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The Prediction of Court Appearance: A Study of Bail in Cleveland

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BAIL IS AN ANCIENT DEVICE designed to allow persons charged with criminal offenses to be released from jail pending their trial, while assuring the defendant's later appearance in court.1 Every decision to release a criminal defendant prior to trial involves an evaluation of numerous factors that might affect the likelihood of his later court appearance. This note presents the results of a study of bail in Cleveland, Ohio (the “Cleveland Study”),2 designed to aid in that evaluation by developing an objective method of predicting the later court appearance of felony defendants.

In the United States, courts traditionally require a defendant to post a surety bond in order to gain his release.3 If the defendant appears in court later, the money posted with the court is returned to him; if he fails to appear, the bond is forfeited.

Courts normally base the amount of this bond on the severity of the offense charged; the more severe the offense, the greater the amount of bond.4 Two beliefs appear to underlie this practice: first, that defendants charged with serious crimes are less likely to return for trial than are those charged with lesser offenses and, second, that defendants are financially motivated. The risk of forfeiting a high bond is assumed to increase the probability that the defendant will later appear in court.

Defendants with surety bonds often remain in jail because they are unable to post the required bond. While a defendant who does not have the financial resources to post a surety bond can use the services of a bondsman, many criminal defendants cannot afford the bondsman’s fee (normally ten percent of the bond amount) nor can they meet the bondsman’s frequent demand for collateral. These defendants remain in jail until trial.5 Studies have shown that defendants who remain in custody while awaiting trial tend to have a higher conviction rate and receive sentences that are more severe than do those who are released.6 Although there is no conclusive evidence that pretrial

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1 For a history of the use of bail, see generally E. De Haas, Antiquities of Bail (1940).
2 This study was conducted by the author under the auspices of the Legal Aid Society of Cleveland. The opinions expressed herein are those of the author, and do not necessarily represent the views of the Legal Aid Society of Cleveland.
5 In 1962, the national average detention rate was 52 percent; by 1971, the detention rate had dropped to 33 percent. W. Thomas, supra note 3, at 37. Thomas concluded that the decrease was due, in part, to the efforts of bail reform projects that had not been in operation on a nationwide scale in 1962. Id. at 39-46.
incarceration itself results in the unequal disposition of cases otherwise similar, the failure of a defendant to be released before trial is likely to affect the ultimate outcome of his case. The jailed defendant cannot participate fully in his own defense. He cannot locate witnesses or gather evidence that might be helpful, and he is unable to confer easily with his lawyer. The jailed defendant also cannot establish his good character by behaving well in society while awaiting trial. Lengthy pretrial incarceration may even encourage a defendant to plead guilty to a lesser offense rather than to wait to defend himself against the offense with which he is charged.

Concern for jailed defendants led reformers in New York City to found the Vera Foundation in 1960 which established the Manhattan Bail Project. This program was designed to increase the use of release on own recognizance (R.O.R.) bail by the New York City courts. A defendant on R.O.R. bail does not have to post money with the court but merely promises to appear in court. This method of release is similar to an unsecured appearance bond in which, in addition to his promise to appear, the defendant also agrees to pay a sum of money in the event he fails to appear.

The Project made recommendations to the court as to those defendants suitable for R.O.R. bail. The recommendations were based on accumulated points on the Vera Point System, a scale stressing the defendant's community ties and work record. If the case is delayed for a year or more, by the time the defendant is sentenced his attorney will be able to present to the court a good argument based upon the defendant's exemplary conduct while the case was pending, and explain away the criminal act by saying that there were mitigating circumstances involved in the crime and that the defendant should not now be sentenced to prison. The defendant in jail, on the other hand, has no opportunity to build a new record; thus it is less likely that his attorney will be able to present any mitigating circumstances.

L. Katz, L. Litwin & R. Bamberger, Justice is the Crime: Pretrial Delay in Felony Cases 152 (1972) (footnote omitted).


To qualify for a recommendation of R.O.R. bail, a defendant was required to reside in New York City and achieve a minimum of five points on the following scale:

**Prior Record**
- 1 No convictions.
- 0 One misdemeanor conviction.
- -1 Two misdemeanor convictions or one felony conviction.
- -2 Three or more misdemeanor or two or more felony convictions.

**Family Ties**
- 3 Lives in established family home and visits other family members. (immediate family only)
- 2 Lives in established family home. (immediate family)

**Employment or School**
- 3 Present job one year or more, steadily.
- 2 Present job four months or present and prior six months.
- 1 Has present job which is still available.
  - OR Unemployed three months or less and nine months or more steady prior job.
  - OR Unemployment Compensation OR Welfare.
- 3 Presently in school, attending regularly.
- 2 Out of school less than six months but employed or in training.
- 1 Out of school three months or less, unemployed and not in training.

**Residence (in New York area steadily)**
- 3 One year at present residence.
ties. The reformers believed that defendants with strong community ties could be successfully released without requiring monetary bail. Once released on R.O.R., the Project supervised defendants during the pretrial period.

The Project succeeded in increasing the use of R.O.R. bail in New York City, with failure-to-appear rates comparing favorably to those of surety bond defendants. The success of the Project led to the creation of similar programs in many other jurisdictions throughout the United States which met with success comparable to that of the New York City program.

During the 1960's, the use of ten percent deposit bail also increased. Under this type of bail a defendant posts ten percent of the amount of bond with the court. Ninety percent of the posted amount is returned to the defendant if he appears as scheduled in court; the balance is retained by the court to cover administrative costs. If the defendant fails to appear, he forfeits the posted amount and becomes liable for the unposted balance of the bond. Ten percent deposit bail is less burdensome than a surety bond because a defendant can get back most of the ten percent deposit posted to gain his release. Most defendants with surety bonds must use the services of a bondsman and the bondsman's ten percent fee cannot be recovered by a defendant even if he does appear in court. Both ten percent deposit bail and R.O.R. bail have the advantage over surety bail of giving more control over the release decision to the judge and less to the bondsman.

In spite of the success of the bail reform programs, most defendants still are required to post surety bonds, and many remain unable to gain their release. While judges are willing to consider R.O.R. bail in a larger variety of cases than in the past, they still require surety bonds in most cases.

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2 One year at present or last prior residence or six months at present residence.
1 Six months at present and last prior residence or in New York City five years or more.

Discretion
1 Positive, over 65, attending hospital, appeared on some previous case.
-1 Negative, intoxicated, intention to leave jurisdiction.

W. Thomas, supra note 3, at 21-22. Some defendants, however, were initially excluded from consideration by the Project because of the type of charge pending against the defendant. Id. at 23.

10 W. Thomas, supra note 3, at 25.

11 Id. at 87-110. "During the early years of the bail reform movement, [R.O.R.] projects consistently reported extremely low nonappearance rates. Generally, failure to appear rates of 5 percent or less were reported. Still today most bail projects are reporting similarly low FTA rates." Id. at 91 (footnote omitted).

