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PILOT JUSTICE PROJECT: A SURVEY OF SIX INDIANA COUNTY JAILS*

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The Pilot Justice Project (PJP) was formed to get tentative answers to some fundamental questions about the persons incarcerated in Indiana's county jails. In spite of all the recent talk about prison conditions, about rehabilitation, about law and order, about race, about riots and reform, few persons know how county jails operate. To date, those who have some knowledge about jails have not focused their study on the state of Indiana.

The county sheriffs who run the jails know only about their own counties. They know approximately how large their budgetary items need to be and what the physical condition of their particular jail is like. The individual sheriff has a general idea about who comes into his jail, but he is largely ignorant about the operation of other jails.

The city and county judges are well acquainted with the ins and outs of pleading and sentencing, and with constitutional questions of criminal arrest, all of which bear directly upon the jails. However, judges seem to know less about the jails themselves and the prisoners in the jails than do the sheriffs. Judges treat defendants individually, and thus lack an overall view of the social characteristics of prisoners.

County commissioners, grand juries, and the State Department of Correction's Jail Inspector know about county jails only from their annual inspections of the physical plants. These officials learn little about the prisoner population itself.

Until recently, few social scientists have studied county jails.¹ The few studies and reports which have been done have generally been slanted

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1. For a discussion of the current state of criminal statistics see Thompson, *Computerization of Criminal Law: Phase One—Criminal Statistics*, 4 IND. LEGAL F. 446 (1971).

toward the large urban jails² or toward physical facilities.³ These endeavors are a beginning, but they leave much to be explored.

The fact is nobody appears to know very much about who goes to jail in Indiana and why. Nobody knows how long those arrested and incarcerated remain behind bars or why. The Indiana county jail prisoner is a faceless man of mystery. Is he young or old? Black or white? Male or female? Rich or poor? Local or a stranger? Does he get out on bond? Does he pay his fine? Does he go on to the State Farm, the Reformatory, or the State Prison? Is he guilty or innocent? A drug addict? An alcoholic? A felon? Nobody knows.⁴ This article presents figures on six Indiana county jails, none located in a large city. These figures show who went into these county jails and why. The writers have intentionally eschewed lengthy attempts to go further into explaining the meanings behind the figures, since many others are better qualified to do that. Nonetheless, this data provides the *sine qua non* for altering and improving Indiana's county correctional system.

THE STUDY

The six Indiana counties studied by PJP were Bartholomew, Johnson, Monroe, Brown, Owen, and Decatur. Bartholomew, Johnson, and Monroe are called "large" counties because each has a population of more than twice that of any of the other three counties.⁵ Of course, none of the studied counties are large when compared to a

2. *E.g.*, S. BING & S. ROSENFELD, *THE QUALITY OF JUSTICE IN THE LOWER CRIMINAL COURTS OF METROPOLITAN BOSTON* (1970); PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, *TASK FORCE REPORT: CORRECTIONS* (1967).

3. *E.g.*, NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, *LOCAL JAILS* (1973); Culbertson & Decker, *Jails and Lockups in Indiana: A Case of Neglect*, 49 *IND. L.J.* 253 (1974).

4. All this does not mean that nobody cares. Congress has provided substantial federal funds for the improvement of county jails through the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, 82 Stat. 197 (1968) (codified at 42 U.S.C. § 3750) (1970). These funds, however, have apparently not been significantly applied to jails, other than for some physical plant improvements.

5. The 1970 Census figures show:

County	Population
Bartholomew	57,022
Johnson	61,138
Monroe	84,849
Brown	9,057
Decatur	22,738
Owen	12,163

metropolitan county like Marion County whose population in 1970 was more than three times that of all the studied counties combined.⁶

All data gathered by PJP related to calendar year 1971. The data was drawn from a pool of all those arrested or otherwise detained who were booked into the county jails in the studied counties in 1971. That pool includes not only those prisoners whose stay was lengthy, but also those who posted bond immediately, or were released after only momentary incarceration.

In the smaller counties PJP was able to study the records of all persons booked into the county jail during 1971. In the larger counties it was necessary to select a random sample and then expand it to determine the approximate total numbers.⁷ Due to the use of expansion factors, a slight shift in data in the "large" counties could result in a considerable change in the expanded totals: one must not overemphasize the significance of the total numbers. Given the random nature of the selection process the authors feel that the figures provide an adequately reliable approximation for determining who are in the jails and why they are there.

Due to the lack of 1971 census data, we were forced to use the 1970 census figures rounded to the nearest 5,000 persons.⁸ For this reason the data based on county population has slight inaccuracies, and all conclusions must be regarded as approximations.

6. Marion County population as of the 1970 census was 792,299. *Id.*

7. The sizes of jail populations and the total charges in each of the small counties were:

County	1971 Jail Population	1971 Total Charges
Brown	323	399
Decatur	369	420
Owen	289	341

In each of the large counties the sample sizes were over 500 individuals:

County	1971 Jail Population		1971 Total Charges
	Actual	Sample	Sample
Bartholomew	2380	506	627
Johnson	1403	568	760
Monroe	2734	540	769

The factors used to expand the sample data to correspond to the entire 1971 jail population in the large counties were:

County	Sample as Percent of Actual Jail Population	Expansion Factor
Bartholomew	21%	4.70
Johnson	40%	2.47
Monroe	20%	5.06

8. See Table 1 *infra*.

After the raw data was gathered, six characteristics were analyzed: (1) size of jail population; (2) number of charges per prisoner; (3) types of crimes charged; (4) residence of prisoners; (5) age of prisoners; and (6) sex of prisoners. Due to the small number of non-caucasian prisoners and the lack of accurate census data we were unable to determine the significance of race in this study. Once it was determined who was in the jails and why, the data was then evaluated to see how long the prisoners remained incarcerated and what actions were taken regarding their cases while in jail.

THE POPULATION

Table 1 sets out a rough picture of the size of the prisoner population and the number of charges per prisoner.

