

# **HOW DOES PRETRIAL SUPERVISION AFFECT PRETRIAL PERFORMANCE?**

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## Foreword

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In September of 1966 the Federal Bail Reform Act became the sole law governing release in the Federal Courts of the United States and in the District of Columbia. For the first time in history courts were given statutory alternative conditions from which to select to insure the appearances of those they released. By now everyone is familiar with the list that includes: Personal Recognizance; Third party custody; Unsecured Appearance Bond; Personal Bond; Release with travel, place, and association restrictions; Per-cent deposit bond; Partial custody; and Surety Bond. For the most part the alternatives have been more successful at bringing people to court than the old surety system.

In February of 1971 a new law governing release became effective in the local courts of the District of Columbia. This new law directed judges to consider danger as well as risk of flight in determining appropriate release conditions. Interestingly, the new law provided only one additional condition, *viz.*, pretrial detention. It also provided that financial conditions could not be used to protect the community from the release of those suspected of being dangerous. Despite the fact that no other new conditions were suggested in the statute a new list developed. Conditions imposed included; Stay away from the complaining witness; Procure and maintain employment; Curfew restrictions; Submit to drug testing and treatment; and so on. The judges believed that compliance with conditions of this nature would reduce the risk of pretrial crime and danger to the community.

In 1975 we asked ourselves whether the underlying assumptions for the imposition of conditions such as those cited above, *viz.*, that the setting, monitoring, and compliance with such conditions would reduce pretrial crime and lower failure to appear rates, were valid. Under the expert guidance of Agency researcher J. Daniel Welsh, staff members Thomas Ross, Brenda Greene, Kathy Reade, Arnold Katz, Johnny Jordan, Mahdi Nur-El-Haqq and Philip Ojalvo, an experiment designed to test the hypothesis that conditions and supervision of them, indeed, different levels of intensity of supervision, make a difference in pretrial behavior was conceived.

The study has taken nearly three years to complete because all cases were not finally disposed of until early this year. What it reveals is contained within. Suffice to say that in the light of its findings we must ask more questions and reevaluate the assumptions upon which the setting of conditions has been based.

Finally, a word of thanks is due to Mrs. Lois Exter who artfully put the words on paper and to the entire Bail Agency staff for their cooperation.

BRUCE BEAUDIN  
DIRECTOR

MAY 1978



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# I. Introduction

During the past fifteen years, the District of Columbia has become one of the leading jurisdictions in implementing bail reform. The courts have shifted from the practice of total dependence on the traditional bail-bond system to a policy of presumptive release on recognizance. Acceptance of this approach can be attributed to legislation; judicial interpretation; cooperation and coordination among system actors; and successful performance by the local pretrial release program—the D.C. Bail Agency.

The laws governing release changed drastically in 1966 and again in 1971. Today the District of Columbia is the only jurisdiction in the United States that permits the consideration of danger in fixing *pretrial* release conditions and outright detention without bail in non-capital cases.

In 1975, the year of this study, 70% of the pretrial population processed in this jurisdiction was initially released on one of the many varied forms of non-financial release available and, in some manner, was supervised by the Bail Agency during the pretrial period.<sup>1</sup> This obviously high proportion of conditional releases raised the question of whether the setting and monitoring of so many conditions was accomplishing anything. We suspected, and so did the courts, that the setting and enforcement of conditions should reduce pretrial crime and insure a high appearance rate. With nearly 3,500 persons at liberty on pretrial release at any given time the cost of supervision (depending on the intensity) could be high.

To test the hypothesis, an experiment using random assignment procedures was conducted in Washington by the Bail Agency. We sought to determine whether increased levels of supervision improved pretrial performance. Three levels of supervision were compared: "Passive Supervision"—supervision which consisted of defendant-initiated contact; "Moderate Supervision"—supervision which consisted of the Agency's initiating contact with the defendant; and "Intensive Supervision"—supervision which included contact with the defendant in the community.

