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**PREDICTION OF PRETRIAL FAILURE TO  
APPEAR AND AN ALTERNATIVE PRETRIAL  
RELEASE RISK-CLASSIFICATION SCHEME IN  
NEW YORK CITY: A REASSESSMENT STUDY**

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June 2002

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## ACKNOWLEDGMENT

I would like to thank the New York State Division of Criminal Justice Services (DCJS) for providing supplemental data. DCJS is not responsible for the methodology or conclusion of the report.

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**PREDICTION OF PRETRIAL FAILURE TO APPEAR AND AN ALTERNATIVE  
PRETRIAL RELEASE RISK-CLASSIFICATION SCHEME  
IN NEW YORK CITY: A REASSESSMENT STUDY**

**INTRODUCTION**

The New York City Criminal Justice Agency, Inc. (CJA) uses an objective “point scale” to make pretrial release-on-recognizance (ROR) recommendations for defendants arrested in New York City and held for arraignment in the lower court (Criminal Court). The recommendation is submitted to the arraigning judge who makes the first release decision, as well as to the prosecutor and defense attorney. Section 510.30 of the New York State Criminal Procedure Law permits judges to consider many factors in their pretrial release/bail decisions. Judges are to set conditions of release consistent with what they believe is necessary to insure the defendant’s attendance at subsequent court appearances, if released. Accordingly, release decisions are to take into consideration the following factors and criteria (Matthew Bender and Company, 1988):

- The principal’s character, reputation, habits, and mental condition;
- His employment and financial resources; and
- His family ties and length of his residence if any in the community; and
- His criminal record if any; and
- His record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.2 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any; and
- His previous record if any in responding to court appearances when required or with respect to flight to avoid criminal prosecution; and
- The weight of the evidence against him in the pending criminal action and any other factor probability or improbability of conviction; or, in the case of an application for bail or recognizance pending appeal, the merit or lack of merit of the appeal; and
- The sentence which may be or has been imposed upon conviction.

CJA’s current release recommendation scheme is based, however, solely upon a defendant's ties to the community, leaving to the arraigning judge consideration of all

other factors from other sources. The current recommendation scheme includes the following items:

1. whether there is a working telephone in the defendant's residence;
2. whether the defendant has resided at his or her current address for one and one-half years or longer;
3. whether the defendant expects someone (other than the complainant or defense attorney) at Criminal-Court arraignment;
4. whether the defendant lives with a parent(s), spouse, or common-law spouse of six-months, grandparent, or legal guardian;
5. whether the defendant is employed, in school, or in a job-training program (or some combination of these) full time;
6. whether the defendant's address is in the New York City area (the five boroughs of the City, and Nassau, Suffolk, and Westchester counties).

Defendants having strong community ties are considered good risks to return for scheduled court appearances. The current CJA ROR recommendation scheme for adult defendants (i.e., sixteen years of age or older) consists of four main categories, two of which have subcategories, as follows:

1. "Recommended": Verified Community Ties (defendant must have a verified New York City area address, have items 2, 4, or 5 verified, and have at least two other true items);
2. "Qualified": Unverified Community Ties (defendant has an unverified New York City area address and has three other items assessed in the affirmative);
3. No Recommendation due to:
  - A. Insufficient community ties (less than three items were answered affirmatively)
  - B. Residence outside the New York City area
  - C. Conflicting residence information (defendant and verifier did not agree)
  - D. Incomplete interview;
4. No Recommendation due to:
  - A. Open bench warrant attached to the New York State criminal history sheet
  - B. Criminal history not available
  - C. Bail jumping charge
  - D. For information Only: murder charge

E. For information Only: juvenile offender.<sup>1</sup>

The first three categories summarize the strength of the defendant's community-ties. The fourth major category of the risk-assessment scheme consists primarily of excluding from the ROR recommendation those defendants who have demonstrated that they will not show up for scheduled court appearances on a previous, pending case or those for whom the absence of a rap sheet precludes ascertaining that information. Defendants are also excluded if arrested on a bail jumping offense, which may be charged in New York State after a defendant does not return to court for thirty days or more after failing to appear while on bail or ROR. Previous failures to appear, for which the defendant returned to court and the warrant was vacated, do not preclude ROR recommendation on a new arrest.

Some years ago, CJA began a research project to assess the predictive ability of the current point scale and to identify other predictors of pretrial failure to appear (FTA).<sup>2</sup> The study found that although the scale based on a defendant's ties to the community was able to differentiate between good risks and bad risks for an ROR recommendation, there was room for improvement (Siddiqi, 1999). Thus using a 1989 dataset, a number of models were constructed. The best model from that analysis contained information on a defendant's community ties, criminal history, and type and severity of the top arrest charge. This model was used to develop a point scale by assigning points to all of the significant variables.

In the year 2000, the best model from the '89 analysis was statistically validated on a three-month cohort of 1998 summary arrests (Siddiqi, 2000). All variables that were significant in the construction sample remained significant in the validation sample. However, for some of the variables, changes were observed in the magnitude of the relationship.

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<sup>1</sup>In April 1996, based on new research, a separate new recommendation scheme was introduced for juveniles (under sixteen years of age).

<sup>2</sup>Defendants classified as juvenile offenders by CJA were excluded from that research.

The model was revised to address policy and practical concerns.<sup>3</sup> For policy reasons, the variables reflecting type and severity of the top arrest charge were excluded from the model. For practical reasons, some of the community ties variables were recoded. The readjusted model was used to construct a point scale for defendants at-risk in Criminal and Supreme Courts. The new scale was comprised of six items: 1) working telephone in the residence/cellular phone; 2) New York City area address; 3) expectation of someone at Criminal Court arraignment; 4) full time employment, school, or training program; 5) open cases; and 6) prior failure to appear. The scale was used to construct an alternative risk-classification scheme. Based on their relative risk of flight, this scheme would categorize the defendants into low, medium, and high risks.

The new recommendation scheme had several advantages over the current recommendation scheme. Firstly, it took into consideration a defendant's community ties and criminal history. The current scheme, on the other hand, assesses a defendant's risk of flight on his/her ties to the community. Secondly, the new scheme was based on a research that was conducted on a citywide sample of defendants. The current scheme is based on a research that was conducted on a sample of Brooklyn defendants only. Thirdly, it would identify the at-risk population regardless of the court of disposition. The current CJA recommendation, by contrast, is limited in its application; it identifies the at-risk

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<sup>3</sup>When controlling for other variables in the model, the type of top arrest charge was a significant predictor of FTA. Defendants arrested for property, drug, criminal mischief, and VTL (Violation of Traffic Law, excluding DWI offenses) offenses were more likely to FTA than the mean effect of that variable and would score negative points on the new scale. In contrast, defendants arrested for gambling or driving while under the influence of drugs or alcohol were less likely to fail and would score positive points. Concern was expressed over assigning positive points to the charge type variable. CJA decided not to assign positive points to this variable. Defendants arrested for gambling and DWI offenses would receive zero points. However, at the suggestion of Criminal Court judges and because of the difficulties in operationalizing, this variable was excluded from the final model.