TABLE #1

Population Size and Total Charges

	Brown	Decatur	Owen	Small	Bartholomew	Johnson	Monroe	Large
Total Population 1970								
Census	9,057	22,738	12,163		57,022	61,138	84,849	
Standardized Population	10,000	20,000	10,000		60,000	60,000	85,000	
Total Prisoners Expressed as % of Standardized County Population	3.23%	1.84%	2.89%	2.65%	3.97%	2.34%	4.57%	3.63%
Total Number of Charges Expressed as % of Standardized County Population	3.99%	2.10%	3.41%	3.17%	4.92%	3.14%	6.47%	4.84%
Charges/Person Arrested	1.24	1.14	1.18	1.18	1.24	1.34	1.42	1.33
Total Number of Prisoners in Sample	323	369	289		506	568	540	
Total Number of Charges in Sample	399	420	341		627	760	769	

An initial observation of the size of each county jail population may be drawn by comparing the total 1971 jail populations with the standardized county population for 1970. Generally the large counties had high ratios, averaging about 3.5 prisoners per 100 persons living in the county whereas the small counties' average was about 2.5 with the average for all counties being about 3.0.

Charges Per Prisoner

Commonly, an individual may have been charged with more than one offense. By dividing the total number of charges by the total number of individuals, an approximation of the charge/individual ratio may be obtained. A high charge/individual ratio means there were numerous, multiple charges. Generally, as shown by Table 1, there appears to have been more multiple charging in the large counties.

A picture of what is sometimes called the "crime rate" may be drawn by examining the ratios of total charges against prisoners in each county in 1971 with standardized county population. The result represents crimes charged per one hundred county residents. Again the large counties ran noticeably higher with an average of nearly five crimes per 100 people in the county. By way of comparison, F.B.I. figures for 1971 were: North Central Region (includes Indiana) 2.5; all non-metropolitan cities in U.S. 1.9; and, all rural areas in U.S. 1.0.⁹

Types of Crimes Charged

All data on the type of crimes charged was broken down into five sub-categories: (1) felonies; (2) misdemeanors; (3) traffic; (4) court crimes; and (5) miscellaneous.¹⁰

TABLE #2
Charge Type

	Brown	Decatur	Owen	Small	Bartholomew	Johnson	Monroe	Large	Total
Felonies	17%	13%	19%	16%	3%	3%	7%	4%	10%
Misdemeanors	46%	45%	56%	49%	62%	62%	65%	63%	56%
Traffic	31%	37%	19%	29%	28%	26%	22%	25%	22%
Contempt	4%	1%	2%	4%	4%	5%	2%	4%	3%
Felony Rate	.12%	.08%	.32%	.17%	.15%	.14%	.27%	.19%	.18%

Felony charges in the studied county jails were rare. The overall

9. FEDERAL BUREAU OF INVESTIGATION, UNIFORM CRIME REPORTS: CRIME IN THE UNITED STATES, 1972, at 61 (1973).

10. Included in each of these subcategories are:

A. felonies—serious crimes which carry a penalty of imprisonment in the State Prison or the State Reformatory, *and* which are tried in a court having the power to sentence to these state penal institutions, *i.e.*, in the studied counties Circuit and Superior Courts;

B. misdemeanors—minor charges, other than traffic offenses, which carry a penalty of fine or imprisonment in the county jail or on the State Farm, *and* which are tried in a court lacking the power to sentence to the State Reformatory or the State Prison, *i.e.*, in the studied counties the City and Justice of the Peace Courts;

C. traffic—all traffic charges whether a misdemeanor or a felony;

D. court crimes—procedural charges rather than substantive ones; these are primarily made up of various contempt citations;

E. miscellaneous—a catchall including AWOL's, material witnesses, detainers, etc.

average indicates that one charge in ten is a felony. Since PJP researchers found that multiple charging is more common in cases involving misdemeanor and traffic charges than in cases involving felony charges, it is asserted that the actual number of individuals charged with a felony is greater than the 10 percent figure mentioned above.

In small counties the percentage of prisoners charged with felonies was about four times greater than in large counties. The reader is cautioned that this difference does not signify that felonies are more common in the small counties. We deal here only with the occurrence of felony charges in the jail population. To determine the rate of felonies within a given county, it is necessary to compare the absolute number of felony charges in that county with the number of individuals who could have potentially received such a charge. This cannot be done because the number of possible felony recipients includes an unknown number of persons who reside outside the given county but pass through it. However, an approximation of the felony rate, *i.e.*, the frequency of felony occurrence within a given county, may be obtained by comparing only those felony charges received by county residents in a given county with the total population of that county as in Table 2. Using this measure, it appears that felony charges are about equally common in large and small counties. With some variance, these felony charges ran close to .2 percent of county population. However, for the reasons mentioned above, this figure is suggestive and not conclusive.

Because felony charges were quite rare in comparison to misdemeanor charges or traffic charges, a slight change in absolute numbers could produce a drastic shift in the felony percentage. Since expansion factors were employed to make the sample data correspond to actual jail populations in the large counties, the effect of even a miniscule shift in absolute numbers in those counties could be immense. In short, felony charges were too rare for precise analysis.

The only common felony in the sampled counties was theft of over \$100.00.¹¹ Generally this charge signified shoplifting or passing bad checks. Theft of over \$100.00 accounted for almost four percent of total charges, or about 40 percent of all felony charges. The next most frequent felony charge was second degree burglary,¹² which accounted for about 1 percent of total charges or about 10 percent of all felonies. Violent, stranger-to-stranger charges were almost nonexistent in the studied counties.

