Finally, this section describes the flow of cases through the bail process in King County, revealing the types of pre-trial release and bail that white and nonwhite or minority defendants in the sample received.

Before proceeding, it is important to explain why the analysis was limited to King County. The general challenges of studying bail practices in the superior courts and the need to draw data from multiple information systems seriously complicates any analysis of bail decisions and outcomes in Washington (*see II. Data on Bail and Pre-trial Release Decisions in the Superior Courts of Washington).* Data collection and analysis are time consuming and complicated by variation across counties in local court practices. Further, important data on bail processes in most counties are available only from manual case files. King County proved different. All data needed for the proposed analyses were accessible in automated form, albeit in different information systems. Given the significant time and resource constraints on the study, it was decided to limit the analyses to King County and, pending the approval of additional resources, add a second phase to the research following successful completion of the present project. If approved, the second phase would include two or three additional counties.

A. *King County Sample*

The study focused on bail and pre-trial release decisions for felony cases processed in King County between the years of 1994 and 1996. In order to draw a sample that would be representative of all felony cases in King County and that would ensure a thorough assessment of bail and pre-trial release outcomes, it was initially necessary to identify and collect several different types of information on all felony defendants. Among the most important types were the following:

- The sex and race of defendants;
- The charges in each case;
- The written recommendations of the pre-trial services officers in the King County Department of Corrections;
- Recommendations by Deputy Prosecuting Attorneys; and
- The conditions of release (if any) set by the superior court in each case.

Acquiring this information required access to three different data systems: the Prosecutor's Management Information System (PROMIS), the Superior Court Management Information System (SCOMIS) and pre-trial services data from the King County Correctional Facility. The following section details the manner in which the sample cases were drawn and the manner in which information from the three data systems were combined to complete the analysis.

B. *Sample Selection*

A sample of 1,658 cases used in this study was initially selected from information provided by the King County Prosecuting Attorney's Office on all the felony cases handled by the prosecutor between 1994 and 1996—a total of 27,597 cases.[10] Because the current study samples relate to felony prosecutions, the same individuals may appear in the sample more than once if they were prosecuted more than once between 1994 and 1996.[11] Specific individual defendants can be tracked through the Prosecutor's Management Information System using an internal identification number.[12]

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[10] Each record in the Prosecutor's Management Information System, PROMIS, includes demographic data on the defendant, including name, date of birth, age, sex and race; the charges filed against the defendant and arrest date (if applicable); information on each change in bail/bond/pre-trial release status; and whether the defendant met the conditions of pre-trial release (meaning he/she paid bail/bond if applicable, or received some form of supervised or unsupervised release). Each case in PROMIS represents a single prosecution, rather than a single individual.

[11] It was decided to draw the sample at prosecution because bail setting and release occurs at a point in the legal process after prosecution. Drawing the sample at this stage ensured that all cases where bail is set would be included in the sample. Sampling at arrest, an even earlier stage in the process, proved impossible due to variation among law enforcement agencies in King County in data recording practices on persons arrested.

[12] The initial sample was 1,500 cases. A supplemental sample of 158 cases was added when the analyses indicated that information on some of the cases was missing from court files.

Given the focus of this study—racial and ethnic bias in bail processing—it was necessary to ensure that a sufficient number of racial and ethnic minority persons were included in the sample. Otherwise, the analyses of bail and pre-trial release outcomes would not prove meaningful.[13] Thus, the sample was stratified by race, with over-sampling of defendants from racial and ethnic minority groups.[14] Because previous studies have shown that race differences in legal processing may also vary dramatically between male and female defendants, the sample was also stratified by sex, over-sampling female defendants to ensure adequate representation of women in the sample.

C. *Matching Prosecution Cases with King County Jail Data*

An important source of information on defendants for bail and pre-trial release decision-making is information collected by pre-trial services officers in the King County Department of Corrections. When defendants are booked into jail following arrest, the pre-trial services officers interview them, checking previous criminal records,

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[13] Because racial and ethnic minorities represent, even in King County, a small percentage of all persons processed in the courts, a simple random sample of cases would yield too few minority defendants to explore the types of research questions called for in the present study. Stratified sampling breaks the sample into categories or groups. Groups with small numbers in the population can be over-sampled, thereby giving the research a sufficient number of cases to conduct the types of complex analyses needed for the study.

[14] For purposes of sampling only, race and ethnicity were broken into three categories corresponding to general groupings in 1994-1996 felony prosecutions in King County. The groups were White, Black and "Other." The "other" category included Asians, Native Americans and anyone categorized as having an unspecified race. We neither favor nor approve this crude classification.

and attempting to verify the existence of local residential addresses, family or personal ties, and employment. Mentioned earlier in the report (*see* I. C. *Bail and Pre-trial Release in Washington State*) these factors are specified in state law as important criteria for determining conditions of pre-trial release and bail. Based on information collected in the interview, the pre-trial services officer recommends to the court either for or against releasing the defendant on personal recognizance. Along with this recommendation, the staff member may provide the court with open-ended comments about the defendant's background, offense history or other personal characteristics. Typically, the comments summarize salient information about the defendant that the staff member perceives as important for bail determinations.

The project obtained reports on all screening interviews for jail bookings in the King County Correctional Facility between 1994 and 1996. Nine-hundred (900) defendants in the study sample of 1,658 felony prosecutions had been booked into jail and interviewed by pre-trial services officers.[15] The remaining 758 were neither booked nor interviewed. Typically, cases involving defendants booked into jail and interviewed are initiated by arrest of the accused. Cases not booked are usually

[15] When an individual is booked into the King County Jail, they are given a Book of Arrest number. Therefore, an individual booked into jail five different times will have five different Book of Arrest numbers and five different interviews by Pre-trial Services. Since the jail data also provides booking dates and Computer Control Numbers (CCN), the researchers were able to determine the corresponding Book of Arrest number for each PROMIS case. Once the correct Book of Arrest number was determined, the researchers selected the appropriate interview data for each case.

initiated by filing a criminal charge, with the court issuing a summons directing appearance of the defendant in court to respond to the charge. That thirty-six percent (36% – 592/1,658) of the study sample was not interviewed is problematic for the present study. Less information was available on defendants who were not interviewed by pre-trial services officers in the jail. This problem and its solution are discussed in greater length in the section on study findings (*see IV. Findings on Racial and Ethnic Differences in Bail and Pre-trial Release in King County).*

D. *Determining Final Pre-trial Release Conditions and Bail Amounts*

In order to determine the final bail amounts and release decisions for the study sample, bail-related docket codes were obtained from the Office of the Administrator for the Courts (OAC) for cases filed in the King County Superior Court between the years 1994 and 1996.[16] The sample cases were matched to their respective court files and docketing information in order to establish the final conditions of bail and release.[17] The study also sought to track changes in defendants' release conditions and/or bail amounts as cases progressed from first appearance to the filing of charges

[16] Each case in the Superior Court Management Information System (SCOMIS) is given a unique case number (CAUS), which is also recorded in the PROMIS system. The common identifying number permits direct comparison and merging of data files.

[17] While PROMIS does track changes in bail for each case, the researchers found that the SCOMIS data system provided the best means of determining the final bail decisions. SCOMIS maintains a docket file for each case presented before the court. Whenever a court document is filed for a case, the SCOMIS system records the type of document and other important details, such as bail amounts.

to final disposition. In cases initiated by arrest, the amount of bail or conditions of release often changed dramatically from initial appearance to the court's final determination. However, in other cases, particularly cases initiated by the filing of charges, the court typically set final bail at arraignment.

E. Sample Characteristics

Figure 2 is a diagram reflecting the sample cases as they were processed by the jail and courts in King County. Of the original sample of 1,658 cases prosecuted by the King County Prosecuting Attorney between 1994-1996, 1,067 cases (64%) were initiated by arrest and booked into the King County Jail. As noted earlier in this section of the report, the remaining 591 (36%) cases were initiated by filing of charges and issuance of a summons for the defendant to appear in court. Of the 1,067 cases initiated by arrest, 900 (54%) were interviewed by pre-trial services officers.[18] Bail conditions were set for 709 of these defendants (43% of the total sample), either at first or second appearance, by a District Court judge. These cases, and those initiated by summons,

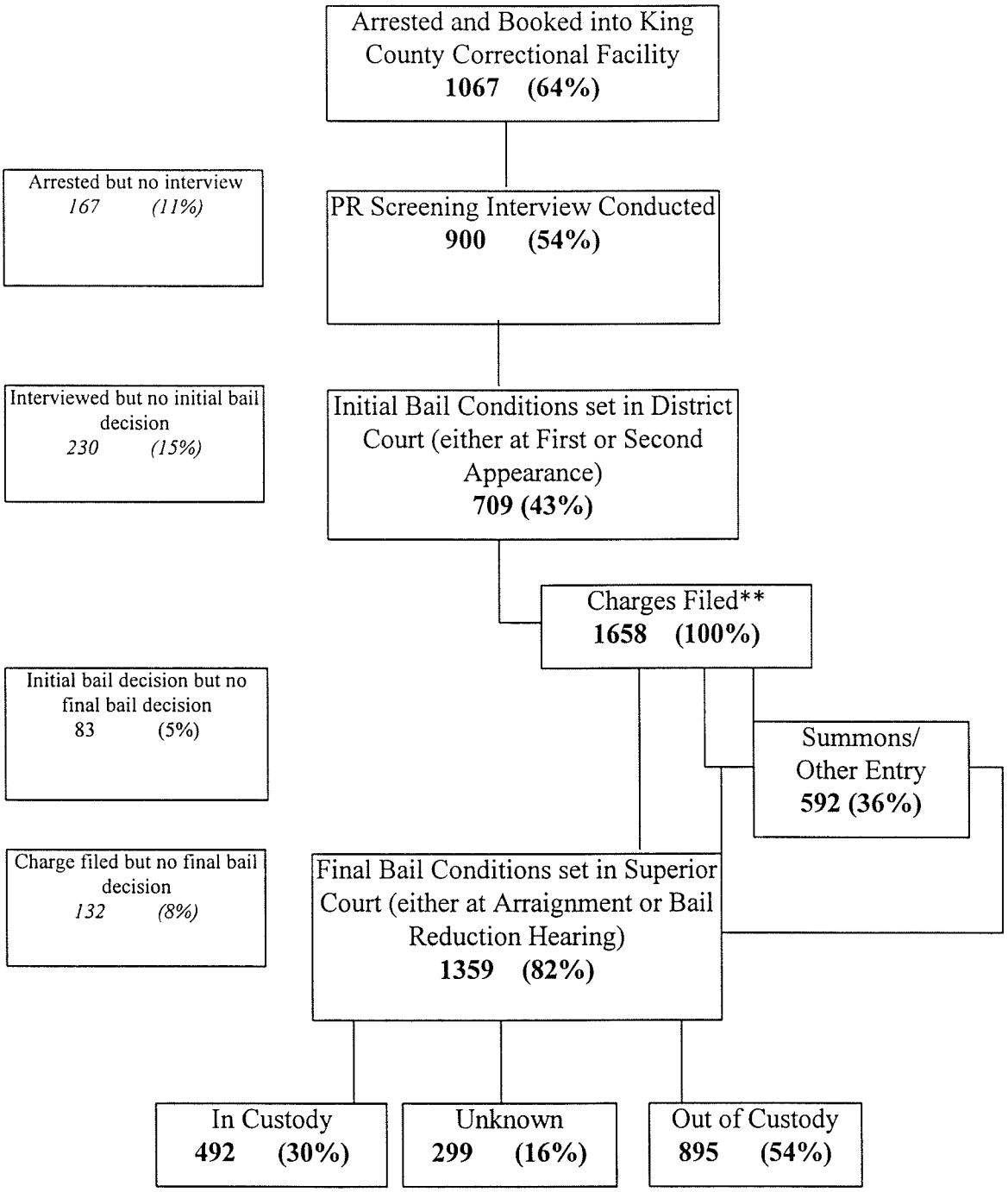
[18] This discrepancy arose from the fact that although 900 defendants in the sample had arrest dates specified in the PROMIS data, not all could be matched with records in the jail information system. Some simply were missing from the jail interview data provided by jail staff. Although the causes of this discrepancy are unknown, we suspect that it occurred because some persons may be arrested on investigation, held for a few hours in the jail but not booked or interviewed, and then released. Only later were they charged with crimes, never having been processed through the jail.