12 Judge J. Skelly Wright of the District of Columbia Circuit Court of Appeals accurately described the problem: "Certainly the professional bondsman system . . . is odious at best. The effect of such a system is that the professional bondsmen hold the keys to the jail in their pockets. They determine for whom they will act as surety — who in their judgment is a good risk. The bad risks, in the bondsmen's judgment, and the ones who are unable to pay the bondsmen's fees remain in jail. The court and the commissioner are relegated to the relatively unimportant chore of fixing the amount of bail." Pannell v. United States, 320 F.2d 698, 699 (D.C. Cir. 1963) (concurring opinion) (emphasis in original).

13 See note 5 supra.

14 "Despite th[e] increase in use of nonfinancial releases, however, money bail remained the predominant form of pretrial release. Bail bonds were responsible for the release of 44 percent of the felony defendants in 1971, about the same percentage as in 1962 where money bail was virtually the only method of release." W. Thomas, supra note 3, at 39-40.
Neither the assumption of the courts that defendants are financially motivated nor the belief of the bail reform programs that defendants with community ties can be successfully released without monetary conditions have, until recently, been examined by social scientists to determine their validity. Two studies have sought to determine which factors are, in fact, significant in predicting court appearance. Landes\textsuperscript{15} studied a random sample of 858 criminal defendants represented by the New York City Legal Aid Society. Using linear and logistic regression analysis, Landes studied the 333 defendants in this sample who had been released, in an attempt to discover, in part, which factors played a role in determining the likelihood of court appearance. Landes found that the amount of bail was a statistically significant factor in predicting court appearance: the higher the bail amount, the more likely the defendant was to appear. Other variables which were found to be significant were the presence of an outstanding detainer (arrest warrant), resisting arrest on the current charge and, marginally, age. Variables found not to be significant included charge severity, prior felonies, and parole or probation status.

Clarke, Freeman and Koch\textsuperscript{16} (hereinafter Clarke) studied a random sample of 861 persons arrested by the police in Charlotte, North Carolina. Clarke using the linear survival rate analysis method, studied sex, age, race, income, employment, criminal history, type of offense charged, court disposition time and form of pretrial release (but not amount of bond) to determine, in part, the roles these variables played as predictors of court appearance. Clarke found that court disposition time and method of release were significant predictors of court appearance. The longer a defendant's case remained open, the greater the likelihood that he would not appear. Defendants released on PTR (an unsecured appearance bond and supervision by a pretrial release program) and those released on magistrate release (unsecured appearance bond) were more likely to appear than defendants released on bondsman release (surety bond posted by a bondsman) or cash release (defendant posting the entire surety bond amount).

Clarke concluded that the post-release supervision provided for PTR defendants was responsible for their greater likelihood of appearance. Defendants released under magistrate release were generally those with little or no criminal record and, Clarke concluded, would have benefited little from the PTR supervision if they had received it. Clarke found factors such as sex, income, race, and employment status not to be significant predictors of court appearance. Clarke did not, however, study the effect of varying amounts of bail or community ties.

Neither of these two studies created an objective means of predicting the later court appearance of released criminal defendants.\textsuperscript{17} Creating an objective model to be used by the courts when setting bail was the major goal

\textsuperscript{15} See Landes, supra note 4.

\textsuperscript{16} Clarke, Freeman & Koch, Bail Risk: A Multivariate Analysis, 5 J. LEG. STUDIES 341 (1976) [hereinafter cited as Clarke].

\textsuperscript{17} The designers of the Clarke study had planned to create a predictive model but found that variable and sample size limitations prevented them from so doing. Id. at 357. The Landes study did not attempt to create a predictive model. See Landes, supra note 4.
of the Cleveland Study. In creating this model, the study again examined which factors appeared to be significant predictors of court appearance. Since the study took place in Cleveland, Ohio, the factors considered by Ohio courts in setting bond were taken into consideration in developing a predictive criterion. Rule 46(F) of the Ohio Rules of Criminal Procedure sets forth these factors:

> the nature and circumstances of the offense charged, the weight of evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or of flight to avoid prosecution or of failure to appear at court proceedings.

Under Rule 46(C) the court has a full range of pretrial options available:

Any person who is entitled to release . . . shall be released on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judge, unless the judge determines that such release will not assure the appearance of the person as required. Where a judge so determines, he shall, either in lieu of or in addition to the preferred methods of release stated above, impose any of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

1. Place the person in the custody of a designated person or organization agreeing to supervise him;
2. Place restrictions on the travel, association, or place of abode of the person during the period of release;
3. Require the execution of an appearance bond in a specified amount, and the deposit with the clerk of the court before which the proceeding is pending of either $25.00 or a sum of money equal to ten percent of the amount of the bond, whichever is greater. Ninety percent of the deposit shall be returned upon the performance of the conditions of the appearance bond;
4. Require the execution of a bail bond with sufficient solvent sureties, or the execution of a bond secured by real estate in the county, or the deposit of cash or the securities allowed by law in lieu thereof, or;
5. Impose any other constitutional condition considered reasonably necessary to assure appearance.

In Cleveland, however, courts rely heavily on surety bonds, seldom using

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18 Both the factors to be considered by the courts in setting bond and the variety of types of pretrial release provided in Rule 46 of the Ohio Rules of Criminal Procedure parallel the federal rule established in the Bail Reform Act of 1966, 18 U.S.C. § 3146 (1976).
unsecured bonds or ten percent deposit bail. The judges appear to hold the traditional view that the more severe the charge, the more economic coercion is required to compel appearance. The Cleveland Study attempted to test the validity of this belief by closely examining the role which the type and the amount of bail play in compelling court appearance.

I. Method

A. Design and Sample Population

A population of Cleveland felony defendants was selected to be tracked as it proceeded through the adjudicative process. The population consisted of all felony defendants represented by the Public Defender Office of the Legal Aid Society of Cleveland at their initial appearance in Cleveland Municipal Court during a ten-week period from mid-November 1974 to mid-January 1975. The population, 267 subjects, 198 of whom were released at some time, were tracked through trial in Cuyahoga County Common Pleas Courts, to observe which subjects appeared in court after release and which did not. While all subjects in this study were represented by the public defender at their initial appearance in Cleveland Municipal Court, at later stages of the adjudicative process some of them were represented by the public defender; others were represented by an attorney in private practice appointed by the court or by retained counsel; still others were not represented by counsel.

After arrest in the City of Cleveland, a defendant’s first contact with the judicial system is the Cleveland Municipal Court. At this initial appearance, in accordance with Ohio Rule of Criminal Procedure Rule 5(A), the court informs the defendant of the nature of the charge against him, and advises him of his rights to counsel, to a preliminary hearing, and to jury trial where appropriate. Normally, bail is set for the first time at this appearance.

If a defendant who has been charged with a felony has not secured counsel, the court will assign counsel to represent him. At the time this study was conducted, the local practice was to assign a public defender to represent the defendant during the initial appearance and through his preliminary hearing. Approximately 77 percent of the defendants in Municipal Court were represented in this manner by the public defender; the remainder either retained their own attorney or chose not to be represented by counsel.


20 Common Pleas judges responding to a Katz questionnaire ranked the offense with which the defendant is charged as the most important factor in setting bail. Id. at 42.

21 Now entitled Criminal Division, Legal Aid Society of Cleveland.

22 A total of 288 cases were gathered. Sixteen of these cases were not used because of conflicting or missing data; five cases were not used because they were disposed of with only one court appearance.