11. IND. CODE § 35-17-5-3 (1971), IND. ANN. STAT. § 10-3030 (Supp. 1973).

12. IND. CODE § 35-13-4-4(b) (1971), IND. ANN. STAT. § 10-701(b) (Repl. 1956).

Five of the counties (all but Monroe) evinced absolute numbers of felony charges in approximately the same magnitude, between 85 and 51.¹³ Many of Monroe County's felony charges were drug charges—about three percent of all charges, or 40 percent of felonies. This represents more than twice as many felony drug charges than in any other studied county. Expanding sample data to correspond to actual jail population size and adding all data together, the incidence of felony charges in the combined six county jail populations was about six percent.¹⁴

Contrary to felony charges, misdemeanors were nearly a third more frequent in the jail populations of the large counties than in those of the small counties. Although the small counties varied substantially in size of jail populations and although misdemeanors represented a large percentage of the small counties' total charges, about the same absolute number of misdemeanors was charged in each small county in 1971.¹⁵ The large counties varied enormously in absolute numbers of misdemeanor charges, but misdemeanor charges ranged only between 62% and 65% of total charges. Expanding sample data to correspond to actual jail population and adding all data, the incidence of misdemeanor charges in the combined six county jail population was about 60 percent.¹⁶

Misdemeanor charges plus felony charges gives nearly the same absolute number in the small counties.¹⁷ Also, in all counties misdemeanor charges plus felony charges represent between 58% and 75% of all criminal charges, the average being 66%. Overall, most of the prisoners in the studied county jails were charged with misdemeanors or traffic offenses.¹⁸ More than three-quarters of the studied county jail populations were misdemeanants and traffic offenders. However, unlike the felony and misdemeanor subcategories, the traffic and contempt subcategories yield no clear pattern.

Residence

The data on residence of the prisoners was broken down in two

13. This correlation may be even closer, since in the small counties there is some confusion in the data as to the sentencing court. It was the practice in at least two of the small counties to transfer cases tried before Justices of the Peace to Circuit Court for sentencing. Thus, the felony counts for the small counties may be low.

14. Out of 9,875 total charges, 570 were for felonies.

15. The range is between 178 and 189.

16. The expanded raw data shows 5,925 misdemeanors out of 9,875 total charges.

17. The range is between 241 and 253.

18. If county percentages are averaged the result is 78 percent but if an overall average of the expanded data is taken the result is 85 percent.

different ways to facilitate analysis. First, it was divided into six mutually exclusive subcategories (1) "Marion County" which included all prisoners who listed Marion County, Indiana as their place of residence, (2) "County Seat" which included all prisoners who listed the county seat of the county in which they were incarcerated as their place of residence, (3) "County" which included all prisoners who listed the county in which they were incarcerated as their place of residence excluding those from the "County Seat" subcategory; (4) "Within fifty miles" which included all prisoners who listed a location of residence within fifty miles of the city in which they were incarcerated excluding those from the "County Seat" or "County" subcategories, (5) "In-State" which included all prisoners who listed a place of residence in Indiana excluding those from the "Marion County," "County Seat", "County" and "Within fifty mile" subcategories, (6) "Out-of-State" which included all prisoners who listed a place of residence outside the state of Indiana. After analyzing these subcategories, the data was aggregated into three groups (1) "Strangers" which included all those in the "In-State" and "Out-of-State" subcategories, (2) "Locals" which included all those in the "Within fifty miles," "County" and "County Seat" subcategories, and (3) "Marion County" which due to its significance was left a separate group. Unless otherwise stated this section deals with individuals and not charges.

TABLE #3

Residence

	Brown	Decatur	Owen	Small	Bartholomew	Johnson	Monroe	Large	Total
County Seat	14%	8%	0		65%	0	68%		26%
Within County	6%	42%	54%		0	60%	5%		26%
Marion County	14%	4%	12%	10%	3%	19%	4%	9%	9%
Within 50 Miles	17%	0	0		0	0	0		3%
In-State	41%	21%	28%		23%	12%	19%		24%
Out-of-State	7%	24%	5%		9%	8%	4%		10%
Local				48%				66%	57%
Stranger				42%				25%	34%

The overall pattern shows relatively large percentages in the "County Seat," "County" and "In-State" subcategories, somewhat smaller percentages in the "Out-of-State" and "Marion County" subcategories, and the smallest percentages in the "Within Fifty Miles" subcategory

From the data it is evident that the large county/small county distinction is of limited value to a discussion of prisoner residence. However, the local, stranger and Marion County groupings do yield some correlation. Jailed individuals listing Marion County as a place

of residence range between three percent and nineteen percent of the total population of the large counties, and between four percent and fourteen percent of the small counties. At the same time the local and stranger groupings are relatively close in the large county/small county divisions.

The small counties all had proportionally more strangers and fewer locals in their jails than did the large counties. The small counties also had proportionally more Marion County residents in their jails than did the large counties. Johnson County, a large county, is an exception to this generalization but this can be easily understood because Johnson County is adjacent to Marion County while the five other counties are not. Brown County's somewhat high percentage of Marion County residents is probably attributable to the large tourist trade which characterizes that county

TABLE #4

	Strangers	Marion County	Strangers & Marion Co. Combined	Local
Large County Expressed as % of Total Jail Population	25%	9%	34%	66%
% of Total Large County Felonies Charged Against	27%	10%	37%	63%
% of Total Large County Misdemeanors Charged Against	23%	9%	32%	68%
% of Total Large County Traffic Violations Charged Against	24%	11%	35%	65%
Small County Expressed as % of Total Jail Population	42%	10%	52%	48%
% of Total Small County Felonies Charged Against	48%	13%	61%	39%
% of Total Small County Misdemeanors Charged Against	42%	9%	51%	49%
% of Total Small County Traffic Violations Charged Against	45%	12%	57%	43%

Average Expressed as % of Total Jail Population	34%	9%	43%	57%
% of Average Total Felonies Charged Against	38%	11%	49%	51%
% of Average Total Misdemeanors Charged Against	33%	9%	42%	58%
% of Average Total Traffic Violations Charged Against	35%	11%	46%	54%

If the average percentage of Marion County residents in the small county jails is added to the average percentage of strangers in the small county jails, the result shows that 52 percent of all prisoners in the small county jails resided over fifty miles from the county seat of their incarceration. For the large counties this same figure is only 34 percent. Thus, over sixty percent of those persons in the large county jails lived in the county in which they were being held.