were arraigned in Superior Court. Of the sample of 1,658 cases, 1,359 (or 82%) had final conditions of bail set by the Superior Court at arraignment or at a subsequent bail hearing.

The court released approximately fifty-four percent (54% – 895/1,658) of the sample defendants pre-trial, typically with some supervision conditions. The court set bail/bond in fifty percent (50%) of the sample cases. Bail/bond amounts in the study sample ranged from $500 to $1,000,000. The mean (average) bail/bond amount was approximately $32,000. Because a few exceptionally large bail amounts may distort the mean, the median may more accurately reflect the true "average." The median bail/bond amount for our sample was approximately $10,000. The remaining 299 cases in the sample had no final bail decision at the time of the analysis.[19] Typically, these cases involved persons who were at large at the time of the analysis or whose criminal charges had been dropped. In those cases where the court actually set pre-trial release or bail conditions, approximately sixty-four percent (64%) of the defendants were able to meet the conditions of release either by accepting and complying with the provisions of supervision or by paying the specified amount of bail (*see* Table 1). The remaining thirty-six percent (36%) were not able to meet the court's conditions of release and remained in custody pending disposition of their cases (*see* Table 1).

[19] Final bail decisions can be missing for a number of reasons. People who are currently at large will not have final bail decisions in the court records. Further, no conditions of bail or release will have been set for those defendants in whose cases all criminal charges have been dropped .

FIGURE 2: PROCESSING CHARACTERISTICS OF THE KING COUNTY SAMPLE
(N=1658)



NOTE: The sample was drawn from all cases with charges filed.

Before proceeding to additional analyses of the sample data, two important caveats about the data must be noted.

First, the analyses are limited to the degree that the data used in the study are accurate and precise. The study relies entirely on information collected and recorded by personnel in the criminal justice agencies of King County. To the extent that there are inaccuracies or other limitations in the data unknown to our study team, the analyses must be interpreted with some measure of caution. Data were missing on some defendants and inaccurate on others.[20] However, throughout the study we made every effort to identify and correct errors and inconsistencies in the records on defendants in the study sample. In correcting the errors, we believe that our study offers the most accurate description possible of bail and pre-trial release in King County.

Second, the analyses may also be limited by the degree to which the study inadvertently omitted factors important to legal decision-making on bail and pre-trial release decisions in the Superior Court. By all accounts, legal decision-making is complex. Many factors influence the outcomes of criminal cases, in bail setting and in other aspects of legal processing. In an effort to minimize the likelihood that important factors were omitted from the analyses, we collected all available information on the characteristics of defendants, their cases and officials' perceptions and assessments of

[20] An example of the types of inaccuracy is useful. The sample information collected for the project includes defendant ages. The data we received initially included three persons who were, according to the data, one year old at the time of arrest. Cases involving these types of obvious errors have been either corrected or removed from the analysis.

cases in automated records maintained in King County. While this information may not fully represent or measure all factors that ultimately influence how cases are handled or processed, we attempted the most comprehensive and thorough analysis of factors that may influence bail setting permitted by the data available to us.

IV. FINDINGS ON RACIAL AND ETHNIC DIFFERENCES IN BAIL AND PRE-TRIAL RELEASE IN KING COUNTY

The third component of the project compared pre-trial release and bail decisions in the King County sample of individual cases. The analyses focused on factors in the backgrounds and current offenses influencing the outcomes of cases. They examined the precise effects of race/ethnicity on case dispositions, above and beyond the effects of case characteristics, prior criminal history and other legally-relevant factors. The following questions guided the analyses of the data:

- Are minorities or persons of color more or less likely than whites to be released on personal recognizance?
- Are minorities or persons of color more or less likely to have monetary bail set in their cases?
- Are minorities or persons of color more or less likely than whites to have bail set at high levels?

- What characteristics of cases, such as the severity of the alleged crime or the defendant's history of failure to appear, contribute to racial and ethnic disparities in pre-trial release and bail?

A. *Racial and Ethnic Disparities in Bail and Pre-trial Release*

A major concern in the analysis is whether substantial racial or ethnic disparities exist in bail and pre-trial release practices for felony cases. The analysis compared bail and release outcomes for the King County sample for racial and ethnic minority groups of defendants. The comparisons focused on five aspects of bail and release conditions. These include:

- Whether defendants were released on personal recognizance with *no* conditions of supervision;
- Whether defendants were required by the court to meet special conditions of supervised release;
- Whether defendants were required to post bail;
- For those required to post bail, the amount set by the court; and
- Whether defendants were ultimately held in custody prior to trial.

Table 1 (*see* page 54) exhibits final bail and release outcomes, by each major racial and ethnic group, for the King County cases. Four aspects of the data are particularly noteworthy.

First, racial and ethnic minority persons were more likely than whites to ultimately be held in custody prior to trial. Whereas thirty-nine percent (39%) of

minorities in the sample were held in custody, only twenty-eight percent (28%) of whites were held. Among minority groups, Native American/Indians, had the highest rates of retention (55%), followed by Hispanic/Latinos (54%), African Americans (36%), and Asian Americans (35%).

Second, minorities were much less likely than whites to be released on personal recognizance with no conditions of release. Twenty-five percent (25%) of white defendants in the sample were released on personal recognizance. In contrast, only fourteen percent (14%) of minority or nonwhite defendants were released on personal recognizance. Among minority groups, Native American/Indians were least likely to be released in this manner, that group constituting only eight percent (8%).

A *third* finding is that the Superior Court was much more likely to set monetary bail in cases involving nonwhite or minority defendants than whites. Whereas bail was set in fifty-six percent (56%) of all minority cases in the sample, it was set in only thirty-four percent (34%) of the cases in which whites were defendants. Among minority groups, bail was most likely to be set in cases involving Hispanic/Latino defendants (60%) and Native American/Indian defendants (60%). *Finally,* no substantial differences in the median amounts of bail set occurred between nonwhite or minority defendants as a group and whites as a group with one exception. Median bail amounts for both groups equaled $10,000. The notable exception to this pattern was median bail for Asian Americans of $15,000.

TABLE 1

FINAL BAIL AND PRE-TRIAL RELEASE DISPOSITIONS IN KING COUNTY SAMPLE

(N=1,359)[1]

RELEASE/BAIL CONDITIONS	*TOTAL SAMPLE*	*WHITE*	*AFRICAN AMERICAN*	*HISPANIC/ LATINO*	*NATIVE AMERICAN/ INDIAN*	*ASIAN AMERICAN*	*TOTAL MINORITY*
RELEASED ON PR ONLY	235 (17%)	91 (25%)	67 (14%)	8 (10%)	10 (8%)	58 (18%)	143 (14%)
ANY BAIL SET	687 (50%)	124 (34%)	220 (46%)	50 (60%)	74 (60%)	159 (50%)	563 (56%)
MEDIAN BAIL AMOUNT	$10,000	$10,000	$10,000	$10,000	$10,000	$15,000	$10,000
IN CUSTODY PENDING TRIAL	492 (36%)	101 (28%)	169 (36%)	45 (54%)	68 (55%)	109 (35%)	391 (39%)

[1] The sample size reflects the fact that 299 cases included in the original sample had no final bail or release conditions set at the time of the analysis. The analysis reported in this table are based on 1,359 cases with complete information.

At face value these differences may seem alarming. Some may interpret disparities between whites and minorities as prima facie evidence of racial bias in pre-trial release and bail decisions. However, such an interpretation would be premature and inappropriate. Many factors may contribute to the types of disparities exhibited in Table 1 that, under the laws of the State of Washington and rules of court, are legitimate criteria for establishing conditions of release. Among the factors are the defendant's ties

to the community, the potential threat presented by the defendant to others, and whether the defendant has any previous history of failure to appear at court proceedings or to comply with court rulings. To the extent that minority defendants are less capable of meeting conditions established in these criteria, courts may be less likely to release minority defendants on personal recognizance or to set bail amounts for them that are similar to those set for white defendants. Under these circumstances, racial and ethnic disparities in final bail amounts or provisions of release will arise even in the absence of explicit racial bias. The disparities would be the result of even-handed application of court rules and procedures.

The analysis of the sample cases sought to identify factors in the King County cases that would explain the disparities exhibited in Table 1. The next part of the report (B. *Factors Contributing to Disparities in Bail and Pre-trial Release*) discusses the results of additional analyses of the sample cases. These analyses examined the influence of factors specified in statutory criteria and court rules on disparities in pre-trial release and bail outcomes. Further, the analyses examined whether additional factors suggested by other studies or by persons interviewed in the project *(V. Perceptions And Knowledge About Racial And Ethnic Disparity And Its Causes)* influenced the outcomes of bail and pre-trial release decisions.

