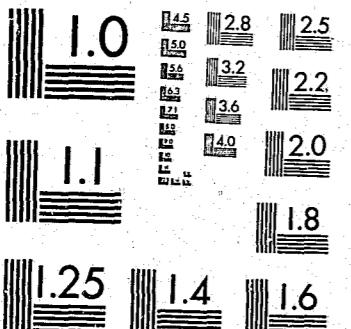


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9/29/83

What Happens After Arrest In Oregon?

A REPORT OF DISPOSITION
AND SENTENCES FOR 1979:
PART I FELONY ARRESTS



Prepared By The
Oregon Law Enforcement Council

89867

WHAT HAPPENS AFTER ARREST IN OREGON?

A Report on the Disposition of Part I Felony Arrests
for 1979

Prepared by the
OREGON LAW ENFORCEMENT COUNCIL
August, 1982

U.S. Department of Justice
National Institute of Justice

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NCJRS
MAY 13 1983
ACQUISITIONS

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Administrator
Oregon Law Enforcement Council

WHAT HAPPENS AFTER ARREST IN OREGON?

A Report on the Disposition of Part I Felony Arrests
for 1979

by

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EXECUTIVE SUMMARY

This report attempts to answer a number of questions about what happens to people who had been arrested for serious (Part I) felony crimes in Oregon in 1979. It is based on research which utilizes a statistical approach to the analysis of computerized criminal history (CCH) data known as the offender based transaction statistics (OBTS) approach. The report introduces the reader to the concept and utility of offender based transaction statistics and outlines the results of using the OBTS approach to track people arrested in order to describe what happened to them in terms of arrest, court disposition, and sentencing patterns. It also contains information on how long it takes to dispose of various cases in the courts (i.e., time to disposition). This report represents the second time such an effort has been made to gather and analyze offender based transaction statistics on a statewide basis. An earlier report (published by the Oregon Law Enforcement Council last year) examines the disposition and sentencing of serious felony (Part I crime) arrests from calendar year 1977. While based on data from arrests made in 1979, the report here makes a number of comparisons between results obtained in each year. Calendar Year 1979 was selected for this statewide OBTS study to allow a sufficient period of followup time for tracking post-arrest decisions related to court disposition and sentencing.

Having introduced the general topic area of this report, we can now turn our attention in this summary to a brief outline of the general research questions posed and the major findings (referenced by table and page numbers) in the body of this report as follows:

¹For this report we can talk about individuals in that for analysis purposes we counted only one arrest charge and one judicial charge (the most serious in either case) per individual for each arrest incident. (See pp. 9-10 for a justification of this logic.)

1. How Comparable are the 1977 and 1979 OBTS Study Arrests? (See Table 2 and pp. 10-12.)

Taking into account the addition of arson as a Part I offense in 1979, we tracked the disposition and sentencing of 5,807 statewide Part I felony arrests (excluding arson) in 1977 and 7,451 such arrests (including first and second degree arson) in 1979. Omitting the 99 arson arrests reported in 1979, Table 2 (p. 12) reveals that the two distributions are quite similar in terms of the frequency of individual Part I felony charges. There is only a slight difference in that the ratio of violent to property offense arrests varies somewhat. In 1977 violent offenses accounted for 29.2 percent of the Part I felony arrests compared to 26.1 percent in 1979 (excluding arson for both years).

2. What Happens After Arrest? What do the Initial Findings Show When Examining Case Outcome and Attrition or Fall Out for all Arrests in 1979? (See Figures 1 and 2, Table 3, and pp. 13-22.)

The data analyses from our 1979 OBTS study show that about three quarters (73.2%) of all (7,451) arrests here resulted in the filing of charges in court and about half (49.3% or 3,674) of the arrests resulted in conviction on some charge. Excluding completely suspended incarceration sentences, less than one-quarter (21.7%) of all the arrests resulted in a sentence requiring some period of incarceration in jail or prison. For the 1,777 arrests (or arrestees) with court filed charges but no conviction, the majority (about 60%) resulted in dismissal. (See Table 3.) Of the remainder, most of them (32%) were released without further complaint. Only 154 (or roughly 9%) resulted in acquittal. In slightly over half of all the convictions (53.7% or 1,973 of 3,674), conviction was on the arrest charge with the remainder on other or reduced charges.

3. How Many Unique Individuals Accounted for the 1979 Arrests Studied Here? (See footnote 1 on p. 10.)

An examination of the arrest data here indicates that a total of 6,699 unique individuals accounted for the 7,451 Part I arrests. This leads to the conclusion that the overwhelming majority of these 6,699 individuals accounted for only one reported arrest each in 1979. The range of arrests per individual went from one to a maximum of five with only two individuals having exactly five reported arrests.

4. How Serious Were the Sentences for Those Arrestees Convicted on Some Charge? (See Figures 2 and 3, and pp. 18-22.)

Seriousness of sentence imposed can be analyzed in terms of the extent to which each type of sentence penalty incapacitates or in some way limits one's freedom of choice or movement and in terms of the likelihood of receipt of multiple penalties. In the first sense, incarceration is obviously the most severe sentence followed in order by probation and fines presumably.

Excluding completely suspended incarceration sentences, 1,614 (21.7%) of the 7,451 arrests had some term of incarceration as the most serious

penalty. For 1,682 (or 22.6%), probation was the most serious penalty received and for 189 (or 2.5%) a fine was the most serious penalty received.

In terms of multiple penalties, sentences specifying a single type of penalty are more common than sentences with multiple penalties. Including cases with completely suspended incarceration, 68.6 percent of the convictions (2,520 of 3,674 in Figure 3) result in a single type of sentence penalty.

5. Are There Significant Differences in What Happens After Arrest When We Consider Part I Violent and Property Crime Arrests Separately? (See Figures 4a and 4b, Table 4, and pp. 22-32.)

The data and statistics cited in the report tend to confirm that when the arrest charge is for a violent offense, the probability of court filing and conviction is slightly less than when the arrest charge is for a property offense. However, incarceration for any length of time is a somewhat more likely outcome for those charged at arrest with a violent crime as opposed to a property crime. (Note: Later sections of the report examine dispositional and sentencing outcomes for specific categories and subcategories of arrests arranged according to type of offense cited on the point of arrest. See especially Table 4 and pp. 30-32.)

6. Do Conviction Rates Vary According to Whether or Not Arrest and Disposition or Judicial Charges Agree and According to How These Rates are Computed? (See Table 5 and pp. 32-36.)

From data analyzed in this report it certainly would appear that how we compute conviction rates greatly influences the values obtained. For example, computing a conviction rate in terms of all arrests generates lower values than computing the rate in terms of only those arrests with court filings.

Whether or not conviction was on the arrest charge makes a difference also in conviction rates. Generally, conviction rates were lower for conviction on the arrest charge than for conviction on any charge and this tendency was quite noticeable for violent crime arrests. In addition, there appears to be a relationship (regardless of type of arrest charge) between court filing and conviction rates. In general, the higher the court filing rate for a group of arrests with a specific type of offense charged the higher the conviction rate for that same group.

7. Is Charge Modification Between Arrest and Disposition Stages Common and Does it Lead to Differences in the Probability of Conviction and Incarceration if Convicted? (See Tables 6 and 7 and pp. 37-42.)

The study here revealed a substantial amount of charge modification between arrest and disposition. About one-third (33.5%) of all those arrests with court filing of charges were on different charges. For violent crime arrests, the arrest and disposition charges were the same in just over one-half of the cases (56.1%). For property crime arrests, charge modification was less frequent with nearly 70 percent (69.9%) of the arrests having a match between arrest and disposition charge.

In most of the instances where the arrest charge was modified, a higher conviction rate and a somewhat less severe sentence was the result (at least in terms of the probability of receiving an incarceration sentence). For all arrests with court filing of charges, the conviction rate is 54.4 percent for the situation where arrest and disposition charges are the same and 93.2 percent where they are different.

Additional data in the report indicates that the probability of receiving a more severe sentence (i.e., incarceration) varies according to whether or not charge modification occurs. In general, it appears that incarceration is a more likely sentence outcome following conviction where the arrest and disposition charges are the same as opposed to where they are different. These differences are slightly more noticeable where the original arrest charge was for a violent crime as compared to a property crime.

8. What Patterns Emerge in Examining the Probability of Different Dispositional Outcomes for Arrests With Charges Filed in Court? (Table 8 and pp. 42-44.)

Without exception the majority of all arrests in each arrest charge category (and subcategory) have charges filed in court. Of all those arrests with court filings across these arrest charge categories, conviction is the most likely disposition. For all these categories at least half or more of the arrests with court filings result in conviction.

The proportions with dismissals across the same categories vary from 12.7 percent for criminal homicide to 42.8 percent for motor vehicle theft. Generally, high conviction rates are associated with low dismissal rates and vice versa.

Acquittal rates do not vary as dramatically ranging from 9.3 percent for forcible rape in the first degree to 1.7 percent for all burglary charges combined. In general, the acquittal rates are somewhat higher for violent crimes (with the exception of robbery) and lower for property crimes (with the exception of arson). Acquittal rates also appear to vary according to the degree to which it seems possible to prove the arrest charge with such crimes as homicide, forcible rape, and arson generating the highest acquittal rates.

9. What Patterns Emerge in Examining Sentencing Outcomes Following Conviction? (Table 9 and pp. 45-47.)

In looking at our eight major Part I felony arrest categories, it appears that arrests for violent crimes as a whole resulted in the greatest likelihood that conviction would result in some incarceration sentence. All together, nearly three-quarters (72.0%) of the convictions for violent crimes resulted in an incarceration sentence of some length contrasted to a little over one-half (56.3%) of the property crime convictions resulting in such sentences.

When examining suspended incarceration sentences it is interesting to note that in general, the violent crimes (which have a higher incarceration rate) have a lower suspension of incarceration sentence rate compared to the higher suspended sentence rates of the property crimes (which have a lower proportion receiving incarceration sentences).

Probation as a penalty is used frequently for property crimes where 64.8 percent of the convictions resulted in probation and is less often used for violent crime where as a group 42.5 percent of the convictions lead to the use of probation. It is also of interest that sentences of probation without incarceration are far more common than sentences of incarceration with probation.

As one might expect, fines tend to be more common for convictions where the arrest charges were for property crimes than for violent crimes. An exception here is the noticeable use of fines for the group with arrest charges for criminally negligent homicide.

10. What Patterns in the Data Emerge From an Analysis of Elapsed Time (in days) From Date of Arrest to Date of Court Disposition? (See Tables 10 and 11 and pp. 48-52.)

In 1979 the greatest average number of days to disposition was for those cases or arrests ending in conviction. Acquittal outcomes produced the next largest average followed by dismissals. In comparing our 1977 to our 1979 OBTS data, it appears that it took longer for the dispositions of dismissal or conviction to occur in 1979 than in 1977.

Again looking at our 1979 data it appears that regardless of the type of dispositional outcome, average time to disposition is greater for violent crimes than for property crimes charged at arrest. It also appears that average time to disposition increases as the prospects for both conviction and sentences of long term incarceration increase.

NOTE TO THE READER

An earlier draft of this report provided additional data and analyses to highlight differences in dispositional outcomes and sentences between the State's six (6) largest counties and the "rest of the state". After further analyses and as a result of discussions with some of the report draft reviewers, we decided not to publish the results of the large county analyses at this time. While the data and analyses can be made available to interested readers of this report, the results for individual counties should be subject to additional qualifications which extend, in important ways, the assumptions upon which this research is based.

Certain assumptions about the completeness and quality of CCH arrest disposition reporting are acceptable at the state level, but may be more tenuous at the level of specific, individual counties. In 1981, the Oregon State Police estimated that over 90 percent of the arrest offenses which are required by law to be fingerprinted and reported for entry in the CCH file are actually reported. Further, they estimated that approximately 80 percent of the final court dispositions of all CCH reported cases and 90 percent of those for Part I felony offenses are reported. While Oregon has passed legislation requiring the CCH system reporting of arrests and dispositions associated with all Part I felonies and sex and drug related misdemeanors; the state does not have any requirements governing the timeliness with which disposition events must be reported into the CCH system after their occurrence. The timeliness and com-

plteness of reporting are issues which may surface in different forms and to different degrees for each separate county examined in our research.

For example, the results of our initial analysis of OBTS/CCH data for Clackamas County may have been distorted because of a unique situation in the county. In Clackamas County many 1979 felony arrests were routed first through the district court where an "information of felony" was introduced. The outcome for many felony cases at this point was to have the district attorney dismiss the case at the district court level in order to present it to the grand jury at the circuit court level to seek indictment and further processing. Ultimately, the final judicial disposition of the case usually was determined at the circuit court level, but this disposition may or may not be reflected in the CCH system coding of information. While all additional data and analyses are not yet available to test our ideas here, it is conceivable that the CCH system simply may pick up a "dismissal" at the lower district court level and never receive information on the ultimate disposition of the case at the higher circuit court level. At least, this appears possible in a number of cases involving 1979 arrests in Clackamas County.

With court case backlogs and shortages of clerks in many county courts it is conceivable that final CCH case disposition reporting may not be uniform from county to county. Any county, therefore, that has difficulty in routing in complete and timely fashion CCH disposition cards to the Oregon State Police Bureau of Criminal Identification may have its offender based transaction statistics severely altered, thereby distorting the picture presented of case dispositional patterns. In particular, the computation of conviction, dismissal, and other critical rates could be adversely affected.

For these and other reasons we have elected to publish analyses of the OBTS data for the larger counties separate from this report. This will give us the opportunity to recheck our OBTS data analysis results in Clackamas County and to disseminate our county findings with appropriate qualifying statements.

The last section of the report utilizes the above findings and additional policy research questions to draw out the implications of the OBTS research reported on in this report. In general, the OBTS data base and the statistics which can be generated from it are viewed in dynamic terms. Our investment in offender based transaction statistics yields a number of findings about the performance, workload, and operation of Oregon's criminal justice system. Examples of the policy questions which can be addressed by offender based transaction statistics and the potential for using the answers to help shape important policy decisions and guidelines are given here also.

1. INTRODUCTION

Early last year, the Oregon Law Enforcement Council (OLEC) released its offender-based transaction statistics (OBTS) report entitled, "What Happens After Arrest in Oregon?." Publication of this report marked the first statewide attempt in Oregon to trace the disposition of certain types of serious felony arrests of offenders using the OBTS methodology of tracking offenders and specific offense incidences/arrests through various decision points in the criminal justice system (CJS). This 1981 report was based on a special computerized criminal history (CCH) tape which contained all Part I felony arrests¹ of adults² for 1977.

The publication you have in hand represents our second attempt to develop a statewide OBTS report which addresses the general research question of what happens after arrest in Oregon on charges involving Part I felony offenses. While the current report here replicates (in a sense) the earlier study using 1979 rather than 1977 CCH data, the purposes of this second report go beyond those of the earlier report.

The Purposes of This Report

As with the earlier report, this report is designed to describe (in part) the processing of felony offenders arrested in Oregon during a single calendar year--1979 in this instance. Specifically, it tracks people arrested for

¹Part I felony offenses in 1977 included the seven (7) major offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft including unauthorized use of a motor vehicle. In 1979, arson was added to the Part I felony category and consequently it is included in this report. As much as is possible, the offense categories used in this study fit the FBI's Uniform Crime Report (UCR) Part I crime definitions.

²For purposes of definition and measurement here "adults" constitute those persons having reached the age of majority and the few juveniles remanded to adult criminal court to be tried and processed as "adults" in the criminal justice system in Oregon.

³Arrests for this specific calendar year were selected for analysis in that 1979 was the most recent time period that could be examined which still allowed sufficient time for follow-up on the judicial disposition of the arrests under examination.

Part I felonies in 1979 and describes what happened to them with regard to judicial dispositions and sentences.¹ It also examines time to disposition as an important variable in describing court processing of cases and seeks to examine variation or differences between several arrest offense groupings in court filing and conviction rates.

The data in last year's report covering arrests reported in 1977 included all known Part I felony arrests for the whole state, as well as provided breakdowns for the larger counties of Clackamas, Multnomah, and Washington in the Portland tri-county metropolitan area and for Marion and Lane counties which encompass Salem and Eugene, respectively. For this report data is provided for all known Part I felony arrests (including arson) for the whole state for 1979 with individual county data available on a request only basis for Jackson County, as well as the five previously listed large counties included in the earlier report.