Examination of the absolute number of strangers, Marion County residents and the combination of these two groupings showed a rough pattern of one hundred individuals who were either strangers or Marion County residents in the jails per every 10,000 persons in the county population. Since data on the total number of strangers in a county is unknown, such a rough correlation seems worthwhile.

By combining data on prisoner residence with the data on charge types, some determinations are possible as to the propensity to charge locals, strangers and Marion County residents with different types of crimes in the studied counties. The average of all the county percentages shows a slight propensity to charge felonies against strangers and a very slight propensity to charge felonies against Marion County residents. It appears that there was a considerably greater tendency to charge strangers and Marion County residents with felonies in the small counties than in the large counties. In the small counties arrested locals were charged with felonies less often and with misdemeanors more often than were strangers. The small counties also tended to charge strangers and Marion County residents with traffic offenses more often than locals.

Some variation is concealed by these averages. Decatur County accounted for a large part of the small counties' propensity to charge strangers with felonies while Bartolomew County evinced a disproportionately high propensity among the large counties.

The absolute numbers of felonies charged against strangers and

Marion County residents results in a figure which appears relatively constant among all the counties.¹⁹ But, because of the use of conversion factors, and because of the small total number of felonies charged, the absolute actual numbers are of limited significance.

Most of the charges found in the studied counties were misdemeanors, and most misdemeanors were charged against locals. Similarly, most charges overall were against locals. The likelihood that strangers and Marion County residents committed a disproportionate share of the potential felonies remains indeterminate, since the total number of strangers and Marion County residents who pass through a given county cannot be determined. These figures demonstrate only that there is a propensity to charge strangers and Marion County residents with felonies, and that there is a slight propensity to charge these same non-residents with traffic violations, out of proportion to their presence in the total jail population. Again, we deal here with charges, not convictions.

Age

The prisoners were broken down by age into eleven subcategories for analysis. They were: (1) 0 through 17 years²⁰ (juveniles); (2) 18 years through 20 years; (3) 21 years through 25 years; (4) 26 years through 30 years; . . . ; (11) 61 years or older. In each of these subcategories there was little variation in distribution between the small counties and the large counties. The relatively large size of the juvenile subcategory is misleading because that subcategory spanned much more than five years. Likewise, the 18-20 age group figures can be misleading because it only spans three years.

TABLE #5

	Large Counties	Small Counties	All Counties
% of All Felonies Charged Against Juveniles	15%	18%	17%
% of Juveniles Charged With Felony	7%	24%	17%
% of All Prisoners Charged With Felony	6%	18%	13%

19. The range was between 36 and 106 with a median of 55 and a mean of 47.

20. Complete data was not available on Monroe County juveniles, so all data for this age group is based on the other five counties.

% of Juveniles Charged With Misdemeanor	79%	72%	75%
% of All Prisoners Charged With Misdemeanors	58%	48%	52%
% of All Juveniles Charged With Either a Misdemeanor or Felony	86%	90%	92%
% of All Prisoners Charged With Either a Misdemeanor or Felony	64%	66%	65%
% of All Juveniles Charged as a Delinquent Child	54%	46%	49%
% of All Prisoners Charged as a Delinquent Child	9%	6%	7%
Delinquent Child Charges as % of All Charges	7%	5%	6%

Over one-half of the jail population in the counties studied was under 26 years of age and slightly over three quarters were less than 41 years of age. In breaking these down we found that less than 15 percent were less than 18 years old whereas well over one-half fell into subcategories between 18 years and 31 years. The small size of the 61 and over subcategory indicates that more than 98 percent of all prisoners were less than 61 years old.

A clearer picture of jail population age groups can be obtained by comparing the age group distribution in the United States Census for the counties studied with the age group distribution in the respective county jails. For this purpose we used only those prisoners who fell into the County Seat and County residence subcategories. Much of the data presented here examines only the juvenile/nonjuvenile distinction because it is the only legally significant aspect of age in the studied jail populations.

The averages from the census data of all studied counties show the following distribution: age 0 through 9 years—20 percent; age 10 through 17 years—17 percent; 18 years or over—63 percent. An overall average of 50 percent of the jail populations gave addresses within the county in which they were incarcerated. These individuals were charged with an average of 54 percent of the total charges for which persons were

jailed. A breakdown of the average age distributions of the county resident prisoners shows that approximately 82 percent was adult and 18 percent juvenile.

In order to compare the different age groups it is useful to develop a norm from which to evaluate each group. Because 100 percent of all resident prisoners in the studied county jails were aged 10 or over²¹ and only 80 percent of the studied counties' standardized population was aged 10 or over, the two figures cannot be compared directly. Instead it is necessary to utilize a ratio of 100/80 or 1.25 which corrects for the absence of children under 10 in the jail population. This ratio then becomes the norm for comparing the adult and juvenile ratios.

Since the 10-17 age group represented 17 percent of the standardized county populations and 18 percent of the jail population, the ratio for juveniles is 18/17 or 1.06. Likewise for adults the ratio is 82/63 or 1.30. Comparing these figures to the norm illustrates that resident juveniles are below the norm and resident adults are above the norm. While these figures are not precise, they do illustrate that the county resident portion of the studied jail populations contained a larger percentage of adults and a smaller percentage of juveniles than the general county population would suggest.

In analyzing the data on charges against juveniles, Owen County was excluded due to the excessively high percentage of charges against juveniles in that county. In the other counties, juveniles accounted for approximately 11 percent of all crimes charged, and 17 percent of all misdemeanors. There was little variance between the large counties and the small counties in the percentage of misdemeanors charged against juveniles. However, the large counties tended to have a higher percentage of all juveniles charged with a misdemeanor than the percentage of all adults who were similarly charged. The small counties were different in that they had a higher percentage of all juveniles charged with felonies than the percentage of all adults who were charged with a felony. Due to the small number of felonies in the total sample it is difficult to analyze the true meaning of this difference.