B. *Factors Contributing to Disparities in Bail and Pre-trial Release*

A major concern of the study is whether disparities in bail and pre-trial release are attributable to the characteristics of criminal cases, other than the defendant's race or ethnicity. It is possible, for example, that disparities in bail decisions of Superior Court judges could occur because nonwhite or minority defendants might have more extensive criminal histories, commit more serious types of crime, or have more extensive histories of failure to appear in court and therefore would warrant more supervision and control.

The remaining parts of this section summarize the results of statistical analyses of bail and release decisions in the King County sample. The analyses focused on factors influencing bail decision-making and that may contribute to racial and ethnic disparities in the outcomes of the decisions. Although decisions made at arrest may also contribute to disparities in bail and release decisions in Superior Court cases and may therefore represent areas of concern, any consideration of arrest practices contributing to disparities was beyond the scope of the present study.[21]

The analysis examined the role of race and ethnicity in conjunction with several factors specified in court rules governing pre-trial release and bail, considered in previous studies of bail decision-making or specified as important by officials

[21] It was not possible to include an examination of arrest practices in the present study. To do so would have required a critical examination of police procedures across the county, a task that would have required more resources than were available for this study.

interviewed in the study (*see V. Perceptions And Knowledge About Racial And Ethnic Disparity And Its Causes*). Among the factors considered were:

- Demographic characteristics of defendants (age, sex, race, ethnicity, marital status, number of children, employment, length of residence in area, previous mental health problems, previous substance abuse problems);
- Characteristics of the current charge (class of charge, statutory level of seriousness, attempted crimes, presence of violence, drug-related offenses, involvement of minors, presence of domestic violence, presence of weapons);
- Criminal history (number of previous bookings in King County, history of failure to appear or compliance with court orders, number of prior criminal charges);
- Pre-trial services officer recommendations on personal recognizance;
- Problems encountered in verifying information on defendants' references, employment, or address;
- Pre-trial services officer summaries of salient defendant characteristics (community ties, threat of violence, past criminal history, drug history, cooperation); and
- Prosecuting Attorneys' recommendations regarding release and bail amount.

Of course, factors other than these may influence the outcome of bail and pre-trial release decisions. Among the most important is the quality and effectiveness of legal representation. Defendants represented by attorneys who have compiled extensive supporting information, including witnesses, on the ties of their clients to the community may be more likely to receive less stringent conditions of release than

others. However, no empirical data on types of legal representation or the amounts and types of evidence and witnesses introduced in bail hearings was available for the analysis.

Using standard multivariate statistical methods, the analysis compared pre-trial release and bail decisions involving different racial and ethnic groups, adjusting for differences among defendants in social and demographic backgrounds, prior criminal histories, the severity of crimes, and other factors.[22] The analyses examined each aspect of bail and pre-trial release in order to offer the most comprehensive description of "racial." Thus, separate multivariate analyses were conducted on: (1) whether defendants were released on personal recognizance with no conditions of release, (2) whether defendants were required to post bail, (3) for those case in which bail was required, the final bail amount set by the court, and (4) whether defendants were held in custody prior to trial. The results of the analyses are reported in Appendix A.

An important concern in empirical research on legal processing is sample selection bias. This bias occurs when case characteristics filter the flow of cases through the court process and thereby influence the outcome of case proceedings, independent of legally-relevant factors influencing decision-making such as the severity of the crime or the defendant's prior criminal record. In essence, the filtering process of the court proceedings drastically changes the mix of cases entering each successive stage of

[22] Multivariate Logistic Regression and Ordinary Least Squares regression were employed.

processing. In turn, these changes may bias interpretations of how decisions are made unless the analysis makes adjustments for the composition of cases at each stage. In the present study, sample selection bias was a source of concern. Of the total sample of 1,658 cases, nearly (36% – 592/1,658) were initiated through summons and, thus, were not booked into the King County Jail with interviews by jail screeners. This has direct implications for the analysis because much of the information on defendants' social and personal characteristics was collected from the screening interview data. Many of the analyses are based only on those cases initiated by arrest and booked into the jail. Since this set of cases may differ from those initiated by summons (*e.g.*, different types of crimes), the analysis examined whether this limitation in the data had distorting effects on the project findings. No distorting effects were discovered.

Release on Personal Recognizance

Seventeen percent (17%) of the total sample was released on personal recognizance (with no release conditions) pending the disposition of criminal charges (*see* Table 1).[23] White defendants in the sample were almost *twice* as likely as minority defendants to be released in this manner. While the court granted twenty-five percent (25%) of whites release on personal recognizance, it granted only fourteen percent (14%)

[23] In King County, many defendants facing drug charges are given the option of release to the jurisdiction of Drug Court, which is recorded in our sample as "released on personal recognizance with conditions of release."

of minorities this form of release (*see* Table 1). Among racial and ethnic minorities, Native American/Indians and Hispanic/Latinos in the sample were least likely to be released on personal recognizance (8% and 10% respectively).

Among the factors specified in Washington law as a criterion judges may use in determining bail and pre-trial release is whether the defendant represents a significant threat to others or to himself or herself. Many of the officials interviewed as part of the project expressed the view that the severity of the crime was critical in pre-trial release and bail determinations. To the extent that racial or ethnic minorities are arrested more often than whites on serious and violent crimes, then differences in the nature of offenses may contribute significantly to disparities in pre-trial release and bail. Equally important is the recommendation of the prosecuting attorney. Although judges interviewed typically argued that they listen to, but do not routinely follow, the recommendation of the prosecutor, most attorneys (defense attorneys and prosecutors) argued that the prosecuting attorney's recommendation is extremely influential. One attorney described this influence as follows:

> I think uniformly the judges are affected by the prosecutor's position. The setting of the bail prior to arraignment is something that is made at the request of the prosecutor. And I've never really seen where the judge scratched something out and put a different bail amount. Also at arraignment, when you look at the arraignment calendar and you see twenty thousand next to one person, zero next to the next person. The judge doesn't suddenly say, "Well, wait a second. Let me look at this case. Why is this zero?

> Why should this person be PR'd?" If the prosecutor says "PR", the judge is not going to say anything. So, uniformly, its safe to say that the state has a lot of power in the amount of, well they have all the power in the amount of bail set, and whether the judge is going to take a look at it and when the judge is going to agree or not agree. State says bail set, bail is set. State says person is PR'd. Invariably, unless something very unusual occurs, that person is going to be PR'd.

The results of the statistical analyses partially support this interpretation. Two findings are particularly noteworthy. The *first* is that the recommendation of the prosecuting attorney on pre-trial release was the most influential factor in decisions to release on personal recognizance. The court was *much more likely* to release defendants in the sample on personal recognizance when the prosecutor favored release. *Second,* race and gender influenced the likelihood of pre-trial release above and beyond the effects of the prosecuting attorney's recommendation, regardless whether the case involved domestic violence or others factors. Minority defendants and men were *less likely* to be released on their own recognizance than whites or women, even after differences among defendants in the severity of their crimes, prior records, ties to the community and the prosecutor's recommendation were considered (*see* Table 1).

Any Bail Set

The Superior Court established and set monetary bail in approximately one-half of the entire sample. Fifty percent (50%) of the sample had some amount of bail set as a final condition of pre-trial release. Minority defendants were much more likely to

have monetary bail set in their cases than whites defendants. More than one-half or fifty-six percent (56%) of all minorities had monetary bail set whereas only one-third or thirty-four percent (34%) of whites were required to post bail as a condition of release. Native American/Indian, sixty percent (60%), and Hispanic/Latino, sixty percent (60%), defendants were most likely to be required to post bail. The court required African American, forty-six percent, (46%), and Asian American, fifty percent (50%), defendants to post bail less frequently than Native American/Indians and Hispanic/Latinos, but much more frequently than white defendants (*see* Table 1).

The statistical analyses of whether bail was set in many ways parallel those of release on personal recognizance. The single most influential factor determining the likelihood of bail was the recommendation of the prosecuting attorney. The severity of the crime and the extensiveness of the defendant's prior criminal history was also important. In cases where the prosecutor argued for bail being set and in those cases where the offense was serious and the defendant had a prior criminal record, the court was much more likely to set bail than to release the defendant either on personal recognizance or on some form of conditional release. Similarly, the court was more likely to require bail of those defendants with weak ties to the community, (*e.g.*, no verified employment, address or relatives in the area). However, the court was also more likely to require bail in cases involving nonwhite or minority male defendants. The analyses found that *even after adjustments were made in important legal differences among cases, race and ethnicity, along with gender, still mattered.*

AMOUNT OF BAIL

In those cases in which the Superior Court set monetary bail as a condition of release, the median amount of bail required by the court was $10,000.[24] With the exception of Asian American defendants, the median bail amounts were equal across all racial and ethnic groups. The median bail amount for Asian Americans in the sample was $15,000. That the amounts are identical for most racial groups is somewhat surprising, given the differences among racial groups in whether the court grants personal recognizance or monetary bail. That the median amounts are in evenly numbered amounts (in thousands) suggests the existence of a normative schedule for setting bail in King County. The only schedule for bail known to the researchers is described in the policies of the Office of the King County Prosecuting Attorney. These policies specify recommended ranges for the amounts of bail in felony cases. However, the ranges are quite broad, affording extensive discretion to the prosecuting attorney in making bail recommendations. No guidelines or schedules for felony cases are specified in the Superior Court rules or in practice by Superior or District Court judges.

[24] The median bail amount is reported because the mean or arithmetic average of all bail amounts is distorted by extreme values. In the sample cases there were a few extremely large amounts of bail (up to $1,000,000) that would produce extremely distorted averages of bail. The median is the mid-point in the range of a distribution, that measure of central tendency which lies between the lowest 50% of cases and the highest 50% of cases.

Despite the consistency in median amounts of bail across racial and ethnic groups, the results of multivariate analyses of bail amounts are nearly identical to those examining whether any bail was set. The prosecuting attorney's recommendation was the factor most strongly related to the final amount of bail, followed by the severity of the crime. The court set bail particularly high when the prosecutor recommended high amounts in cases involving serious crimes. The court was *less likely* to set high bail amounts in cases involving minority defendants than in cases involving white defendants. Further, there were no significant differences between men and women defendants in final bail amounts.