The information for this report was obtained from the Computerized Criminal History (CCH) file maintained by the Oregon State Police. The CCH system is an on-line computerized file of individuals' arrest, disposition, and custody records, sometimes referred to as "rap sheets." All arresting agencies in Oregon are required to file a CCH fingerprint card for any person arrested for a felony or for a misdemeanor involving a drug or sex offense.

Originally, the CCH file was not considered usable for statistical analysis due to the low rate of disposition reporting by the courts and also due to the fact that the file was not originally designed for the compilation and analysis of aggregate statistics. However, since January of 1977, the assumption is that arrest disposition reporting has substantially improved. A new fingerprint card should have facilitated reporting and the Supreme Court now sends reminder notices to courts with past due dispositions. In addition, Mr.

¹Calendar year 1979 was used because this is the most optimum period for OBTS data analysis in that it is a fairly recent year yet still allows a sufficient amount of time for following up on the disposition of the arrests from the arrest year. As the 1979 CCH computer tape for this study was constructed in late May of 1981, 1979 arrests could be tracked for a minimum of 17 months up to a maximum of 29 months. Given delays in court and the pace of judicial proceedings, this follow-up period should be of adequate length to trace the disposition of most (if not all) of the felony arrests reported in 1979.

Stanley T. Woodwell of the Statistical Analysis Center (SAC) of the Oregon Law Enforcement Council (OLEC) has been able to access the yearly CCH tapes and generate important offender-based transaction statistics from these CCH tapes via a complex computer programming process.

A Word About the OBTS Concept of Data Analysis in the Criminal Justice System

There are basically two types of statistics which can be used to describe and analyze the criminal justice system. These are traditional summary statistics which describe the system by totals, rates, and averages and system statistics which produce a model of the criminal justice system by determining the volume of flow through the various pathways of the system and the amount of time which elapses as offenders move from one system segment to the next and move between various decision points.

The Uniform Crime Reporting (UCR) program of the FBI is perhaps the best example of the use of traditional summary statistics. Offender based transaction statistics (OBTS) constitute the premiere example of the use of system statistics in the criminal justice system.

When comparing traditional statistics as currently collected by agencies within the criminal justice system with offender based transaction statistics, we can immediately see differences between both approaches in the way one counts and measures and in the way one organizes data and focuses on certain questions or analyses and not others.

Borrowing some from a paper by Dr. Charles M. Friel,¹ it is possible to show in tabular form the main differences between each of these two statistical approaches. Table 1 permits comparison between the traditional and the OBTS approaches to criminal justice system statistics.

¹Charles M. Friel, "Offender Based Transactional Statistics: The Concept and its Utility," in Proceedings of the International Symposium on Criminal Justice Information and Statistics Systems, edited by Gary Cooper and sponsored by the Law Enforcement Assistance Administration and Project Search, 1972, pp. 43-46.

Table 1

Comparison Between the Traditional and the
OBTS Approaches to Criminal Justice System Statistics

Element Compared	Approach Compared	
	Traditional	OBTS
Unit of analysis for counting and computing purposes	Varies with agency. Examples include reported offenses and arrests; court cases; number of probationers, parolees, and inmates; etc.	The offender and the associated offense(s) and arrest(s) by which he or she can be tracked through the various system components: police, courts, and corrections.
Analytical focus for comparison purposes	Agency specific focus. While different agencies focus on different kinds of data and analyses, most concentrate on descriptions of agency-wide workloads and volume of clients and referrals.	The focus here is on system processing--especially the movement of the offender through the system. For example casewflow and case attrition during the processing of cases between point of arrest and final court disposition merits considerable attention.
Time base for comparisons	Generally, the calendar or fiscal year or the time interval coinciding with the appropriate planning and budgetary cycles are used for analysis.	The main interest is in the time interval between decisions involving offenders as they move through the criminal justice system.

In several very important aspects, the OBTS approach to data analysis provides a means of capturing in a more systemic and useful way information on the dynamic nature and inter-relatedness of criminal justice system processes and structures. Carl E. Pope¹ views the OBTS approach to data collection and analysis as being particularly useful in obtaining information about time variation in the processing of offenders, the recirculation of offenders through the system, and the relationship between inputs at one stage and outputs at a later point in time.

Friel² likewise sees the advantages of the OBTS approach in these terms--especially in two generic areas of utility. First, he notes a primary advantage of the OBTS approach is that it can provide mortality information or indices of the degree of "fallout" from the criminal justice system. As disparities begin to accumulate between the original number of arrests or cases examined and those reaching certain disposition points (court filing, conviction, and various sentencing options); we can begin to entertain various hypotheses or explanations to explain selective case attrition. The role of court backlog, plea bargaining, prison overcrowding, community attitudes, etc. all enter into these attempts to explain differential attrition of cases as we track case flow using the OBTS approach.

The second major advantage of the OBTS concept is that of providing information on the amount of time it takes to process offenders from one point in the system to another. The OBTS approach offers information and statistics on average time between events such as between arrest and indictment or the length of time in jail awaiting trial, on probation, or in court. Temporal information drawn from an analysis of the time-flow of offenders through the system permits examination of many of the policy issues concerned with system effectiveness and efficiency.

Unlike the OBTS approach, traditional summary tabulations and data provide no basis for the provision of mortality information, that is, information and

¹Carl E. Pope, "Offender-Based Transaction Statistics: New Directions in Data Collection and Reporting," Research Report No. 6, Utilization of Criminal Justice Statistics Project, Criminal Justice Research Center, Latham, New York, 1975, pp. 13-14.

²Charles M. Friel, Ibid., p. 45.

statistics on the number of individuals who exit the criminal justice system at various points.

As Friel indicates, the OBTS concept can in contrast:

"...provide a breakdown of the percentage of individuals who exit the criminal justice system throughout all levels. Such information is vital for criminal justice planning since it allows us to anticipate increases in the number of offenders at various levels as a function of increases in the number of individuals arrested, dismissed, incarcerated, etc."¹

In the absence of OBTS data we are left with data collection that is often segmental and discontinuous and limited to only specific agency use at only specific stages of criminal justice system processing.

This report will deal with the use of OBTS data in examining in a number of refined ways mortality and temporal information on the CJS processing of Part I felony arrests in Oregon in 1979. The value of this information for both research and policy will be emphasized throughout the report.

Study Methodology

Traditionally, analyses of reported crime gathered via Oregon's Uniform Crime Reporting (UCR) program have focused on what are considered more serious, major crimes such as the UCR program's modified Index Crimes (1. murder and nonnegligent manslaughter, 2. forcible rape, 3. robbery, 4. aggravated assault, 5. burglary, 6. larceny-theft, 7. motor vehicle theft, and 8. arson)² or the group of major offenses known as Part I offenses.³

Despite some criticism of over reliance on this FBI based crime index and the limitations of UCR reported crime data in general,⁴ it would appear that

¹Ibid., p. 45.

²We use the term "modified" Index Crimes here to reflect the FBI's addition in 1979 of arson to the Index Crime classification.

³Part I crimes include all of the modified Index Crimes discussed above plus negligent (involuntary) manslaughter. With the exception of negligent manslaughter, all of these crimes have the feature of specific criminal intent.

⁴See Michael J. Hindelang, "The Uniform Crime Report Revisited," Journal of Criminal Justice, Vol. 2, No. 1 (Spring, 1974), pp. 1-18 for a discussion of these limitations.

Index or Part I crimes still merit considerable attention given the public's concern with violent crime (murder, forcible rape, robbery, and aggravated assault) and property crimes of a predatory nature (burglary, larceny-theft, motor vehicle theft and arson). Also, our previous yearly analyses of reported Part I offenses and arrests force us to focus some attention on the disposition of such arrests. Knowing the volume and prevalence of arrests for Part I crimes, what do we know about their disposition in the criminal justice system and what specific sentences, if appropriate, follow these dispositions.

Because of the public concern with serious (Part I) felony crimes and the precedence established in examining UCR classified crime data in Oregon in previous reports, it was decided that we would in this report focus again on Part I felony arrest incidents. Listed below are the eight (8) major Part I offense categories and the corresponding sub-categories of Oregon felonies with the appropriate Oregon Revised Statutes (ORS) numbers for each. Definitions of each of these specific charges listed below can be found in Appendix A.

NOTE TO THE READER:

In selecting 1979 Part I felony arrests for this study, we have tried to maintain a close correspondence between OUCR offense definitions and Oregon Revised Statutes (ORS) citations for arrest charges listed on the CCH file computer tape. As an aid to understanding what arrests we are studying, the reader should note that we are not including all felonies. We exclude certain felonies (for example, kidnapping, treason, or extortion) which are not Part I offenses in OUCR terms. Also, the reader should know that not all Part I offenses can be classified as felonies. Some are clearly misdemeanors (for example, second degree theft). What we have in this study are arrests involving charges which are both Part I crimes and felonies.

In addition to the above, the reader also should know that certain of the ORS citations and the generic nature of some Part I crime definitions posed problems for classification of arrest charges in our research. The most notable examples involve motor vehicle theft and "attempts" (in various crime categories).

Oregon Revised Statutes do not contain a specific citation for motor vehicle theft. Unauthorized use of a vehicle (ORS 164.135) is listed, however, in the "theft and related offenses" group in the ORS. Our understanding from the Oregon State Police Bureau of Criminal Identification is that motor vehicle theft is a generic category and may result in coding either as first degree theft (ORS 164.055) or unauthorized use of a motor vehicle (ORS 164.135).

"Attempts" (or attempts to commit a crime) also pose a problem in our data. In our report arrests involving attempts are included without distinction with all other arrests. Since attempts and charges of actual crime commission

carry the same ORS numbers in the CCH system, we have no way (short of additional and expensive computer programming) of separating them in our analyses of these data. The addition of attempts in such categories as murder, aggravated assault, and forcible rape may give an inflated appearance to our data and can affect our results in certain subtle ways. For example, we report more arrests for murder in Oregon than does any other source. Also, since we do not distinguish between arrests for attempted murder and murder arrests, we cannot provide separate analyses of dispositional and sentencing patterns.

OUCR PART I OFFENSES		ORS NO.
V	1. <u>HOMICIDE</u>	
I	Murder	163.115
O	1st Degree Manslaughter	163.118
L	2nd Degree Manslaughter	163.125
E	Criminally Negligent Homicide	163.145
N	2. <u>FORCIBLE RAPE</u>	
T	1st Degree Rape	163.375
C	3. <u>ROBBERY</u>	
R	1st Degree Robbery	164.415
I	2nd Degree Robbery	164.405
M	3rd Degree Robbery	164.395
E	4. <u>AGGRAVATED ASSAULT</u>	
S	1st Degree Assault	163.185
P	2nd Degree Assault	163.175
R	5. <u>BURGLARY</u>	
O	1st Degree Burglary	164.225
P	2nd Degree Burglary	164.215
E	6. <u>THEFT</u>	
R	1st Degree Theft	164.055
T	7. <u>MOTOR VEHICLE THEFT</u>	
Y	Unauthorized Use of (Motor) Vehicle	164.135
C	8. <u>ARSON</u>	
R	1st Degree Arson	164.325
I	2nd Degree Arson	164.315

Arrest records selected from our 1979 CCH tape for this report included only those which had a Part I felony Oregon Revised Statute (ORS) citation listed. The necessity of an ORS citation was built into the selection criteria because without the citation it is not always possible to determine whether the charge was a felony or a misdemeanor, and impossible to compare arrest and adjudication charges.

All statistical analyses and reports based on the OBTS model for tracking arrests initially must confront the problem of counting. This becomes apparent when we consider, for example, that a single arrest incident may involve several arrestees and several arrest charges. Attempting to statistically portray all charges and all arrestees related to a single arrest incident is extremely difficult and could be very confusing to a reader. Consequently, for this report, only one arrest charge and one judicial charge per individual was processed from each incident. The arrest charge selected was the one with the highest seriousness rating on an offense seriousness scale derived from the Oregon Parole Board's Matrix system.

The judicial charge selected was the most serious charge which resulted in a conviction, or, in the case of nonconviction, the most serious charge filed. Again, seriousness of charge was determined by using the Parole Board Matrix scale. In selecting from multiple charges the most serious arrest charge or judicial charge, ties often occur in that two or more arrest or judicial charges have the same seriousness score. In either case a decision was made in the analyses here to break such ties by selecting the first listed of the charges with equivalent seriousness scores.

The basis for the above decisions and types of analysis in this OBTS report came from one of our previous pilot OBTS studies.¹ In that study it was observed that despite the common practice of multiple charging, the system really deals with individuals rather than single charges. For example, it is uncommon for a person to get convicted on all charges emanating from a single

¹Oregon Law Enforcement Council, "What Happened After Arrest in Eleven Oregon Counties, A County by County Comparison of Judicial System Response to Part I Felony Arrests," Salem, Oregon, February, 1979.

arrest. More likely, he or she will be convicted on one and the rest will be dismissed. Additionally, when conviction does occur on several charges, the charges are often combined for sentencing purposes. Consequently, selecting the most serious charge at each stage is reasonably reflective of what happened to a given offender.¹

A Note on the Comparability of the 1977 and 1979
OBTS Study Arrest Populations

In our 1977 study we tracked the disposition and sentencing of 5,807 statewide Part I felony arrests (excluding Arson I and II). Due partly to the addition of arson to the Part I category in 1979 and due also to the larger volume of all Part I arrests in 1979 as compared to 1977, there were 7,451 arrests tracked for disposition and sentencing in the current report which examines CCH/OBTS data for 1979.²

Besides noting the obvious increase in the total number of arrests studied from each report period, it should be of some interest to the reader to compare the 1977 and 1979 arrest populations in terms of frequencies or distributions across the various categories and sub-categories of Part I felony offenses. Table 2 presents the data of interest here.

¹Throughout this report we have assumed that the basic unit of count most appropriate for OBTS research is the individual arrest incident (and by inference) the individual person regardless of whether or not the arrest on a specific date involves multiple offenses (and/or multiple counts of single offenses). Some support for this focus comes from data which indicates the relationship between the Part I felony arrests studied and the number of unique individuals who accounted for these arrests recorded for 1979. An examination of these data indicate that a total of 6,699 unique individuals accounted for the 7,451 Part I felony arrests (from 1979) which were tracked and studied in this report. The large number of individuals in proportion to the number of arrests means that the overwhelming majority of these 6,699 individuals accounted for only one reported arrest in 1979. The range of arrests per individual went from 1 to 5 with only two individuals having exactly five (5) reported arrests and the majority only one arrest.

²Better Computerized Criminal History (CCH) system reporting of ORS citation numbers for arrest offenses also may have improved between 1977 and 1979, thereby accounting for part of this overall increase.

Excluding arson, which was not considered a Part I crime in 1977, it appears that the proportions or percentages for each year are very similar with comparable loadings or concentrations of arrests across the entire array of offense types. The differences, where they occur, are somewhat minute. The most notable difference is a slightly larger proportion of all Part I felony offenses being property offenses in 1979 as opposed to 1977. The reverse appears true with Part I felony violent crimes. In 1977 violent offenses accounted for 29.2 percent of the Part I felony offenses as compared to 26.1 percent in 1979 (excluding arson in the grand totals for both years) for a difference of 3.1 percent. The respective percentages for property crimes (again excluding arson in the totals) were 70.8 percent in 1977 and 73.9 percent in 1979--a 3.1 percent difference.

Table 2

Comparison Between 1977 and 1979 OBTS Report
Results on the Distribution of Arrest Charge Offenses

Arrest Charge	ORS No.	Number of Arrests*		Percent of total CY 1977	Percentage Difference 1977 to 1979
		CY 1977	CY 1979		
Murder	163.115	125	176	2.1	+ .3
1st Degree Manslaughter	163.118	10	23	.2	+ .1
2nd Degree Manslaughter	163.125	27	35	.5	0.0
Crim. Negligent Homicide	163.145	21	31	.4	0.0
Subtotal HOMICIDE		183	265	3.2	3.6
1st Degree RAPE	163.375	231	338	4.0	+ .6
1st Degree Robbery	164.415	368	392	6.3	-1.0
2nd Degree Robbery	164.405	201	185	3.5	-1.0
3rd Degree Robbery	164.395	118	153	2.0	- .1
Subtotal ROBBERY		687	730	11.8	9.9
1st Degree Assault	163.185	187	233	3.2	0.0
2nd Degree Assault	163.175	409	355	7.0	-2.2
Subtotal ASSAULT		596	588	10.3	8.0
1st Degree Burglary	164.225	1,383	1,577	23.8	-2.4
2nd Degree Burglary	164.215	619	760	10.7	- .4
Subtotal BURGLARY		2,002	2,337	34.5	31.8
1st Degree THEFT	164.055	1,394	1,941	24.0	+2.4
UNAUTH. USE MOTOR VEHICLE	164.135	714	1,153	12.3	+3.4
1st Degree Arson	164.325		(85)*		
2nd Degree Arson	164.315		(14)*		
Subtotal ARSON			(99)*		
(Subtotal) VIOLENT CRIMES		1,697	1,921	29.2	26.1
(Subtotal) PROPERTY CRIMES		4,110	5,431	70.8	73.9
GRAND TOTAL		5,807	7,352	100.0%	100.0%

*In 1979, Arson I and Arson II were added to the FBI's list of Part I felony crimes. The 99 arson arrests for FY 1979 are shown here; but they are not included in any of the totals or calculations in this table.