The severity of the top arrest charge was found to be a statistically significant, but weak predictor of pretrial FTA; only one category of this variable had a significant effect on the likelihood of FTA. Furthermore, the interpretation for this variable was not consistent across the two samples. In the 1989 sample, when controlling for the other variables in the model, the odds of failure were higher among defendants who were arrested for A misdemeanors. In the 1998 sample, defendants arrested for A or B felonies were less likely to FTA than defendants with the mean effect of that variable and would score positive points. For these reasons, it was excluded from the model.



population exclusively in Criminal Court. Finally, relative to current CJA recommendation scheme, the new scheme would classify a substantially higher proportion of defendants as low risks, while keeping their FTA rate at the same level.

The new risk-classification scheme was presented to criminal justice practitioners for their feedback. In those meetings, concern was expressed over the reliability of the open-case variable. CJA interviewers record this information on the interview form from the RAP sheet. Several judges and defense attorneys believed that the information on the RAP sheet is often inaccurate, as many of the open cases are no longer open at the time of the CJA interview. As such, defendants would lose points due to inaccurate information. Furthermore, suggestions were made to limit the prior FTA information to ten years prior to the sample arrest.<sup>4</sup>

The proposed recommendation scheme was revalidated on a new and more recent sample of defendants. Data collected in the first quarter of 2001 were used for the validation analysis. The objective was to determine whether it was stable across different samples. Furthermore, in response to the issues raised in meetings with judges and attorneys, analyses were performed both on the 1998 and 2001 samples. This report presents findings from that analysis, following a description of the methodology.

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<sup>4</sup> The prior FTA variable provides an overall count of failure to appear prior to the sample arrest. It also includes post-disposition and post-sentencing warrants. Warrants issued on summon appearances (SAP) appearances are excluded from this count.

## METHODOLOGY

### A. Sampling and Data Sources

Data for the validation analysis were drawn from a cohort of arrests made between January 1, 2001 and March 31, 2001, in which the defendants were prosecuted on new charges. The data set excludes cases that were not docketed in the CJA database (UDIIS), unless there was an indication that they were prosecuted as “A” dockets in Manhattan, or as direct indictments.<sup>5</sup> (Cases for which prosecution information is not available in CJA’s database.)

The data set contained 91,728 docketed arrests.<sup>6</sup> Six percent of them were given Desk Appearance Tickets (DATs) and the remaining 94 percent were held for arraignment in Criminal Court (summary arrests). Less than one percent of the defendants were classified as juveniles by CJA. Since CJA makes recommendations for summary arrests only, DATs were dropped from the Dataset.

The primary data source was the CJA database.<sup>7</sup> The Criminal Court data were tracked through November 30, 2001.<sup>8</sup> By that time, 90 percent of the cases had reached a disposition in Criminal Court. The cutoff date for Supreme Court data was January 31, 2002. Approximately 12 percent of the cases had not reached final outcomes by that date.

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<sup>5</sup>CJA’s database does not contain court data for dockets with the same docket number. Thus, court data for “A” dockets in Manhattan (the designation used in Manhattan to distinguish between two court cases with the same docket number, one of which receives a suffix “A”) were not available for analysis. Felony prosecution in the Supreme Court as the result of a direct indictment by a grand jury is also unavailable. Arrest information is available for both these types of records, and defendant information may be available for arrests receiving “A” dockets. To the extent that these records could be distinguished from other types of non-docketed arrests, they were retained in the dataset to maintain a complete cohort of prosecuted arrests.

<sup>6</sup>This number excludes juvenile delinquents whose cases were transferred to Family Court prior to arraignment, non-juvenile cases transferred to Family Court prior to arraignment, and voided arrests.

<sup>7</sup> Information about the arrest is provided by an on-line feed from the New York City Police Department.

<sup>8</sup> If a case had multiple dockets, the Criminal Court information including warrants was pulled from the docket having the most severe affidavit charge (Penal Law severity).

The criminal history information was supplemented with data from New York State Division of Criminal Justice Services (DCJS).<sup>9</sup>

In the first quarter of 2001, 14 percent of the defendants had multiple arrests. Because the objective of the point scale analysis was to examine defendant behavior, the arrest-based file was converted into a defendant-based file, where only the defendant's first arrest during the sampling period was taken. This file contained 67,848 defendants. Their arraignment dispositions are presented in Table 1. For comparison purposes, distribution for the '98 dataset is also provided.

As shown by the table, in the first quarter of 2001, 16 percent of the defendants had their cases dismissed at arraignment. One-third pled guilty and one-half had their cases adjourned for further appearances. These distributions were similar to those found in the third quarter of 1998.<sup>10</sup>

The validation study focused on defendants whose cases were not completed at Criminal Court arraignment and who were at risk of pretrial FTA: i.e., released on ROR or bail prior to the disposition of all charges in Criminal or Supreme Court. Table 2 presents the release status for defendants whose cases were adjourned at Criminal Court arraignment. As shown by the table, 62 percent of the defendants were released at arraignment; 57 percent were ROR'd and five percent made bail. Another 16 percent were released post arraignment prior to the disposition of their case in Criminal or Supreme Court (table not shown). JOs were excluded from the analysis. The study sample contained 26,821 defendants. As shown by Table 2, a slightly higher proportion

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<sup>9</sup> DCJS did not provide data for sealed cases. The New York City Police Department, DCJS, or any agency providing data bear no responsibility for the methods of analysis used in this report or its conclusions.

<sup>10</sup> When compared with the '89 dataset, the 2001 dataset behaved quite differently (table for the 1989 Dataset is not provided). The dismissal rate for the former was considerably lower than that for the latter. This was also true for defendants who pled guilty at arraignment (23% in 1989 versus 32 percent in 2001). In contrast, the proportion of defendants whose cases were adjourned at arraignment dropped from 70 percent in 1989 to 51 percent in 2001.

**NEW YORK CITY  
CRIMINAL JUSTICE AGENCY**

Combined-Court Analysis

**Table 1: Arraignment Outcome**  
(Defendant-based)

<b>ARRAIGNMENT OUTCOME</b>	<b>3<sup>rd</sup> Quarter 1998 Dataset</b> N= 68,281		<b>1<sup>st</sup> Quarter 2001 Dataset</b> N= 67,848	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
NON-DISPOSED	35900	53	34626	51
PLED GUILTY	20811	30	22062	32
DISMISSED	11565	17	11125	16
OTHER <sup>1</sup>	5	0	35	0
TOTAL	68281	100	67848	100

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<sup>1</sup>Other includes transfer to other borough and family court

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CRIMINAL JUSTICE AGENCY**

Combined-Court Analysis

**Table 2: Release Status at Arraignment  
(Defendant-Based)**

Release Status	3rd Quarter 1998 Dataset		1st Quarter 2001 Dataset	
	N	%	N	%
REMAND	424	1	497	2
BAIL SET, NOT MADE	15751	44	12388	36
BAIL MADE	863	2	1709	5
ROR	18770	52	19670	57
TOTAL	35808	100	34264	100

of defendants were ROR'd at arraignment in the 2001 Dataset than in the 1998 Dataset (57% versus 52%).

### **B. Dependent Variable**

The dependent variable, pretrial FTA, measured the issuance of a bench warrant at any appearance prior to the disposition of a defendant's case in Criminal or Supreme Court. In the 2001 sample, 16 percent of the defendants had at least one pretrial bench warrant.

### **C. Independent Variables**

The final combined-court model from the 1998 analysis was comprised of community-ties items and criminal history indicators. The community-ties items contained information on whether the defendants had a working telephone in the residence or had a cellular phone, the length of time at their current address, whether they had a New York City area address, whether they expected someone at their Criminal Court arraignment, and whether they were either employed, in school, or in a training program full time at the time of their arrest. The criminal history variables provided data on pending cases and prior FTA.