In Custody Pending Trial

Although the court set conditions of release for every case in the study sample, a large percentage of defendants did not satisfy the conditions and were held in custody pending outcome of their cases. Thirty-six percent (36%) of the sample were ultimately held in custody pre-trial (*see* Table 1). Among white defendants, twenty-eight percent (28%) were held in custody pre-trial. In contrast, thirty-nine percent (39%) of minority defendants were held pre-trial. Among minorities, thirty-six percent (36%) of African Americans, fifty-four percent (54%) of Hispanic/Latinos, fifty-five percent (55%) of Native American/Indians, and thirty-five percent (35%) of Asian Americans were held in custody pre-trial.

Whether defendants ultimately satisfy the court's conditions of release depends in part upon the stringency of bail conditions and in part upon each defendant's capacity to satisfy the conditions. In the case of monetary bail, for example, defendants with fewer financial resources are less capable of posting bail than defendants with extensive resources, regardless of the final bail amount. To the extent that racial and ethnic minorities have fewer resources than whites, they will less likely be able to post bail and more likely to be held in custody pending trial. Thus, racial disparities in pre-trial custody may result from racial differences in ability to post bail, in addition to differences in bail amounts specified by the court. The matter of disparity is particularly complicated because financial ability is a criterion for setting conditions of release. CrR 3.2 (b) provides:

> In determining which conditions of release will reasonably assure the accused's appearance and noninterference with the administration of justice, and reduce danger to others or the community, the court shall, on available information, consider the relevant facts including but not limited to: the length and character of the accused's residence in the community; the accused's family ties and relationships; *the accused's employment status and history and financial condition*. . . .
>
> (emphasis added).

Based upon the statutory criteria, judges may be more inclined to set high amounts of bail on those defendants least able to post bail. This practice places groups with

few resources in a difficult or impossible position, being less capable of posting bail initially and, at the same time, being required by the court to post higher than average amounts of bail because of their poor financial position.

Aspects of the multivariate statistical analyses of final custody status are not surprising. The factor having greatest influence on final custody is whether the court set bail as a condition of release. In cases where bail was set, defendants were more likely to be held in custody pending trial. Other factors influencing final custody, above and beyond bail conditions, were the severity of the offense, the defendant's prior criminal history, and the defendant's ties to the community. Defendants with extensive community ties were less likely to be detained pre-trial, even after bail was set. This may occur because they may be more capable of satisfying bail conditions and achieving release. In contrast, defendants with a prior criminal history and those charged with a serious offense were more likely to be held in custody after the court set some amount of monetary bail. In these cases, bail amounts may be relatively high and defendants may be less able to post the bail amounts required by the court. Finally, the defendants' race and gender had no significant influence on final custody, once other aspects of their cases were considered. Although minorities and men generally were more likely to be detained in custody than whites generally or women, the differences were not significant.

Overall, these findings suggest that race matters even after adjustments for differences among cases in the factors specified by law as relevant for determining conditions of pre-trial release. The court is less likely to release nonwhite or minority defendants than white defendants on personal recognizance and more likely to require bail in the cases of minority defendants. However, it would be inappropriate to conclude that these differences in pre-trial release necessarily reflect overt racial bias or discrimination in the decisions of Superior Court judges. A detailed comparison of a sub-sample of cases included in the study suggests caution in interpreting these types of empirical findings. The remainder of this section of the report discusses the comparison.

To explore the findings in greater depth, the analysis examined the written probable cause statements and police reports of the sub-sample. The probable cause statements provide a relatively detailed description of the circumstances of the offense. The examination revealed significant differences in the circumstances of some cases that are not captured by or reflected in the empirical data upon which the multivariate analyses were based. The differences may explain some of the racial and ethnic disparities in pre-trial release and bail outcomes that are reported in the findings of the study.

To illustrate the nature of the qualitative differences between cases that may explain racial disparities, this section summarizes two drug (cocaine) cases from the sub-sample, one involving a white defendant and one involving a Hispanic/Latino defendant. In both cases, the male defendants were charged with Violation of the Uniform Controlled Substance Act (VUCSA) which was later reduced to an attempt to commit the offense. Both defendants also had no known criminal history and lacked ties to the community. However, the white defendant received a more lenient bail outcome (PR to attend the Drug Diversion Court) than the Hispanic/Latino defendant ($2,000 bail).

Case 1

White Male
VUCSA
No Priors
No Community Ties
Bail Outcome: Referred on PR to Drug Court

In April 1996, Seattle police were patrolling an area where there had been numerous complaints about narcotics activity. This area had been designated by the Seattle Police Department as a Stay Out of Drug Area (SODA) Zone. The officers observed the defendant using the payphone inside a local business. The defendant was with another. Shortly after, the officers observed the defendant walk up the stairs along side of the building while his companion, looking around nervously, waited outside.

The defendant returned a short time later and met up with his companion. One of the officers pulled up alongside the two. As he did, he saw the defendant throw a small, light-colored object toward the bushes alongside the sidewalk. The defendant then reached into his pocket and threw another light-colored object toward the ground near the bushes. The officer believed the objects to be crack cocaine or small pieces of wadded plastic wrapper.

The defendant was stopped for questioning. The officer went directly to the area where he saw the defendant throw the objects and recovered two rocks of suspected crack cocaine. The suspected cocaine was field tested and tested positive for the presence of cocaine.

In the probable cause statement, the Deputy Prosecuting Attorney recommended that the defendant appeared eligible for Drug Diversion Court and that there was no objection to his conditional release for this purpose.

Case 2

Hispanic Male
VUCSA
No Priors
No Community Ties
Bail Outcome: $2,000 Bail/Bond

In October 1995, a Seattle police officer was on routine patrol in an area of downtown Seattle that the Seattle Police Department had designated a Stay Out of Drug Area (SODA) Zone 2. At around 6:05 p.m., the officer saw two males, the defendant and a companion, standing with a woman. All three were looking at something in the companion's hand. When the trio spotted the officer in his patrol car, the two men walked in one direction while the woman walked in another.

The officer stopped the woman and asked her what was going on. She replied that she was "trying to buy dope." When asked from whom she was trying to make the purchase, she said, "The one in the blue hat" (the defendant's companion). The officer attempted to clarify her answer by asking if she meant the male with the dark hat with a marijuana leaf on the brim. She confirmed that he was indeed the person she had attempted to buy from. The officer looked in the direction in which the defendant and his companion had walked, and saw them slip around a corner.

The officer then drove around the block and confronted the two men. As he came up behind them, he saw the men involved in a hand-to-hand exchange. As they completed the exchange, they looked back and saw the officer's car. They immediately thrust their hands into their pants pockets.

After telling the men that he wanted to talk to them about narcotics activity, the officer patted down the defendant's companion, searching for weapons. Upon asking permission, he then searched the companion's pockets, but did not find anything. The officer then patted down the defendant for weapons. The defendant asked why he had been stopped. The officer explained that he suspected they were involved in narcotics activity. The defendant denied involvement with narcotics and gave the officer permission to check his pockets. Searching the defendant's left pocket, the officer found fifteen pieces of what appeared to be rock cocaine. The defendant was then placed under arrest. A field test of the substance gave a positive result for the presence of cocaine.

In the probable cause statement, the Deputy Prosecuting Attorney requested bail in the amount of $2,000. The Superior Court set bail at $2,000.

The descriptions in the probable cause statements provide differing impressions of the suspected offenses. Although the defendants are "equivalent" in the types of characteristics included in the statistical analyses for the study, their "stories" are quite different. Case 2 is presented as drug dealing (*e.g.,* a woman admitted to police that she was attempting to buy drugs from the defendant; the quantity of cocaine found on the defendant; the defendant presenting himself to others as a dealer). In contrast, the circumstances described in Case 1 is one of a transient drug user (*e.g.,* the smaller quantity of cocaine recovered from the defendant; no clear sale transactions; the recommendation of the prosecuting attorney to release the defendant to the Drug Diversion Court). Whereas an empirical analysis would observe differences between the cases that might only be attributed to the defendants' different ethnicity, the textual descriptions of the crimes suggest an alternative interpretation. The Hispanic/Latino defendant's alleged crime was more serious by the standards of the King County Prosecuting Attorney and under the Washington Rules of Court than the white defendant's alleged crime.

The analyses reported in this chapter did not undertake case-by-case textual comparisons for the entire study sample. It is possible that some of the racial and ethnic disparities in pre-trial release and bail decisions for the sample are caused by significant qualitative differences between the offenses and the personal circumstances of minority and white defendants. To the extent that these types of differences contribute to disparities reported in the analyses, any interpretation of the disparities as solely the

result of racial bias in the courts would be erroneous. Disparities have complex causes. Among them are important qualitative differences between defendants in the types of crimes with which they are charged. However, no significant qualitative differences across cases were observed in the analyses that in any way diminish the observed influence of race and ethnicity on pre-trial release and bail decisions. [25]

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[25] In exploring for potential race differences in bail outcomes, one must consider the possibility that qualitative differences in crimes may moderate the effect of race. Although the legal definitions may be similar, vast differences exist among the offenses which comprise particular categories of crimes. The relative severity of the crime, not captured under the legal categorization, may explain or partially explain differences in bail outcomes. For example, one defendant charged with second-degree assault may have verbally threatened the victim with a gun while another charged with the same offense may have actually inflicted bodily harm. Differences in bail may accompany these qualitatively different, yet legally similar, crimes. The purpose of this analysis was to evaluate whether the differences in bail outcomes attributed to race could be explained by qualitative differences in the offenses.

The qualitative accounts of offenses were based on the statements of probable cause issued by the King County Prosecuting Attorney when charging an individual with a crime. These statements contain a description of the alleged crime as interpreted by the prosecutor assigned to the case. As such, they provide one of the few sources of data pertaining to the seriousness of an offense. Many probable cause statements also include a suggestion by the prosecutor as to the amount of bail that should be set. Although the prosecutor's recommendation may differ from the final bail established by the court, it was used in this analysis because it can be directly linked to the narrative of the crime. Final bail decisions may be based on additional information about a case; such as information not present in the probable cause statements or elsewhere in the court file.

In order to compare white defendants with nonwhite defendants, the individuals in the sample were matched based on gender and offense charged. The probable cause statements were copied by an assistant from the Superior Court files maintained for each offense. For instance, a typical comparison would involve a white male charged with second degree assault versus an African American male similarly charged with second degree assault. One hundred thirteen (113) matches were examined.

For each match the probable cause statements for both defendants were evaluated in order to determine whether differences in the severity of the crimes existed and could account for the discrepancy in suggested bail. In addition, the prior criminal history of the defendant was noted when applicable, as it may also impact the bail recommendation. After two independent analyses of each match by different readers, general patterns were noted and evaluated with the two readers working in tandem.