2. SYSTEM OVERVIEW

Answering the General Question of What Happens After Arrest for Part I Felonies: A First Look at the Effects of Case Attrition

There are, of course, different levels of analysis and various ways to answer the central question of "What Happens After Arrest?". At the most general level we would be interested in a state and systemwide overview of Part I felony arrests. This means looking at arrests for all eight (8) Part I felony offenses in our statewide sample and examining the attrition or loss of cases resulting during criminal justice system processing. Attrition or loss occurs because there are some arrests for which charges are never filed in court and others going to court which do not result in court conviction. Still other arrestees charged with felonies and subsequently convicted do not necessarily end up with sentences of incarceration. As cases of arrests proceed through various major decision-making points in the criminal justice system (arrest, court filing, disposition, and sentencing), cases "fall out" as it were and are not generally subject to further criminal justice system processing related to the particular arrest which initiated processing here.

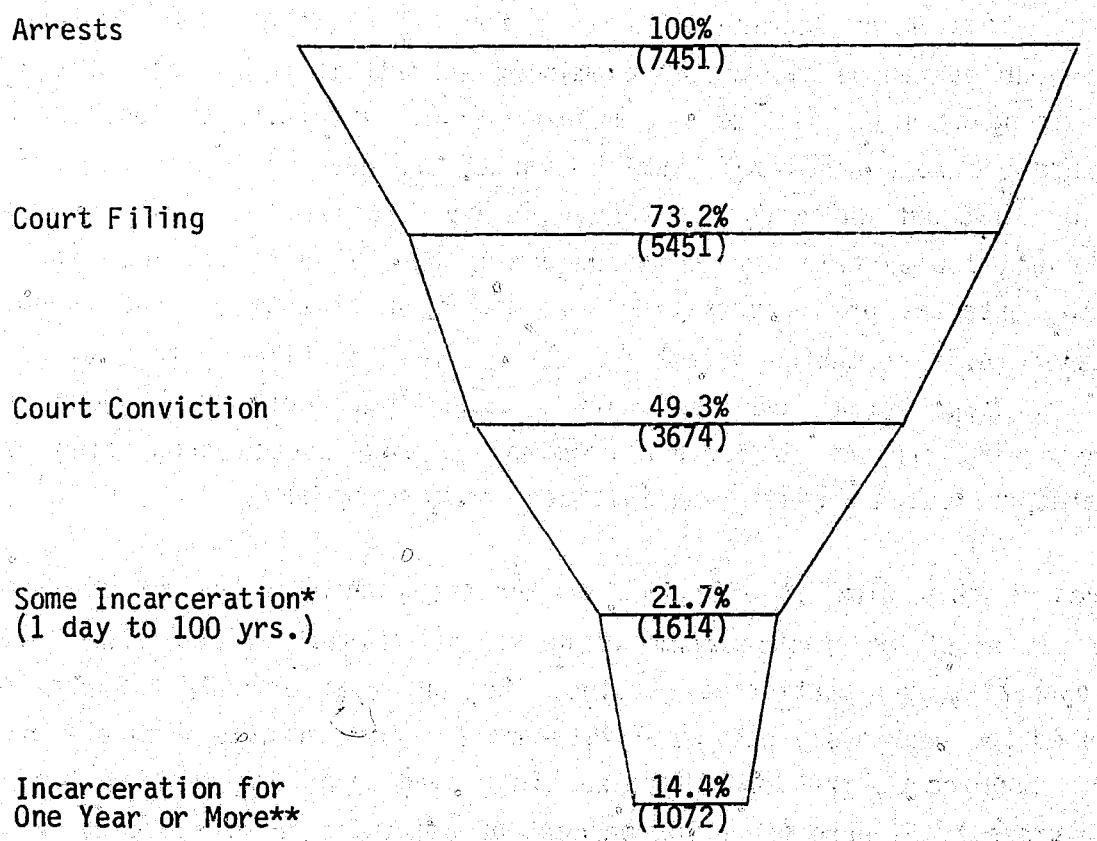
We can present this flow of offenders or arrestees through the adjudication system in pictorial or graphic form using various funnel shaped sieve diagrams, flowcharts, and statistical tables. Beginning at arrest, the present study tracked the previously defined 7,451 Part I felony arrests from all over the state. Looking at the funnel shaped sieve diagram in Figure 1 we begin, then, with these 7,451 arrests or 100 percent of all those in our sample.

Moving down to the first decision point, we find that 2,000 of these 7,451 (or 26.8%) had no court filing reported. While the precise reasons are not known in each case, the usual situation is that the prosecutor determines that necessary and/or sufficient evidence does not exist for the filing of criminal charges in court. Other possibilities are that the defendant may have been transferred to another jurisdiction to face other charges, the defendant may be deceased or incarcerated elsewhere, or there may have been a case of mistaken identity. In some cases, prosecutors have decided that in order to efficiently use their scarce resources, they should not waste time with cases

Figure 1

CRIMINAL JUSTICE FUNNELING EFFECTS

All Part I Felonies
(Statewide 1979)



*Excludes 485 cases where all of the incarceration sentence was suspended.

**Excludes 368 cases where all of the incarceration sentence (for one year or over) was suspended. (NOTE: These 368 cases are a subset or part of the 485 cases mentioned in the Footnote above. In other words, there were among the 485 cases with completely suspended sentences 368 with original sentences of one year or over of incarceration and 117 with sentences initially indicating less than one year of incarceration before suspension of sentence.)

not likely to result in prosecution. Therefore, they attempt to carefully screen out such cases at this stage. Other prosecutors may screen out cases after filing.

It is also possible that in a very few cases missing data may account for the lack of information on court filing. It is possible that court filing and disposition data may not have been added to or updated on the CCH tape at the time of this analysis.¹ (See Appendix B for a discussion of "missing data" in prior Oregon OBTS analyses.)

Proceeding on to the next decision point--that of court disposition--we find that 3,674 of these 7,451 arrests (or 49.3%) resulted in conviction on some charge, though not necessarily on the charge at arrest. In 1,973 of these 3,674 convictions (or in slightly over half) there was a perfect match between arrest charge and conviction charge. As will be discussed later, a large percentage of offenders in all crime categories are convicted on reduced or other charges. For the 1,777 cases (or 23.8% of the original 7,451) which had court filings but did not result in conviction, most were dismissed for various reasons. Many were "released without complaint" and others were acquitted or were considered "not guilty by reason of mental disease or defect." Table 3 provides a complete breakdown or distribution of reasons for "nonconviction."

¹According to one source, and based on data for earlier years, estimates are that over 90 percent of the arrests for offenses which are required by law to be fingerprinted and reported to the CCH system (all felonies and those misdemeanors which are sex and drug related) are actually reported in Oregon. Additionally, approximately 70 to 80 percent of the final court decisions of all cases and over 90 percent of the final dispositions associated with Part I felony offenses are reported. Oregon has passed legislation which requires the reporting of arrests and dispositions associated with all Part I felonies and sex or drug related misdemeanors. However, the state does not have any requirements governing the timeliness with which disposition events must be reported into the CCH system after their occurrence. See the following reference for a detailed description of Oregon's OBTS/CCH system and its development and operation. Criminal Justice Statistics Association, Inc., "Status of Offender Based Transaction Statistics (OBTS) System Development in the States, August, 1981, pp. 103-111.

Table 3

Reasons for Nonconviction Among Arrests
With Court Filing Reported

Reason	Number of Cases (Arrests)	Percent of Total (Base=1,777)
<u>Acquittals:</u>		
Acquitted	112	6.30%
Acquitted, insane	1	.06%
Acquitted, by reason of mental incompetence	41	2.31%
<u>Dismissals:</u>		
Charge dismissed	1,025	57.68%
Dismissed, civil action	25	1.41%
Adjudication withheld ¹	3	.17%
Mentally incompetent	2	.11%
Released, no complaint ²	568	31.96%
Total	1,777	100.00%

¹The "adjudication withheld" disposition occurs in instances where the case is dismissed and the accused offender "pleads guilty" so to speak. The individual then comes under the purview of a "diversion" program in which he or she agrees to participate.

²The "released, no complaint" type of dismissal occurs in cases where, in general, the district attorney initially decides after fingerprinting the arrestee that there is not enough evidence to bring the case before the grand jury for court processing. However, the case might be reactivated after additional investigation and without a second fingerprinting. We would not know (without a second fingerprinting) if the case eventually went to court. As a rule these cases do not go to court subsequent to the first fingerprinting and are handled as dismissals by the State Police in coding information for the CCH tape.

The next step in our examination of the flow of 1979 serious (or Part I) felony arrests involves sentencing decisions. Here we are especially interested in the extent to which offenders receive sentences of incarceration for the arrests under investigation here. For all of these arrests combined, 28.2 percent (or 2,099) of 7,451, received a sentence initially indicating incarceration. However, in 485 (or roughly a quarter) of these 2,099 cases the sentence of incarceration was completely suspended and in another 60 cases the incarceration was suspended in part. Including the above 60 cases with partial suspension and omitting the 485 with all of the incarceration sentence suspended, we really have 1,614 cases (or 21.7%) where the arrested offender was convicted and received a sentence which actually required at least some incarceration, that is, as little as one day in jail or as much as 100 years in the penitentiary. However, even after having made adjustments for completely suspended incarceration sentences in these data, it should be noted that the sentence eventually received is not the same as the sentence actually served. Time actually served varies according to policies and practices of the local jail and according to parole board practices. For those offenders under jurisdiction of the Oregon Parole Board the sentence served is determined by a matrix type scoring system which takes into account the seriousness of the crime and the offender's criminal history.

In addition to looking at those cases where arrest resulted in some incarceration (i.e., 1 day to 100 years), it is possible to break down sentences with incarceration into those with "one (1) year or less" and those with "over one (1) year." Of the 2,099 cases with an initial indication of incarceration, 1,440 received preliminary sentences with one year or more of imprisonment. The remaining 659 had indications of under one year of jail sentence.¹

¹It is important here to note the differences in incarceration settings between sentences of under or over one year in length. A sentence of under one year implies incarceration in a county or city jail whereas a sentence of over one year implies incarceration in a state prison (i.e., OSP, OSCI, or Oregon Women's Correctional Center (OWCC) in Oregon). In most, if not all, of the incarceration sentences of exactly one year the period of confinement occurs in a jail setting. While there is no statutory provision that an incarceration sentence of exactly a year has to be served in a prison (as opposed to a jail), by statute an offender can be held in a jail for up to but not exceeding one year.

Suspended sentences, however, figure heavily into the final sentence actually given. For 368 of those 1,440 with one year or more of incarceration, all of the incarceration part of the sentence was suspended and for 21 others there was partial suspension. This means that in terms of final sentence disposition, only 1,072 of the original 7,451 persons with Part I felony arrests (or 14.4%) were actually sentenced to a year or more of incarceration.¹

Figure 2 presents a flowchart which can be used to trace in more graphic and detailed terms the flow of arrests toward final court disposition. In addition to the case flow and mortality or case attrition information already given and repeated here, Figure 2 presents information on the sentencing outcomes or disposition in terms of the most serious type of sentence. Excluding 177 cases where sentence disposition was not known because it was not coded on the CCH/OBTS tape printout, there were 3,497 cases where the arrestees were convicted and the sentences were known. Of these 3,497 cases, 1,614 had incarceration for some length of time as the most serious sentence alternative.² These 1,614 cases represented 21.7 percent of the total of 7,451 Part I felony arrests studied here.

The next sentencing disposition of interest is probation. In 1,682 cases (or 22.6% of the total), probation was the most serious sentence disposition. Finally, in only 189 cases (or 2.5% of the total), a fine was the most serious sentence imposed.³

¹It should be noted that we have included with these 1,072 cases the 21 cases mentioned above who were sentenced to over a year of incarceration but had part of their incarceration sentence suspended. We assume that even with part of the sentence suspended most, if not all, of these cases will still have been sentenced to over one year of incarceration.

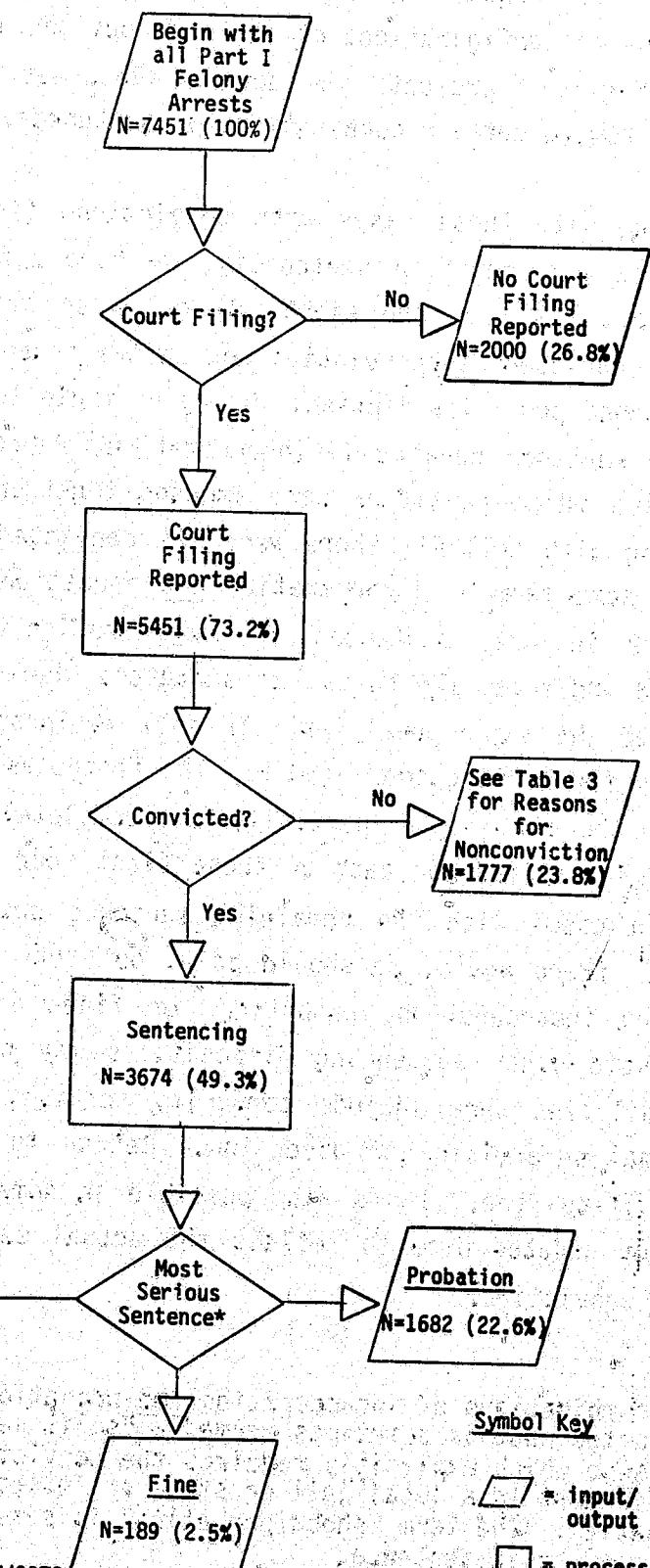
²Excluded from these 1,614 cases were the 485 cases where all of the incarceration sentence was suspended.

³Restitution, community service, and options other than incarceration, probation, and fines were not included in this analysis. However, these additional options could have been part of the sentence imposed for convictions here.

Figure 2

FLOWCHART DEPICTING THE PROCESSING
AND COURT DISPOSITION OF
PART I FELONY ARRESTS IN OREGON
IN CY 1979

Total Arrests



*Excludes 177 cases with sentence not coded on CCH/OBTS tape printout and also excludes 12 cases where all of incarceration sentence was suspended but no other sentence was indicated on the tape printout.