With the exception of expecting someone at arraignment, there were five possible outcomes for the community-ties items: "yes," "yes verified," "no," "no verified," or "unresolved conflict." The "yes" and "no" outcomes indicated that the defendant's response had not been verified. The "yes verified" and "no verified" outcomes were used when the information provided by the defendant had been verified through a third-party contact. "Unresolved conflict" meant that the information provided by the defendant in the interview did not match the information given by the verifier and attempts to resolve the conflict were unsuccessful. As for the final model for the '98 sample, these variables

were recoded to address operational concerns.<sup>11</sup> For the telephone variable, the “yes” and “yes verified” responses were collapsed, and for living at a New York City area address and being employed, in school, or in a training program full time, the “no” and “no verified” responses were collapsed.

Expecting someone at arraignment had only "yes" and "no" responses. The open cases and prior FTA variables were dichotomized into “yes” and “no” categories, “yes” indicating the presence of those characteristics and “no” meaning the absence of those properties.

#### **D. Statistical Methods**

To determine the statistical significance of the variables in the 1998 proposed scale, the final logistic regression model from the '98 sample was applied to the '01 sample. Due to the dichotomous nature of the dependent variable, multiple logistic regression analysis was employed. Multiple logistic regression is a statistical technique that is used to test the individual effect of a number of independent variables on a categorical dependent variable, while controlling for the other variables in the model.

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<sup>11</sup>In the initial analysis conducted on the '98 sample, defendants who reported having a working telephone in the residence scored three points, whereas defendants with verified affirmative responses received no points. Similarly, defendants who were verified as not living at a New York City area address and not being engaged in a full-time activity scored no points on the new scale. In contrast, points were assigned to defendants with negative, but unverified responses; three points were subtracted for not living at a New York City area address and one point was deducted for not being engaged in a full-time activity. In discussions with CJA's Executive Staff, Systems, and Operations Departments, concern was expressed over assigning no points to defendants with verified responses to the categorical community-ties variables; when training the ROR interviewers, it would be difficult to emphasize the importance of verification. It was first suggested that all the categorical community-ties variables should be dichotomized; yes and yes verified responses should be collapsed and no responses should be added to the no verified category. This, however, would undermine the effect of verification. After trying a number of methods, the categorical community-ties variables were recoded as mentioned in the text. This coding scheme would allow us to distinguish defendants whose verified responses were statistically significant from those whose verified responses were statistically not significant. If a defendant's verified response (“yes verified,” for example) to a variable was not significantly different from the mean effect of that variable, he/she would score the same points as defendants whose responses were not verified (“yes” for example) and were statistically significant. However, if a defendant's response differed significantly from the overall effect of the variable, points would be assigned on the basis of the individual effect of that response category.

A logistic regression procedure predicts the log-odds (the logit coefficient) of an observation being in one category of the dependent variable versus another (in this case, FTA versus no FTA). When reporting the results from a logistic regression model, one may also wish to transform the log-odds into odds ratios. This is accomplished by taking the antilog of the logit coefficient. The result is then interpreted by how much the odds of an outcome change, given a specific category of an independent variable. In other words, the obtained logistic coefficient, transformed into an odds ratio, tells one how much the odds of an outcome change given a one unit change in an independent variable, controlling for the effects of the other variables. An odds ratio greater than one indicates an increase in the likelihood of an event occurring, and an odds ratio of less than one indicates a decrease in the likelihood of an event occurring. An odds ratio of one indicates the odds remain unchanged (no association between the independent and dependent variable).

As an example, assume that a dichotomized independent variable is coded "1" if a defendant has a history of failure to appear, and "0" otherwise (prior FTA). Also assume that the dependent variable, indicating current FTA, is coded "1" if a defendant fails to appear for a court appearance on the present arrest, and "0" if they appear for all appearances. Estimating a univariate logistic regression with prior FTA as the only independent variable produces a logit coefficient (log-odds) of .676. This suggests that when the variable prior FTA changes from 0 to 1, there is an associated increase of .676 in the log-odds of failure to appear. Taking the antilog of the logit coefficient gives an odds ratio of 1.966. This indicates the odds of FTA for defendants with prior FTAs are about two times greater than that for defendants who do not have a history of failure to appear. In the analyses presented in this report, if the independent variable is categorical, the effect of each category except one is compared with the overall effect of that variable (deviation contrast technique). The effect for the excluded category is obtained by choosing an alternative reference category. Because the effect for each



category is compared with the average effect for that variable, changing the reference category does not alter the effects of the other categories.

Both in the '98 and the present analyses, a .05 level (or less) was used to ascertain whether an observation had a statistically significant effect on the dependent variable. A .05 level of significance means that the observation could have occurred by chance alone five times in one hundred. In this report, the interpretation of the effect for each independent variable is based on the logit coefficient and the affiliated level of statistical significance.

At the next stage of the analysis, using the logistic regression model from the 2001 sample, adjustments were made to the '98 proposed scale. The readjusted scale was compared with the proposed scale with respect to its predictive accuracy, which was assessed by using the mean cost rating (MCR). MCR, introduced by Duncan, Ohlin, Reiss, and Stanton (1953), measures the predictive efficiency of an instrument over its base rate (see Siddiqi, 1999 for MCR computation). The values for this statistic range from 0 to 1, with 0 indicating no improvement in prediction and 1 suggesting perfect prediction. As a general rule, Fischer suggested that an MCR of .25 be attained to show utility for classification and a score of .35 or greater indicates significant improvement over existing clinical techniques (Fischer, 1985).

The readjusted point scale was used to construct a new risk-classification scheme. The cutting scores were chosen by considering a number of criteria. The first criterion was to create subgroups of defendants which would have different average FTA rates and as such represent different risk levels. The second criterion was setting a target proportion of defendants to be recommended for ROR. It was agreed that the proportion of defendants in the low-risk category of the new scheme should be higher than that under the current scheme. Finally, the FTA rates under the current scheme were used as a guide to classify defendants as low risk. The FTA rates for individual points comprising the low risk group should not exceed the average FTA rate for the

recommended category of the current scheme. This method was slightly different than that followed in the '98 analysis where it was agreed that the average FTA rate for defendants in the low-risk category of the new scheme should not be higher than the average FTA for defendants classified as low risks under the current recommendation scheme. As such, FTA rates (absolute numbers) for some of the points included in the low-risk group were higher than the average FTA rate for that group. The cutting scores for the moderate-risk category were guided by the criterion that its FTA rates should be approximately twice the rate of low-risk category. The remaining defendants were included in the third category (high risk).

The new scheme was compared with the current CJA recommendation scheme in terms of the proportion of defendants in various risk categories and their respective FTA rates.

## **RESULTS**

### **A. Defendant Characteristics**

Table 3 displays characteristics of defendants from the 2001 sample who were at risk for FTA in either Criminal or Supreme Court. To facilitate comparisons, distributions for the '98 sample are also provided.

As shown by the table, the 1998 and 2001 samples did not differ with respect to defendants' demographics. The majority of the defendants in both samples were male. Almost half of the defendants were black, one-third were Hispanic, and the remainder were white or other ethnicity. The median age was 30 years.