Three categories of classification were devised based on the results of the interpretations of the probable cause statements. The first category included those matches which were judged qualitatively similar or different with no confounding variables. Thirty-six matches were found to be qualitatively similar and also had similar recommended bail. For example, in Match #2, the white defendant was accused of forgery in the amount of $400 while the nonwhite defendant was accused of the same crime in the

amount of $200. The white suspect had four prior offenses listed while the nonwhite suspect had three. The prosecutor suggested bail of $5,000 for the white defendant and $3,000 for the nonwhite defendant.

An additional thirty-nine matches were considered qualitatively different. The offenses described in these pairs differed to such an extent that discrepancies in bail may be attributed to their varying degrees of severity. For instance, in Match #19, a white male and a nonwhite male were charged with Violation of the Uniform Controlled Substance Act. The white male was alleged to have possessed a container which appeared to contain cocaine residue. He received a recommendation for Drug Diversion Court with no bail amount. The nonwhite suspect, however, was found with approximately $1,500 worth of cocaine and bail in the amount of $5,000 was requested.

The second category consisted of matches where the crimes were judged qualitatively similar or different, but where the prior criminal history of one defendant seemed to account for the difference in bail. Every match placed into this category contained some discrepancy in the bail decision. In this category, 5 matches were found to be qualitatively different, but their past criminal history seemed to carry more weight. For example, in Match #125, both defendants were charged with Violation of the Uniform Controlled Substances Act. The white male was found to have a negligible amount of drugs and had no criminal history and was recommended for Drug Diversion Court. The nonwhite male, however, had a larger quantity of drugs and a criminal history, including two felony convictions. The prosecutor suggested bail in the amount of $5,000 because of the larger amount of drugs and a criminal history, including two felony convictions. In this case it was assumed the criminal history was a more important factor in the bail recommendation.

In 17 matches in which little qualitative difference was noted, the discrepancy in bail seemed attributable to a defendant's prior criminal history. For example, in Match #162, the nonwhite suspect charged with possession of stolen property had ten prior convictions. Although also charged with the same crime, the white defendant had no criminal history. Since the two cases contained qualitatively similar accounts, it was assumed the nonwhite defendant's criminal past may have influenced the bail recommendation.

The final category consisted of those matches which could not easily be included in the previous classifications. Neither prior criminal history nor any difference in the severity of the crimes could account for the prosecutor's suggested bail within these matches. Of the remaining sixteen cases, eight recommendations for bail favored the white defendant, while an additional eight favored the nonwhite defendant. For instance, in Match #67, a white female and a nonwhite female were both arrested for Violation of the Uniform Controlled Substances Act. Although the amount of drugs each possessed did not vary much and both had similar criminal histories, a considerably lesser suggested bail was recommended for the white suspect than for the nonwhite suspect.

Based on the probable cause statements reviewed for this study, little evidence could be found that qualitative differences in the severity of crimes mediate the effect of race on pre-trial release or bail decisions. In a number of cases it appears that disparities in bail are explained by the severity of the offense or the prior criminal history of one of the defendants. However, the data do not indicate that minority or nonwhite defendants commit more severe crimes and thus receive higher bail.

V. PERCEPTIONS AND KNOWLEDGE ABOUT RACIAL AND ETHNIC DISPARITY AND ITS CAUSES

This section of the report describes the perceptions and views of criminal justice officials in King County on racial and ethnic disparities in pre-trial release and bail in felony criminal cases. It is based on interviews conducted with persons across the county on aspects of the crime problem, the administration of criminal justice, and larger social issues that may influence levels of racial and ethnic disparity in bail processes.

Twenty officials in King County were interviewed as part of the project. These officials included judges on the King County Superior and District Courts, attorneys from the Office of the King County Prosecuting Attorney, defense attorneys, and numerous staff from the King County Correctional Facility (Jail). The interviews focused on those persons' perceptions of racial and ethnic disparities in bail decision-making, their views regarding the causes of disparity, and any remedies or solutions they may have suggested.

The remainder of this section of the report is divided into three parts corresponding to these areas. The *first* part summarizes interview respondents' perceptions of the seriousness and causes of disparities in pre-trial release and bail

setting. The *second* part addresses interview respondents' perceptions of problems unique to the King County bail process that may contribute to disparities. The *third* part of this section describes interview respondents' recommendations regarding solutions to disparities in pre-trial release and bail setting.

A. *Racial and Ethnic Disparities In Bail and Pre-trial Release*

Many respondents expressed the concern that racial and ethnic disparities in pre-trial release and bail decisions are a significant problem. Most felt the over-representation of persons of color or minorities is a highly visible and troublesome issue in the courts. One judge described the problem in the following manner:

> From my perspective . . . , disparity in the population—the race population here in the jails is probably more of a result of . . . . police philosophy, you know, drug crimes and the things that they're focusing on. Especially street drug busts, rather than any practices by individual judges. Although, I'm sure there are judges with certain biases. . . .

Another judge stated a concern with the make-up of participants in the courtroom:

> Well, I see the disproportionate numbers. When juries come in, when they bring a jury pool in for any trial, and I see the majority is of the white population. I don't see the minorities represented in our jury pool. I don't know if that has an impact then on the individual, if they are . . . doing time in a jail. And therefore, if they don't come back to a court date, then they're back into the jail and so that creates an increase in the jail population and the unfortunate overrepresentation of minorities in the jail population.

Perceptions of the causes of disparity, however, varied widely. Some respondents identified organizational constraints on courts, while others discussed the unintended effects of significant cultural differences among defendants.

Organizational Constraints on Courts

Many respondents mentioned the difficult organizational pressures of criminal courts, particularly the heavy court workload. While these pressures may adversely affect all groups of defendants, many felt they were especially problematic for those populations that cannot afford a private attorney because of financial difficulties. Most believed the workload pressures conspire to create serious setbacks for minority defendants because in the main they must rely on court-appointed counsel. For example, in describing the extensive number of cases processed on a daily basis in the King County Superior Court, many persons felt that each case is not given adequate attention. In particular, case overload does not allow many defense attorneys, and especially overworked public defenders, to become familiar enough with each case that is assigned to him/her. The result is that cases involving minority or nonwhite defendants may receive less attention from the courts and, as a result, may be handled in a cursory manner. This condition, many respondents felt, fosters conservative recommendations for pre-trial release and bail-setting. For minorities, this is likely to result in either being denied release on personal recognizance or having high amounts of bail set.

One defense attorney explained the problem of court workload in the following way:

> The ability of a defense lawyer to argue effectively at arraignment is very limited because at that point the client does not actually have a lawyer who's been assigned previously to work on the case to get things in order. Plus the calendar is a large calendar and the court is literally rushing through it, and is spending just a few minutes on each case. So there's an institutional or structural incentive not to spend a lot of time per case.

Another defense attorney described the circumstances in which decisions regarding bail and pre-trial detention are made for most defendants:

> Because the defense structure is the way it is, we have one person only doing arraignment. All the cases that are set for trial go to one deputy. All the ones that don't, are actually just calendar people that know very little about the case. The vast majority of cases are handled by "talking heads"; they know almost nothing about the case.

This may adversely affect the legal representation afforded defendants in bail-setting decisions, particularly indigent defendants. One deputy prosecuting attorney argued that:

> Defense Attorneys do a disappointingly poor job on bail hearings ... and maybe it is because they can't .... But when you watch that process play day in and day out, so many of them appear to be nothing more than pro forma. They're not getting people's relatives in or folks in; they're not doing some of the things that I feel would be more persuasive if I was trying to get my guy out. And particularly at the lower level. If I wanted to explain to a judge why these FTA's [failures to appear] were

> really related to a licensing problem the guy had, I think it's my obligation as a defense lawyer to be able to march that through, run his DOL [Department of Licensing] record check, have it laid out, and be able to go in and make a compelling pitch. I don't think they do that.

Many respondents felt that racial disparities emerge from race differences in resources. This exchange between the interviewer and a deputy prosecuting attorney emerged during a discussion of why minorities, who are more frequently represented by court-appointed counsel, may fare less well than whites in criminal court proceedings:

> INTERVIEWER: Do you think that defendants represented by private counsel are going to be in a better position than defendants represented by public defenders?
>
> DEPUTY PROSECUTING ATTORNEY: Yes
>
> INTERVIEWER: How so?
>
> DEPUTY PROSECUTING ATTORNEY: I think that defendants represented by private counsel are not poor people. So they're people with a lot more community contacts. They probably own more homes. They have jobs. They've been living here a lot longer. Just the whole nine yards. So I think that all makes an influence plus the private attorney will probably be better prepared than a public defender will for a lot of cases. A private attorney will also have a ton more to work with—more information and more resources. A private attorney will bring in ten people to vouch for their client; he'll bring in the minister; he'll bring in mom and dad, brothers and sisters. They'll bring in the boss from work to say, "this guy's got a job—I want him back", that kind of stuff.

The problems associated with heavy workload often extend to judges. One defense attorney felt that judges give too little time to bail decisions because the first-appearance calendars are very full. This attorney argued that:

> It's highly unlikely that the judge is going to read every single case, and then think about every single case, and then ask for more information like, "I want to see the jail screening sheets, and I want to think about this a little bit," on thirty-three cases just for one day. On a heavier filing day, you might have fifty cases; maybe on a lighter one, you'll have twenty, but this would represent a lot of time for a judge to do that.... And so my guess is that, by and large, at best it's a cursory look.

Most importantly, the heavy workload may create a situation in which important information regarding each case is missing or unavailable to the judge. For example, information regarding the circumstances of the crime or the extent of a defendant's prior offenses may be inaccurate. Personal recognizance screeners voiced the concern that, with a heavy caseload, they must rush and give very limited time to individual cases:

> INTERVIEWER: How does being overworked affect your job?
>
> PRE-TRIAL SERVICES OFFICER: You don't spend enough time on a case. It means you rush your decision. It means you rush through your interview. You might not [conduct] a national history check when you really should, if you had a few more minutes. It means you didn't try repeatedly to get a hold of a reference; you tried for a ten minute period, and you wrote it up and you're done with it.

Many of those interviewed felt that one final consequence of limited time and information at bail setting is that, to a great extent, judges base their bail and pre-trial detention decisions on the recommendation of the prosecuting attorney. Because judges themselves operate under heavy caseloads and time constraints, they may look to the prosecutor in a great majority of cases for the facts. This is not to suggest that judges do not make independent decisions or never deviate from what the state recommends concerning bail decisions. But to a large extent, judges do place considerable value on the prosecutor's recommendation. However, one deputy prosecuting attorney explains why the prosecutor's recommendation is so important to judges for bail decisions:

> We have the police reports then [referring to the filing stage] but nobody else does. So we have a lot more information about the crime. And even at arraignment, the attorney that's representing the person, if it's a private attorney, they probably have a lot of information but for a vast majority of people, it's a public defender. And again, that's the first time that the public defender has seen that person. So, they don't have any information about that person other than what's maybe whispered in their ear as they stand there. Whereas we've read all the police reports, we know a lot of background about the person. We may also have a lot more information because we've had contact probably with the victim, especially on a violent crime.