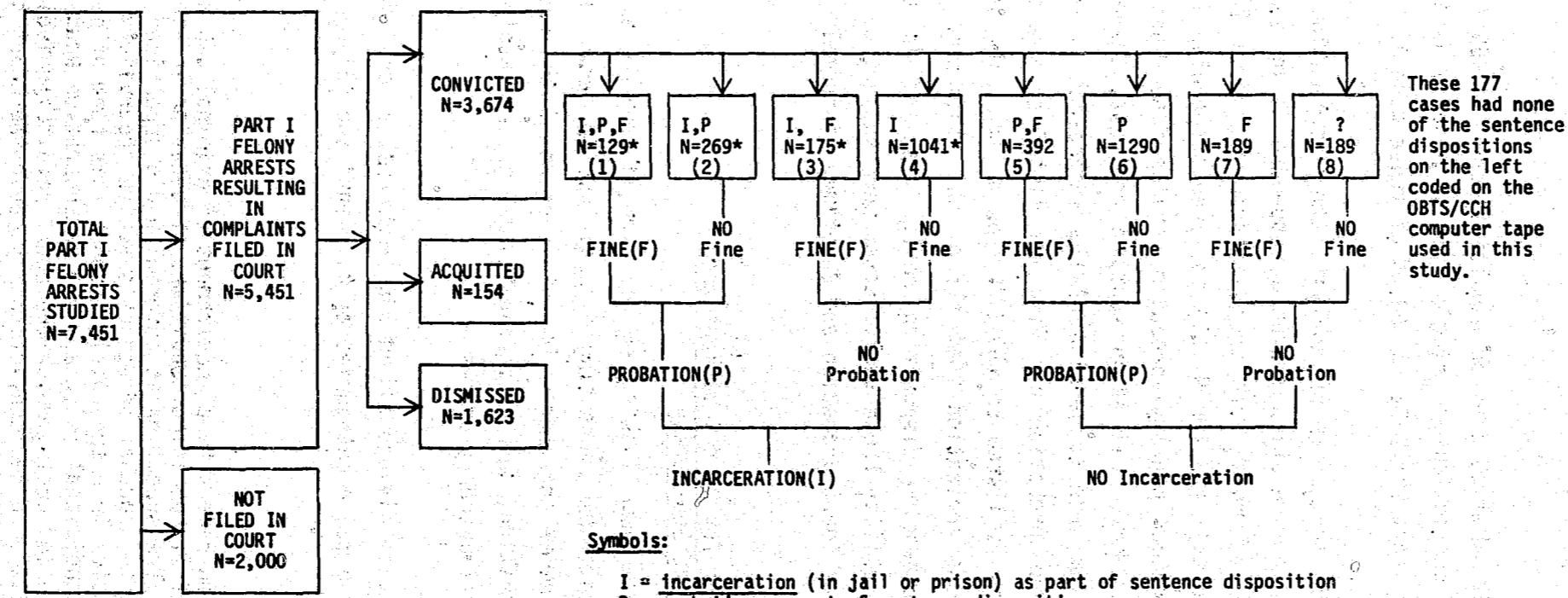
While "most serious" sentence imposed is useful information for describing sentencing dispositions here in this research, it is not the only information of interest. Another important way to describe sentencing is in terms of combinations or configurations of sentence options imposed as a result of conviction. Figure 3 presents the data of interest here to examine case flow of arrests toward certain combinations of sentences.

Beginning with those cases with convictions (including those 485 with fully suspended incarceration sentences), we have 3,674 cases on which to examine sentences. Each of the eight (8) cells or small boxes to the right of the large "convicted" subpopulation box contain cases having a certain combination of sentence penalties imposed. Using a single letter notation system to represent a sentence penalty (I=incarceration, P=probation, and F=fine), one can determine which penalties were imposed together in the sentence disposition. Starting with cell #1, there were 129 convicted cases where the sentence included some term of incarceration and probation and the imposition of a fine. Cell #2 includes sentences of incarceration and probation but no fine.¹ Cell #3 indicates 175 cases had sentences where incarceration and a fine constituted the major penalties. In cell #4 incarceration alone is the sentence penalty for 1,041 cases. (NOTE: The footnotes at the bottom of Figure 3 indicate the numbers of partially and completely suspended incarceration sentences identified for each of these first four (4) cells.) Cells 5 through 8 contain cases with the remaining sentence possibilities or penalty combinations. (Here again, we should point out that while the 189 cases in cell #8 have no incarceration, probation, or fines indicated; it is still possible that some other sentencing dispositions may have been imposed. The primary possibilities here include community service, restitution, and some form of informal supervision or diversion. Return to probation or parole is also a possibility here. It is also possible in some cases that the CCH tape simply was not updated here to reflect the actual sentencing disposition which followed conviction.

¹The combinations of incarceration and probation in cells 1 and 2 probably indicates what is sometimes termed a "split sentence." This term refers to a sentence which explicitly requires the convicted person to serve a period of confinement in a local jail or state or federal prison followed by a period of probation. The term "shock probation" is sometimes used interchangeably with the term split sentence.

Figure 3 - CASE FLOW OF PART I FELONY OFFENDERS

(Statewide, 1979)



These 177 cases had none of the sentence dispositions on the left coded on the OBTS/CCH computer tape used in this study.

Symbols:

- I = incarceration (in jail or prison) as part of sentence disposition
- P = probation as part of sentence disposition
- F = fine as part of sentence disposition

*Each of the four cells with footnotes in the above figure includes cases where part of the incarceration sentence was suspended and excludes cases where all of the incarceration sentence was suspended. The table to the right presents data on the number of included and excluded cases for each of these four (4) footnoted cells. Rather than eliminate these 485 cases from the table, however, they were distributed across the No. 5 to No. 8 cells as appropriate. For example, the 144 cases excluded from cell No. 1 due to fully suspended incarceration sentences were placed in cell No. 5 as they still involved the imposition of probation and fine.

CELL NUMBER	"INCLUDED CASES"		"EXCLUDED CASES"	
	(incarceration sentence partly suspended)	(incarceration sentence fully suspended)	(incarceration sentence partly suspended)	(incarceration sentence fully suspended)
1	24		144	
2	24		326	
3	1		3	
4	11		12	

While multiple sentencing dispositions or penalties occur in 965 (or 26.3%) of these 3,674 cases with convictions, a single type of penalty is the modal or most common outcome (at least for 2,520 or 68.6% of these cases).

Before moving on to our next area of analysis the distribution of the 485 cases with all of the incarceration sentence suspended is of some interest. Of these 485 cases (all of which were excluded from the first four sentence disposition cells or boxes), 473 (or 97.5%) involved suspending incarceration only in cases where another penalty--probation and/or fine--was part of the sentencing disposition. Only cell #4 presents a contrast. Here we have 12 cases excluded due to complete suspension of the incarceration sentence when incarceration and neither probation nor fine was listed as the type of sentence. If incarceration is listed on the CCH tape as the only sentence penalty and we also find an indication that all of this incarceration sentence was suspended, what sentencing disposition really resulted in these twelve (12) cases? In all probability these twelve cases were subject to what is variously termed bench or court probation and sometimes "informal" or "unsupervised" probation.¹

What Happens After Arrest for Part I Violent and Property Crimes Considered Separately

Up to this point we have been looking at the flow of arrests and subsequent patterns of case attrition and sentencing dispositions in terms of all Part I arrests for 1979 considered together. In this section of the report we will examine case flow, attrition, and sentencing patterns separately for Part I violent crimes and Part I property crimes.

In Table 2 of the report we divided all of the eight (8) general categories of Part I crime into the two major categories of "violent" and "property" crimes.

¹Bench or court probation refers to a requirement of criminal courts that the convicted offender fulfill specified conditions of behavior in lieu of a sentence to confinement. The probation is informal and unsupervised in that there is no assignment to a probation agency's active supervisory caseload. While the case is inactive in a supervision sense, this form of probation is not the same as an unconditional release. The incarceration sentence has only been suspended for a period during which the court retains jurisdiction over the case. A new offense or a new conviction may cause the court to revoke the probationary status and sentence the person to confinement.

Violent Part I crimes include homicide, forcible rape, robbery, and aggravated assault. Part I property crimes include burglary, theft, auto theft or unauthorized use of a motor vehicle (UUMV), and arson.

In our 1979 study population of 7,451 arrests, violent offenses accounted for 1,921 cases (or 25.8%) and property offenses accounted for 5,530 cases (or 74.2%). Because of the social importance attached to Part I violent crimes, we will look first at this category of offenses. Looking at Figure 4a, we can trace the flow of these 1,921 arrests through the major decision points established earlier.

The most notable finding in comparing the flow of violent crime arrests in Figure 4a with the flow of all arrests in Figure 1 is that it appears that slightly smaller proportions of the violent crime arrestees go to court (i.e., have charges filed in court) and slightly fewer end in conviction. However, it appears that in comparing the violent crime subcategory here to all the Part I felony arrests studied, larger proportions of the violent crime arrestees end up with "some incarceration" and "incarceration over one year or more" as sentencing outcomes.

A useful contrast at this point is to outline the flow of property crime offenders in our study population using the same funnel-shaped sieve diagram. Figure 4b tracks the 5,530 Part I property crime arrestees through each of the major decision points and permits us to make comparisons between the flow of violent and property crime arrestees.

In terms of case attrition, there are some notable differences between each major offense group as revealed in Figures 4a and 4b. First, the overall court filing rates are slightly higher for property crimes than for violent crimes (i.e., 74.5% vs. 69.3%). Second, conviction rates show a similar pattern with a slightly higher percentage for the group arrested for property crimes (50.9%) compared to violent crimes (44.7%). Lastly, the percentages with some incarceration and incarceration for one year or more tend to be greater for violent as opposed to property offense arrestees. In examining the proportion with some incarceration (1 day to 100 years), the percentages were 27.9 percent for the group arrested on some charge involving violent crime and 19.5 percent, respectively, for those arrested for property crimes.

Figure 4a

CRIMINAL JUSTICE FUNNELING EFFECTS

Part I Felonies - Violent Crimes
(Statewide 1979)

Arrests

100%
(1921)

Court Filing

69.3%
(1332)

Court Conviction

44.7%
(858)

Some Incarceration*
(1 day to 100 yrs.)

27.9%
(536)

Incarceration
One Year or More**

23.2%
(445)

*Excludes 66 cases where all of the incarceration sentence was suspended.

**Excludes 53 cases where all of the incarceration sentence (for one year or over) was suspended.

Figure 4b

CRIMINAL JUSTICE FUNNELING EFFECTS

Part I Felonies - Property Crimes
(Statewide 1979)

Arrests

100%
(5530)

Court Filing

74.5%
(4119)

Court Conviction

50.9%
(2816)

Some Incarceration*
(1 day to 100 yrs.)

19.5%
(1078)

Incarceration
One Year or More**

11.3%
(627)

*Excludes 419 cases where all of the incarceration sentence was suspended.

**Excludes 315 cases where all of the incarceration sentence (for one year or over) was suspended.

In terms of incarceration for a year or more, the percentage was higher for the group charged with violent crimes (23.3%) than for those charged with property crimes (11.3%).

These data and statistics (above) tend to substantiate the overall finding that when the arrest charge is for a violent offense, the probability of court filing and conviction is slightly less than when the arrest charge is for a property offense. However, incarceration for any length of time is a somewhat more likely outcome for those charged at arrest with a violent crime as opposed to a property crime. In aggregating or lumping together all the violent crimes and all of the property crimes we end up masking important differences between categories and subcategories of crimes arranged according to arrest charges. In the next section of this report we will examine variation or differences in court filing and conviction rates plus sentencing dispositions or outcomes for individual categories of violent and property crimes charged at arrest.

Criminal Justice "Funneling Effects" and Differential Case Attrition for Specific Crimes Charged at Arrest

In the last two sections of this report we portrayed the flow of offenders through the courts or adjudication system in very general terms using a series of graphs or figures and tables. This simplified portrayal was designed to give the reader an overview of what happens to arrestees at such major decision points as court filing, disposition, and sentencing. In some of these figures we used the term "funneling effect" to describe the pattern of case loss or case "mortality" and attrition when cases "drop out" of the judicial process at some decision point or simply remain through the disposition and sentencing stages with the usual result of referral to custodial or corrections agencies for formal supervision and/or confinement.

The tracking of felony arrest outcomes is of particular interest in that statistical analysis here gives us our first clues and impressions about the workload and performance of various components of the criminal justice system. An examination of case mortality or "fallout" may give us specific insights about performance in such areas as police crime investigation and related operations, as well as, insights into how the prosecutor's office functions in such areas as case research and case preparation. More significantly, recent research

appears to indicate the extreme importance of the role of cooperation between the police and the prosecutor's office in making "good" arrests in the sense of quality of evidence and convictability.¹ This is particularly important when we consider that the standards of proof required for conviction are much more rigorous than those required for arrest alone.

As one tracks case outcomes through various decision points or stages from arrest to disposition, a number of important policy research questions surface. While many of these questions are concerned with "performance" issues, the role played by budgetary and other resources is also of great importance. Why do some arrests not result in court filings and eventually convictions? How much of the loss of cases here is legitimate (i.e., due to circumstances and factors unrelated to the issue of effective criminal justice system performance and bringing people to justice)? What impact, if any, comes because of poor resources to make "good" arrests (i.e., arrests where the quality and quantity of evidence is high due to good law enforcement apprehension and detective work on the part of an adequately funded, professional police force)? How much of the case loss is due to prosecutor office and court overload which in turn might be partly the result of declining financial resources in a period where public tolerance for crime is lowered? Again, at the court level the convictability of various arrests is a question which causes issues of resources to surface. Especially of interest is the length of duration of court processing of cases at a time when psychologists tell us that the certainty and timing of punishment may have more weight in deterring offenders from future crime than the severity of punishment.

¹See, for example, the following publications:

- (a.) Brian Forst, Judith Lucianovic, and Sarah J. Cox, What Happens After Arrest?, Institute for Law and Social Research, Washington, D.C., 1977 (especially Sections 4, 5, and 6).
- (b.) U.S. News and World Report, "Special Report, "Revolving Door" Justice--Why Criminals Go Free," Vo. LXXX, No. 19 (May 10, 1976), pp. 36-40.
- (c.) Institute for Law and Social Research, Expanding the Perspective of Crime Data: Performance Implications for Policymakers, Washington, D.C., 1977.

Any realistic examination of the effectiveness of the criminal justice system in a state or locality gains from an examination of the flow of arrests and the fallout or washing out of certain arrests. High case mortality rates at the case filing stage, for example, may be an indication of police too often making inappropriate charges at arrest or failing to gather a sufficient amount of evidence at the scene of an arrest (i.e., locating scientific or physical evidence). From the prosecutor's perspective, sudden shifts and decreases in the proportions of arrest cases resulting in court filing of charges might provide the foundation for a review of initial case screening procedures and policies.

Community tolerance for crime and the willingness of the public to cooperate in reducing crime is also an issue here. In locales where citizens readily come forth with evidence or agree to serve as witnesses, we would expect more effective criminal justice system performance and more crime deterrence.

In this section we will examine differences in court filing and conviction rates for the different arrest charges under examination here. We also will examine differences between arrest offense groups in the proportions with certain disposition and sentencing outcomes.

Table 4 presents the data of initial interest here. As we read across the rows of the table we can determine for any particular offense category of Part I felony arrests the dispositional pattern. For example, in examining the entries in the first row of the table we can trace the flow and disposition of murder arrests. Reading across the column entries in this row we see that we begin by tracking all 176 murders (ORS 163.115) arrests in our 1979 statewide population of Part I felony arrests in Oregon. One hundred and twenty seven (127) of these homicide arrests (or 72.2%) resulted in charges being filed in court. Tracking further, ninety-two (92) or 52.3 percent of the initial number of arrests led to court conviction. In terms of sentencing, 37.5 percent (or 66) ended up with an incarceration sentence of some length and 34.7 percent (or 61 of the original 176) ended up with "felony time"--i.e., basically over one year incarceration sentences in prison. Reading down columns allows us to compare groups of arrests (arranged by type of offense "charged" at arrest) in terms of the percentages or proportions reaching a certain stage and dispositional outcome in the judicial processing of arrests.