23 Ohio R. Crim. P. 44(A).

24 In 1975, the Public Defender Office of the Legal Aid Society of Cleveland represented 3,554 felony defendants at their preliminary hearing in the Cleveland Municipal Court. The Legal Aid Society of Cleveland, Seventieth Anniversary 1905-1975 Annual Report. A total of 4,628 felony cases were processed by the Municipal Court in that year. Cleveland Municipal Court Annual Report, January 1, 1975 to December 31, 1975.
The subjects of this study were those defendants represented by the public defender at their initial court appearance.

Unless the defendant in a felony case waives a preliminary hearing, the judge schedules the hearing to be held a short time after the initial appearance. At the preliminary hearing, the court will either find that there is probable cause to believe that a felony has been committed by the defendant and bind him over to the Cuyahoga County Court of Common Pleas for possible indictment or will order the accused discharged. During the three to four week period between bind over and subsequent arraignment in Common Pleas Court, a defendant is not represented by counsel unless he has retained his own attorney.

If he is indicted, a released defendant is sent by certified mail a copy of his indictment and notice as to when to appear in Common Pleas Court for his arraignment. Many of these letters, however, are never delivered, and are returned to the Clerk of Courts. At arraignment, an unrepresented defendant is appointed an attorney to represent him through trial. This attorney may be either a lawyer in private practice or a public defender. Also at arraignment, the Municipal Court bond is reviewed or bond is set if the defendant had not been bound over by the Municipal Court.

During the tracking period of this study, information about the subjects was gathered from three sources: court records, attorneys, and subject interviews. The court records provided information concerning the subject's charge, bail, legal representation, age, race, employment status, and prior arrest record. A questionnaire was completed by the attorney who represented the subject in Municipal Court in order to gain more information about the nature of the charges pending against the subject. The questionnaire asked the attorney to indicate specific facts involved in the crime alleged (e.g., use of a dangerous weapon, injury to a witness, complaining witness other than a police officer, confession, etc.) and to scale the weight of the evidence against the subject.

Information concerning the defendant's community ties (e.g., family ties, employment history, financial resources, etc.), as well as other facts concerning the defendant's personal life were not available either from court records or the subject's attorney. To gather this information, an interview schedule was developed. While it would have been desirable to interview the entire population, time and insufficient personnel limited the interviews to defendants who had their Cleveland Municipal Court initial appearance on Mondays, Wednesdays and Fridays. The effect of this interview process is discussed in the Results section below.

B. Population Characteristics

After the subjects were tracked through the adjudicative process, they were stratified into the following four groups:

26 Some of the questions used in the questionnaire were adapted from the New York City Legal Aid Society bail study presented in Note, The Unconstitutional Administration of Bail: Bellamy v. The Judges of New York City, 8 Crim. L. Bull. 459 (1972).
TABLE 1

GROUP DEFINITIONS AND SIZES

(1) **NEVER FREE** — Those never released on bail (69 subjects, 26 percent of the population).

(2) **APPEAR** — Those released at some time and who appeared at every subsequent court date as required (85 subjects, 32 percent of the population).

(3) **FTA** — Those who won release, failed to appear in court on at least one occasion, but at a later date did appear in court (90 subjects, 33 percent of the population).

(4) **SKIP** — Those subjects who won release, failed to appear and fled the system (23 subjects, 9 percent of the population).

The study did not differentiate between defendants with different numbers of court appearances because to do so would have unduly fractionated the population.

As Table 1 shows, 74 percent of the defendants were released at some point in the adjudicative process; of these, more than half (113 of 198) failed to appear at some time.

The following table shows the distribution of bail conditions for the four groups.

TABLE 2

BAIL CONDITIONS BY GROUP

<table>
<thead>
<tr>
<th>Bail Condition</th>
<th>Surety Bail</th>
<th>10% Deposit Bail</th>
<th>Nonmonetary Release</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
</tr>
<tr>
<td>NEVER FREE</td>
<td>67</td>
<td>100%</td>
<td>2</td>
</tr>
<tr>
<td>APPEAR</td>
<td>46</td>
<td>54%</td>
<td>18</td>
</tr>
<tr>
<td>FTA</td>
<td>35</td>
<td>41%</td>
<td>14</td>
</tr>
<tr>
<td>SKIP</td>
<td>4</td>
<td>5%</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>152</strong></td>
<td><strong>100%</strong></td>
<td><strong>40</strong></td>
</tr>
</tbody>
</table>

As Table 2 shows, 57 percent of the defendants (152 of 267) were required to post surety bonds. Nearly all of the subjects who were not released during the pretrial period had surety bonds. It is reasonable to assume that these

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27 “Nonmonetary Release” includes subjects released on unsecured appearance bonds (49) and those subjects released after their preliminary hearing but were later indicted (26).
defendants could not afford the bond. Court records show that all but two of
the subjects released on surety bonds used a bondsman. Table 2 also indicates
that a higher percentage of those who failed to appear or skipped were on
nonmonetary release (72 percent of those so released) than on ten percent bail
(53 percent of those released on ten percent bail) or surety bond (46 percent of
those released on surety bond).

C. Predictive Model Building

To create an objective means of predicting court appearance based on the
variables measured, a method known as stepwise discriminant analysis was
used.\textsuperscript{28} This multivariate computerized process compares a large number of
variables for two groups of subjects to find which combination of these
variables best differentiates the two subject sets. In this instance the two
groups compared were those that appeared in court (\textit{Appear} Group in Table
1) and those that did not (\textit{FTA} and \textit{Skip} Groups in Table 1, hereinafter \textit{Not
Appear} Group). The process creates a weighted algebraic equation using
those variables with the greatest power for differentiating the two groups. The
process also yields a measure of the predictive power of the equation based on
the number of subjects properly classified by the equation.

In order to minimize the number of variables used in the stepwise
discriminant procedure, the following preselection method was used.
Variables which measure Rule 46(F) factors were selected without regard to
statistical significance. Other variables were included if they tended to
distinguish between the \textit{Appear} and \textit{Not Appear} groups.\textsuperscript{29} From the initial set
of 105 Court Record Variables (reference to Court Record Variables includes
the Attorney Questionnaire Variables), 35 were selected.\textsuperscript{30} From the initial set
of 175 interview variables, 31 variables were selected.

Table 3 lists the variables which appear in the discriminant equations
which were developed. These variables are a subset of the two sets described
above.

II. RESULTS

While it would have been desirable to provide a variable based on both the
amount and the type of bail, it was not possible to do so because the
population contained defendants released on three different types of bail
(surety bond, ten percent deposit, and unsecured appearance bond), and the
same dollar amount of bail had a significantly different impact on a defendant

\textsuperscript{28} The discriminant analysis used in this study was the BMDO7M method, described in full in
\textit{STATISTICAL METHODS FOR DIGITAL COMPUTERS} 76-95 (K. Enstein, A. Ralston & H. Wilf eds. 1977).

\textsuperscript{29} If the mean value of any variable for any one of the \textit{Never Free}, FTA, or \textit{Skip} groups was
outside the 95 percent confidence bounds of the \textit{Appear} group, that variable was included in the
stepwise discriminant procedure. The 95 percent confidence bounds is that range of values for a
variable within which 95 percent of the subjects would be found if the variable had a normal
distribution.