In both samples, Brooklyn and Manhattan had the highest proportion of defendants being arrested (30% in each of these boroughs). One-fifth of the defendants were arrested in the Bronx and 16 percent were arrested in Queens. Staten Island had the lowest number of arrests (4%). Relative to the 1998 sample, the 2001 sample had a slightly lower proportion of defendants with cases disposed in Supreme Court (12%

versus 15%).<sup>12</sup> The two samples also differed slightly with respect to their average FTA rate, which dropped from 20 percent in 1998 to 16 percent in 2001.<sup>13</sup> In both samples, an overwhelming majority was released on recognizance.

Examining the community ties items, an overwhelming majority of the defendants in both samples reported living at a New York City area address (93%). Approximately three-fifths reported living with someone at the time of their arrest. Relative to the '98 sample, a slightly higher proportion of the defendants in the '01 sample reported living at their current address for 18 months or longer and had a working telephone in the residence or had a cellular phone (71% versus 67% for the former, and 75% versus 70% for the latter). In both samples, about one-half of the defendants reported being employed, in school, or in a training program full time and two-fifths expected a relative or friend at arraignment. With regard to differences between “yes” and “yes verified” categories for the community-ties variables, the proportion of defendants with affirmative, but unverified responses increased in the 2001 sample.<sup>14</sup>

The two samples were very similar with respect to the various measures of a defendant's criminal history. To be more specific, in both the 1998 and 2001 samples, over half of the defendants had been arrested previously. Slightly more than one-fourth had been

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<sup>12</sup>A comparison with the 1989 dataset showed a steady decline in the proportion of defendants whose cases were transferred to Supreme Court. In the 1989 sample, 23 percent of the defendants had their cases transferred to Supreme Court.

<sup>13</sup>The FTA rate shows a steady decline since 1989. The average combined-court FTA rate in 1989 was 35 percent.

<sup>14</sup>Comparisons were also made with the 1989 sample, which indicated a steady decline in the verification efforts by CJA, with the exception of the telephone variable. For the telephone variable, the 1989 and 1998 samples did not differ with respect to defendants whose affirmative responses were verified. However, in the 2001 sample, the proportion of such defendants decreased slightly (by five percentage points). The three samples did not differ with respect to the distribution of defendants with “no verified” responses, with the exception of having a telephone in the residence and being employed, in a school, or a training program full time. Starting with the former, in 1989, seven percent of the defendants were recorded as “no verified.” The corresponding numbers for the 1998 and 2001 samples were three percent and one percent, respectively. For the latter, no difference was found between 1989 and 1998 sample with respect to the proportion of defendants with “no verified” responses. However, the proportion of such defendants dropped from 15 percent in 1989 to ten percent in 2001.

**NEW YORK CITY  
CRIMINAL JUSTICE AGENCY**  
1<sup>st</sup> Quarter 2001 Dataset

Combined-Court Analysis

**Table 3: Characteristics of Defendants Released Pretrial Regardless of Court of Disposition: A  
Comparison of the 2001 Sample with the 1998 Sample**

Defendant Characteristics	1998 Sample N=27,235		2001 Sample N=26,821	
	N	%	N	%
<b>SOCIO-DEMOGRAPHIC ATTRIBUTES</b>				
<u>Sex</u>				
Male	22632	83	22455	84
Female	4575	17	4354	16
Total	27207	100	26809	100
<u>Ethnicity</u>				
Black	12936	48	12343	47
Hispanic	9089	33	9114	34
White	3761	14	3476	13
Other <sup>1</sup>	1412	5	1484	6
Total	27207	100	26417	100
<u>Age at Arrest</u>				
18 and under	3286	12	3063	11
19-20 years	2237	8	2244	8
21-24 years	3872	14	4132	15
25-29 years	4135	15	3818	14
30-34 years	4217	16	3851	14
35- 39 years	3692	14	3643	14
40-78 years	5730	21	6070	23
Total	27169	100	26821	100
	Median: 30.0 years		Median: 30.0 years	
<b>CASE-PROCESSING CHARACTERISTICS</b>				
<u>Borough of Arrest</u>				
Brooklyn	8099	30	7938	30
Manhattan	8230	30	7905	30
Queens	4624	17	4397	16
Staten Island	1287	5	1078	4
Bronx	4995	18	5503	20
Total	27235	100	26821	100
<u>Type of Court</u>				
Criminal Court	23159	85	23616	88
Supreme Court	4076	15	3205	12
Total	27235	100	26821	100
<u>Type of First Release</u>				
ROR	21255	80	21081	79
Bail	5229	20	5600	21
Total	26484	100	26681	100

Table 3 contd.

**Table 3**  
(contd.)

Defendant Characteristics	1998 Sample N=27,235		2001 Sample N=26,821	
	N	%	N	%
<b>CASE-PROCESSING CHARACTERISTICS</b>				
<u>FTA in Criminal Court</u> (Defendants at risk in Criminal Court)				
Yes	4764	18	3782	15
No	21453	<u>82</u>	<u>22208</u>	<u>85</u>
Total	26217	100	25990	100
<u>FTA in Supreme Court</u> (Defendants at risk in Supreme Court)				
Yes	749	24	474	18
No	<u>2360</u>	<u>76</u>	<u>2222</u>	<u>82</u>
Total	3109	100	2696	100
<u>FTA Regardless of Court of Disposition</u>				
Yes	5446	20	4223	16
No	<u>21789</u>	<u>80</u>	<u>22598</u>	<u>84</u>
Total	27235	100	26821	100
<b>COMMUNITY TIES ITEMS</b>				
<u>Verified NYC Area Address</u>				
Yes Unverified	15394	58	16902	65
Yes Verified	9092	34	7291	28
No, Unverified	1374	5	1289	5
No Verified	299	1	156	1
Unresolved Conflict	<u>472</u>	<u>2</u>	<u>314</u>	<u>1</u>
Total	26631	100	25952	100
<u>Verified Length of residence of at least 18 months</u>				
Yes Unverified	11068	41	12696	49
Yes Verified	6915	26	5811	22
No, Unverified	5806	22	5515	21
No Verified	2097	8	1432	6
Unresolved Conflict	<u>789</u>	<u>3</u>	<u>532</u>	<u>2</u>
Total	26675	100	25986	100
<u>Verified Family Ties With in Residence</u>				
Yes Unverified	8809	33	9834	38
Yes Verified	7020	26	5712	22
No, Unverified	7997	30	8337	32
No Verified	2249	8	1700	6
Unresolved Conflict	<u>592</u>	<u>2</u>	<u>386</u>	<u>2</u>
Total	26667	100	25969	100
<u>Expects Someone at Arraignment</u>				
Yes	10595	40	9866	38
No	<u>15961</u>	<u>60</u>	<u>16013</u>	<u>62</u>
Total	26556	100	25879	100

Table 3 contd.