Table 4

Number and Percentage of Specific Arrests Reaching Certain Disposition Points During Criminal Justice System Processing

(Statewide, 1979)

	Type of Offense "Charged" at Arrest	ORS Number of Offense (in Column 1)	Total Number of Arrests Tracked	Percentage and Number of Arrests (in Column 3) Resulting in:			
				Court Filing of Charges	Conviction on Some Charge	Incarceration (1 day to 100 years)*	Incarceration (1 year or more)*
	(1)	(2)	(3)	(4a)	(4b)	(4c)	(4d)
VIOLENCE	(1) Murder (2) Manslaughter I (3) Manslaughter II (4) Crim. Neg. Hom.	163.115 163.118 163.125 163.145	176 23 35 31	72.2% (127) 65.2% (15) 85.7% (30) 80.6% (25)	52.3% (92) 65.2% (15) 80.0% (28) 71.0% (22)	37.5% (66) 34.8% (8) 40.0% (14) 19.4% (6)	34.7% (61) 34.8% (8) 28.6% (10) 16.1% (5)
	(5) All HOMICIDE		265	74.3% (197)	59.2% (157)	35.5% (94)	31.7% (84)
CRIME	(6) RAPE I (7) Robbery I (8) Robbery II (9) Robbery III	163.375 164.415 164.405 164.395	338 392 185 153	72.8% (246)	41.4% (140)	28.4% (96)	26.6% (90)
	(10) All ROBBERY		730	66.8% (488)	45.3% (331)	31.4% (229)	26.6% (194)
MURKES	(11) Assault I (12) Assault II	163.185 163.175	233 355	72.1% (168) 65.6% (233)	44.6% (104) 35.5% (126)	22.7% (53) 18.0% (64)	17.6% (41) 10.1% (36)
	(13) All ASSAULT		588	68.2% (401)	39.1% (230)	19.9% (117)	13.1% (77)
PROPERTY	(14) Burglary I (15) Burglary II	164.225 164.215	1577 760	74.7% (1178) 72.8% (553)	54.3% (857) 54.3% (413)	23.7% (374) 20.8% (158)	16.7% (263) 11.1% (84)
	(16) All BURGLARY		2337	74.1% (1731)	54.3% (1270)	22.8% (532)	14.8% (347)
THEFT	(17) THEFT I	164.055	1941	74.1% (1438)	51.8% (1006)	16.1% (313)	7.6% (148)
	(18) AUTO THEFT (UUMV)	164.135	1153	75.7% (873)	41.5% (479)	18.3% (211)	10.1% (117)
CRIME	(19) Arson I (20) Arson II	164.325 164.315	85 14	78.8% (67) 71.4% (10)	60.0% (51) 71.4% (10)	25.9% (22) 0.0% (0)	17.6% (15) 0.0% (0)
	(21) All ARSON		99	77.8% (77)	61.6% (61)	22.2% (22)	15.2% (15)
TOTAL	(22) VIOLENT CRIMES (Subtotals)		1921	69.3% (1332)	44.7% (858)	27.9% (536)	23.2% (445)
	(23) PROPERTY CRIMES (Subtotals)		5530	74.5% (4119)	50.9% (2816)	19.5% (1078)	11.3% (627)
ALL	(24) ALL CRIMES (GRAND TOTAL)		7451	73.2% (5451)	49.3% (3674)	21.7% (1614)	14.4% (1072)

*Column entries here exclude cases where all of the incarceration was suspended and also exclude cases with sentence not coded on the CCH/OBTS tape printout. In addition, it should be noted that the column entries include cases where part of the incarceration sentence was suspended.

Scanning down columns 4a through 4d in Table 4 allows us to analyze "funneling effects" and differences in case attrition rates for both the major categories of Part I felony arrests and for the specific subcategory offenses. While there are some similarities between various categories of arrests in the proportions resulting in court filing, conviction, and incarceration; they are not identical and notable differences often result. Beginning with court filing after arrest and following on through conviction and sentencing disposition, the flow of arrests dwindles sharply for most groups of arrests organized by arrest charge. Examination of the flow itself for the various violent and property crimes brings into focus several findings of interest here.

Violent Crimes

Nearly one third (31.7%) of the individuals arrested for all homicide offenses combined received a sentence of incarceration of one year or over in length (i.e., "felony time").¹ Roughly one quarter of those arrested for forcible rape (26.6%) and robbery (26.6%) received such sentences. Of all the Part I offenses, these three categories (above) resulted in the most severe outcome (felony time in prison) in terms of judicial system response.

While the "felony time" incarceration rate for all homicide arrests was the highest of all categories, it may seem low to some. This may be partially explained by the fact that only 50 (31.8%) of the 157 arrests with convictions were convicted on the arrest charge. In the case of the subcategory of murder (ORS 163.115), only 22 (23.9%) of the 92 convictions were on the arrest charge. This suggests that there was either a substantial amount of plea bargaining

¹Excludes 17 cases with incarceration sentence suspended and includes one case with a partially suspended incarcerating sentence. It should be pointed out that all 17 cases with suspended incarceration sentences were placed on probation for one year or more and five of these 17 had fines also.

Some insight into why incarceration sentences were suspended can be gained by noting that 9 of the 17 were convicted on reduced charges and of those 8 convicted on the arrest charge, one was sentenced on a second degree manslaughter charge and the remaining seven (7) on criminally negligent homicide charges. These latter are charges we associate with reckless driving and other incidences where negligence leads to the death of another. In other words, the circumstances or standards of proof seem to indicate that these 17 cases involved a somewhat less serious degree of murder or homicide or involvement leading to the death of another person.

(and/or considerable overcharging at arrest) or that there was a substantial number of cases where evidence sufficient to substantiate the charge at arrest could not be obtained.¹ It is also important to keep in mind that the violent crime categories of homicide, aggravated assault, and robbery each encompass two or more specific charges, some of which are much less serious than others. For example, the homicide category includes criminally negligent homicide--a much less serious crime than murder.

Among the four major types of violent crimes, the two most often "sensationalized" crimes in the mass media--homicide and forcible rape--had the highest court filing rates. The homicide subcategory of Manslaughter II had the highest court filing rate of any specific category or subcategory of all Part I crimes. Robbery and aggravated assault had somewhat lower court filing rates than homicide and forcible rape. In fact, Robbery III had the lowest court filing rate of any Part I crime. (Also, it is of interest to note that for robbery the court filing rate varies by the "degree" or seriousness of the robbery charge. The court filing rate is highest for Robbery I and lowest for Robbery III.)²

Conviction rates and incarceration rates (for any length of stay) are both somewhat higher for homicide and robbery than for forcible rape and aggravated assault.

Property Crimes

While the four major property crime categories examined here show relatively high court filing and conviction rates, the incarceration rates (especially for "felony time" convictions) are relatively low when compared to the violent crimes. For all categories and subcategories of property crime, the percentages with court filing are in the seventies. Arson I with 78.8 percent and Arson II with 71.4 percent with court filings represent the high and low values here. Conviction rates for property offense arrests range from 71.4 per-

¹Technically, police do not "charge" an individual with a crime. This is formally done by the prosecutor. However, for the sake of simplicity we have used the term "arrest charge" throughout this report to designate the specific reason for arrest.

²The conviction rates also vary with degrees of robbery in the same way. Robbery I arrests have a higher conviction rate than Robbery II and III arrests.

cent for Arson II to 41.5 percent for UUMV (or auto theft). The incarceration rates are highest for burglary as a general category and lowest for theft.

Of the major Part I property crimes, an arrest charge of arson results in the greatest likelihood of court filing, conviction, and incarceration for one year or more. Arson is closely followed by burglary. Theft and UUMV (auto theft) have somewhat less severe consequences in these regards.

The reasons for these patterns are not readily apparent. Lack of agreement between arrest and disposition charge may not be as much a factor as it was with violent crimes. The rate of conviction on the arrest charge is somewhat higher for property crimes than for violent crimes. The fact that the conviction rates for arson and burglary are higher than for theft (larceny) and much higher than for motor vehicle theft (UUMV) may reflect a greater emphasis on prosecution for that crime. Another factor (though of limited importance) may be the practice of "civil compromise" being used more often for theft and motor vehicle theft. A civil compromise is an agreement between the parties involved to settle out of court and the case is then dismissed.¹ More about variation in court filing, conviction, and incarceration rates will be presented and discussed in the next and later sections of this report.

Conviction Rates from Varying Perspectives

As an indicator of criminal justice system performance, the conviction rate (along with the incarceration rate) commands much attention from those viewing the disposition of serious felony crimes from different perspectives--especially the police, prosecutors, and victims. Despite the importance of this measure of performance, statistics on conviction rates can be very confusing to different readers. Computationally, the conviction rate can vary dramatically depending on where one starts--arrest or court filing--and on what is included or excluded when the rate is calculated. In Table 5 we have

¹While data on "dismissals with civil action" in Table 3 may seriously under-enumerate instances where civil compromise was a possible outcome, it is worth mentioning that of the 25 cases dismissed with civil action (in Table 3), 7 involved burglary arrest charges (out of 1,577 arrests), 13 involved theft arrest charges (out of 1,941 arrests), and 5 involved UUMV arrest charges (out of 1,153 arrests). In other words, 18 of the 25 (72%) were for theft or UUMV arrests as opposed to burglary arrests.

Table 5

Conviction Rates for Part I Arrests
Computed from Different Bases

(Statewide, 1979)

Type of Arrest Charge	<u>Conviction Rates*</u>			
	Conviction on Any Charge (1)	Conviction on Arrest Charge Only (2)	Conviction on Any Charge (3)	Conviction on Arrest Charge Only (4)
<u>Violent Crimes</u>				
Homicide	59.2%	18.9%	79.7%	25.4%
Forcible Rape	41.4%	20.1%	56.9%	27.6%
Robbery	45.3%	20.3%	67.8%	30.3%
Aggravated Assault	39.1%	9.7%	57.4%	14.2%
<u>Property Crimes</u>				
Burglary	54.3%	27.4%	73.4%	37.0%
Theft	51.8%	32.4%	70.0%	43.7%
UUMV	41.5%	31.3%	54.9%	41.4%
Arson	61.6%	20.2%	79.2%	26.0%

*With the exception of the numbers of arrests with court filings resulting in conviction on arrest charges, the percentages in this table were derived from data presented in Table 4. The numbers of arrests where conviction was on the arrest charge were as follows: Homicide=50, Forcible Rape=68, Robbery=148, Aggravated Assault=57, Burglary=641, Theft=628, UUMV=361, and Arson=20.

calculated four different conviction rates for each of the eight (8) major categories of Part I felony arrests.

First, in column 1 we examine the percentage of arrests which resulted in conviction on any charge (not necessarily the arrest charge). From this perspective, those arrested on homicide, burglary, theft, and arson charges all have conviction rates of 50 percent or more. The higher conviction rates for these arrest charges--especially homicide (59.2%) and arson (61.6%)--suggest that some importance is placed on the prosecution of these arrests by the criminal justice system. One measure of the importance of a class of arrests for prosecution is the rate at which charges are filed in court. When we examine all 16 categories and sub-categories of Part I felony arrest charges, there appears to be a relationship between the proportion of arrests resulting in court filing of charges (the court filing rate) and the conviction rate. The data of interest here can be presented as follows:

<u>Offense Charged at Arrest</u>	<u>Court Filing Rate</u>	<u>Conviction Rate (any Charge)</u>
1. Murder	72.2%	52.3%
2. Manslaughter I	65.2%	65.2%
3. Manslaughter II	85.7%	80.0%
4. Crim.Neg.Homicide	80.6%	71.0%
5. Rape I	72.8%	41.4%
6. Robbery I	75.3%	52.8%
7. Robbery II	61.6%	39.5%
8. Robbery III	51.6%	33.3%
9. Assault I	72.1%	44.6%
10. Assault II	65.6%	35.5%
11. Burglary I	74.7%	54.3%
12. Burglary II	72.8%	54.3%
13. Theft I	74.1%	51.8%
14. UUMV	75.7%	41.5%
15. Arson I	78.8%	60.0%
16. Arson II	71.4%	71.4%

In general, the higher the court filing rate the higher the conviction rate.¹

¹While the reader may or may not understand the statistical concepts and techniques of correlation and linear regression analyses, some understanding of this relationship is possible at an intuitive level.

Statistical analysis of the (above) data indicates that there is a moderately strong, positive correlation (or direct relationship) between the court filing rate and the conviction rate. This implies a predictive relationship between these rates--at least within the limits of some margin of error. For each unit increase in the court filing rate there is a corresponding increase of so many units expected in the corresponding conviction rate. For example, with an observed court filing rate of 50.0 percent we would expect or predict a conviction rate of 28.3 percent based on our analyses of these data. (NOTE: For the "statistically initiated" the Pearson product moment correlation coefficient or "r" value is +.66 with a "slope" of 1.13 and an "intercept" of -28.15. The correlation coefficient is significant at below the accepted .05 level. However, the sample size here is quite small and demands careful consideration when making inferences or predictions from these data.) Higher observed court filing rates yield higher predicted conviction rates. An observed filing rate of 70.0 percent generates a predicted conviction rate of 50.9 percent and a filing rate of 90.0 percent yields a predicted conviction rate of 73.5 percent.

NOTE TO THE READER

The reader should be cautioned against drawing inferences from percentages or means or other statistics in the tables in this report which are based on small cell sizes or subsample sizes. Where possible, we have avoided making such inferences in the report narrative. Because the report is mainly descriptive in format, we do compute percentages for all table entries, however.

¹Consult columns 4a and 4b in Table 4 to locate the source of these data.

A somewhat different picture emerges when we examine the percentage of those convicted on the arrest charge (column 2 in Table 5). Generally, conviction rates are low--all are below 35 percent. Also, it is interesting that the category with the highest conviction rate (61.6%) on any charge--arson--has one of the lower rates of conviction on the arrest charge (20.2%).

There are probably several reasons for the lower conviction on arrest charge rates including the difficulty of proving the arrest charge (especially for arson) and the possibility of extensive police overcharging and/or extensive plea bargaining for certain of these arrests. It also is interesting to note the four property crimes (in Table 5) have conviction rates on the arrest charge higher than (or in the case of arson as high as) any of the four listed violent crime arrest categories.

The highest conviction rates listed in Table 5 were computed in terms of convictions for any offense as a percentage of court filings (column 3). At court filing, cases which have insufficient evidence are often eliminated. Other cases are also eliminated for technical reasons such as the death of the defendant, transfer of the defendant to another jurisdiction, etc. Looking at convictions in this way, the highest rates are for homicide, burglary, theft, and arson. Again, this may reflect an emphasis placed on prosecution of these crimes or it may result from a more careful screening of these cases.

If we qualify the above rate some by computing the percentage of court filings resulting in conviction on the arrest only (column 4 in Table 5), the conviction rates drop off again and are considerably lower. Arson and homicide arrests with court filings show a particularly sharp drop between the more general and the more refined ways of computing conviction rates (i.e., column 3 vs column 4 in Table 5). Apparently, it is more difficult to get convictions for these arrests with court filings on the arrest charge. Again, differences in standards of proof for convicting on the arrest versus some other charge may be a factor along with perhaps plea bargaining and/or police overcharging.

3. SPECIAL ANALYSES

The Analysis of Patterns in Arrest vs. Disposition Charge ..

The process of charging is highly complex. It involves an assessment of the evidence needed to prove the charges at several points in the processing of a defendant. To simplify this process, we have examined the charges at only two points--the charge at arrest and the charge at disposition. At the arrest stage, the police must make the initial determination of the evidence. For some crime categories this is not difficult. For example, to charge someone with Theft I, you need evidence to eventually prove that a defendant stole goods valued at \$200 or more. Other crime categories involve a far more sophisticated understanding and assessment of evidence. For example, the evidence needed to eventually prove murder consists of not only linking the defendant with causing the death of another, but also determining that there was no "justification or excuse" for the act and that the defendant was "not under extreme emotional disturbance." As the data in this section of the report will demonstrate, there is often a lack of agreement between the arrest charge and the disposition charge (i.e., they do not always match). This lack of agreement between arrest charge and disposition charge is more noticeable for crimes where the assessment of evidence is complex (in general the group of violent crimes and especially homicide) as opposed to those where it is less complex (property crimes with the exception of arson). Table 6 outlines the data initially used to examine agreement between arrest and disposition charges. (Note that in examining the "agreement" issue here we are looking at only those arrests which result in the court filing of charges.)