Violations of delinquent child statutes accounted for approximately one-half of all charges against juveniles. It was the fourth or fifth most common charge type found in the data and was more than twice as common as the most common felony, theft of over one hundred dollars. Curfew violation was the most common reason for a delinquency charge. Overall, juveniles appeared to receive fewer multiple charges than adults.

21. The youngest juveniles found in the studied jails were eleven years old. In all, six eleven year olds appeared in the data.

Sex

Females represented an average of eight percent of the total jail population in the studied county jails and were charged with an average of seven percent of the charges. They constituted nine percent of the population in the large counties and only seven percent in the small counties. Owen County was the only exception to this in that .1 percent of all prisoners were female. Additionally, females accounted for eight percent of the total felonies, eight percent of the total misdemeanors and three percent of the total traffic violations. Generally females in the small county jails were charged with more felonies and fewer misdemeanors and traffic violations per capita than were men in the same jails.

TABLE #6

	Male	Female	Adult Male	Adult Female	Juvenile Male	Juvenile Female
County Resident Prisoners	90%	10%	74%	8%	16%	2%
County Resident Prisoners as a % of General County Population	1.29%	.13%	1.05%	.11%	.24%	.02%
General County Population Distribution	39%	41%	31%	32%	8%	9%
% of All Prisoners Who Are	92%	8%	80%	5%	12%	3%
% of All Charges Against	93%	7%	81%	7%	12%	<1%
			Felonies		Traffic	
% of All Charges in Large Counties Which Are			7%		25%	
% of All Charges in Large Counties Against Females Which Are			10%		14%	
% of All Charges in Small Counties Which Are			18%		29%	
% of All Charges in Small Counties Against Females Which Are			30%		9%	
					Misdemeanors	
					60%	
					73%	
					48%	
					56%	

% of All Charges Which Are	20%	64%	52%
% of All Charges Against Females Which Are	13%	52%	27%

Female strangers appear to have been more common than male strangers generally in the small counties. Due to the small size of the total number of female strangers this pattern is only suggestive. With regard to Marion County resident females, no clear pattern emerged except that Johnson County had the highest actual number and percentage of any of the studied counties. Only six Marion County resident females appeared in the other five county jails. Twenty percent of all females in the Johnson County jail were Marion County residents. This closely approximates the 19 percent of all prisoners in the Johnson County jail who were Marion County residents.

In the studied counties males made up an average of 49 percent of the general county population and females made up 51 percent. In contrast to this the resident prisoner population was made up of 89 percent male and 11 percent female. This resident prisoner population further breaks down to 74 percent adult male, eight percent adult female, 15 percent juvenile male and three percent juvenile female.

Profiling the Prisoner

Overall approximately 80 percent of the entire studied county jail populations were adult males, and about 75 percent of all charges which led to jail were misdemeanors or traffic charges. Ninety percent of all crimes were nonfelonies. More than 50 percent of the prisoners studied were county residents, and more than 50 percent were between 18 and 31.

Hence it could be said that the average prisoner in the studied counties in 1971 was an adult, male, under 31 years of age, jailed on a misdemeanor or a traffic charge who resided in the county where he was jailed. Having accumulated this description of Indiana county jail prisoners, the identity of these individuals was at least partially revealed, but larger questions as to why they were in jail and what was to be done with them remain.

POST-ARREST TREATMENT

The courts determine how long an individual stays in jail and what he must do to gain release. Analyzing the post-arrest data involves examining the policies and practices of various criminal courts. Here,

that included Juvenile Courts, Circuit Courts, Superior Courts, City Courts and Justice of the Peace Courts.

It should be noted that the following figures are for charges and not individuals. Moreover, since juvenile court records are confidential the data excludes juveniles except where specifically discussed. All post-arrest data was drawn from the court records of individuals studied in the previous section.

Court

In reviewing data pertaining to the courts of criminal jurisdiction, information from Decatur County was not included. Thus this section refers only to the five remaining counties. To facilitate analysis, the data was divided into four subcategories: (1) City Courts;²² (2) Justice of the Peace Courts;²³ (3) Juvenile Courts;²⁴ and (4) Circuit and Superior Courts.²⁵

TABLE #7

	Court of Jurisdiction				
	Brown	Owen	Bartholomew	Johnson	Monroe*
City Court	None	None	60%	52%	71%
Justice of the Peace Court	66%	29%	19%	20%	3%
Circuit & Superior Court	23%	49%	12%	14%	15%
Juvenile Court	11%	19%	13%	14%	14%

*Monroe County figures include projected juvenile figures.

In those counties in which City Courts were present, they handled over 50 percent of all charges, and Justice of the Peace Courts handled only 20 percent. In contrast to this, where there were no City Courts,

22. City Courts were present in only three of the five counties from which the court data was drawn: Bartholomew; Johnson; Monroe.

23. Justice of the Peace Courts were present in all five of the counties from which the court data was drawn; however, Monroe County was excluded from this subcategory because the Justices of the Peace handled virtually no criminal cases.

24. Juvenile Courts are a division of the Circuit Courts in the counties studied and all their data is confidential, which made it necessary to rely on jail records for the disposition of juvenile cases. This may result in some inaccuracies not present in the other subcategories. Monroe County is excluded from this subcategory because the jail records on juveniles were also considered confidential.

25. There were Circuit Courts in all five counties studied and Superior Courts in only Bartholomew, Johnson and Monroe. Since the adult criminal jurisdiction is identical in both Circuit and Superior Courts, these were combined into a single subcategory.

the Justice of the Peace Courts handled between 29 and 66 percent of all charges. Juvenile Courts averaged 14 percent of all charges, while Circuit and Superior Courts handled 16 percent of all charges. Owen County differed sharply from the other counties in that its Circuit Court processed nearly 50 percent of all charges.