**Table 3**  
(contd.)

Defendant Characteristics	1998 Sample N=27,235		2001 Sample N=26,821	
	N	%	N	%
<b>COMMUNITY TIES ITEMS</b>				
<u>Verified Telephone</u>				
Yes Unverified	10195	38	12472	48
Yes Verified	8649	32	7115	27
No, Unverified	6156	23	5380	21
No Verified	701	3	324	1
Unresolved Conflict	<u>958</u>	<u>4</u>	<u>668</u>	<u>3</u>
Total	26659	100	25959	100
<u>Verified Full Time Employment/ School/ Training</u>				
Yes Unverified	8152	31	9784	38
Yes Verified	4928	18	4233	16
No, Unverified	9090	34	8657	33
No Verified	3637	14	2704	10
Unresolved Conflict	<u>804</u>	<u>3</u>	<u>563</u>	<u>2</u>
Total	26611	100	25941	100
<u>Composite Item<sup>2</sup></u>				
Yes	9012	34	7221	28
No	<u>17598</u>	<u>66</u>	<u>18705</u>	<u>72</u>
Total	26610	100	25926	100
<b>CRIMINAL HISTORY</b>				
<u>First Arrest</u>				
Yes	11745	44	10953	42
No	<u>15223</u>	<u>56</u>	<u>15284</u>	<u>58</u>
Total	26968	100	26237	100
<u>Prior Violent Felony Convictions</u>				
Yes	2033	7	2031	8
No	<u>25202</u>	<u>92</u>	<u>24790</u>	<u>92</u>
Total	27235	100	26821	100
<u>Prior Non-Violent Felony Convictions</u>				
Yes	3669	14	4033	15
No	<u>23398</u>	<u>86</u>	<u>22236</u>	<u>85</u>
Total	27067	100	26269	100
<u>Prior Misdemeanor Convictions</u>				
Yes	7170	27	7505	29
No	<u>19657</u>	<u>73</u>	<u>18732</u>	<u>71</u>
Total	26827	100	26237	100

Table 3 contd.

**Table 3**  
(contd.)

Defendant Characteristics	1998 Sample N=27,235		2001 Sample N=26,821	
	N	%	N	%
<u>Open Cases</u>				
Yes	7015	26	6221	24
No	<u>19812</u>	<u>74</u>	<u>20016</u>	<u>76</u>
Total	26827	100	26237	100
<u>Type of Warrant</u>				
<u>Attached to Rap Sheet</u>				
Bench Warrant	1870	7	2413	9
No Bench Warrant	<u>24901</u>	<u>93</u>	<u>23945</u>	<u>91</u>
Total	26771	100	26358	100
<u>Prior FTA</u>				
Yes	7002	26	6924	26
No	<u>20233</u>	<u>74</u>	<u>19897</u>	<u>74</u>
Total	27235	100	26821	100
<b>TOP ARREST CHARGE SEVERITY</b>				
A Felony	335	1	335	1
B Felony	5708	21	4275	16
C Felony	1781	7	1430	5
D Felony	6106	22	5114	19
E Felony	2525	9	2618	10
A Misdemeanor	8446	31	9956	37
B Misdemeanor	1329	5	1503	6
Other <sup>3</sup>	<u>919</u>	<u>3</u>	<u>1441</u>	<u>5</u>
Total	27149	100	26672	100
<b>TOP ARREST CHARGE TYPE<sup>4</sup></b>				
Violent	10063	37	8663	32
Property	3209	12	3380	13
Drug	7204	26	6221	23
Weapon	977	4	1090	4
Gambling	298	1	219	1
DWI (alcohol or drugs)	799	3	870	3
Criminal Mischief	731	3	870	3
VTL (excluding DWI)	445	2	915	3
Other	<u>3423</u>	<u>13</u>	<u>4446</u>	<u>17</u>
Total	27149	100	26674	100

1 Other includes Asian, American Indian, and others.

2 COMPOSITE ITEM refers to whether the defendant had one or more verified point scale items in addition to having a verified New York City address.

3 OTHER includes Unclassified Misdemeanors, Violations, Infractions, and charges outside the N.Y. State Penal Law and Vehicle and Traffic Law (e.g., Administrative and Public Health Codes).

4 VIOLENT CRIMES include: murder, negligent murder, non-negligent murder, forcible rape, robbery, aggravated assault, simple assault, and kidnapping.

PROPERTY CRIMES include: burglary, larceny-theft, forgery & counterfeiting, stolen property, and possession of burglary tools.

DRUG OFFENSES include A) controlled substances sale/manufacture; opium, cocaine, or derivatives, marijuana, synthetic narcotics, and other dangerous drugs, and B) use/possession; opium, cocaine, or derivatives, marijuana, synthetic narcotics, and other dangerous drugs.

Dangerous weapons comprise the WEAPON category. The GAMBLING category consists of bookmaking, numbers, lottery and other activities. The DWI category refers to driving while under the influence of alcohol or drugs.

The CRIMINAL MISCHIEF category refers to vandalism. VTL offenses includes all traffic offenses excluding DWI.

The OTHER category consists of all other offenses not included in the aforementioned categories.



convicted previously on misdemeanor charges and one-fifth had prior felony conviction(s). One-fourth of the defendants had one or more cases at the time of the sample arrest, and one-tenth had a bench warrant attached to their rap sheet.<sup>15</sup>

Three-fifths of the defendants in the 1998 sample and one-half of the 2001 sample were arrested for felony charges, primarily B and D felonies. In the 2001 sample, the proportion of defendants arrested for B felonies decreased from 21 percent in 1998 to 16 percent. In addition, a slight decrease was observed in the proportion of defendants arrested for D felonies (22% in 1998, 19% in 2001). In contrast, the proportion of defendants arrested for an A misdemeanor increased from 31 percent in 1998 to 37 percent in 2001.<sup>16</sup>

A comparison of the 2001 sample with the 1998 sample revealed no differences in the type of offenses defendants were arrested for, with the exception of violent and drug crimes. The proportion of defendants arrested for violent offenses decreased from 37 percent in 1998 to 32 percent in 2001. For drug offenses, the decrease was from 27 percent in 1998 to 23 percent in 2001.<sup>17</sup>

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<sup>15</sup>In comparison to the '89 sample, the 1998 and 2001 samples reflected a decrease in the proportion of defendants with respect to various measures of criminal history, with the exception of having prior arrests and prior violent felony conviction. For example, the proportion of defendants with open cases at the time of arrest decreased from 38 percent in 1989 to 26 percent in 1998 and 24 percent in 2001. For prior misdemeanor convictions, the numbers for the 1989 sample was 32 percent. Continuing further, in 1989, 14 percent of the defendants had a bench warrant attached to their NYSID. The proportion of defendants with prior FTA also decreased from 33 percent in 1989 to 26 percent in 2001.

<sup>16</sup>In comparison to the '89 sample, the '98 and '01 samples showed a slight decrease in the proportion of defendants arrested for B and D felonies. In contrast, from 1989 to 2001, there was a substantial increase in the number of defendants arrested for A misdemeanors. In 1989, one-fifth of the defendants were arrested for A misdemeanors, versus 31 percent in 1998 and 37 percent in 2001. This may be attributed to an increase in arrests involving quality of life offenses.

<sup>17</sup>In the '89 sample, 29 percent of the defendants were arrested for violent crimes. The proportion of such defendants increased in the '98 sample, and then decreased in the '01 sample. The '01 and '98 samples differed substantially from the 1989 sample with respect to the proportion of defendants arrested for property offenses, ranging from 13 percent for the '01 sample and 21 percent for the '89 sample. The comparable figure for the '98 sample was 12 percent. Finally, relative to the '89 sample, the proportion of defendants charged with drug offenses decreased by five percentage points in the '98 sample and eight percentage points for the '01 sample.

To summarize the findings from this section, the 1998 and 2001 sample were quite similar with respect to their characteristics, with the exception of slight differences in the type and severity of the top arrest charge and the average FTA.

### **B. Applying the Final Model from the '98 Sample to the '01 Sample**

At the next stage of the analysis, the final combined-court model, which was used to construct the proposed recommendation scheme for the 1998 sample, was applied to the 2001 sample. The objective was to determine whether the variables were statistically significant in the 2001 sample. Table 4 presents both the '98 and '01 models.