In looking at columns 4 and 5 of Table 6, there is considerable variation between categories and subcategories of arrestees in the proportions having the arrest and disposition charges match or "agree." The percentages with agreement range from a low of 10.0 percent for those arrested on Arson II charges to a high of 85.7 percent for those arrested on UUMV (or unauthorized use of a motor vehicle) charges. Looking at all the crimes considered here the probability of the disposition charge matching the arrest charge is 66.5 percent. The probability is higher for all four property crime arrest categories (69.9%) and lower for the four violent crime arrest categories (56.1%). Among the

Table 6

Relationships Between Arrest and Disposition Charges and
the Probability of Conviction
(Statewide, 1979)

	Type of Offense "Charged" at Arrest	ORS Number of Offense (in Column 1)	Total Number of Arrests With Convictions	Percentage (and Number) of Arrests With Convictions Where Arrest & Disposition Charges are:			
				Arrests Resulting in Conviction Where Arrest and Disposition Charges are:		"SAME"	"DIFFERENT"
				"SAME"	"DIFFERENT"		
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
(1)	Murder	163.115	127	40.9% (52)	59.1% (75)	42.3% (22)	93.3% (70)
(2)	Manslaughter I	163.118	15	20.0% (3)	80.0% (12)	100.0% (3)	100.0% (12)
(3)	Manslaughter II	163.125	20	33.3% (10)	66.7% (20)	80.0% (8)	100.0% (20)
(4)	Crim. Neg. Hom.	163.145	25	80.0% (20)	20.0% (5)	85.0% (17)	100.0% (5)
(5)	ALL HOMICIDE		197	43.1% (85)	56.9% (112)	58.8% (54)	95.5% (107)
(6)	RAPE I	163.375	246	68.7% (169)	31.3% (77)	40.2% (68)	93.5% (72)
(7)	Robbery I	164.415	295	61.4% (181)	38.6% (114)	55.8% (101)	93.0% (106)
(8)	Robbery II	164.405	114	50.0% (57)	50.0% (57)	40.4% (23)	87.7% (50)
(9)	Robbery III	164.395	79	63.3% (50)	36.7% (29)	48.0% (24)	93.1% (27)
(10)	ALL ROBBERY		488	59.0% (288)	41.0% (200)	51.4% (148)	91.5% (183)
(11)	Assault I	163.185	168	40.5% (68)	59.5% (100)	26.5% (18)	86.0% (86)
(12)	Assault II	163.175	233	58.8% (137)	41.2% (96)	28.5% (39)	90.6% (87)
(13)	ALL ASSAULT		401	51.1% (205)	48.9% (196)	27.8% (57)	88.3% (173)
(14)	Burglary I	164.225	1178	55.1% (649)	44.9% (529)	56.2% (365)	93.0% (492)
(15)	Burglary II	164.215	553	73.2% (405)	26.8% (148)	68.1% (276)	92.6% (137)
(16)	ALL BURGLARY		1731	60.9% (1054)	39.1% (677)	60.8% (641)	92.9% (629)
(17)	THEFT I	164.055	1437	72.4% (1040)	27.6% (397)	60.4% (628)	95.0% (377)
(18)	AUTO THEFT (UUMV)	164.135	872	85.7% (747)	14.3% (125)	48.3% (361)	94.4% (118)
(19)	Arson I	164.325	67	52.2% (35)	47.8% (32)	54.3% (19)	100.0% (32)
(20)	Arson II	164.315	10	10.0% (1)	90.0% (9)	100.0% (1)	100.0% (9)
(21)	ALL ARSON		77	46.8% (36)	53.2% (41)	55.6% (20)	100.0% (41)
(22)	VIOLENT CRIMES (Subtotals)		1332	56.1% (747)	43.9% (585)	43.2% (323)	91.5% (535)
(23)	PROPERTY CRIMES (Subtotals)		4117	69.9% (2877)	30.1% (1240)	57.4% (1650)	94.0% (1165)
(24)	ALL CRIMES (GRAND TOTAL)		5449*	66.5% (3624)	33.5% (1825)	54.4% (1973)	93.2% (1700)

*The total here excludes 2 cases (one Theft I and one UUMV arrest) where there had been court filing of charges but the information on the disposition charge was missing.

Part I violent crime categories, homicide (which presents numerous problems in terms of collecting evidence and proving intent) shows the least agreement. Among the Part I property crimes, arson (which also presents problems in obtaining sufficient evidence and proving intent) shows the least agreement.

One reason for the lack of agreement between charge at arrest and charge at disposition is the fact that the arrest charge is frequently of a higher degree of seriousness than the disposition charge. There are several reasons for this phenomenon. First, the standard of evidence is different for arrest than for disposition. To arrest someone for a particular crime, the police only need "probable cause" to believe that the person committed the crime. However, to prove a felony case in court, the prosecutor needs evidence "beyond a reasonable doubt." This difference accounts for a portion of cases not filed in court by the prosecutor because evidence "beyond a reasonable doubt" does not exist or cannot be obtained and lowering of charges because the evidence may only be sufficient to prove lesser charges. Second, the practice of plea bargaining will usually--though not necessarily--result in a lower disposition charge. Plea bargaining is a practice whereby a defendant will agree to change his/her plea from not guilty to guilty if the initial charge is lowered or if additional charges are dropped. The latter practice--called "count bargaining"--is a frequent practice. An example of count bargaining is when several charges are filed against a defendant--say three counts of burglary. An offer is made to drop two counts if the defendant will plead guilty to one count. Thus, the disposition charge is not lower, but the other counts are dismissed.

The data in Table 6 also show the resulting conviction rates received for different arrest charges for both the situation where arrest and disposition charges are the same (column 6) and where they are different (column 7). The data generally show a higher conviction rate when the disposition charge is different from the arrest charge.¹ For example, for all crimes considered together; the conviction rate is 54.4 percent for the situation where arrest and disposition charges are the same and 93.2 percent where they are different. This may reflect both the results of plea bargaining and the fact that lower charges are usually easier to prove in court.

¹In the vast majority of cases where the arrest and disposition charges are different, the disposition charge is usually of a lesser degree of seriousness than the arrest charge.

Table 7

Relationships Between Arrest and Disposition Charges and
the Probability of Incarceration

(Statewide, 1979)

Having demonstrated that there is a relationship between the extent to which arrest charges and disposition charges match and the probability of conviction, we can move on to examine sentencing patterns. Does the probability of receiving a more severe sentence (i.e., incarceration) vary according to whether or not charge modification occurs? In other words, is incarceration a more likely sentence outcome following conviction where the arrest and disposition charges are the same as opposed to where they are different?

An examination of Table 7 provides the data of interest here as it examines the probability of incarceration following conviction.

Columns 4 and 5 in Table 7 give for each arrest charge grouping the proportion of convictions resulting in "some incarceration" and "incarceration for one year or more" for the situation where arrest and disposition charges are the same. Columns 6 and 7 in the table give the same respective incarceration proportions (above) for the situation where charge modification has occurred and the arrest and disposition charges are consequently different.

Examination of the data in Table 7 reveals that in terms of sentence received, it is generally true that the sentence is more severe (i.e., leads to some incarceration or incarceration for one year or more) when the arrest and disposition charge are the same. The percentage of cases where there is incarceration is usually higher in these situations.

There are some notable exceptions to this pattern, particularly in the groupings involving arrests on Burglary II and UUMV charges and sentences of some incarceration (1 day to 100 years). This is not totally unexpected since a sentence is dependent not only on the seriousness of the crime, but also on the defendant's past criminal record and other factors. Recidivism studies have shown that the property crime categories--particularly burglary and motor vehicle theft--show a higher rate of repeat criminal offenses than the violent crime categories.¹

¹See Pamela Erickson Gervais, Recidivism of Adult Offenders, A pilot Recidivism study in Eleven Oregon Counties, Oregon, Law Enforcement Council, Salem, Oregon, March 1980.

	Type of Offense "Charged" at Arrest	ORS Number of Offense (in Column 1)	Total Number of Arrests With Convictions	Percentage** (and Number) of Arrests With Convictions Where Arrest and Disposition Charges are the Same Which Result in:		Percentage** (and Number) of Arrests With Convictions Where Arrest and Disposition Charges are Different Which Result in"	
				(1)	(2)	(3)	(4)
VIOLENT CRIMES	(1) Murder	163.115	92	81.8% (18)	81.8% (18)	68.6% (48)	61.4% (43)
	(2) Manslaughter I	163.118	15	100.0% (3)	100.0% (3)	41.7% (5)	41.7% (5)
	(3) Manslaughter II	163.125	28	50.0% (4)	25.0% (2)	50.0% (10)	40.0% (8)
	(4) Crim. Neg. Hom.	163.145	22	29.4% (5)	23.5% (4)	20.0% (1)	20.0% (1)
	(5) All HOMICIDE		157	60.0% (30)	54.0% (27)	59.8% (64)	53.3% (57)
	(6) RAPE I		163.375	140	83.8% (57)	83.8% (57)	54.2% (39)
	(7) Robbery I	164.415	207	94.1% (95)	93.1% (94)	60.4% (64)	55.7% (59)
		164.405	73	73.9% (17)	73.9% (17)	54.0% (27)	30.0% (15)
		164.395	51	37.5% (9)	20.8% (5)	63.0% (17)	14.8% (4)
	(8) All ROBBERY		331	81.8% (121)	78.4% (116)	59.0% (108)	42.6% (78)
PROPERTY CRIMES	(11) Assault I	163.185	104	61.1% (11)	50.0% (9)	48.8% (42)	37.2% (32)
	(12) Assault II	163.175	126	46.2% (18)	41.0% (16)	52.9% (46)	23.0% (20)
	(13) All ASSAULT		230	50.9%	43.9% (25)	50.9% (88)	30.1% (52)
TOTALS	(14) Burglary I	164.225	857	55.1% (201)	45.8% (167)	35.2% (173)	19.5% (96)
	(15) Burglary II	164.215	413	36.6% (101)	23.2% (64)	41.6% (57)	14.6% (20)
	(16) All BURGLARY		1270	47.1% (302)	36.0% (231)	36.6% (230)	18.4% (116)
	(17) THEFT I		164.055	1005	31.5% (198)	18.2% (114)	30.2% (114)
	(18) AUTO THEFT (UUMV)		164.135	479	43.5% (157)	26.0% (94)	45.8% (54)
CRIMES	(19) Arson I	164.325	51	63.2% (12)	52.6% (10)	31.3% (10)	15.6% (5)
	(20) Arson II	164.315	10	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
	(21) All ARSON		61	60.0% (12)	50.0% (10)	24.4% (10)	12.2% (5)
(22) VIOLENT CRIMES (Subtotals)			858	73.4% (237)	69.7% (225)	55.9% (299)	41.1% (220)
(23) PROPERTY CRIMES (Subtotals)			2815	40.5% (669)	27.2% (449)	35.0% (408)	15.2% (177)
(24) ALL CRIMES (GRAND TOTAL)			3673*	45.9% (906)	34.2% (674)	41.6% (707)	23.4% (397)

*The total here excludes 1 case with a Theft I charge at arrest and court conviction, but with missing information on the disposition charge.

**Each row percentage in Columns 4 and 5 is based on the respective row number in Column 6 in Table 6. Each row percentage in Columns 6 and 7 is based on the respective row number in Column 7 in Table 6.

Table 8

Probability of Court Filing and Major Court Dispositional Outcomes by Type of Arrest Charge

(Statewide, 1979)

	Type of Offense "Charged" at Arrest	ORS Number of Offense (in Column 1)	Total Number of Arrests Tracked	Probability of Court Filing of Charges if Arrested	Probability of Each of Three (3) Separate Court Dispositional Outcomes for Arrests With Charges Filed in Court (column 4):		
					CONVICTION	ACQUITTAL*	DISMISSAL**
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
VIOLENCE	(1) Murder	163.115	176	72.2% (127)	72.4% (92)	9.5% (12)	18.1% (23)
	(2) Manslaughter I	163.118	23	65.2% (15)	100.0% (15)	0.0% (0)	0.0% (0)
	(3) Manslaughter II	163.125	35	85.7% (30)	93.3% (28)	3.4% (1)	3.4% (1)
	(4) Crim. Neg. Hom.	163.145	31	80.6% (25)	88.0% (22)	8.0% (2)	4.0% (1)
	(5) All HOMICIDE		265	74.3% (197)	79.7% (157)	7.6% (15)	12.7% (25)
PROPERTY	(6) RAPE I	163.375	338	72.8% (246)	56.9% (140)	9.3% (23)	33.8% (83)
	(7) Robbery I	164.415	392	75.3% (295)	70.2% (207)	2.0% (6)	27.8% (82)
	(8) Robbery II	164.405	185	61.6% (114)	64.0% (73)	4.4% (5)	31.6% (36)
	(9) Robbery III	164.395	153	51.6% (79)	64.6% (51)	0.0% (0)	35.4% (28)
	(10) All ROBBERY		730	66.8% (488)	67.8% (331)	2.3% (11)	29.9% (146)
MURKES	(11) Assault I	163.185	233	72.1% (168)	61.9% (104)	2.4% (4)	35.7% (60)
	(12) Assault II	163.175	355	65.6% (233)	54.1% (126)	4.7% (11)	41.2% (96)
	(13) All ASSAULT		588	68.2% (401)	57.4% (230)	3.7% (15)	38.9% (156)
PROPERTY	(14) Burglary I	164.225	1577	74.7% (1178)	72.7% (857)	1.8% (21)	25.5% (300)
	(15) Burglary II	164.215	760	72.8% (553)	74.7% (413)	1.6% (9)	23.7% (131)
	(16) All BURGLARY		2337	74.1% (1731)	73.4% (1270)	1.7% (30)	24.9% (431)
THEFT	(17) THEFT I	164.055	1941	74.1% (1438)	70.0% (1006)	2.4% (35)	27.6% (397)
CRISES	(18) AUTO THEFT (UUMV)	164.135	1153	75.7% (873)	54.9% (479)	2.3% (20)	42.8% (374)
	(19) Arson I	164.325	85	78.8% (67)	76.1% (51)	7.5% (5)	16.4% (11)
	(20) Arson II	164.315	14	71.4% (10)	100.0% (10)	0.0% (0)	0.0% (0)
	(21) All ARSON		99	77.8% (77)	79.2% (61)	6.5% (5)	14.3% (11)
TOTALS	(22) VIOLENT CRIMES (Subtotals)		1921	69.3% (1332)	64.4% (858)	4.8% (64)	30.8% (410)
	(23) PROPERTY CRIMES (Subtotals)		5530	74.5% (4119)	68.4% (2816)	2.2% (90)	29.4% (1213)
	(24) ALL CRIMES (GRAND TOTAL)		7451	73.2% (5451)	67.4% (3674)	2.8% (154)	29.8% (1623)

*Includes acquittal by reason of mental incompetence or insanity.

**Includes dismissal for any reason.

For all offenders combined in Table 7, the proportion with some incarceration (1 day to 100 years) is 45.9 percent for those without charge modification (i.e., arrest and disposition charges match) and 41.6 percent for those with charge modification (i.e., the arrest and disposition charges do not match). In terms of all violent charge arrestees with convictions the respective percentages (above) were 73.4 percent and 55.9 percent. For the property crime group in contrast, these percentages were 40.5 percent and 35.0 percent respectively. It would appear, then, that the effects of charge modification are more pronounced for violent than for property crimes in affecting the probability of some incarceration. That is, as we move away from the situation where the arrest and disposition charge match and move toward the situation where charge modification occurs; the probability of incarceration (regardless of length) declines with the decrease more noticeable for those arrested and convicted on charges of violent Part I crimes as opposed to Part I property crimes.

An Examination of the Probability of Each of Several Dispositional Outcomes for Arrests With Charges Filed in Court

This section addresses the questions of how probable it is that arrestees charged with certain Part I felony offenses will have charges filed in court and (if filed) how probable it is that the case will result in conviction or acquittal on some charge or simply dismissal of the arrest charge. Table 8 provides an overview of the disposition patterns for arrests which are filed in court and provides specific data on the frequency or probability of court filing and each specific dispositional outcome for cases going to court (i.e., the probability of conviction, acquittal, or dismissal).