Over 90 percent of the charges in City Courts were either misdemeanor or traffic offenses,²⁶ with the ratio of misdemeanors to traffic offenses approximating two to one. This same ratio was also present in Justice of the Peace Courts regardless of whether a City Court was present.

Charges in the Circuit and Superior Courts were about 50 percent traffic offenses and misdemeanors with an additional 33 percent felonies. The remaining 17 percent was comprised primarily of contempt proceedings. It should be recognized that in most of the counties studied the total number of traffic violations and misdemeanors handled by Circuit and Superior Courts was small compared to the number filed in City and Justice of the Peace Courts. Also, all felonies, except those committed by juveniles, are tried in Circuit or Superior Courts.²⁷

Nearly all of the charges in the Juvenile Courts were for misdemeanors and over one-half of the misdemeanors were for violations of the delinquent child law.²⁸ The number of felonies and traffic violations committed by juveniles was each less than 10 percent of all Juvenile Court cases. The range of felonies in the individual counties was between 5 and 17 percent.

A comparison of the residence of individual prisoners with the court in which they were charged shows that Justice of the Peace Courts processed the highest percentage of strangers. This was particularly true in the small counties where the average percentage of strangers in Justice of the Peace Courts was 44 percent. When Marion County residents were added to this, it became 59 percent. On the other hand, City Courts generally had far more locals than the other two types since their jurisdiction is primarily concerned with offenses committed inside the city limits.

Pleas, Verdicts and Dismissals

PJP found that 14 percent of all charges were dismissed either

26. Since City and Justice of the Peace Courts lack felony sentencing powers all felony type charges in these courts were classified as misdemeanors.

27. There is some question as to whether felonies committed by juveniles should in fact be classified as felonies because although sentencing to the State Prison or State Reformatory is possible, it is quite unlikely.

28. IND. ANN. STAT. § 31-5-4-1 (Code ed. 1973).

before or during trial. The remaining charges were tried and a verdict reached. Nearly 97 percent of all such verdicts were guilty. Thus, approximately 83 percent of all charges were found guilty of either the crime charged or a lesser included offense.

TABLE #8
Dismissals, Pleas & Verdicts

	Dismissals	Plea Changes	Not Guilty Pleas
Felony	23%	20%	40%
Misdemeanor	44%	40%	18%
Traffic	31%	38%	23%

A charge was most likely to enter a plea of not guilty in a Circuit or Superior Court, with 48 percent of all charges in those courts pleading not guilty. In contrast to this, 32 percent of all charges in City Courts entered pleas of not guilty while only 10 percent of all charges in Justice of the Peace Courts entered pleas of not guilty. Overall the average percentage of all charges who entered not guilty pleas was approximately 25 percent.

Plea changes were found to be relatively rare. On the average, only five per cent of all charged changed their plea after it was entered. Although there was an occasional shift from guilty to not guilty, nearly all changes were from not guilty to guilty.

PJP also found that in more than 14 percent of the cases where an individual was jailed the charges were dismissed.²⁹ Most dismissals were granted as a result of a motion to dismiss by the prosecution; however, a few were dismissed on the court's own motion or after a defense motion to dismiss. On occasion, dismissals were refiled either on the same charge in a different court or on a different charge arising out of the same arrest,³⁰ but this involved less than three percent of all charges. Bartholomew and Owen Counties were quite high with six and seven percent respectively, but a comparison of the refiled figures of separate counties may be misleading since some counties simply transfer a case from court to court whereas other counties require a dismissal and a new filing in another court. Even so, reducing the dismissal figures by the refiled figures, it was found that an average of 13 percent of all charges were dismissed.

29. This figure excludes juveniles.

30. For example, where a demand for a jury trial was made in City Court, it was common practice to refile or transfer the case to Circuit or Superior Court where the facilities and money were available for jury trial.

Counsel

Type of counsel was divided into four separate subcategories: (1) no counsel; (2) court-appointed counsel; (3) counsel waived on record; (4) retained counsel. In those instances where the record failed to show counsel; or showed a waiver thereof, it was assumed there was no counsel.³¹ In studying this information, it should be remembered that all the charges under study were disposed of by the courts prior to *Argersinger v. Hamlin*.³² Hence, the courts may have felt no obligation to appoint counsel for indigent misdemeanants.

TABLE #9
Counsel Type

	Appointed Counsel	Retained Counsel	Waived Counsel	No Counsel
% of Charges Represented By	3%	17%	2%	78%
% of Total Charges Dismissed	1%	6%	1%	6%
% of Total Charges Acquitted	0	1%	0	1%
% of Total Charges Found Guilty	2%	10%	1%	71%
Brown County	2%	13%	0	86%
Owen County	2%	20%	7%	71%
Bartholomew County	4%	21%	0	75%
Johnson County	1%	18%	.3%	80%
Monroe County	2%	20%	.1%	77%

Nearly 78 percent of all adult charges were tried or dismissed without benefit of counsel. Broken down by charge type, this means that roughly 65 percent of all alleged felons, 88 percent of all alleged misdemeanants and 75 percent of all alleged traffic offenders were processed by the criminal justice system in the studied counties without legal advice. Of this

31. Almost all courts indicated that they used an oral waiver; however, the written records upon which we relied contained no indication of whether or not such a waiver was in fact made.

32. 407 U.S. 25 (1972).

group, the number who waived counsel on the record was too small to be significant except in Owen County where seven percent of all charges waived counsel on the record. There is no apparent reason for this disparity other than possible procedures exercised by the presiding judge.