All variables that were significant in the '98 sample remained significant in the '01 sample and can be interpreted in the same manner, with the exception of a few changes in the relationship of the individual categories with pretrial FTA.

Beginning with the community-ties variables, in both samples, when controlling for the other variables in the model, the effect of the collapsed category of “yes” and “yes verified” responses to the telephone variable was significantly different than the overall effect of that variable; the odds of failure were lower among these defendants. A comparison of the logistic coefficients suggested that the effect was stronger for the '98 model than for the '01 model (-.330 versus -.196). The odds of failure were higher among defendants who did not have a telephone.

Expecting someone at Criminal Court arraignment was a significant predictor of lower FTA in both 1998 and 2001--defendants who expected a relative or friend at Criminal Court arraignment were less likely to FTA than those who did not expect anyone. With regard to being employed, in a school or training program full time, in both samples, defendants categorized as “yes” or “yes verified” were less likely to FTA than defendants with the overall effect of that variable. In contrast, the likelihood of FTA was higher among defendants with negative responses (no and no verified) and defendants whose responses were in conflict with that of a verifier. The logit coefficients suggested

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**Table 4: Multiple Logistic Regression Analysis Predicting Pretrial FTA  
Regardless of Court of Disposition: The Final Model from the  
1998 Sample Applied to the 2001 Sample**

Variable <sup>18</sup>	1998 Sample			2001 Sample		
	Logit Coefficient	Significance Level	Odds Ratio	Logit Coefficient	Significance Level	Odds Ratio
TELEPHONE						
Yes, Yes Verified	-0.330	0.000	.718	-0.196	0.001	0.822
No	0.247	0.000	1.280	0.244	0.000	1.277
No Verified	0.027	0.731	1.028	0.035	0.784	1.035
Unresolved Conflict	0.056	0.509	1.058	-0.083	0.457	0.920
EXPECTS SOMEONE AT ARRAIGNMENT	-0.209	0.000	0.812	-0.183	0.000	0.833
EMPL/SCHOOL/TRAINING						
Yes	-0.093	0.024	0.911	-0.170	0.001	0.844
Yes Verified	-0.193	0.000	0.825	-0.169	0.003	0.844
No, No Verified	0.136	0.000	1.145	0.096	0.026	1.101
Unresolved Conflict	0.151	0.041	1.162	0.243	0.010	1.276
NYC AREA ADDRESS						
Yes	-0.140	0.003	0.870	-0.096	0.094	0.908
Yes Verified	-0.228	0.000	0.796	-0.400	0.000	0.671
No, No Verified	0.465	0.000	1.591	0.365	0.000	1.441
Unresolved Conflict	-0.097	0.410	0.907	0.131	0.378	1.140
PRIOR FTA	0.713	0.000	2.040	0.745	0.000	2.107
OPEN CASES	0.252	0.000	1.286	0.245	0.000	1.278

<sup>18</sup>Any variable with a significance level of .05 or less was accepted as statistically significant.

that defendants recorded as “yes” or “unresolved conflict” responses had a stronger effect on FTA in the '01 model than that in the '98 model. The estimated coefficients for these responses (yes and unresolved conflict) for the '98 model were -.093 and .151, respectively. The comparable numbers for the '01 model were -.170 and .243, respectively.

The New York City area address variable was significantly related to FTA in both '98 and '01 models and could be interpreted in same way, with the exception of “yes” category. In the '98 sample, the effect for the “yes” category was statistically significant (logit coefficient=-.140, significance level=.003)--defendants with “yes” responses were less likely to FTA. The effect was no longer significant in the '01 sample (logit coefficient=-.096, significance level=.09). Continuing with the remaining categories, defendants categorized as “yes verified” were less likely to FTA than defendants with the overall effect of this variable. In contrast, the likelihood of FTA was higher for defendants in the collapsed category of “no” and “no verified” responses.

The criminal history variables behaved in a similar fashion in both samples. In each sample, when controlling for the effects of the other variables in the model, defendants who had a history of prior FTA and defendants who had open cases at the time of the arrest were more likely to FTA than those who did not have a prior FTA or an open case.

In sum, all of the variables that predicted FTA in the '98 sample remained significant in the '01 sample. Therefore, there was no need to change the items in the proposed scale. However, the magnitude of the relationship for some of the categorical community-ties variables changed.

### C. Construction of the Point Scale

To reflect changes in the magnitude of the relationship for some of the variables, the proposed point scale from the 1998 sample was readjusted. Table 5 displays the points assigned to each of the predictor variables included in the readjusted point scale.<sup>19</sup> To facilitate comparison, points derived from the '98 model are also provided.

The table shows that the two scales differed somewhat with respect to the points assigned to the categorical community-ties variables. For example, defendants having a telephone scored one point in the '01 sample versus two points in the '98 sample. Defendants recorded as “unresolved conflict” on the full-time activity variable scored negative two points in 2001 versus negative one point in 1998. In the 1998 model, the “yes” category of that variable was a significant but weak predictor of FTA. Based on logit coefficient, these defendants would score .6 points. As such, they were assigned a value of zero. When applied to the '01 sample, defendants in the “yes” category would score one point.

There was also a shift in the points assigned to the New York City area address variable. In the '98 sample, defendants recorded as “yes verified” and “no, no verified” scored two and negative three points, respectively. This was reversed in the '01 sample where defendants with “yes verified” responses and defendants with “no, no verified” responses scored three points and negative two points, respectively. In the '01 sample, due to its insignificance, defendants in the “yes” category would receive no points. These defendants scored one point in the '98 sample. The two samples did not differ with respect to the points assigned to the remaining variables in the scale. In both samples, prior FTA had five points deducted from their overall score. In both samples,

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<sup>19</sup>Points were assigned to each of the independent variables based on their logit coefficients and significance levels. To ease interpretation, when translating the coefficients into points, the signs were reversed. In the new point scale, a positive point assigned to a category indicated that those defendants were less likely to FTA and as such points would be added to their overall score. A negative point value reflected an increase in the likelihood of FTA. These defendants would lose points on the scale.

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**Table 5: New Point Scale: A Comparison of the 2001 Sample with the 1998 Sample**

<b>Variable</b>	<b>Points 1998 Sample</b>	<b>Points 2001 Sample</b>
TELEPHONE		
Yes, Yes Verified	2	1
No	-2	-2
No Verified	0	0
Unresolved Conflict	0	0
EXPECTS AT ARRAIGNMENT		
Yes	1	1
No	-1	-1
EMPL/SCHOOL/TRAINING		
Yes	0	1
Yes Verified	1	1
No, No Verified	-1	-1
Unresolved Conflict	-1	-2
NYC AREA ADDRESS		
Yes	1	0
Yes Verified	2	3
No, No Verified	-3	-2
Unresolved Conflict	0	0
PRIOR FTA		
Yes	-5	-5
No	5	5
OPEN CASES		
Yes	-2	-2
No	2	2

expecting someone at Criminal Court arraignment contributed least to the overall score. These defendants scored only one point on the scale.

Despite the above-mentioned changes, the two samples did not differ with respect to the predictive power of the point scales. The MCR for both scales was .32, suggesting that both scales were able to substantially improve prediction over its base rate (table not shown).

