

See "Liberty" Spring 1970, this file.

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Little-Used Procedure

A Report on 'Preventive Detention'

Washington

Despite repeated insistence that preventive detention is essential to controlling crime, the administration has failed to prove either its necessity or effectiveness, according to an independent study of the highly controversial procedure.

Preventive detention — imprisoning a possibly dangerous suspect before trial — was authorized by Congress in the District of Columbia effective in February, 1971. The enactment, which raised heated and protracted objections of unconstitutionality, was intend-

ed as a model for the nation.

The study showed that the procedure was sought in only 20 of about 2000 possible cases during the first ten months of operation.

This suggests, the study concluded, "that, contrary to the continued protestations of its proponents, the

criminal justice system has not seen the need for the law to be overwhelming—otherwise it would have seized the opportunity to use it."

The study was conducted by the Vera Institute of Justice of New York and the Institute of Criminal Law at the Georgetown University law center here. Prosecution and court officials assisted with the study without necessarily endorsing its findings.

A spokesman for the Department of Justice, which energetically pressed for the law, yesterday acknowledged problems with the procedure. But the main difficulty has not yet been re-

viewed by the Supreme Court.

"Prosecutors, defense attorneys and judges are afraid of it," said John W. Hushen, the Department's information director. "No one wants his case to be the test case—which more than likely would take months and maybe years to settle."

The new study concluded, however, that prosecutors and judges have been able to fulfill the purposes of preventive detention with a variety of other procedures. These include reliance on money bail and on administrative changes.

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