Appointed counsel were quite rare averaging about three percent of all charges.³³ This occurred primarily in the Circuit and Superior Courts, with the exception of Bartholomew County where almost five percent of all charges in City Court had appointed counsel. Although felony charges accounted for only 12 percent of all charges, they accounted for 55 percent of all appointed counsel. There were few, if any, appointed counsel in the Justice of the Peace Courts.³⁴ Lack of money was generally the reason given for this failure to appoint counsel in the City and Justice of the Peace Courts. In those cases where there was a demand for appointed counsel, it was common practice to transfer the case to the Circuit or Superior Court. Transfer, however, increased the potential sentences because Circuit and Superior Courts have felony sentencing powers whereas City and Justice of the Peace Courts do not. Thus a demand for appointed counsel may have had the effect of transforming a misdemeanor charge without counsel into a felony charge with counsel, thereby possibly inhibiting some defendants from requesting legal assistance.

The data on retained counsel shows no clear pattern except that a higher proportion of all charges had retained counsel in the large counties than in the small counties. Retained counsel were most common in City Courts if such a court was present. Otherwise they were most likely to appear in Circuit and Superior Courts. Generally, very few retained counsel appeared in Justice of the Peace Courts. Many more retained counsel were found in the traffic and misdemeanor charge subcategories than in the felony subcategory. In fact, nearly 77 percent of all retained counsel were on misdemeanor or traffic charges. However, proportionally more retained counsel were on felony charges in the small counties than in the large counties.

Interestingly, when the data on the presence of counsel is correlated with the residence of the charges, fewer out-of-state residents retained

33. Approximately 236 adult charges out of some 8,500 total in the studied counties in 1971 had appointed counsel. Although juveniles were excluded from the figure, PJP's informal inquiries indicated that counsel was rare in juvenile cases and appointed counsel was almost nonexistent.

34. Two instances of what may have been appointed counsel were found in the Justice of the Peace records in Owen County, but the charges appear to have only been arraigned before the Justice of the Peace and then transferred to the Circuit Court for trial. This was a common practice in Owen County.

counsel per capita than members of any other resident category in every county. Moreover, except for Decatur County, no out-of-state defendant had appointed counsel. Inasmuch as many out-of-state defendants have no local acquaintances to assist in raising bail and retaining counsel, this may indicate some need for the court to consider factors other than indigency when appointing counsel.

The effects of counsel can best be observed by looking at verdicts, plea changes and reduced charges. Although counsel were present in only 22 percent of all cases, they accounted for roughly 64 percent of all plea changes and 84 percent of all reduced charges. To the extent that these phenomena are indicators of plea bargaining it appears that there was little plea bargaining where no counsel was present. The breakdown between types of counsel shows that appointed counsel accounted for 10 percent of all plea changes and 31 percent of all reduced charges whereas retained counsel accounted for 54 percent of all changes and 52 percent of all reduced charges.

Dismissal also becomes far more likely where counsel is present. Of all dismissals, 52 percent were received where counsel was present even though only 22 percent of all charges were represented. A statement of the overall odds of a charge being dismissed is about one in seven. However, when the presence of counsel is considered, the odds change to about one out of three with counsel, and one out of twelve without counsel. These odds do not depend, however, on whether counsel was retained or appointed.

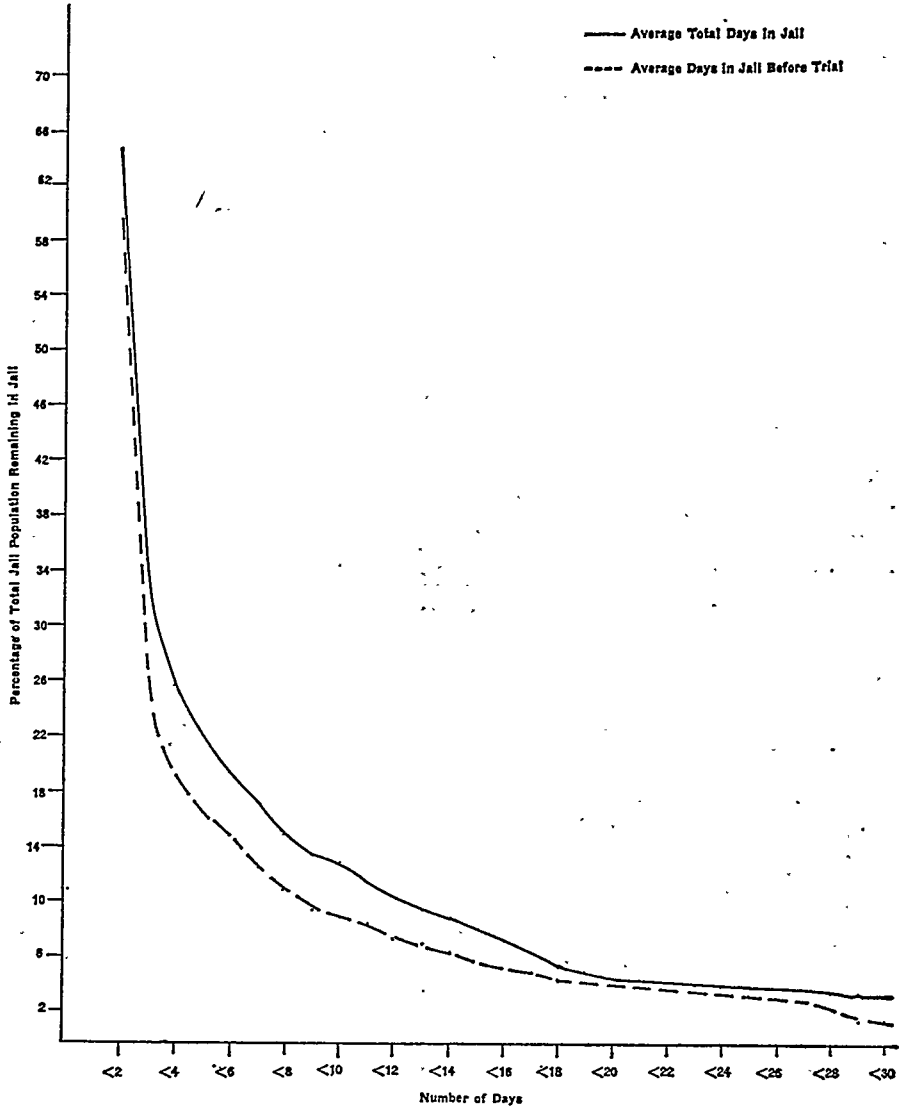
Counsel also increased the possibility of acquittal. Overall, 4.5 percent of all represented charges were acquitted; whereas only one percent of the unrepresented charges were acquitted. Of all acquittals, 48 percent were represented while 52 percent were unrepresented. A surprising figure in light of the dismissal figures was that while counsel accounted for 48 percent of all acquittals, none of the acquittals was in a case where counsel was appointed. All represented acquittals were by retained counsel.