\textsuperscript{30} The bail, charge and counsel of a defendant might be changed as the subject moved
through the adjudicative process. For defendants who failed to appear or skipped, these
variables were measured at the point at which the subject failed to appear or skipped,
respectively. For the other defendants who always appeared, these variables were measured at
their last court appearance.
## TABLE 3

### PREDICTIVE VARIABLES

<table>
<thead>
<tr>
<th>Variable</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of Bond</td>
<td>Dollar amount of bond.</td>
</tr>
<tr>
<td>Average Charge Severity</td>
<td>Charge Weights&lt;br&gt;1 = misdemeanor&lt;br&gt;2 = felony 4&lt;br&gt;3 = drug law+&lt;br&gt;4 = felony 3&lt;br&gt;5 = felony 2&lt;br&gt;6 = felony 1&lt;br&gt;7 = murder or aggravated murder</td>
</tr>
<tr>
<td>Some defendants were charged with more than one count. Each charge was weighted based on its relative severity. Average charge severity was calculated by totaling the weight of all charges against a defendant, and dividing that sum by the total number of counts.</td>
<td></td>
</tr>
<tr>
<td>Counsel</td>
<td>1 = Defendant was not represented by counsel.&lt;br&gt;0 = Defendant was represented by counsel.</td>
</tr>
<tr>
<td>No Counsel</td>
<td>1 = Defendant had appointed as counsel an attorney in private practice.&lt;br&gt;0 = Defendant did not have appointed as counsel an attorney in private practice.</td>
</tr>
<tr>
<td>Appointed Counsel</td>
<td>1 = Defendant had appointed as counsel the public defender.&lt;br&gt;0 = Defendant did not have appointed as counsel the public defender.</td>
</tr>
<tr>
<td>Public Defender</td>
<td>1 = Defendant retained his own counsel.&lt;br&gt;0 = Defendant did not retain his own counsel.</td>
</tr>
<tr>
<td>Retained Counsel</td>
<td>1 = There was a complaining witness other than a police officer.&lt;br&gt;2 = There was not a complaining witness other than a police officer.</td>
</tr>
<tr>
<td>Complaining Witness</td>
<td>1 = Evidence of the crime was taken at the time of arrest.&lt;br&gt;2 = Evidence of the crime was not taken at the time of arrest.</td>
</tr>
<tr>
<td>Evidence Taken</td>
<td></td>
</tr>
</tbody>
</table>
Felony 1  Total number of first-degree felony counts.

Felony 3  Total number of third-degree felony counts.

Felony 4  Total number of fourth-degree felony counts.

Marital Status  0 = Married.  
1 = Separated, divorced, or widowed.  
2 = Never married.

Physical Injury  1 = Witness or other individual suffered physical injury.  
2 = Witness or other individual did not suffer physical injury.

Traffic Arrests  Total number of prior traffic offense arrests.

Weight of Evidence  1-100, Attorney’s rating of the weight of evidence against the defendant.

* Although the population was limited to felony defendants, some indictments contained misdemeanor charges as well as felony charges.

+ Drug offenses were classified on the basis of their sentence severity, when state statute did not classify them as a particular felony.

depending on which type of bail he received. It was possible, however, to examine the effect of bail for the entire population by using the type of bail as the Bail Variable.

A discriminant equation was derived for the 198 released subjects, using the Court Record Variables:

\[ D = 3.326 - 2.493X_1 + 2.174X_2 - 1.670X_3 + .3350X_4 - .0203X_5 \]

Where:

D  = Discriminant Score
X_1 = No Counsel
X_2 = Appointed Counsel
X_3 = Complaining Witness
X_4 = Average Charge Severity
X_5 = Weight of Evidence

Table 4.1 lists the variables that appear in the equation, the coefficients of each variable, and the equation’s constant. The table also provides other data related to the equation. The F-statistic describes the power of discrimination for each variable; the larger the F-statistic, the greater that variable’s ability to differentiate between subjects in the APPEAR and NOT APPEAR groups.

The Classification Matrix, Table 4.2, shows the classification resulting from the discriminant equation. Seventy-nine percent (156 of 198) of the cases were properly classified by the equation; 26 percent (42 of 198) were improperly classified.
**TABLE 4**

**ENTIRE POPULATION OF RELEASED SUBJECTS: Comparison of the**
**APPEAR and NOT APPEAR groups, using Court Record Variables**

**Table 4.1: Discriminant Equation Data**

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>F-Statistic*</th>
<th>P ≤</th>
<th>Mean</th>
<th>Standard Deviation</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Counsel</td>
<td>-2.493</td>
<td>35.3</td>
<td>.001</td>
<td>.200</td>
<td>.402</td>
<td>.717</td>
<td>.453</td>
</tr>
<tr>
<td>Appointed Counsel</td>
<td>2.174</td>
<td>16.1</td>
<td>.001</td>
<td>.388</td>
<td>.490</td>
<td>.035</td>
<td>.186</td>
</tr>
<tr>
<td>Complaining Witness</td>
<td>-1.670</td>
<td>9.4</td>
<td>.002</td>
<td>1.28</td>
<td>.341</td>
<td>1.43</td>
<td>.333</td>
</tr>
<tr>
<td>Average Charge Severity</td>
<td>0.3350</td>
<td>6.7</td>
<td>.01</td>
<td>3.24</td>
<td>1.58</td>
<td>2.81</td>
<td>1.30</td>
</tr>
<tr>
<td>Weight of Evidence</td>
<td>-0.0203</td>
<td>6.4</td>
<td>.02</td>
<td>80.3</td>
<td>26.8</td>
<td>85.4</td>
<td>20.1</td>
</tr>
<tr>
<td>Constant 3.326</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>* d.f. = 1,192</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 4.2: Classification Matrix

Subjects classified as appearing or not appearing by the discriminant equation

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Number of Subjects Predicted to Appear</th>
<th>Number of Subjects Predicted Not to Appear</th>
<th>Percent Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Group</strong></td>
<td><strong>85</strong></td>
<td><strong>59</strong></td>
<td><strong>26</strong></td>
<td><strong>69%</strong></td>
</tr>
<tr>
<td><strong>Appear</strong></td>
<td><strong>113</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Not Appear</strong></td>
<td><strong>198</strong></td>
<td><strong>16</strong></td>
<td><strong>97</strong></td>
<td><strong>86%</strong></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>198</strong></td>
<td></td>
<td></td>
<td><strong>79%</strong></td>
</tr>
</tbody>
</table>
Next, a discriminant equation was derived for the 75 interview subjects who had been released, using the Interview Variables as well as Court Record Variables. Again, type of bail was used as the Bail Variable. The No Counsel, Felony 1, Retained Counsel, Marital Status, and Evidence Taken Variables appeared in the equation. Using these factors, the equation correctly classified 84 percent of the subjects.\(^{31}\)

To determine whether the subset of interviewed subjects was in some way significantly different from the general population, a discriminant equation was derived for the interviewed defendants using only the Court Record Variables, the same variables employed in the stepwise discriminant analysis of the general population. The No Counsel, Felony 1, Retained Counsel, Evidence Taken, and Physical Injury Variables appeared in the equation and properly classified 85 percent of the subjects.\(^{32}\) These variables are either the same as or are covariates of the variables that appeared in the equation for the entire population (Table 4.1), indicating that the interview subjects did not differ significantly from the general population.