According to many persons interviewed, including judges, this practice gives the state power and influence in initial bail decisions, while the ability of defense counsel to influence the judge's decision is severely limited. One such observation is:

> I think uniformly the judges are affected by the prosecutor's position. The setting of the bail prior to arraignment is something that is made at the request of the prosecutor. And I've never really seen where the judge scratched something out and put a different bail amount. Also at arraignment, when you look at the arraignment calendar and you see twenty thousand next to one person, zero next to the next person. The judge doesn't suddenly say, "Well, wait a second. Let me look at this case. Why is this zero? Why should this person be PR'd?" If the prosecutor says "PR", the judge is not going to say anything. So, uniformly, its safe to say that the state has a lot of power in the amount of, well they have all the power in the amount of bail set, and whether the judge is going to take a look at it and when the judge is going to agree or not agree. State says "bail set," bail is set. State says "person is PR'd," invariably, unless something very unusual occurs, that person is going to be PR'd.

In sum, many respondents felt that the resource constraints in criminal courts have created a system of justice that is responsive primarily to the needs and desires of defendants with resources. Because minority or nonwhite defendants may have fewer personal resources, they are more likely to rely on court-appointed counsel who, because of their heavy case load, may not be able to devote as much attention to the case as a private attorney might. Further, many respondents felt that information limitations prevent thorough consideration by judges of the circumstances of each case

in determinations on pre-trial release and bail setting. Some argued that judges are placed in such a position, because of the absence of extensive information on defendants and sufficient time to consider cases, that they are inclined to follow routinely the recommendations of the prosecuting attorney for pre-trial release and bail. It is the combination of these two forces—minority defendants relying more heavily than white defendants on overburdened court-appointed counsel and judges following recommendations of prosecutors because of constraints of time and information—that may result in racial disparity in bail and pre-trial release decisions. The organizational pressures of workload create an environment in the courts in which minority defendants may be less able than white defendants to make an effective argument for release pending trial or for lower amounts of bail.

Cultural Differences

In addition to the adverse effects of court workload on minority or nonwhite defendants, some of the persons we interviewed discussed the increasingly important role of cultural differences among defendants in pre-trial detention and bail decision-making. For example, many felt that cultural differences complicate bail and pre-trial release decisions beginning with the defendant's earliest contact with the police. One attorney summarized the problem in this way:

> I think that you have to go even prior to the actual court contact, because as I said last time, release decisions begin with the arresting agency. Police have the power to book you and: identify and release you. To the extent that there may be

> language and cultural barriers, an officer makes an individual assessment, his ability to communicate, feel comfortable with the person, know whether the person in his opinion represents a danger or not, and to the extent that maybe people of color may seem, I don't know, he may have less experience with those people, he may not speak the language, there may be a tendency to actually book these individuals.
>
> The issues of race and ethnicity actually continue on, not only from the initial arresting officer, but every other person in the system that the client comes into contact with. And that would go to the jail screener, who does the initial interview upon booking, and their getting assessment, what kind of person is it. They have put on the bottom sometimes, "cooperative" or "uncooperative". And so you're getting these gut feelings, and sometimes you look at the court service screening sheets and you say to yourself, "How come they're recommending release on one case and not on another when there really doesn't seem to be much of a difference?" One guess might be that was there was a different kind of personal interaction. And again, some of the same practical problems in terms of a client who does not have the same cultural background, language skills, may not seems as articulate. They won't present as well.
>
> And there are the objective kinds of problems like trying to call and verify the residence and work. You call a person in a Southeast Asian family; either no answer or somebody who's not speaking English and there's no way they're going to verify, and what's going to show up on the screen is, "not verifiable", which is a bad thing for release.

From the perspective of this respondent and others interviewed, the norm among justice officials, when they are unable to verify important information, is to make conservative decisions, erring on the side of caution by recommending against

release on personal recognizance or recommending high amounts of bail. One jail staff member and pre-trial services officer stated the problem this way:

> We probably would recommend release more often, but one of the biggest obstacles for [me] is being unable to reach the references or to verify the information we're given. If I can't verify it, I can do nothing but recommend against release. At one time we were given three options. We were given "recommend PR", no PR, or "no recommendation", where you give the judge all the information and then it will be up to him to decide. So often we would go "no recommendation". But they took that no recommendation option away from us so we usually end up erring on the side of caution and we go "no PR".

Some of those we interviewed perceived distinct cultural differences concerning defendants' residential stability and transience. In particular, a few felt that African Americans and Hispanic/Latinos in King County had higher rates of transciency than whites and were therefore more likely to be perceived as having "weaker" ties to the community. Transience, according to the persons we interviewed, is highly correlated with failure to appear at subsequent court proceedings. For this reason, the extent to which a person is perceived to have strong ties to the community, in the form of a stable address and longtime residence in the area, affects the likelihood of release. One judge discussed this in the context of explaining the information provided to the court by the jail's pre-trial services officers:

> Well this is one of the things about these sheets—the court services interview sheets. If you look through, say, a week's worth, you'll find the Hispanics may have been in the state only a relatively short time. I've had cases where the defendant had been in Seattle one day when he was arrested. You'll find one day, one week, one month. Naturally, they don't know their

> address. They can tell you they stay at the Salvation Army, but, they just came here. Now how are you going to release somebody like that? And they will all be Hispanics.

The following exchanges between a pre-trial services officer and the interviewer offers a similar account:

> OFFICER: I don't think PR [personal recognizance] has too much to do with jobs. But it does have to do with being able to verify information. Minorities might be a little more transient. Seems like maybe they're moving around more and we have trouble pinning them down. Especially the Hispanic population. You know there's probably a pretty high figure there. And they are, as a group, quite transient.
>
> INTERVIEWER: You say transient because when you go to call to verify you can't verify?
>
> OFFICER: Well, yes, a lot of them are field-workers. Maybe they don't have a place, an address at all. They'll be in Eastern Washington during the growing season. Then they come over to Seattle in the off season. And they might just not have a stable place to stay.

Another judge reflected on the relationship between race, ethnicity and residential stability:

> And I think [stability] varies in terms of the minorities. To me, it did not make a difference what a person's race was, but in terms of, for example, Hispanics, the likelihood that they are not from the area, that they have come here from another country, that they are not in the country legally, that there is some question as to their identity, and the fact that they often moved to the area from some other location outside the United States and are selling drugs to support themselves for which the penalties are severe. That clearly impacts the number of Hispanics that are in jail. Limited local ties, if any, questionable legality in the country, and they are doing crime obviously to support themselves on the street that offers severe penalties in prison.

Thus, race and ethnicity are perceived by justice officials as strongly connected with cultural differences and problematic living circumstances that reduce the likelihood of pre-trial release. The complication lies in part with the perceptions of some officials that many minorities are residentially unstable and have higher rates of transiency. Equally important, however, is the fact that state laws equate problematic or difficult living circumstances with failure to appear at court proceedings and failure to comply with court rulings. The result is that minorities may be disproportionately denied pre-trial release due in part to the residential and living problems they may be more likely than whites to have.

B. Problems Unique to King County Bail Process

Throughout the interviews, specific issues about pre-trial detention and bail practices in King County surfaced as potential factors contributing to racial and ethnic disparities. These issues, while likely problems in other counties and even other states as well, influence the likelihood that nonwhites or minorities may be more likely to be detained pre-trial than whites, given their proportions in the general population. The issues include the community differences in law enforcement practices within King County, intensified enforcement and prosecution of drug crimes, and the regionalization of criminal justice in King County.

One of the most interesting perceived causes of racial and ethnic disparity mentioned by those we interviewed has to do with the arresting context, or the geographic area in which the arrest is being made. One lawyer spent a great deal of time explaining that the area in which the arrest takes place has a strong impact on the likelihood of detention for the individual, with certain areas of King County yielding more identification and releases (termed "I and R") and fewer trips to the jail for booking and holding. More specifically, it was stated that Eastside law enforcement agencies, located outside of the downtown Seattle area, for certain types of crimes bypass the trip to downtown Seattle headquarters because of time and distance. But arrests made in or near the downtown area of Seattle rarely warranted mere identification and release because of the short time and distance required to bring the individual in for formal booking and holding. One lawyer explains the importance of arresting context in Seattle:

> If you're arrested for a felony in Seattle, you're going to jail. You may get released at some stage but you're going to be put in jail. Same is true mostly for King County Police. So if you're arrested in Burien, or White Center, you're going to jail. If you're arrested on the Eastside though, especially for a non-violent crime, you're not. For non-violent crimes or even for some violent crimes, the not so serious ones, they book and release. In other words, they take them to the station, do the paperwork, fingerprint them, take pictures, and all that stuff and then let them out. I think that's one thing that at least initially makes a difference.

This illustration is important primarily because, to the extent certain racial groups or persons of a particular social class tend to live in the downtown area, they will be disproportionately affected by local police practices. On the whole, they will tend to be treated more formally than their Eastside counterparts, resulting in greater likelihood of booking and detention. This practice has the potential to negatively impact the bail and pre-trial detention outcomes for those defendants.

Intensified Enforcement and Prosecution of Local Drug Crimes

Related to this issue is another factor—selective law enforcement—which those we interviewed perceived as problematic for individuals residing within King County and, in all likelihood, other urban communities. It seems to be common knowledge that certain crimes within King County receive special attention and are especially targeted by the police and the criminal justice system. Some interview respondents identified drug crimes as particularly salient targets for arrest and criminal prosecution. The attention devoted to drug crimes and the heightened punishment associated with those crimes results in more punitive treatment and more stringent sentences. But the greatest impact of intensified drug enforcement and prosecution is on nonwhite or minority defendants:

> Without question, in any major urban area, and particularly in Seattle, the police make intentional undercover, highly concentrated efforts in the downtown corridor, or wherever it may be, to arrest dealers . . . . And, unfortunately, for whatever reason, a lot of it involves either Black or Hispanic

> individuals. The overwhelming majority of them are either Black or Hispanic. But (the police) are responding to a lot of pressure from the community to try to do something about these areas, wherever they may be. But what I am saying is that I don't think that same focus is involved in burglary or forgery or whatever.