Examination of column 4 entries in Table 8 reveals that in general the court filing rates are high for most classes of arrest arranged by type of Part I felony offense "charged" at point of arrest. Without exception, the majority of arrests in each category and subcategory result in the filing of charges in court. On the whole, the group of arrests for Part I felony property crimes resulted in a slightly higher probability (or percentage of cases)¹ where

¹Probability of an outcome or class of outcomes here is defined in relative frequency terms. That is, in how many instances or cases of arrests was an outcome obtained. This frequency is given in percentage terms here.

arrests resulted in a court filing of charges. For property crimes the percentage was 74.5 percent and for violent crimes the percentage was 69.3 percent. The numbers in parentheses in column 4 provide the basis for tracking court dispositions on the subset of arrests in each major (row) category or subcategory in Table 8. For example, in row 1 (for cases charged with murder) we tracked 176 arrestees and found 127 had charges filed in court. We can then examine the entries in columns 5, 6, and 7 of row 1 to determine the distribution of dispositional outcomes for these 127 murder cases filed in court. Each subsequent group of arrestees (arranged by arrest charge) can be tracked in the same way. Throughout the table we have only examined the most frequent dispositions of conviction, acquittal, and dismissal.

For all the Part I felonies filed and listed in Table 8, conviction is the most likely disposition. Conviction rates (or the probability of conviction) for the eight (8) major categories of Part I felony arrests varies from 54.9 percent for motor vehicle theft (UUMV) to 79.7 percent for criminal homicide for a spread or range of approximately 25 percent. Taking into account the various subcategories, the range is even greater. In all cases, however, the percentages of cases with court filings resulting in conviction is over 50 percent.

Dismissal rates for the eight (8) major categories of arrestees likewise vary greatly--from 12.7 percent for criminal homicide to 42.8 percent for motor vehicle theft, a spread or range of approximately 30 percent. Generally, a high conviction rate is associated with a low dismissal rate and vice versa.

Acquittal rates do not vary as much as conviction rates for these same eight (8) categories of arrests. The Rape I category had the highest percentage with acquittals (9.3%) and the burglary group the lowest (1.7%). In general, the acquittal rates are somewhat higher for violent crimes (with the exception of robbery which was 2.3%) and somewhat lower for property crimes (with the exception of arson which was 6.5%). Acquittal rates also seem to vary according to the degree to which it is possible to prove the arrest charge with certain arrests providing more difficult problems in terms of evidence and standards of proof. We include here murder, criminally negligent homicide, forcible rape, and arson.

An Examination of Sentencing Patterns and the Probability of Certain Sentences Following Conviction

In the last section and in Table 8 we examined dispositional patterns for those arrestees with court filings. In this section we are interested in looking at type of arrest charge and tracking those arrestees with court convictions and known sentences and determining the probability of the various major sentencing outcomes (i.e., incarceration, probation, and fine) on an individual basis.¹

In Table 9 we begin by tracking only the 3497 arrestees with convictions and known sentences. We have excluded 177 cases without one of the sentencing outcomes (above) or without a recorded sentence coded on the CCH/OBTS tape.

Looking at the eight major groupings of Part I felony arrests (with convictions and known sentences), it appears that arrest charges for first degree forcible rape, robbery, and homicide resulted in the greatest likelihood that conviction would result in incarceration (for any length of time). Arrest charges for arson and larceny (first degree theft) were the least likely to result in some period of incarceration. As a whole, the violent crime group with convictions had a higher percentage (72.0%) resulting in incarceration sentences than those with property crimes (56.3%).

Of course, suspended incarceration sentences figure heavily into the analysis of incarceration as a sentencing outcome. Of the 2,099 arrestees in Table 9 receiving an incarceration sentence upon conviction, 485 (or 23.1%) had that sentence fully suspended by the courts.

¹We will examine these sentencing outcomes individually rather than look at the probabilities of multiple sentencing outcomes and/or most serious sentencing outcome for each specific arrest charge group.

Table 9

Probability of Various Sentencing Outcomes Following Conviction by Type of Part I Offense Charged at Arrest
(Statewide, 1979)

	Type of Offense "Charged" at Arrest	ORS Number of Offense (in Column 1)	Total No. of Arrests With Convictions and Known Sentences ^a	Probability of Each of Three (3) Separate Sentencing Outcomes Following Conviction (column 3):			Probability of Fully Suspended Incarceration Sentence ^e (% of No. in column 4)				
				INCARCERATION ^b	PROBATION ^c	FINE					
				(1)	(2)	(3)	(4)	(5)	(6)	(7)	
(1)	Murder	163.115	85	84.7% (72)	18.8% (16)	10.6% (9)	8.3% (6)				
(2)	Manslaughter I	163.118	15	66.7% (10)	53.3% (8)	26.7% (4)	20.0% (2)				
(3)	Manslaughter II	163.125	27	59.3% (16)	63.0% (17)	18.5% (5)	12.5% (7)				
(4)	Crim. Neg. Hom.	163.145	21	61.9% (13)	66.7% (14)	33.3% (7)	53.8% (7)				
V I O L E N T	All HOMICIDE		148	75.0% (111)	37.2% (55)	16.9% (25)	15.3% (17)				
	RAPE I	163.375	137	79.6% (109)	39.4% (54)	10.2% (14)	11.9% (13)				
C R I M E	Robbery I	164.415	204	84.8% (173)	23.5% (48)	14.2% (29)	8.1% (14)				
	Robbery II	164.405	71	66.2% (47)	46.5% (33)	18.3% (13)	6.4% (3)				
	Robbery III	164.395	50	58.0% (29)	66.0% (33)	18.0% (9)	10.3% (3)				
	All ROBBERY		325	76.6% (249)	35.1% (114)	15.7% (51)	8.0% (20)				
P R O P E R T Y	Assault I	163.185	102	58.8% (60)	52.9% (54)	22.6% (23)	11.7% (7)				
	Assault II	163.175	124	58.9% (73)	62.9% (78)	23.4% (29)	12.3% (9)				
	All ASSAULT		226	58.8% (133)	58.4% (132)	23.0% (52)	12.0% (16)				
T O T A L	Burglary I	164.225	810	62.0% (502)	60.5% (490)	25.6% (207)	25.5% (128)				
	Burglary II	164.215	390	58.7% (229)	65.6% (256)	25.1% (98)	31.0% (71)				
	All BURGLARY		1200	60.9% (731)	62.2% (746)	25.4% (305)	27.2% (199)				
C R I M E	Theft I	164.055	952	49.4% (470)	69.2% (659)	33.1% (315)	33.4% (157)				
	Auto Theft (UMV)	164.135	454	59.3% (269)	62.1% (282)	25.6% (116)	21.6% (58)				
S E R V I C E S	Arson I	164.325	46	56.5% (26)	63.0% (29)	10.9% (5)	15.4% (4)				
	Arson II	164.315	9	11.1% (1)	100.0% (9)	22.2% (2)	100.0% (1)				
	All ARSON		55	49.1% (27)	69.1% (38)	12.7% (7)	18.5% (5)				
T O T A L	VIOLENT CRIMES (Subtotals)		836	72.0% (602)	42.5% (355)	17.0% (142)	11.0% (66)				
	PROPERTY CRIMES (Subtotals)		2661	56.3% (1497)	64.8% (1725)	27.9% (743)	28.0% (419)				
	All CRIMES (GRAND TOTAL)		3497	60.0% (2099)	59.5% (2080)	25.3% (885)	23.1% (485)				

^aColumn total excludes 177 cases not having one of the three sentence outcomes at the right or having sentence not coded on the CCH/OBTS tape printout.

^bIncludes incarceration for any length of time before suspension of incarceration sentence. (Note that the number of cases in parentheses in column 7 indicates how many of those with incarceration sentences (in parentheses) in column 4 had fully suspended incarceration sentences.)

^cIncludes formal probation for any length of time.

Analysis of the percentages in column 7 of Table 9 shows that the percentage of each group of arrestees with incarceration sentences resulting in full suspension varies greatly with arrest charge.¹

Inspection of the data on incarceration rates and suspension rates in Table 9 reveals an interesting pattern. In general, the violent crimes with a higher incarceration rate (72.0%) have a lower suspension rate (11.0%), while the property crimes with a lower incarceration rate (56.3%) have a higher suspension rate (28.0%). With subcategories of arrest charges there are, of course, some exceptions. However, it does appear that incarceration following conviction for the more serious arrest charges are less likely to result in suspension.

The use of probation as a sentence option following conviction also varies greatly with the arrest charge. Probation is a particularly common sentence for aggravated assault among the violent crime group and is common for all four property crime categories. It is much less common for homicide, forcible rape, and robbery. As a group, 42.5 percent of the convictions resulting from arrests for violent crimes lead to probation. For the group with arrests for property crimes and convictions, 64.8 percent resulted in probation.

It is also of interest to note that for all arrest charges combined, probation without incarceration is far more common than incarceration with probation. An examination of the data reported earlier in Figure 3 will substantiate this conclusion.

As one might expect, fines tend to be more common for the group of arrestees with Part I felony property crime (28.0%) than for those Part I felony crimes involving violence (11.0%). The most notable exception to this pattern involves the group with arrest charges for criminally negligent homicide where 33.3 percent of the convictions resulted in the assessment of a fine.

¹In this table we have only examined full suspension of the incarceration sentence. Usually, full suspension is far more likely to occur than a partial suspension. Where we had 485 cases with fully suspended incarceration sentences, there were only 60 cases having partially suspended incarceration sentences. Also, it is interesting to note that where we had fully suspended incarceration sentences most of these cases (75.9%) or 368 of 485 involved an initial incarceration sentence of one year or more. With the 60 cases with partially suspended sentences, the majority (39 or 65.0%) involved an initial incarceration sentence of less than one year in duration.

An Analysis of Patterns in Elapsed Time from Arrest to Disposition

As people begin to utilize OBTS data and information to analyze the effectiveness and efficiency of the criminal justice system in Oregon and elsewhere, they will turn their attention more and more to the issues posed by court congestion and case processing time. Though these issues have been under-researched at present (due mainly to the absence of adequate data), there is a growing awareness of the fact that length of time from charge to disposition is an important indicator of the performance of criminal justice processing.¹

At this point in the report we are interested in at least presenting some descriptive information on the average elapsed time in days between date of arrest and date of disposition for various categories and groupings of the Part I felony arrestees under examination in this report. Where possible, we will present data on the average time in (calendar) days for the same respective grouping or category in the 1977 study population examined in our previous report.

Table 10 presents data on the average elapsed time between date of arrest and date of court disposition for each of the nine (9) major types of disposition (dismissal, acquittal, conviction, etc.) and for each study group population arranged by year of arrest (1979 for the current report and 1977 for the previous report published last year).

For the 1979 data the greatest average number of days to disposition was for those having the disposition of court conviction (121.3 days). The other two major dispositional categories, "dismissal" and "acquittal," had lower averages than the convicted group. Where the disposition was "dismissal" in 1979 the average was 83.4 days and for acquittals the average was 104.4 days in 1979.

¹For a notable exception to this lack of research see the following: Jack Hausner and Michael Seidel, An Analysis of Case Processing Time in the District of Columbia Superior Court, Institute for Law and Social Research, Washington, D.C., March, 1981. For an earlier research effort providing a rich history of the issues surrounding delay in court and court congestion, see Hans Zeisel, et al., Delay in the Court, Little, Brown, and Company, Boston, 1959.

Table 10

Average Time to Disposition in Days for Various Categories
of Court Disposition for
1977 and 1979

(Statewide, 1977 and 1979)

Type of Court Disposition*	Average Time in Days (and Number of Valid Cases)**	
	1977	1979
1. Acquitted	100.8 (86)	104.4 (107)
2. Acquitted, insane	105.0 (2)	77.0 (1)
3. Acquitted by reason of mental incompetence	97.3 (27)	93.2 (41)
4. Charge dismissed	67.1 (817)	83.4 (1007)
5. Dismissed, civil action	83.9 (46)	86.2 (25)
6. Adjudication withheld	-- (0)	81.3 (3)
7. Dismissed by reason of mental incompetence	-- (0)	45.5 (2)
8. Released, no complaint	15.0 (34)	82.4 (33)
9. Convicted	88.0 (3238)	121.3 (3646)

*The numbers in parentheses indicate how many "valid" cases the average is based on here. One should notice that the numbers in parentheses here are lower than those reported for these dispositional outcomes in earlier sections and tables in the report. This is due to a number of cases with no disposition date (especially for those in the "release, no complaint" category) and some cases with miscoded dates in the disposition date fields of the OBTS/CCH data tapes for 1977 and 1979. To have a record on an arrestee generate a valid case for this table, there must be complete and accurate data on both the arrest and disposition data fields. Of course, the reader should be mindful of the problems of drawing inferences based on means computed from small numbers of cases.

Table 11

Elapsed Time From Arrest to Disposition for
Various Arrest Categories by Type of Disposition (and Sentence)

(Statewide, 1979).

In comparing the 1977 with the 1979 study populations, it is interesting to note that for the three primary dispositional outcomes (dismissal, acquittal, and conviction), the average number of days to disposition (from point of arrest) were all greater for 1979 than for 1977 indicating a greater amount of elapsed time between arrest and disposition for these outcomes in 1979 as compared to 1977.

One reason for these increases might be simply the greater volume of arrests tracked in 1979 (7,451) compared to 1977 (5,807). Certainly, the volume of arrests and subsequent referrals to the courts influence case processing time in the courts. Of course, other factors influence or affect the processing time. These include attributes of the case itself (such as type of offense and type of evidence), characteristics of the defendant (including prior record), and case processing characteristics (such as whether or not a jury demand was made). Since any given case is but one of many in the criminal justice system at any given time, attributes of that system (workload and resources mainly) and policy variables (willingness to grant continuances for example) can have very important effects on case processing time.¹ Given diminishing tax revenues and public resources in the current age, this last area should command more attention in future OBTS reports.

One way to refine our analysis of time to disposition is to look at the averages in elapsed time as they distribute across various categories of arrest charge and type of disposition. Table 11 is organized to yield the data of interest here.

At first glance, Table 11 gives the impression of barraging the reader with a great many figures (averages and the corresponding base numbers) which vary widely from cell to cell. If, however, we concentrate on only the major categories of arrest offenses and the major dispositional (and sentence) outcomes; a number of patterns emerge in these data.

¹See Jack Hausner and Michael Seidel, *An Analysis of Case Processing Time in the District of Columbia Superior Court, Institute for Law and Social Research, Washington, D.C., 1981*, p. 3 for a fuller discussion of these many factors which affect case processing time.

	Type of Offense "Charged" at Arrest	ORS Number of Offense (in Column 1)	Average Time to Disposition in Days (and Number of Cases Upon Which Average is Based) for Arrest Cases Where the Disposition (and Sentence) Was as Follows: [*]				
			Charge Dismissed	Acquitted	Convicted (No Incarceration Sentence)	Convicted (Incar. Sentence less than 1 Year)	Convicted (Incar. Sentence 1 year or more)
			(1)	(2)	(3)	(4)	(5)
VIOLENCE	(1) Murder	163.115	116.36 (11)	95.87 (8)	161.38 (26)	119.20 (5)	172.58 (60)
	(2) Manslaughter I	163.118			177.43 (7)		112.50 (8)
	(3) Manslaughter II	163.125	70.00 (1)	300.00 (1)	162.57 (14)	138.75 (4)	143.50 (10)
	(4) Crim. Neg. Hom.	163.145	182.00 (1)	122.00 (2)	129.80 (15)		159.60 (5)
	All HOMICIDE		117.84 (13)	119.18 (11)	155.82 (62)	127.89 (9)	162.50 (83)
	(6) RAPE I	163.375	91.77 (53)	119.78 (18)	145.72 (43)	59.67 (6)	148.03 (90)
	(7) Robbery I	164.415	86.95 (44)	78.40 (5)	109.02 (48)	81.33 (6)	110.46 (151)
	(8) Robbery II	164.405	105.00 (16)	86.33 (3)	111.14 (29)	101.17 (12)	122.52 (31)
	(9) Robbery III	164.395	70.46 (13)		111.96 (25)	90.71 (17)	107.33 (9)
	All ROBBERY		87.97 (73)	81.37 (8)	110.34 (102)	92.69 (35)	112.27 (191)
	(11) Assault I	163.185	98.64 (33)	94.75 (4)	151.96 (49)	148.17 (12)	137.00 (40)
	(12) Assault II	163.175	93.27 (55)	93.00 (7)	144.80 (60)	133.71 (28)	135.72 (36)
	All ASSAULT		95.28 (88)	93.64 (11)	148.02 (109)	138.05 (40)	136.39 (76)
PROPERTY	P (14) Burglary I	164.225	80.32 (174)	118.42 (12)	130.32 (479)	102.19 (111)	116.91 (263)
	R (15) Burglary II	164.215	74.07 (81)	88.14 (7)	109.49 (255)	90.11 (73)	114.43 (82)
	All BURGLARY		78.33 (255)	107.26 (19)	123.08 (734)	97.40 (184)	116.32 (345)
	(17) THEFT I	164.055	99.22 (273)	108.14 (29)	121.14 (688)	109.30 (164)	140.64 (148)
	(18) AUTO THEFT (UUMV)	164.135	62.40 (246)	60.25 (8)	111.77 (266)	77.99 (94)	117.22 (116)
	I (19) Arson I	164.325	66.83 (6)	122.67 (3)	152.76 (29)	102.43 (7)	131.27 (15)
	M (20) Arson II	164.315			159.30 (10)		
	All ARSON		66.83 (6)	122.67 (3)	154.44 (39)	102.43 (7)	131.27 (15)
	VIOLENT CRIMES (Subtotals)		93.40 (227)	107.25 (48)	137.07 (316)	114.17 (90)	133.23 (440)
	PROPERTY CRIMES (Subtotals)		80.53 (780)	102.10 (59)	121.27 (1727)	97.76 (449)	122.62 (624)
	ALL CRIMES (GRAND TOTAL)		83.43 (1007)	104.41 (107)	123.72 (2043)	100.50 (539)	127.01 (1064)

*Excludes cases not having the above dispositions and also excludes cases with missing or missed data on date of disposition. Cases included in the table do not take into account whether or not the incarceration sentence was fully suspended or not. (NOTE: Cells with blanks indicate no cases in this category. It should be pointed out that average based on very small numbers of cases should be analyzed with care.)