Although amount of bond could not be used as a predictive factor among defendants released on different types of bail,\(^{33}\) it was possible to weigh the significance of the amount of bond within each type of bail. The population was divided into three groups of subjects: surety bond, ten percent deposit, and nonmonetary release; discriminant equations were calculated for each group. For the surety bond and ten percent deposit groups, the amount of bond was used as the bail variable. For the subjects released under nonmonetary conditions, a discriminant equation was computed without the amount of bond being considered. Nonmonetary release subjects included those subjects who were released after their preliminary hearing but were later indicted, as well as those subjects released on unsecured appearance bonds. Bond was not required of the first group, and the amount of bond was almost always the same for the second; using amount of bond as a variable for these defendants, therefore, would have had little meaning. Only Court Record Variables were used to derive these equations; including the Interview Variables would have required a further splitting of the population, unduly fractionating it.

For the 85 subjects released on surety bonds, the equation created used the No Counsel, Complaining Witness, Appointed Counsel, Felony 3, and Felony 4 Variables. The equation properly classified 80 percent of the subjects.\(^{34}\) For the 38 subjects released on ten percent deposit bail, the Amount of Bond, Appointed Counsel, No Counsel, Weight of Evidence, and Traffic Arrests Variables in the equation properly classified 87 percent of the subjects.\(^{35}\) For the 75 subjects released without monetary conditions the Appointed Counsel,  

\(^{31}\) Table 5, pages 608-09 infra, presents the discriminant equation data for the interview subjects, using both Interview and Court Record Variables, and the Classification Matrix for that equation.

\(^{32}\) Table 6, pages 610-11 infra, presents the discriminant equation data for the interview subjects, using Court Record Variables only, and the Classification Matrix for that equation.

\(^{33}\) See pages 595, 597 supra.

\(^{34}\) Table 7, pages 612-13 infra, presents the discriminant equation data for the subjects released on surety bonds, and the Classification Matrix for that equation.

\(^{35}\) Table 8, pages 614-15 infra, presents the discriminant equation data for the subjects released on ten percent deposit bail, and the Classification Matrix for that equation.
Public Defender, and Weight of Evidence Variables appeared in the equation. The equation properly classified 81 percent of these subjects.

III. Discussion

A. Summary of Findings

All of the discriminant equations that were derived accurately classified a large fraction of the population. Some variables that entered the equations are factors traditionly thought to be of predictive importance, others are not generally seen as having predictive importance. Other variables traditionally thought to have predictive value did not, in this study, prove to be significant.

1. Counsel

Representation by an attorney proved to be the most significant predictive variable in all of the equations except for the ten percent deposit subjects, where it was the second most significant variable. Subjects represented by counsel were more likely to appear than defendants who did not have an attorney. This is not a factor generally believed to be a significant predictor of court appearance.

2. Weight of Evidence

Variables related to the strength of the case against a subject also proved to be significant. If the weight of evidence was high (Table 4.1, 8.1, and 9.1), or if there was a complaining witness (Tables 4.1 and 7.1), a defendant was less likely to make a later court appearance. Similarly, if evidence had been taken from the defendant (Tables 5.1 and 6.1), or if someone suffered a physical injury during the episode resulting in a criminal charge (Table 6.1), the defendant was less likely to appear.

3. Charge Severity

Charge severity also proved to be a significant variable. Unexpectedly, subjects with severe charges were more likely to appear than subjects with less severe charges. This is the opposite of the traditionally held belief that defendants become less likely to appear as charge severity increases. As Table 4.1 shows, defendants with higher average charge severities were more likely to appear than subjects charged with less serious crimes. In Tables 5.1 and 6.1, defendants charged with first degree felonies were more likely to appear than subjects not so charged and, in Table 7.1, defendants charged with third degree felonies were more likely to appear than those charged with fourth degree felonies.

4. Type of Bail

The type of bail set for a defendant did not prove to be a significant
predictor of court appearance even though there were differences in the appearance rates among subjects released under surety bond, ten percent deposit, and nonmonetary release conditions. Table 4.1 presents the factors that appeared in the discriminant equation derived for all of the released subjects; in that analysis, type of bail was used as the Bail Variable. Bail did not even appear in the equation, having an F-statistic of only 1.0, which is not statistically significant. The Type of Bail Variable did not appear in the discriminant equation derived for the interview subjects, both when the Court Record Variables and Interview Variables were considered together, and when only the Court Record Variables were considered, having in both cases an F-statistic of 0.5, which is not statistically significant.

5. Amount of Bond

The amount of bond was not a significant variable among defendants released on surety bonds. Amount of bond did not enter the equation for these subjects, having an F-statistic of only 1.1 which is not statistically significant. For defendants released on ten percent deposit bail, however, the amount of bond was the most significant variable. Defendants released on ten percent deposit bail were more likely to appear as the amount of bond increased.

6. Community Ties

Of all the Interview Variables that measured community ties, only marital status proved to be a significant variable. Table 5.1 shows that married defendants were more likely to appear than subjects who were not married. Other Community Ties Variables such as length of time at former and present residence, number of siblings living in Cuyahoga County, employment status, etc., were not significant factors.

Only the interviewed subjects were considered in the analysis of Community Ties Variables, since this data could be obtained only through interviews. It is likely, however, that the same result would have occurred had we been able to analyze the Community Ties Variables for the entire population because the interviewed subjects appeared not to differ in a significant way from the general population.

7. Other Variables That Were Not Significant

Other variables traditionally thought to have predictive importance were found to not be significant. These variables include age, race, sex, and prior arrest record.

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38 Table 2, page 594 supra.
39 See Tables 5.1 and 6.1, pages 608, 610 infra.
40 Table 7.1, page 612 infra.
41 Table 8.1, page 614 infra. This result conflicts with Landes' finding that when defendants released on surety bonds and R.O.R. were considered together, the amount of bond was a significant predictive factor. Landes, supra note 4, at 322-24. In the Landes study, the R.O.R. bail amount was considered to be zero. Clarke comments that this conclusion is suspect due to the relatively small number of defendants in the Landes study who were released on surety bonds (31) compared to those released on R.O.R. bail (253). Clarke, supra note 16, at 381-82.
42 See note 32 supra and accompanying text.
B. Evaluation of Findings

The results of the Cleveland Study conflict with the beliefs of both the courts and bail reformers as to the factors which are significant in compelling court appearance. The judges believe that defendants are financially motivated; hence the more financially severe the type and amount of bond, the more likely it is that the defendant will appear. Further, judges seem to believe that the surety bond is the most effective way to financially induce defendants to appear in court. The bail reformers believe that defendants are likely to appear if their community ties are strong, that where such ties exist, defendants can be released successfully without requiring financial bail conditions.

The Cleveland Study, for the most part, does not support the view that increasing the financial severity of the type and the amount of bond increases the likelihood of appearance. Type of bail did not prove to be a significant variable.\(^{43}\) Increasing the severity of the type of bail (for example, requiring a surety bond rather than ten percent deposit bail) does not appear to increase the likelihood of court appearance.