The fact that minorities, compared to whites, tend to be involved in drug crimes targeted by police signifies that this group may receive harsher punishments. To the extent that minorities are more likely to be economically disadvantaged or culturally different from justice officials and the rest of the community, as noted earlier in this report, they are also more likely to be held in custody prior to trial. Thus, the result of intensified enforcement and prosecution of street-level drug dealing and possession is heavier concentration of racial and ethnic minorities in all aspects of the criminal justice system, including the population of persons detained prior to trial.

Some respondents felt that the aggressive approach to law enforcement has carried over, in some instances, to the setting of bail. One lawyer who practiced in another part of the country before moving to Seattle thought that in some instances bail amounts were excessive given the indigency of many of his clients:

> . . . [I]t's really interesting to see how more punitive the courts have gotten in terms of release . . . . You see bails put on people at this stage which are just outrageous. . . . And you can also see from the political climate what cases are going to have high bail set, such as domestic violence cases now. It's routine both in Seattle and Issaquah. . . . And it's absolutely, "no way". Most of our clients don't have any money.

A factor some interviewed respondents felt may aggravate racial and ethnic disparities in all aspects of the administration of criminal justice, including pre-trial release and bail, is what some respondents described as the regionalization of the criminal justice system in King County. With the new Regional Justice Center facility recently opened in Kent, Washington, many have expressed concern that logistics problems associated with operating two jails for one county will only compound any racial disparities that already exist. In particular, those we interviewed are worried about the quality of services that can be provided to defendants, given the bifurcation of the court system and correctional system in King County (Seattle and Kent). One lawyer explains:

> I am talking about the growth of the criminal justice system and the regionalization, as well as the substituting of audio-visual for actual presence. I think that's going to further prejudice people if you're making individual assessments. And the other thing about it is that even if you don't substitute, you may have potentially greater lags in release because whenever you have regional kinds of locations it means potentially moving people from location to location. And so I think regionalization fractures the client's access to legal resources, both to lawyering and to an actual courtroom, either because you're going to be on TV, or because there's going to be a delay in the time from booking to going to court, because they're moving you from one facility to another.

C. *Recommendations Regarding Remedies for Disparities*

Many of those interviewed had suggestions or recommendations regarding remedies for racial and ethnic disparity in bail and pre-trial release. Most of the suggestions target the structural problems of the courts which are perceived to cause much of the disparity. Included among the recommendations were increased information on defendants' backgrounds and personal circumstances, increased and more effective enforcement of warrants, increased information about the local causes of crime, and increased structure in bail decision-making in felony cases.

Increased Information on Defendants

Many of the lawyers and judges argued for providing all parties with more information about a case at the initial stages in the process. Increased information would allow those involved in release decision-making, such as personal recognizance screeners and judges, to make more informed decisions, thus releasing more of those who should be released while detaining more of those who, according to legally prescribed criteria, should be detained. An interview with one judge was as follows:

> INTERVIEWER: Are there aspects of the process you would change?
>
> JUDGE: Absolutely. First of all, we have information that is gathered very quickly, is often very sparse, and may not be accurate. And very often we will not have the complete story. So you have incomplete, questionable information, you have a short period of time in which to make a decision, and try to get it right and hopefully nobody gets hurt—which is the ultimate.

Similar comments were made by a deputy prosecuting attorney:

> I think the only way would be to have more information at any stage you're actually asking for bail. The more information you have the better bail recommendation that you can make. And I think the court has a better ability to set bail. I mean it's all based on how much information, how much you know about the facts of the crime and about the person standing in front of the court. And the problem is, that each stage you go along, you have more information and you probably make a better determination. But, if you had more information at the first set, the first time the person appears before the court, you'd probably get better bail setting.

A defense attorney expressed a nearly identical perspective:

> It would probably make a world of difference if you have some mechanism where following the first appearance it was clear that the person was being filed on, that council was appointed, that you had an opportunity to work things up before arraignment so that earlier on you'd be able to have your interpreters, get the information, contact the family members, verify the work and do whatever was necessary to get the information to the judge that would put the person in the best light for release.

Clearly, most respondents felt that the ability to know more about a case and to be better prepared at earlier stages in the process, such as at the arraignment stage, would not only lead to more effective decisions, but would also give the defendant fair representation.

Many interviewed respondents identified the problem of compliance with warrants and summons to court as critical to understanding why many nonwhites or minorities may be detained at higher rates than whites. One prosecutor argued that:

> What disproportionately impacts people are the FTA's [failures to appear]. And FTA's can mean a lot of different things. It doesn't necessarily mean bail jumping or escape. . . . [T]he same people who drive without licenses are the same people who don't show up. And when you don't show up, they put out bench warrants. You can really rack up an enormous amount of what we call FTA's. And it doesn't mean you're some sort of horrible, heinous criminal, but you've demonstrated some inability to be able to come forward on your own on these low-level matters. And we extrapolate from that.
>
> But I think that this ends up being a very profound thing, when we can write at the end that this is this kind of offense and this person hasn't shown up in court the last six times. The judge goes, "I know what to do here; I'm not even going to put bail on him." They're not going to get out. They're not going to get PR if they haven't shown up on those other occasions. It's an objective factor but there's FTA's and there's FTA's. And you could argue whether or not there should be some other more discriminating kind of approach to that. I mean, Mark's got a whole legislative platform related to the court system's obsession with driving while license suspended and what an enormous volume of cases it is. And the phenomenon he describes is the domino effect of how these cases end up getting adjudicated over and over and over again. And that the resources get chewed up with people being booked and rebooked and booked again, and the cases just go on and on and on.

One judge, agreeing that some minority persons are more likely to have failures to appear, argued that the courts must more effectively enforce warrants in order to send the message to persons with traffic and other misdemeanor offenses that compliance with court directives is extremely important.

> The way to solve a lot of the credibility problems, a lot of the jail population problems, a lot of the failure to appear problems, is you have sufficient jail space, you issue the warrant, you hire retired police officers to go out and get them, and they're told, "This is your responsibility. If you don't show up, somebody will come looking for you, they will find you, arrest you, and will keep you until you get this case resolved." And I think that, ultimately, besides the somewhat theoretical abstract concept of making the system more credible, more people will show up, more cases will be resolved more timely – reducing the backlog – more people will stay out of jail rather than being constantly churned through the jail because they're arrested on warrant after warrant, for which we didn't have the room to keep them. And I think, in terms of the race disproportionality, have a beneficial effect because then it comes down to, not your race, not your economic background, but what you've been showing. If you show you're responsible then you're out. If you're not responsible, you're in. It's up to you. If we get to a system where the showing up criteria is the true measure of whether they get bonded out or not, then we have a credible system.

Increased Information Concerning the Local Causes of Crime

Some of the persons interviewed expressed interest in increasing knowledge about the local crime problem. One judge argued that very little is known about the racial and socio-economic composition of King County defendants, let alone their backgrounds or the aspects of their lives which might be related to their criminal

activity. Given this, the judge recommends that, first, we take an in-depth look at exactly who is entering the criminal justice system; and, second, that we attempt to determine what aspects of the criminal justice system in King County may play a role in influencing the kinds of individuals who ultimately come to the attention of King County police officers and court officials:

> One of the places I would like to see us start is to do an in-depth profile of the people we have coming to court, because I think you are going to see that the system, and society itself, 1) insures pretty much that we are going to get a disproportionate number of African Americans in the system in the first place; and 2) that trickles down because of the background into the decisions that are based on more traditional family backgrounds, more traditional educational backgrounds, ecetera, and work backgrounds. Without complete understanding of the people, both African Americans and others that we have coming through, I don't think we can really address it because the reaction sometimes is that it's racist. And, you start with that and the only solution to that is to make decisions based on race, but make them in favor of it. And that is not acceptable either; it should be based on the person and their individual circumstances, regardless of the race. But we don't even know the common denominators, other than we have some gut reactions from experience. And unfortunately with that, you get into the risk of stereotype.

In sum, respondents identified many factors that contribute to racial and ethnic disparities in bail and pre-trial detention. Together, the factors represent the constraints that conspire to keep nonwhites or minorities from obtaining pre-trial release. While the immediate consequences of pre-trial detention are obvious (*i.e.* denial of freedom of movement), the consequences extend beyond immediate freedom.

In particular, decisions made by courts regarding bail and pre-trial release in one case influence decisions in subsequent legal proceedings. One deputy prosecuting attorney argued forcefully that if the defendant is initially granted personal recognizance and then successfully appears at future court proceedings, the judge will tend to look extremely favorably on that defendant:

> If, in the life of the case, [defendants] have demonstrated a history of showing up, that's very powerful. For instance, on a case where we've charged somebody and they're at large, we send out a summons saying your arraignment is on this date. When you're arraigned, you're booked at that . . . time. Then the issue of your continued release is litigated at that point. If you've voluntarily submitted yourself to the process and come in, that's a real powerful factor for judges. Appropriately so. To say, "Well, the prosecutor was right in the first place to ask for five thousand, but I'm impressed with your appearance here today and that you've come in on your own to appear. And I'm going to send you to supervised release, or maybe grant you a PR with some conditions." These people are in a whole different category from the folks that get detained or those who don't appear.

Thus, some respondents believe that defendants who are released pre-trial have the opportunity to demonstrate that they will comply with court rulings and appear at future proceedings. Ultimately, this may translate into more lenient handling of their cases, perhaps either by acquittal at trial or by receiving less punitive sentences following conviction. To the extent that nonwhites or minorities are denied initial opportunities to comply, either by the setting of stringent conditions of release or by their own inability to marshal resources for release, courts may also be denying them the opportunity for more lenient disposition of the criminal charges against them.

VI. SUMMARY AND CONCLUSIONS

This study has three important findings. *First,* substantial racial and ethnic disparities exist in pre-trial release and in bail setting in felony cases in King County. The courts are more likely to deny nonwhites or minorities release on personal recognizance at higher rates than whites, to require more minorities than whites to pay monetary bail, and, ultimately, to retain minority defendants in custody pending the outcomes of their cases more frequently than whites.

Second, the disparities occur primarily because minority defendants tend to be charged with more serious offenses, may have more extensive criminal histories than whites, and may be less likely to have established ties to the local community in the form of steady employment, stable residential addresses and ready references.