#### **D. Additional Analyses**

Additional analyses were performed to examine the reliability of the open-case variable. Furthermore, the prior FTA variable was examined at a 10-year cut point. The sections that follow summarize the findings from those analyses.

##### *Reconstruction of Open Cases*

In previous discussions with judges and defense attorneys, it was suggested that the identification of an “open” case on the RAP sheet and on the CJA interview form was often incorrect; that is, a search in OCA’s CRIMS system often failed to confirm that the identified case was open. In response to this suggestion, CJA undertook a separate inquiry which confirmed the contention.

This raised questions about the statistical significance of open cases in the final logistic regression model and the points assigned to them. To be specific, if the number of defendants with open cases goes down, would the variable still be statistically significant, and if so, would it still be worth two points on the scale? In response to this concern, the open-case variable was recomputed and the final logistic regression model was re-estimated. The results were as follows:

In the '98 sample of released defendants, 26 percent of the defendants had one or more open cases. Defendants with open cases were coded as “1” and defendants with no open cases were assigned a value of “0”. It was assumed that half of the defendants with open cases did not actually have an open case at the time of arraignment. To examine how this would affect the research findings, 50 percent (N=3,523) of the defendants with

open cases were randomly selected and assigned a value of zero. This decreased the number of defendants having an open case from 7,015 (26%) to 3,492 (13%). Conversely, it increased the number of defendants with no open case from 74 percent to 87 percent. This new variable was substituted with the original variable and the logistic regression analysis was performed.

The results from that analysis (table not shown) suggested that all the variables that were significant with the original variable remained significant and could be interpreted in a similar fashion. The new open-case variable also attained statistical significance. When controlling for the other variables in the model, defendants having open cases at the time of arrest were more likely to FTA than defendants with no open cases. Furthermore, the size of the estimated coefficient did not change. Therefore, the value of the points assigned to the revised variable did not change.

Since it was not known which defendants were incorrectly identified as having an open case, the values for the revised open-case variable were flipped in the next analysis. 3,492 defendants who had at least one open case both in the original and the revised variable were collapsed with defendants having no open cases. The remaining 3,523 defendants who were assigned a value of zero were recoded as having an open case. When included in the logistic regression model, the variable was still significant (table not shown). However, when compared with the original variable, the logit coefficient dropped from .255 to .154, resulting in a decrease in the point value. The new point value was calculated to be 1.03.

The above analyses were repeated on the 2001 sample. In that sample, 24 percent of the defendants had at least one open case at the time of arraignment. Half of them were randomly selected and were collapsed with defendants who did not have any open case. Substituting this with the original variable, the final logistic regression model was re-estimated (table not shown). All of the variables that were significant in the original model remained significant. In addition, the revised open-case variable attained



statistical significance. However, the size of the estimated coefficient decreased slightly, yielding a point value of one.

Summarizing the findings from the above analyses, the open-case variable was a statistically significant predictor of pretrial FTA, regardless of how it was constructed. Therefore, it was retained in the new point scale. However, because of a decrease in its strength in two of the three models mentioned above, only one point would be assigned to this variable--defendants with open cases at the time of arrest would score negative one point and defendants with no open cases would score positive one point. Since it is not known currently which defendants would not have open cases, points will be assigned to the original variable.

#### Prior FTA

Additional analysis was conducted to explore the effect of the prior FTA variable at a 10-year cutpoint. In the 2001 sample, 21 percent of the defendants had at least one bench warrant issued within the 10 years preceding the sample arrest. Substituting this variable for the original variable (FTA at any time prior to the sample arrest), the final logistic regression model was re-estimated. The results showed that all of the other variables that were significant in the original model remained significant and could be interpreted in the same manner. Furthermore, when controlling for the other variables in the model, the variable reflecting prior FTA in ten years was also a significant predictor of current FTA. To ascertain whether there was a difference in the strength of the relationship with current pretrial FTA, the logit coefficient for the new FTA variable was compared with that for the original variable. The comparison suggested that the two variables were similar with respect to their effect on pretrial FTA; after rounding, both would yield five points to a defendant's total score on the new point scale. Therefore, for practical reasons, the original variable was kept in the point scale; recording this information would be easier and faster.

### **E. Final Point Scale**

Table 6 displays the final point scale for the '01 sample. As can be seen, defendants with open cases would score one point on this scale. The points for the remaining variables are the same as shown in Table 5, with the exception of the “no verified” category of the telephone variable. Due to a small number of cases recorded as “no verified,” this category was collapsed with the “no” category. As such, these defendants would score negative two points.

All possible scores were calculated. Table 7 displays the distribution of FTA by the final point-scale scores. For the '01 sample, the range was 12 to -12 points.<sup>20</sup> In general, defendants scoring lower points had higher FTA rates. The lowest score generated for this sample was -12 points. Few defendants in the sample scored -12 points. As an illustration, this score was given to a defendant who: did not have a telephone/cellular phone (-2 points), did not expect anyone at Criminal Court arraignment (-1), was not employed, in school, or in a job training program full time (-1), did not reside at a New York City area address (-2), had prior bench warrants (-5) and had open cases (-1).

The highest score in the 2001 sample was 12 points. Five percent of the defendants had such a score. These defendants had a telephone/cellular phone in the residence, yes or yes verified (1 point), expected someone at arraignment (1 point), were employed, in a school, or in a job training program full time, yes or yes verified (1), were verified as living at a New York City area address (3), did not have prior bench warrants (5) and had no open cases (1).

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<sup>20</sup>Theoretically, scores of 12 to -13 were possible.

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**Table 6: Final Point Scale**

<b>Variable</b>	<b>Points</b>
TELEPHONE	
Yes, Yes Verified	1
No, No Verified	-2
Unresolved Conflict	0
EXPECTS AT ARRAIGNMENT	
Yes	1
No	-1
EMPL/SCHOOL/TRAINING	
Yes	1
Yes Verified	1
No, No Verified	-1
Unresolved Conflict	-2
NYC AREA ADDRESS	
Yes	0
Yes Verified	3
No, No Verified	-2
Unresolved Conflict	0
PRIOR FTA	
Yes	-5
No	5
OPEN CASES	
Yes	-1
No	1

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**Table 7:** Distribution of FTA by the Final Point Scale Score

Points	Total Defendants		FTA	
	N	%	N	%
-12	86	0	33	38
-11	2	0	1	50
-10	516	2	181	35
-9	22	0	10	46
-8	727	3	245	34
-7	499	2	143	29
-6	497	2	129	26
-5	1157	5	336	29
-4	293	1	63	22
-3	1115	4	227	20
-2	534	2	120	22
-1	400	2	76	19
0	999	4	212	21
1	18	0	3	17
2	1665	7	360	22
3	546	2	107	20
4	1299	5	221	17
5	3013	12	381	13
6	594	2	84	14
7	4562	18	473	10
8	1213	5	124	10
9	1873	7	176	9
10	2269	9	189	8
11	8	0	0	0
12	1371	5	77	6
Total	25278	100	3971	16

## **F. Alternative Risk-Classification Scheme**

An alternative risk-classification scheme was developed by dividing the sample of defendants at various points on the '01 final scale. The cutting scores applied for various risk categories were slightly different than those for the '98 sample (see Methodology). This alternative scheme was compared with the current recommendation scheme in terms of the proportion of defendants in various risk categories and their respective FTA rates. As mentioned earlier, the current scheme is based on a risk of flight solely in Criminal Court, while the new scheme was based on a sample of defendants who were at risk in either Criminal or Supreme Court. To facilitate comparison between the two schemes, the current recommendation scheme was applied to the 2001 combined-sample of at-risk defendants. The findings are presented in Table 8. The alternative scheme is presented in Table 9.