The belief that increasing the amount of a surety bond will increase the likelihood of appearance is also not supported by this study. Amount of bond was not a significant predictor of court appearance among surety bond subjects. Among defendants released with ten percent deposit bail, however, high bond amounts did increase the likelihood of later court appearance. For these defendants, the amount of bond proved to be the most significant variable. While it is not possible to determine whether surety bond subjects would have behaved differently had they been released on ten percent deposit bail, it is likely that the differences in the role that the amount of bond plays for surety and ten percent subjects is due to the different impacts that these bail forms have on a defendant.

Under ten percent deposit bail, a defendant has an opportunity to recover most of the money he pays to gain his release. A defendant released under a surety bond normally must pay a bondsman to post his bond. These defendants, unlike those released on ten percent deposit bail, cannot recover the money they pay to gain their release even if they appear in court. In this study, virtually all defendants who were released on surety bonds had their bonds posted by a bondsman. Thus, ten percent deposit defendants had a monetary incentive to appear in court, while surety bond defendants had no such motivation.

Another reason why a defendant released on a surety bond may not be motivated to appear in court is that his bondsman probably is not supervising him and will not pursue him should he fail to appear in court. A bondsman has very little financial incentive to insure his client's appearance since it is unlikely that the court will collect a bond forfeiture judgment from the bondsman if his client fails to appear.\(^{44}\) Thus a defendant released on a surety bond is more likely to appear in court.\(^{44}\) When a defendant fails to appear, a bond forfeiture is issued against the bondsman and the insurance company for which he is the agent. If within 30 days the defendant still has not

---

\(^{43}\) Although type of bail was a candidate variable for the discriminant equations derived for the entire populations of both the released defendants and the interview subjects, type of bail did not prove to be a significant factor and did not enter the equations for either of these groups. See Tables 4.1, 5.1 and 6.1, pages 598 supra, 608, 610 infra.

\(^{44}\) When a defendant fails to appear, a bond forfeiture is issued against the bondsman and the insurance company for which he is the agent. If within 30 days the defendant still has not
bond has neither a financial incentive nor a fear of being pursued by his bondsman to compel his appearance in court.

The Cleveland Study also does not support the common belief that the more severe the charge is, the more likely it is that a defendant will not appear. In this study, defendants became more likely to appear as the severity of the offense increased.\(^{45}\) Prior arrest record, also a variable considered important by many judges in setting bond, did not prove to be significant.

This study also casts doubt on the view that a defendant's community ties are an important predictor of court appearance. Of the many community ties variables considered as candidate variables, only marital status proved to be significant.

C. The Role of Representation

In all of the discriminant equations derived in this study, defendants who were represented by counsel were more likely to appear in court than those defendants who lacked representation. Most defendants in this study were not represented during the three to four week period between their preliminary hearing and arraignment. As Table 10 shows, most defendants who failed to appear or skipped did so at arraignment.

<table>
<thead>
<tr>
<th>TIME OF NONAPPEARANCE</th>
<th>FTA</th>
<th></th>
<th>SKIP</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Percent</td>
<td>Number</td>
<td>Percent</td>
</tr>
<tr>
<td></td>
<td>of Subjects</td>
<td>of FTA</td>
<td>of Subjects</td>
<td>of SKIP</td>
</tr>
<tr>
<td>Between Initial Appearance and Preliminary Hearing</td>
<td>7</td>
<td>8%</td>
<td>3</td>
<td>13%</td>
</tr>
<tr>
<td>At Arraignment</td>
<td>79</td>
<td>88%</td>
<td>11</td>
<td>48%</td>
</tr>
<tr>
<td>After Arraignment</td>
<td>4</td>
<td>4%</td>
<td>9</td>
<td>39%</td>
</tr>
<tr>
<td>Total</td>
<td>90</td>
<td>100%</td>
<td>23</td>
<td>100%</td>
</tr>
</tbody>
</table>

appeared in court, a bond forfeiture judgment is entered. If the bondsman does not pay the judgment within 30 days, the Clerk of Court is required to refuse all further recognizance from that bondsman. CUYAHOGA COUNTY C.P. Ct. R. 34(P). However, it is a relatively common practice for Common Pleas Court judges to grant extensions of time on the judgment to bondsman. A Cleveland Plain Dealer series on criminal justice reported that most cases took a year before the judgment was settled — "and often the judgment was settled not by payment, but by the defendant having been arrested for another crime." Cleveland Plain Dealer, Dec. 28, 1978, at A-12, col. 1.

Katz and Clancy studied 1,396 cases, a randomly selected sample of 20 percent of the 1974 felony docket of Cuyahoga County Common Pleas Court. Among the 495 defendants released on surety bonds in their sample, 17 percent (83 of 495) failed to appear after arraignment. Ten percent (49 of 495) of the defendants who failed to appear never appeared in court again. In only 20 percent (10 of 49) of these cases was a bond forfeiture judgment entered. L. KATZ & D. CLANCY, supra note 19, at 47. The Katz study did not report the number of these cases in which the judgment was actually collected.

This is by no means a recent development in Cleveland. A 1922 study analyzed the records of the Ohio State Auditor and found that during the period from January 1, 1916 to May 20, 1919, there were 143 cases in Cleveland Municipal Court in which bonds had been forfeited. In only 14 of these cases were the judgments actually collected. The sum collected amounted to

https://engagedscholarship.csuohio.edu/clevstlrev/vol27/iss4/18
Since most defendants in this study were not represented at arraignment, they had to rely solely on the court to notify them of their arraignment. As would be expected there is a very strong relationship between receiving a notice of the date of his arraignment by mail and a defendant's subsequent appearance at arraignment. A total of 165 subjects were free at the time of arraignment. Records as to whether a subject received notice prior to arraignment were not available for 26 of these subjects. Of the 61 who received notice, 47 appeared at arraignment; of the 78 who did not receive notice of the arraignment, 60 did not appear. It is not surprising that most defendants who do not receive notice of their arraignment by mail do not appear in court.

Katz and Clancy and Freed, in separate studies of the Cuyahoga County bail system, also concluded that the system’s high failure-to-appear rate was due to the court’s inadequate notification system. As the Katz study observed, “[a]pparently there is great confusion amongst defendants about when and where they are to appear. Often this confusion is caused by changes of address or simply defective notices sent by the Clerk of Court’s office.”

In the Cleveland Study, attorneys seemed to provide information to defendants which the system fails to provide. Defendants who are not represented by counsel either do not know how to get information about when and where to appear or simply choose to conclude that the lack of notification by the court indicates that his case has been disposed of or forgotten, when, in fact, the court has failed to notify the defendant of his court date.

The importance of keeping contact with a defendant as a means of increasing the likelihood of appearance was noted in the Clarke study of Charlotte, North Carolina defendants. Clarke found that defendants released on PTR were more likely to appear than defendants released on surety bonds. The study concluded that the PTR program’s supervision was the main reason for the higher rate of appearance for these defendants.