Third, disparities also occur because race and ethnicity seem to matter in the disposition of criminal cases above and beyond the influence of case-related characteristics. They matter in part because the outcomes of criminal cases, at least in relation to pre-trial release and the setting of bail, depend upon access to resources. Because minorities are less likely than whites to have extensive resources, they are less able to afford the most effective legal representation possible. Without these resources, minorities become subject to the organizational pressures of the courts. All of the justice officials interviewed in the study argued that these pressures conspire

against defendants who are resource poor. Race also matters because the courts have difficulty in responding to the challenges of cultural differences among defendants. Cultural differences bring problems of language and communication that make verification of employment or residence, or other evidence of ties to the local community, problematic. Yet ties to the community are critical in judicial determinations of pre-trial release and the setting of bail.

That race and ethnicity matter in the disposition of criminal cases is a serious concern for the courts in Washington. It implies that, despite the efforts of judges and others dedicated to fairness in the administration of justice, justice is not administered fairly. There is no evidence in the present study that disparities are the product of overt, prejudicial acts by court officials. Rather, the causes are far more complex and are associated with the organization of courts and the rules and guidelines established by the Legislature and the courts.

The courts must assess how the disparities observed in the present study can be remedied. Obviously, the remedies must focus primarily on the context and structure of decision-making, rather than on individual decision-makers. The remedies must seek to alter policies and rules that inadvertently militate against fairness in pre-trial release and bail outcomes. An important concern must be whether some of the criteria established in the Washington Rules of Court for determinations of release,

given that they may discriminate unfairly against persons who are economically disadvantaged, are useful or necessary. The courts must ascertain whether these criteria, given their obvious limitations, actually assist in determining whether defendants comply with court directives or appear at important court proceedings. Equally important is how courts and court officials respond to the increasing cultural diversity among defendants in criminal cases. This response must extend beyond necessary education for judges and other officials on racial and ethnic diversity and inclusiveness. It must address fundamental problems of communication and language that continue to complicate assessments of defendants and their cases. Finally, the remedies must look to the information needs of courts and court officials. By improving the quality of information judges and other officials have about defendants and their cases, courts may more effectively address inequities in pre-trial release practices that disadvantage entire classes of defendants.

George S. Bridges, Darlene Conley, Rodney L. Engen and Gina Beretta, *Racial Disproportionality in the Juvenile Justice System: Final Report.* Prepared for the Washington Department of Social and Health Services and the Washington State Legislature, 1993.

Robert D. Crutchfield and George S. Bridges, *Racial Disparities in Imprisonment: Final Report.* Prepared for the Washington State Legislature, 1986.

Ferguson, Jr, Royce A., *Washington Practice, Vol. 12, Criminal Practice and Procedure with Forms*, St Paul (Minn), West Publishing Company, 1996.

Washington State Judge's Benchbook Criminal Procedure, August 1996.

Washington Court Rules, State (1996).

APPENDIX A

STATISTICAL RESULTS OF MULTIVARIATE ANALYSES OF PRE-TRIAL RELEASE AND BAIL OUTCOMES IN THE KING COUNTY SAMPLE

TABLE 2

WEIGHTED LOGISTIC REGRESSIONS OF RELEASED ON PERSONAL RECOGNIZANCE WITHOUT CONDITIONS[1] ON CHARACTERISTICS OF CASES AND DEFENDANTS

Independent Variables[2]	*Legal Model*				*Assessment Model*			
	B	SE	R	Exp(B)	B	SE	R	Exp(B)
Severity of the first charge	-.1012*	.0225	-.0728	.9037	.0038	.0238	.0000	1.0038
Prior criminal history	-.6953*	.1057	-.1094	.4989	-.2084	.1204	-.0171	.8118
Prior bookings	-.3356*	.0550	-.1011	.7149	-.3129*	.0583	-.0886	.7313
Prior FTAs	.1118	.1342	.0000	1.1183	.5265*	.1474	.0562	1.6929
Community Ties	.4700*	.0473	.1676	1.5999	.3461*	.0698	.0813	1.4136
Minority					-.2225*	.1093	-.0251	.8005
Gender					-.4138*	.1136	-.0575	.6612
Assessment of community ties					.1358*	.0417	.0502	1.1455
PR screener's recommendation					.5980*	.1450	.0663	1.8185
Prosecutor's recommendation					2.8364*	.1514	.3199	17.0541
Hazard rate	-2.3074*	.2212	-.1760	.0995	-.8813*	.2665	-.0512	.4142

[1] Defendant released on personal recognizance without conditions by the Superior Court.

[2] * $p<0.05$

TABLE 3

WEIGHTED LOGISTIC REGRESSIONS OF BAIL SET[3] ON CHARACTERISTICS OF CASES AND DEFENDANTS

Independent Variables[4]	*Legal Model*				*Assessment Model*			
	B	SE	R	Exp(B)	B	SE	R	Exp(B)
Severity of the first charge	.3050*	.0179	.2438	1.3567	.1153*	.0194	.0833	1.1222
Prior criminal history	.8588*	.0820	.1489	2.3604	.4642*	.0942	.0682	1.5907
Prior bookings	.1499*	.0321	.0640	1.1617	.1258*	.0364	.0456	1.1340
Prior FTAs	.4746*	.1040	.0623	1.6074	.1900	.1159	.0120	1.2093
Community Ties	-.3710*	.0408	-.1289	.6900	-.0991	.0590	-.0131	.9057
Minority					.4481*	.0912	.0680	1.5654
Gender					.5253*	.0946	.0776	1.6909
Assessment of community ties					-.2272*	.0349	-.0918	.7968
PR screener's recommendation					-.6431*	.1582	-.0551	.5257
Prosecutor's recommendation					2.8028*	.1432	.2821	16.4908
Hazard rate	-1.7578*	.1851	-.1348	.1724	-1.6962*	.2238	-.1076	.1834

[3] Superior Court set bail as the condition of defendant's release.
[4] * $p<0.05$

TABLE 4

WEIGHTED OLS REGRESSIONS OF FINAL BAIL AMOUNT[5] ON CHARACTERISTICS OF CASES AND DEFENDANTS

Independent Variables[6]	*Legal Model*		*Assessment Model*	
	B	SE	B	SE
Severity of the first charge	.301*	.012	.266*	.010
Prior criminal history	.168*	.065	.093	.051
Prior bookings	-.066*	.023	-.086*	.017
Prior FTAs	.004	.075	-.253*	.058
Community Ties	-.065	.035	.008	.032
Minority			-.131*	.052
Gender			-.080	.058
Assessment of community ties			.025	.018
Prosecutor's recommendation[7]			1.004*	.027
Hazard rate	-.818*	.153	-.824*	.120

[5] Bail amount set by the Superior Court.

[6] * $p<0.05$

[7] Due to high levels of collinearity between prosecutor's recommended bail amount and final bail amount, prosecutor's recommendation was first regressed on final amount, and the residuals used in this equation.

TABLE 5

WEIGHTED LOGISTIC REGRESSIONS OF IN CUSTODY[8] ON CHARACTERISTICS OF CASES AND DEFENDANTS

Independent Variables[9]	*Legal Model*				*Assessment Model*			
	B	SE	R	Exp(B)	B	SE	R	Exp(B)
Severity of the first charge	.1011*	.0151	.1006	1.1064	.0954*	.0155	.0926	1.1001
Prior criminal history	.6570*	.0852	.1167	1.9289	.5640*	.0881	.0962	1.7576
Prior bookings	.1279*	.0299	.0622	1.1364	.1394*	.0307	.0666	1.1496
Prior FTAs	.4257*	.0966	.0643	1.5307	.4421*	.0984	.0657	1.5560
Community Ties	-.1416*	.0439	-.0447	.8680	.1894*	.0542	.0493	1.2086
Minority					.1436	.0865	.0134	1.1545
Gender					.1166	.0921	.0000	1.1237
Assessment of community ties					-.3230*	.0299	-.1648	.7240
Hazard rate	1.0386*	.1950	.0791	2.8254	.9707*	.2000	.0716	2.6398

[8] Defendant detained in custody as unable to meet conditions of release set by the court.

[9] * $p<0.05$

APPENDIX B

BACKGROUND AND DESCRIPTION OF VARIABLES

BACKGROUND OF VARIABLES

The statistical analyses performed for the project examined the influence of case characteristics such as the defendant's race, crime and prior criminal history on four aspects of bail and pretrial release decision-making (1) whether the defendant was released on personal recognizance with no conditions of supervision, (2) whether any monetary bail was set by the court, (3) the amount of monetary bail set by the court, and (4) whether the defendant was ultimately detained or released pretrial. The variables included in the analyses are described in detail at the end of this appendix, following the statistical tables summarizing the results.

The analyses of the sample data applied weights to adjust for the disproportionate stratified sampling strategy used in the study. Weighted logistic regressions were performed on all of the outcome measures (personal recognizance, bail set, and ultimate detention or release) except monetary bail amount. In the case of monetary bail, weighted ordinary least squares regressions were conducted.

PRONLY	Did defendant receive PR with no conditions (final bail decision)? 0=no 1=yes
BAILSET	Did the defendant receive bail/bond (final bail decision)? 0=no 1=yes
FINAMT2	Amount of final bail (collapsed into 7 categories).
INOUT2	Did defendant remain in custody? 0=out 1=in
ARREST2	Was defendant arrested? 0-no 1=Yes
PROSAMT2	Amount of bail recommended by prosecutor (collapsed into 7 categories).
CHVIOL	Were any of the charges statutorily defined as violent? 0=no 1=yes
CHWEAP	Did any of the charges involve a weapon? 0=no 1=yes
CHDRUG	Were any of charges drug-related? 0-no 1=yes
AGE97	Age of defendant in 1997.
SERIOUS1	Severity score of first presenting offense (as set out in Sentencing Reform Act).
CHDV	Did any of the charges involve domestic violence? 0=no 1=yes
BKED2	Number of prior bookings in King County (collapsed into 4 categories).

PRIORHIS	Did defendant have any prior criminal history (juvenile, local, nonlocal)? 0=no 1=yes
OBTIES	Scale of community ties (0 [low] to 4 [high]).
PROB1 or PRE_1	Hazard rate (probability of arrest as a function of chdrug, chweap, chviol, age97).
TIESVAL	Screener's assessment of community ties (-5 [low] to +5 [high]).
PREREC	Screener's recommendation re defendant's suitability for PR. 0=no 1=yes
PROSREC1	Did prosecutor recommend PR without any conditions? 0-no 1=yes
PROSREC3	Did prosecutor recommend bail? 0=no l=yes
RES_L	Unstandardized residuals from regression of finamt2 on prosamt2
GENDER	Defendant's gender. 0=female 1=male
MINORITY	Defendant's race. 0-white 1=non-white

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