### *Current CJA ROR Recommendation Scheme*

As shown by Table 8, under the current recommendation scheme one-quarter of the defendants at risk in either Criminal Court or Supreme Court were recommended for ROR release. One-tenth of them failed to appear for at least one scheduled court appearance. Slightly more than one-third (36%) of the defendants received a “qualified” recommendation. Their FTA rate was 12 percent. The remaining defendants (40%) were not recommended for ROR, with an FTA rate of 22 percent.

### *Alternative Risk-Classification Scheme*

This risk-classification scheme divided the '01 sample of at-risk defendants into three risk groups (Table 9). The first group contained 45 percent of the sample. Defendants in this group scored seven or more points on the scale and had an FTA rate of 9 percent. The second group contained 28 percent of the defendants, with scores ranging from six points to one point. The FTA rate for these defendants was 16 percent. The remaining 27 percent of the at-risk sample made the third group. The

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**Table 8: Pretrial FTA by Current CJA ROR Recommendation Scheme**  
N=26,821

<b>Current CJA ROR Recommendation Scheme</b>	<b>Defendants Classified</b>		<b>Defendants with FTA</b>	
	<b>N</b>	<b>%</b>	<b>N</b>	<b>%</b>
RECOMMENDED (Low Risk)	6603	25	678	10
QUALIFIED (Moderate Risk)	9570	36	1197	12
NOT RECOMMENDED (High Risk)	10648	40	2348	22
TOTAL	26821	100	4223	16

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Combined-Court Analysis

**Table 9: Combined-Court Alternative Risk-Classification Scheme**  
N=25,278

Alternative Risk-Classification Scheme	Points Scored	Defendants Classified		Defendants with FTA	
		N	%	N	%
Group I (Low Risk)	7 and higher	11296	45	1039	9
Group II (Moderate Risk)	6 to 1	7135	28	1156	16
Group III (High Risk)	0 and lower	6847	27	1776	26
<b>Total</b>		25278	100	3971	16

defendants comprising this group scored zero to negative 12 points and had an FTA rate of 26 percent.

Defendants in the first group had the lowest FTA rate and would be considered the best risks for an ROR recommendation. Table 10 shows that when compared with the “recommended” category of the current CJA recommendation scheme, this scheme would categorize 20 percentage points more defendants as good risks for an ROR recommendation, while decreasing their FTA rate by one percentage point.

Defendants in the second group constituted the moderate-risk group, with FTA rate falling midway between that reported for Group 1 and Group 3. Relative to the “qualified” category of the current scheme, the new scheme would decrease the proportion of moderate-risk defendants by eight percentage points and increase their FTA rate by four percentage points. Group 3 had a considerably higher FTA rate than Group 2 and Group 3 defendants and would be considered high risk for an ROR recommendation. In comparison to the “not recommended” category of the current CJA scheme, this group would contain 13 percentage points fewer defendants, while increasing their FTA rate by four percentage points (Table 10).

As mentioned earlier, CJA as a matter of policy does not recommend defendants charged with certain offenses (bench warrant attached to the rap sheet, bail jumping, or homicide charges). Furthermore, no recommendation is given if a defendant’s criminal history is not available. In Table 11, defendants who currently receive no recommendation due to certain offenses or a missing rap sheet are collapsed with defendants classified as high risks under the new scheme. A comparison of Table 11 with Table 9 indicates that CJA’s continued decision to its no recommendation policy slightly decreases the proportion of defendants in the low- and moderate-risk



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**Table 10: A Comparison of the Alternative Risk-Classification Scheme with Current CJA ROR Recommendation Scheme: The Difference in the Number and FTA Rate of Low-, Moderate-, and High-Risk Defendants**

Alternative Risk- Classification Scheme	Difference in Total Number of Defendants Classified		Difference in Total Number of Defendants with FTA	
	N	Percentage point Difference	N	Percentage point Difference
Group I (Low Risk)	4693	20	361	-1
Group II (Moderate Risk)	-2435	-8	-41	4
Group III (High Risk)	-3801	-13	-572	4

categories, by three percentage points for the former and two percentage points for the latter. Their FTA rates, however, do not change. In contrast, the percentage of defendants in the high-risk category increases by five points. Their FTA rate, however, decreases by one percentage point.

In sum, when compared with the current CJA recommendation scheme, the alternative risk-classification scheme (with or without collapsing certain offenses with the not recommended category) would classify a considerably higher proportion of defendants as low risks, while keeping their FTA rate at the same level (decreasing by one percentage point); and 2) decrease the proportion of defendants in the moderate- and high-risk categories, while increasing their FTA rate.

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**Table 11: Combined-Court Alternative Risk-Classification Scheme: Defendants Arrested for Open Bench Warrant, Bail Jumping, Murder Charges, and Defendants with Criminal History Not Available Collapsed with the High-Risk Group  
N=25,278**

Alternative Risk Classification Scheme	Points Scored	Defendants Classified		Defendants with FTA	
		N	%	N	%
Group I (Low Risk)	7 and higher	10683	42	945	9
Group II (Moderate Risk)	6 to 1	6522	26	1017	16
Group III (High Risk)	0 and lower	8073	32	2009	25
Total		25278	100	3971	16

## **Conclusion**

The findings from the current analysis suggest that the final model from the '98 sample produced the same results when applied to the '01 sample. All of the variables in the model had a statistically significant relationship with pretrial FTA. As such, there was no need to adjust the items in the proposed point scale. Nonetheless, slight changes were observed in the relative weight of some of the individual categories for the categorical community-ties variables.

Since the new point scale has not been implemented yet, these changes were incorporated into the proposed scale. Furthermore, based on the additional analysis, points assigned to open cases were adjusted. In the readjusted scale, the weight accorded to this variable would decrease from 2 to 1.

The readjusted point scale was used to construct a risk-classification scheme for Criminal and Supreme Court defendants. The cutting scores were slightly different than those applied in the '98 sample which altered the proportion of defendants in low-, moderate-, and high-risk groups.

Like the 1998 new risk-classification scheme, this risk-classification scheme would have several advantages over the current recommendation scheme. Firstly, it would be able to identify at-risk defendants regardless of the court of disposition. The current CJA recommendation scheme, by contrast, is based on a risk of flight solely in Criminal Court. Secondly, the new scheme would be able to classify defendants by their relative risk of flight; defendants classified as good risks for an ROR recommendation would have the lowest FTA rate, the FTA rate for moderate-risk defendants would be approximately midway between the FTA rates for low-risk and high-risk defendants, and high-risk defendants would have the highest FTA rate. The current CJA recommendation scheme when applied to the '01 sample barely distinguished between low and moderate risk defendants. Finally, the proposed scheme would improve upon the current CJA ROR recommendation scheme by considerably increasing the number of

low-risk defendants while keeping their FTA rate at the current level. As such, it has the potential of reducing the jail population while awaiting trial if followed by judges at arraignment. Furthermore, the identification of defendants at moderate risk for FTA would offer an opportunity to consider other release options, such as supervised- or conditional-release, aimed at reducing their risk of FTA. Similar suggestions could be made for defendants categorized as high risks--such defendants should be recommended for release under conditions that would improve the likelihood of their appearance for court.

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