Supervision appears to be more critical in assuring court appearance than type of bail. The failure of the court to assure that most defendants appear in court is due, in part, to their use of surety bonds rather than ten percent deposit bonds, and, more importantly, to their failure to maintain contact with defendants. The success of the bail reform programs was probably due only 1.5 percent of the total amount of the forfeited bonds during the period. Criminal Justice in Cleveland: Reports of the Cleveland Foundation Survey of the Administration of Criminal Justice in Cleveland Ohio 154-55 (R. Pound & F. Frankfurter eds. 1922). Auditor’s records revealed a similar pattern in Common Pleas Court. Id. at 185-86.

Landes reported a similar result, Landes supra note 4, at 324-25. Unlike the result in the Cleveland Study, however, in the Landes study the severity of offense variable was not found to be a significant predictive factor.

The relationship between receiving notice of arraignment and subsequent appearance at arraignment was highly significant with $X^2 = 40.05, P < .001$. The Receiving Notice variable was not used as a variable in the stepwise discriminant procedure because it was not relevant for the entire population. Not all defendants were indicted and of the defendants who were indicted, not all were free on bond at the time of their arraignment.

L. Katz & D. Clancy, supra note 19, at 35.

C. Freed, Corrections 30 (Cleveland Foundation 1975).

L. Katz & D. Clancy, supra note 19, at 35.

Clarke, supra note 16, at 370-72.
to their ability to maintain contact with their clients, and not because of their clients' community ties.

IV. RECOMMENDATIONS FOR A MORE EFFECTIVE BAIL SYSTEM

The discriminant equation derived for the entire population using the Court Record Variables 51 properly classified 79 percent of the subjects. Using this equation, therefore, the likelihood of appearance of approximately 79 percent of a new population of defendants can be predicted. By entering the appropriate values for a new defendant for each of the equation's parameters, a defendant's probability of appearance can be calculated. If the discriminant score is positive, the subject is likely to appear; if the discriminant score is equal to or less than zero, the subject would be likely not to appear.

Type of bail was not a significant predictor of court appearance in this equation. The court is therefore left with the problem of attempting to insure the appearance of a defendant with low probability of appearing. In lieu of varying the types of bail, what can the court do to assure his appearance?

In many cases, the appointment of permanent counsel at the defendant's initial court hearing would sufficiently increase his likelihood of appearance. But what of the defendant who, even with an attorney, is still predicted to have a low probability of appearance?

Since felony defendants who have some means of staying in contact with the system are more likely to appear in court, increasing this contact for defendants predicted to fail-to-appear is likely to be an effective method of assuring their appearance. Such supervision could be provided by a pretrial supervisory agency. The agency would make sure the defendant knew when and where he was supposed to appear as well as providing other supportive services. The degree of supervision required could be determined by using the predictive equation. Where the defendant is found to have a high probability of non-appearance, very strict conditions would need to be imposed. When a marginal risk is shown, less stringent conditions would be sufficient.

The cost of creating and maintaining a supervisory agency may be prohibitive, however. Short of creating such an agency, the courts may still be able to increase appearance rates by employing ten percent bail deposit conditions for cases in which they now impose surety bonds. For the subjects released on ten percent deposit bail in this study, amount of bond was the most significant predictor of court appearance, while among subjects released on surety bonds the amount of bond was not a significant variable. Logically, if any monetary bail is to be used, the ten percent bail deposit should be the type employed, as it is the most effective in inducing court appearance while

51 See text at pages 595, 597 supra and Table 4.1, page 598 supra.
52 See Table 4.2, page 599 supra.
53 While the discriminant equations derived for the interviewed subjects (Tables 5.1 and 6.1, pages 608, 610 infra) resulted in better overall classifications (Tables 5.2 and 6.2, pages 609, 611 infra) than did the equation derived for the entire population (Table 4, pages 598-99 supra), the latter equation is better suited for predictive use since it was calculated using a larger number of subjects.

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being the least financially burdensome to the defendant. Most defendants, however, could be successfully released without monetary conditions by using the predictive model developed in this study, together with some method of improving the court’s contact with the defendant.

PETER TYLER ENSLEIN
TABLE 5
INTERVIEW SUBJECTS: Comparison of the APPEAR and NOT APPEAR groups, using Interview and Court Record Variables

Table 5.1: Discriminant Equation Data

<table>
<thead>
<tr>
<th>Variables</th>
<th>Coefficient</th>
<th>F-Statistic °</th>
<th>P ≤</th>
<th>Mean</th>
<th>Standard Deviation</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Counsel</td>
<td>-5.492</td>
<td>49.4</td>
<td>.001</td>
<td>.242</td>
<td>.435</td>
<td>.762</td>
<td>.431</td>
</tr>
<tr>
<td>Felony 1 Retained</td>
<td>2.847</td>
<td>19.2</td>
<td>.001</td>
<td>.455</td>
<td>.754</td>
<td>.095</td>
<td>.297</td>
</tr>
<tr>
<td>Counsel</td>
<td>-4.022</td>
<td>11.9</td>
<td>.001</td>
<td>.152</td>
<td>.364</td>
<td>.119</td>
<td>.328</td>
</tr>
<tr>
<td>Marital Status</td>
<td>-1.273</td>
<td>8.8</td>
<td>.01</td>
<td>1.15</td>
<td>.939</td>
<td>1.48</td>
<td>.740</td>
</tr>
<tr>
<td>Evidence Taken</td>
<td>2.821</td>
<td>8.3</td>
<td>.01</td>
<td>1.55</td>
<td>.421</td>
<td>1.33</td>
<td>.306</td>
</tr>
</tbody>
</table>

Constant 0.1098
° d.f. = 1, 69
### Table 5.2: Classification Matrix

Subjects classified as appearing or not appearing by the discriminant equation

<table>
<thead>
<tr>
<th></th>
<th>Total Number of Subjects</th>
<th>Number of Subjects Predicted to Appear</th>
<th>Number of Subjects Predicted Not to Appear</th>
<th>Percent Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appear Group</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of Subjects</td>
<td>33</td>
<td>28</td>
<td>5</td>
<td>85%</td>
</tr>
<tr>
<td><strong>Not Appear</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group</td>
<td>42</td>
<td>7</td>
<td>35</td>
<td>83%</td>
</tr>
<tr>
<td>Total</td>
<td>75</td>
<td></td>
<td></td>
<td>84%</td>
</tr>
</tbody>
</table>
### TABLE 6

**INTERVIEW SUBJECTS: Comparison of the APPEAR and NOT APPEAR groups, using Court Record Variables**

#### Table 6.1: Discriminant Equation Data

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>$F$-Statistic*</th>
<th>$P \leq$</th>
<th>APPEAR Group</th>
<th></th>
<th></th>
<th>NOT APPEAR Group</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No Counsel</td>
<td>-5.159</td>
<td>46.3</td>
<td>.001</td>
<td>.242</td>
<td>.435</td>
<td>.762</td>
<td>.431</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Felony 1 Retained</td>
<td>2.536</td>
<td>16.4</td>
<td>.001</td>
<td>.455</td>
<td>.754</td>
<td>.095</td>
<td>.297</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Counsel</td>
<td>-3.574</td>
<td>10.1</td>
<td>.002</td>
<td>.152</td>
<td>.364</td>
<td>.119</td>
<td>.328</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Evidence Taken</td>
<td>2.642</td>
<td>7.6</td>
<td>.01</td>
<td>1.55</td>
<td>.421</td>
<td>1.33</td>
<td>.306</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical Injury</td>
<td>2.575</td>
<td>4.0</td>
<td>.05</td>
<td>1.83</td>
<td>.270</td>
<td>1.76</td>
<td>.276</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
<td>-6.2958</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* d.f. = 1, 69
Table 6.2: Classification Matrix