Length of Incarceration

Most of the charges in jail (approximately 93 percent) on an average day in 1971 were there awaiting trial. Although the average length of post-trial detention greatly exceeded the average length of pretrial detention, a far greater number of days were spent awaiting trial. In fact, only about six percent of all adult charges arrested were sentenced to jail terms. Another one percent were sentenced to either the State Prison, the State Reformatory, or, more often, the State Farm.³⁵

35. Court records were not always clear as to which institution a charge was sentenced, and thus we did not attempt to break the data down any further.

AVERAGE JAIL POPULATIONS FOR ALL COUNTIES



The graph shows the average total days spent in jail (ATDIJ) and the average days in jail before trial (ADIJBT). Following 100 hypothetical charges jailed on day zero, at the end of day one, 59 would still be in jail awaiting trial while five more would be serving a jail sentence. Following the above curves, at the end of day 29 there would still be one charge in jail awaiting trial while two more would still be serving sentences. This would be the first day in which more charges are serving time than are still awaiting trial.

The average stay in jail was about 4.5 days per charge including both pretrial and sentence time. Of this, approximately 3.7 days per charge was pretrial incarceration. A more accurate view of the average jail sentence can be gained by looking only at those charges who served such time; for these prisoners the average time served was 13.3 days per charge.

Of those charges who were sentenced to serve some time in the county jail, over 50 percent served less than ten days and over 90 percent served less than 30 days. When the sentences served were correlated with the individuals who served them, it was seen that few individuals were given multiple sentences even though they were found guilty on multiple charges. Moreover it was rare to find a multiple-sentenced individual who served consecutive sentences. Thus the figure per individual for days spent in jail should approximate the figure for charges.

Overall, the periods of time spent in jail awaiting trial and serving a sentence in jail were relatively short. A significant majority of all charges spent between 1.5 and four days awaiting trial, and a majority of sentences were for less than ten days per charge. Since permanent dismissal is a final disposition, only those related on recognizance or bond were considered as released before trial. In 1971 release on recognizance was rare,³⁶ thus nearly all prisoners released prior to trial were released on bond. Excluding juveniles, about 44 percent of all charges were released from jail before trial. Another 13 percent had charges against them dismissed either prior to or during trial, and the remaining 43 percent were held until trial.³⁷ The bonds of those prisoners held until trial were usually less than 1000 dollars. Since a bond of this size includes a premium of less than 100 dollars, it appears that a significant proportion of those prisoners held until trial was indigent. The exact proportion cannot accurately be determined because many prisoners are held

36. Only Bartholomew County made any significant use of the recognizance release in 1971.

37. AWOLs, detainees and other charges which do not come to trial in the county of incarceration are excluded from these figures.

less than one day before their trial³⁸ and may not attempt to raise bond.

The Most Common Charges

Overall there were 136 different crimes with which the prisoners under study were charged. However the ten most common crimes accounted for 63 percent of all charges and the top five accounted for over 50 percent.

TABLE #10
10 Most Common Charges

Name	% of Total Charges
1. Public Intoxication	21%
2. Operating a Motor Vehicle Under the Influence	16%
3. Delinquent Child	6%
4. Disorderly Conduct	5%
5. Assault & Battery	4%
6. Theft Less Than \$100	3%
7. Driving While Suspended	2%
8. Theft More Than \$100	2%
9. 2nd Degree Burglary	2%
10. Malicious Trespass	2%

Alcohol related crimes clearly were the most common—Public Intoxication³⁹ was charged with 21 percent of all crimes, and Operating a Motor Vehicle Under the Influence⁴⁰ in 16 percent. The third most common, Delinquent Child,⁴¹ was compiled excluding Monroe County and thus its incidence may have been somewhat higher. The only felonies in the top ten were Theft of More than \$100⁴² and Second Degree Burglary⁴³ which accounted for only four percent of all charges. What is most surprising is that drug related charges did not appear in the top ten and were relatively infrequent when compared with the magnitude of alcohol related offenses.

CONCLUSION

PJP did not manage to answer all the questions regarding the county

38. For example, a charge for Driving While Under the Influence of Intoxicating Liquor or Narcotic or other Drugs, IND. ANN. STAT. § 9-4-1-54(b) (Code ed. 1973), requires that the charge be held until he is brought before a magistrate. IND. ANN. STAT. § 9-4-1-130 (Code ed. 1973). This has been construed to mean during the magistrate's normal hours. *McClanahan v. State*, 232 Ind. 567, 112 N.E.2d 165 (1953). Thus at this appearance the charges may be finally disposed of before an opportunity for release is available.

39. IND. ANN. STAT. § 7-1-1-32(11) (Code ed. 1972).

40. IND. ANN. STAT. § 9-4-1-54 (Code ed. 1973).

41. IND. ANN. STAT. § 31-5-4-1 (Code ed. 1973).

42. IND. CODE § 35-17-5-3 (1971), IND. ANN. STAT. § 10-3030 (Supp. 1973).

43. IND. CODE § 35-13-4-4(b) (1971), IND. ANN. STAT. § 10-701(b) (Repl. 1956).

correctional system nor did the project manage to answer many of the basic questions in this area. But PJP has here set forth several parameters needed to describe Indiana county corrections. It is hoped that they will encourage an understanding and amelioration of present conditions or at least contribute to a realization of the true state of affairs.