First, it appears that regardless of the type of dispositional outcome (columns 3 through 7 in Table 11), average elapsed time in days is greater for violent crimes than for property crimes charged at arrest. Among the violent crimes the averages across dispositional categories were generally high for criminal homicide, aggravated assault, and forcible rape. In terms of property crimes, UUMV in general yielded the lowest average numbers of days to disposition for the various types of disposition presented in different columns of the table.

In reading across the bottom three rows of the table a second pattern or finding emerges in these data. Time to disposition varies by type of dispositional outcome. In particular, it appears to be shortest for situations where the arrest charges are dismissed (with an average of 83.43 days for all offenses resulting in dismissal). For all acquittals the overall average is slightly larger (104.41 days) and for convictions (regardless of whether or not there is an incarceration sentence the averages are higher still, with the exception of those cases ending in conviction which results in an incarceration sentence of less than one year). Somewhat surprisingly, the average time to disposition is greater for those convictions resulting in no sentence of incarceration (123.72 days on the average for all arrests with this disposition) than for those convictions (with any arrest charge) resulting in incarceration sentences of less than one year (100.50 days on the average). Again looking at arrests for any offense which resulted in conviction, the longest time to disposition was for those receiving sentences of one year or more of incarceration (127.01 days on the average).

Third, it appears that time to disposition (as reflected by the averages presented in Table 11) increases as the prospects for both conviction and sentences of long term incarceration increase.

4. IMPLICATIONS OF THE RESEARCH REPORTED IN THIS REPORT

This report began as an attempt to convey the results of research--essentially descriptive research on the question of "What Happens After Arrest for Serious Felony Crimes in Oregon?". While this report (the second such OBTS report ever to be published on Oregon's criminal justice system) deals with an elaborate array of descriptive statistics, data, and information on the tracking of serious felony crime arrestees; the long term intent of writing this report and continuing to analyze our OBTS data base is to raise research and policy issues of importance to all Oregonians. In keeping with these goals, this report should mark the point of a transition from a purely descriptive focus for OBTS research to one having more of an analytical focus which emphasizes the utility of OBTS data for public policy making.

The need to be analytical and to focus on the utility of the research here comes from two basic sources. First, we do not have with our current resources (and perhaps never did have) the luxury of being able to fully and completely analyze every aspect of one's data base and to report results simply on the basis of the findings being "interesting." Consequently, the basis for any elaborate analysis of OBTS data has to be the need to know--especially in areas where public policy questions provide a momentum for analytical pursuit of data and answers.

An example of such a question might be that of what we can learn from an OBTS data base about a certain group of arrestees--say for example career criminals (i.e., "repeat offenders") or remanded juveniles. In the case of the career criminal we may be interested in knowing about the profile characteristics of this group of offenders in light of the impact repeat-offender statutes or habitual-offender laws are likely to have on overall crime rates. In this regard, one recent report describes the disproportionate share of the criminal justice work load accounted for by repeaters and suggests that greater emphasis on the prosecution of recidivists may be an appropriate strategy for crime control.¹

¹INSLAW, "Curbing the Repeat Offender: A Strategy for Prosecutors," Institute for Law and Social Research, 1977.

Likewise, there is a heavy interest in every aspect of the processing of juveniles in the criminal justice system. This is especially so when we consider juvenile felony arrestees who have been remanded to adult criminal courts for case processing. Given a certain public sensitivity to such remands, what can we say about the remanded juvenile. Given the suggestion that states lower the age at which we can remand juvenile offenders to adult court, what do we know about those currently being remanded?¹ Is there a growing tendency to remand juveniles for less serious felonies and are we remanding more juveniles over time and more younger juveniles? Answers to these questions will help us to guide and monitor any changes in the laws or procedures affecting the remanding of juveniles.

A second reason for investing in the analysis of OBTS data involves the need to establish benchmarks or guidelines and to make comparisons across time periods and between various geographic, political, and social groupings. Very often the results of OBTS data analysis simply demand more analysis and comparison. For example, one question invariably raised in examining some of our results is whether or not the statewide conviction rates reported here are too low. A further question is whether or not these rates could be improved.

In addressing this question, the first point that should be made is that one should not expect a conviction rate of 100 percent nor should one expect rates to approach this figure. The main reason for this is that there are very different standards of evidence needed for arrest and for conviction.

A second point worth considering is that felony arrest conviction rates in Oregon do appear to be comparable to those in other areas of the country. Our study (for 1979) shows that of all Part I felony arrests, about one-half (49.3%) result in convictions on some charge. Our previous OBTS report (excluding arson and using 1977 arrest data) noted a conviction rate of 55.8 percent on some charge. A study done of 100,739 felony arrests in 1971 in New

¹From our 1979 Part I felony arrest study using OBTS data we learned that 105 of the 7,451 arrests involved remanded juveniles. Over 80 percent of these 105 remanded juveniles were over 17 years of age and nearly 60 percent were convicted of some crime. More information on these remands will be the subject of a separate report.

York City found that in 42,129 cases or 55.7 percent conviction on some charge resulted.¹ A second study reported that in six large urban areas of the United States, the conviction rates (for all felony charge arrests and conviction on any charge) ranged from 26 percent to 58 percent.² Despite slight differences in study methodologies, these results indicate that Oregon's conviction rates for serious felony arrests are similar to those reported in studies done in other parts of the country.

Future OBTS reports must deal with another set of questions which will emerge because of comparisons and differences noted between counties in the disposition of felony arrests. Such differences demand analysis of arrest and court caseloads to determine if counties have similar distributions of career criminals (repeat offenders) and similar frequencies in terms of certain time consuming cases. Also, there is a need to document any differences in county resources (jail space, staff, money, etc.), as well as differences in community tolerance for different offenses and basic differences in law enforcement and prosecutor preferences or priorities for law enforcement and crime control through apprehension (arrest) and prosecution (conviction).

Time to disposition also offers a basis for meaningful comparisons across time periods or between jurisdictions and other groupings. Time to disposition or case processing time can be an important measure of criminal justice system performance and demands careful analysis of basic differences over time or between categories. Given an already overloaded judicial system, any increase in case processing time commands some attention.

Lastly, comparisons over time and between jurisdictions are particularly important when special attempts are made to impact a criminal justice system performance indicator. For example, it may be possible to impact conviction

¹The Vera Institute of Justice, "Felony Arrests: Their Prosecution and Disposition in New York City's Courts," New York, New York, 1977.

²Patrick R. Oster, "Revolving Door Justice: Why Criminals Go Free," U.S. News and World Report, Vol. 80, No. 19 (May 10, 1976), p. 37. The six jurisdictions were Baltimore, Chicago, Detroit, Los Angeles County, San Diego County, and Washington, D.C.

rates in an area. Programs in other parts of the country have been able to improve conviction rates through better witness handling techniques and through training of various criminal justice system personnel--especially arresting officers and prosecutor office staff. It also seems likely that more resources would help, too. Of course, enhancement of conviction rates implies some concurrent examination of workload demands in other components of the criminal justice system. Any jurisdiction interested in improving its felony arrest conviction rate should first determine whether or not its local system is prepared to handle a likely increase in jail commitments and probation cases.

In the same vein the question of whether or not plea bargaining influences conviction rates also can be entertained. While our research here does not examine plea bargaining per se, our study does show that modification of charges (between arrest and disposition) more often than not results in a greater conviction rate and somewhat less severe sentences. To the extent that charge modification implies at least some plea bargaining it would be logical to assume that elimination of plea bargaining would result in lower conviction rates and more severe sentences.¹

More than any other type of data base and kind of analysis, the OBTS system offers a dynamic means of keeping up with the issues of criminal justice system performance. In keeping with the emerging and changing information needs of the criminal justice system, offender based transaction statistics offer policy makers and others a means of answering important policy questions and shaping solutions to criminal justice problems.

¹It also is possible that the elimination of plea bargaining may not necessarily result in lower conviction rates and more severe sentences. A study of the elimination of plea bargaining in Alaska revealed no change in the conviction rate and more severe sentences for only some offenders (i.e., those arrested for less serious offenses and those with few prior convictions). Although the court process in Alaska did not bog down, the trial rate increased substantially. Again, any jurisdiction which desires to experiment with the elimination of plea bargaining must monitor and study the consequences of change and be prepared to handle the impact. See "Alaska Bans Plea Bargaining," U.S. Government Printing Office, Washington, D.C.

APPENDICES

GLOSSARY OF PART I FELONY CHARGE DEFINITIONS

The following definitions are brief statements of criminal charges extracted from the "Field Manual for Peace Officers - Oregon Criminal Code" published by the Board on Police Standards and Training (revised January, 1980).

Violent Crimes

CRIMINAL HOMICIDE

ORS 163.115 MURDER - Life Imprisonment or Death

- A. Intentionally causing the death of another human being without justification or excuse, while not under extreme emotional disturbance.
- B. Murder is also charged if death to a non-suspect results when suspect is attempting or committing any of the following crimes:
 - 1. 1st degree arson
 - 2. 1st degree burglary
 - 3. 1st degree escape
 - 4. 1st degree kidnapping
 - 5. 1st degree rape
 - 6. 1st degree sodomy
 - 7. Robbery - any degree
- C. Placing or discharging a destructive device or bomb, or committing or attempting to commit aircraft piracy.

ORS 163.118 FIRST DEGREE MANSLAUGHTER - A Felony

- A. Recklessly causing death under circumstances manifesting extreme indifference to value of human life.
- B. Intentionally causing death under circumstances not constituting murder.

ORS 163.125 SECOND DEGREE MANSLAUGHTER - B Felony

- A. Recklessly causing the death of another human being.
- B. Intentionally causing or aiding another to commit suicide.

ORS 163.145 CRIMINALLY NEGLIGENT HOMICIDE - C Felony

With criminal negligence, causing the death of another human being.

FORCIBLE RAPE

ORS 163.375 FIRST DEGREE RAPE - A Felony

- A. Sexual intercourse with female under 12 years of age; or
- B. Forcibly compelling female of any age to engage in sexual intercourse; or
- C. Having sexual intercourse with sister of whole or half blood or daughter or wife's daughter - if under 16 years of age.

ROBBERY

ORS 164.415 FIRST DEGREE ROBBERY - A Felony

Violating ORS 164.395 plus:

- 1. is armed with deadly weapon; or
- 2. attempts to use or uses dangerous weapon; or
- 3. attempts to cause or causes serious physical injury.

ORS 164.405 SECOND DEGREE ROBBERY - B Felony

Violating ORS 164.395 plus:

- 1. representing that he is armed with a deadly or dangerous weapon; or
- 2. is aided by another actually present.

ORS 164.395 THIRD DEGREE ROBBERY - C Felony

In the course of committing or attempting to commit a theft, threatening or using force with intent to:

- 1. prevent or overcome resistance to his unlawful taking of property; or
- 2. prevent or overcome resistance to his keeping property immediately after the unlawful taking; or
- 3. compel another to deliver property or to engage in some other conduct which aids the theft.

AGGRAVATED ASSAULT

ORS 163.185 FIRST DEGREE ASSAULT - A Felony

Intentionally causes serious physical injury to another by means of a deadly or dangerous weapon.

ORS 163.175 SECOND DEGREE ASSAULT - B Felony

- A. Intentionally or knowingly causes serious physical injury to another; or

- B. Intentionally or knowingly causes physical injury to another by means of a deadly or dangerous weapon; or

- C. Recklessly causes serious physical injury to another by means of a deadly or dangerous weapon under circumstances manifesting extreme indifference to the value of human life.

Property Crimes

BURGLARY

ORS 164.225 FIRST DEGREE BURGLARY - A Felony

Violates ORS 164.215 and:

- A. The building is a dwelling; or
- B. If in effecting entry or while in a building or in immediate flight therefrom he:
 - 1. is armed with burglar's tool or a deadly weapon; or
 - 2. causes or attempts physical injury to any person; or
 - 3. uses or threatens to use a dangerous weapon.

ORS 164.215 SECOND DEGREE BURGLARY - C Felony

Enters or remains unlawfully in a building with intent to commit a crime therein.

THEFT

ORS 164.055 FIRST DEGREE THEFT - C Felony

- A. If value of stolen property in single or aggregate transaction is \$200 or more; or
- B. Any theft committed during riot, fire or explosion; or
- C. Theft of a firearm or explosive; or
- D. Buying, selling or lending on the security of any stolen property; or
- E. Theft of a livestock animal.

UUMV

ORS 164.135 UNAUTHORIZED USE OF VEHICLE - C Felony

- A. Taking, operating, exercising control over or riding in another's motor vehicle, boat or aircraft without consent; or
- B. Having lawful custody of a vehicle, boat or aircraft but then grossly deviating from the agreed purpose of or length of time of the custody agreement.

ARSONORS 164.325 FIRST DEGREE ARSON - A Felony

- A. Intentionally damages another's protected property by starting a fire or causing an explosion.
- B. Intentionally damages any property by fire or explosion and such act recklessly places another person in danger or physical injury or protected property in danger or damage.

ORS 164.315 SECOND DEGREE ARSON - A Felony

Intentionally damages any building of another (not protected property) by starting a fire or causing an explosion.

MISSING DATA¹

A problem of concern in any analysis of the functioning of the criminal justice system is the relative frequency in which data are missing and the outcome is unknown. Findings were as follows:

1. Arrest charge indicated, but no indication of court filing.

An arrest charge indicated with no indication of court filing may be due to one of the following:

- a. Charges not filed (prosecution declined).
- b. Charges filed, but not recorded in the CCH file.
- c. Disposition is pending (often because defendant absconded).

Without further information, there is no way of determining with certainty the relative prevalence of these reasons. Study findings indicate, however, that the percent of arrests resulting in court filings closely approximates those obtained in the 1978 OLEC study, "What Happens After Arrest in Oregon?--A Pilot Study of Felony Arrests in 11 Oregon Counties."

The latter study included manual follow-up examination of prosecutor records, which accounted for approximately half of the arrests not evident in the court. While 16 percent of the arrests surveyed could not be accounted for, it appeared that some of these were due to unrecorded declinations. Although continued efforts should be made to insure complete reporting of circuit court filings, it is tentatively concluded that reporting rates are high.

2. Arrest charge known; court disposition known but for unknown charge.

This was noted in 25 cases, or less than 1/2 of one percent of the arrest charges.

3. Court disposition unknown.

This was noted in 29 cases, or approximately one-half of one percent of the arrest charges.

4. Court conviction known but sentence unknown.

This was noted in 95 cases, which is approximately 1 1/2 percent of the arrest charges, or approximately 3 percent of the known convictions.

From the above, it appears that the CCH data base contains rather complete reporting for Part I felony arrests.

¹Reprinted from our previous OBTS report entitled, What Happens After Arrest in Oregon, A Report of Disposition and Sentences for 1977 Part I Felony Arrests, Oregon Law Enforcement Council, March, 1981.

END