Subjects classified as appearing or not appearing by the discriminant equation

<table>
<thead>
<tr>
<th></th>
<th>Total Number of Subjects</th>
<th>Number of Subjects Predicted to Appear</th>
<th>Number of Subjects Predicted Not to Appear</th>
<th>Percent Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appear Group</strong></td>
<td>33</td>
<td>28</td>
<td>5</td>
<td>85%</td>
</tr>
<tr>
<td><strong>Not Appear</strong></td>
<td>42</td>
<td>6</td>
<td>36</td>
<td>86%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>75</td>
<td></td>
<td></td>
<td>85%</td>
</tr>
</tbody>
</table>
TABLE 7

SURETY BOND SUBJECTS: Comparison of the APPEAR and NOT APPEAR Groups, using Court Record Variables

Table 7.1: Discriminant Equation Data

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>F-Statistic*</th>
<th>P ≤</th>
<th>APPEAR Group Mean</th>
<th>Standard Deviation</th>
<th>NOT APPEAR Group Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Counsel</td>
<td>-2.577</td>
<td>14.7</td>
<td>.001</td>
<td>.152</td>
<td>.363</td>
<td>.615</td>
<td>.493</td>
</tr>
<tr>
<td>Complaining Witness</td>
<td>-2.920</td>
<td>10.0</td>
<td>.002</td>
<td>1.30</td>
<td>.357</td>
<td>1.45</td>
<td>.340</td>
</tr>
<tr>
<td>Appointed Counsel</td>
<td>1.800</td>
<td>6.1</td>
<td>.025</td>
<td>.457</td>
<td>.504</td>
<td>.051</td>
<td>.223</td>
</tr>
<tr>
<td>Felony 3</td>
<td>1.709</td>
<td>4.2</td>
<td>.05</td>
<td>.217</td>
<td>.417</td>
<td>.154</td>
<td>.366</td>
</tr>
<tr>
<td>Felony 4</td>
<td>-0.0959</td>
<td>3.8</td>
<td>.07</td>
<td>.696</td>
<td>.756</td>
<td>2.38</td>
<td>8.69</td>
</tr>
<tr>
<td>Constant 4.5467</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* d.f. = 1, 79
### Table 7.2: Classification Matrix

Subjects classified as appearing or not appearing by the discriminant equation

<table>
<thead>
<tr>
<th></th>
<th>Total Number of Subjects</th>
<th>Number of Subjects Predicted to Appear</th>
<th>Number of Subjects Predicted Not to Appear</th>
<th>Percent Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appear Group</strong></td>
<td>46</td>
<td>40</td>
<td>6</td>
<td>87%</td>
</tr>
<tr>
<td><strong>Not Appear Group</strong></td>
<td>39</td>
<td>11</td>
<td>28</td>
<td>72%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>85</td>
<td></td>
<td></td>
<td>80%</td>
</tr>
</tbody>
</table>
## TABLE 8

**TEN PERCENT DEPOSIT BAIL SUBJECTS: Comparison of the APPEAR and NOT APPEAR groups, using Court Record Variables**

### Table 8.1: Discriminant Equation Data

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>$F$-Statistic*</th>
<th>$P \leq$</th>
<th>Mean</th>
<th>Standard Deviation</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of Bond</td>
<td>4.115</td>
<td>7.3</td>
<td>.02</td>
<td>2234.0</td>
<td>371.0</td>
<td>1899.0</td>
<td>234.0</td>
</tr>
<tr>
<td>Appointed Counsel</td>
<td>2.916</td>
<td>4.2</td>
<td>.05</td>
<td>.278</td>
<td>.461</td>
<td>.050</td>
<td>.224</td>
</tr>
<tr>
<td>No Counsel</td>
<td>-2.119</td>
<td>3.5</td>
<td>.07</td>
<td>.111</td>
<td>.323</td>
<td>.600</td>
<td>.503</td>
</tr>
<tr>
<td>Weight of Evidence</td>
<td>-0.0372</td>
<td>2.3</td>
<td>not significant</td>
<td>82.6</td>
<td>26.1</td>
<td>89.4</td>
<td>13.2</td>
</tr>
<tr>
<td>Traffic Arrests</td>
<td>-1.161</td>
<td>2.2</td>
<td>not significant</td>
<td>.056</td>
<td>.236</td>
<td>.300</td>
<td>.801</td>
</tr>
<tr>
<td>Constant</td>
<td>-4.933</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* d.f. = 1, 32
Table 8.2: Classification Matrix

Subjects classified as appearing or not appearing by the discriminant equation

<table>
<thead>
<tr>
<th></th>
<th>Total Number of Subjects</th>
<th>Number of Subjects Predicted to Appear</th>
<th>Number of Subjects Predicted Not to Appear</th>
<th>Percent Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appear Group</strong></td>
<td>18</td>
<td>15</td>
<td>3</td>
<td>83%</td>
</tr>
<tr>
<td><strong>Not Appear</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Group</td>
<td>20</td>
<td>2</td>
<td>18</td>
<td>90%</td>
</tr>
<tr>
<td>Total</td>
<td>38</td>
<td></td>
<td></td>
<td>87%</td>
</tr>
</tbody>
</table>
### TABLE 9

**Nonmonetary Release Subjects: Comparison of the Appear and Not Appear groups, using Court Record Variables**

**Table 9.1: Discriminant Equation Data**

<table>
<thead>
<tr>
<th>Variable</th>
<th>Coefficient</th>
<th>$F$-Statistic*</th>
<th>P ≤</th>
<th>Mean</th>
<th>Standard Deviation</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appointed Counsel</td>
<td>5.566</td>
<td>27.9</td>
<td>.001</td>
<td>.333</td>
<td>.483</td>
<td>.019</td>
<td>.136</td>
</tr>
<tr>
<td>Public Defender</td>
<td>2.807</td>
<td>9.2</td>
<td>.003</td>
<td>.286</td>
<td>.463</td>
<td>.093</td>
<td>.293</td>
</tr>
<tr>
<td>Weight of Evidence</td>
<td>-0.0296</td>
<td>6.0</td>
<td>.02</td>
<td>68.8</td>
<td>34.7</td>
<td>83.9</td>
<td>22.3</td>
</tr>
<tr>
<td>Constant -0.1968</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* d.f. = 1, 71
Table 9.2: Classification Matrix

<table>
<thead>
<tr>
<th></th>
<th>Total Number of Subjects</th>
<th>Number of Subjects Predicted to Appear</th>
<th>Number of Subjects Predicted Not to Appear</th>
<th>Percent Correctly Classified</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Appear Group</strong></td>
<td>21</td>
<td>9</td>
<td>12</td>
<td>57%</td>
</tr>
<tr>
<td><strong>Not Appear</strong></td>
<td>54</td>
<td>2</td>
<td>52</td>
<td>96%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>75</td>
<td></td>
<td>64</td>
<td>81%</td>
</tr>
</tbody>
</table>