The impact of supervision was examined using the following outcome measures: court appearance, rearrest during the pretrial period, and compliance with court-ordered conditions of release. In all cases the Agency provided the service of notification by mail of court dates in addition to the other levels of supervision described.

Studies in other jurisdictions have examined the relationship between supervision and pretrial performance. In Monroe County New York de-

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<sup>1</sup> Welsh, J. Daniel and Viets, Deborah, *The Pretrial Offender In The District of Columbia: A Report On The Characteristics and Processing of 1975 Defendants*, D.C. Bail Agency and Office of Criminal Justice Plans and Analysis, p. 120.

fendants with a minimum of supervision had a slightly higher appearance rate than those receiving no supervision.<sup>2</sup>

In Des Moines, Iowa, supervised release for high risk cases produced the same rate of appearance and rearrest as unsupervised lower risk cases.<sup>3</sup>

A study of the Philadelphia supervised Release Program using a comparison group strategy found that defendants supervised by the Program had lower violation rates than defendants in any of the comparison groups.<sup>4</sup>

Finally, a study in New York revealed that defendants in a group notified of court appearances had a substantially lower failure to appear rate than those in a group where no such notification was provided.<sup>5</sup>

The Bail Agency confronted the task of designing a study that would permit random assignment of cases to test for the risk factors of both appearance and danger, and to examine the relationship of different levels of supervision to the two risk factors. Such a design was conceived: The 300 cases selected for random assignment to one of the three groups were all felonies—those charges which seemed to cause the most concern to the public.

The study results were at once expected in some instances and surprising in others.

- The defendants in the most closely supervised group made 98% of their required appearances. The other groups had rates of 95% and 96%.
- Pretrial crime—as measured by rearrest during the pretrial period—was not significantly different ranging from 19.6% (least intensive) to 19.8% (more intensive) and 19.5% (most intensive).
- Of the total number of those rearrested 80% were originally charged with crimes of robbery, burglary, auto theft, forgery, and larceny.
- 71% of the defendants in the most closely supervised group complied with all their conditions of release. By contrast only 52% of those in the group with the least supervision and 62% of the other group complied with all conditions of release.

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<sup>2</sup> *Evaluation of Monroe County Pretrial Release, Inc.*, Rochester, New York: Stochastic Systems Research Corporation, 1972.

<sup>3</sup> Venezia, Peter S., *Pretrial Release with Supportive Services for High Risk Defendants: Three Year Evaluation of the Polk County Department of Court Services Community Corrections Project*, Davis California: National Council on Crime and Delinquency, 1973.

<sup>4</sup> Miller, Herbert S., et. al., *Second Year Report: Evaluation of Conditional Release Program, Philadelphia, Pa.*, Washington, D.C.: Institute for Criminal Law and Procedure, Georgetown University, 1975.

<sup>5</sup> Gerwitz, Miriam, *Brooklyn PTSA Notification Experiment*. (Unpublished).

The study findings in D.C. then, confirm the findings of studies in Des Moines, Philadelphia and New York *viz.*, supervision affects appearance rates. The D.C. study findings dispute the results of the Des Moines and Philadelphia studies concerning the relationship between supervision and pretrial crime. Put simply, no relationship between differing levels of supervision and pretrial crime was found in this study.



## II. Methodology

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This section treats the following methodological concerns:

- Research design and considerations
- Variables used to measure pretrial behavior (failure-to-appear, re-arrest, etc.)
- Equivalence of the three randomly assigned groups and
- Statistical techniques

An experimental research design provides the methodological focus for this study. Such a design provides the most reliable information for studying program impact on defendant outcomes. The random assignment (also called equal probability assignment) of defendants to an experimental group and a control group ensures that the experimental group and control group are similar in characteristics. Any difference in defendant outcomes can be attributed to the program's effect.<sup>6</sup> We have used such a design for a number of reasons:

- A controlled experiment was the most certain way to demonstrate the impact of a program. (There are numerous reviews of the literature which question the validity of research in pretrial release and diversion because of design considerations.)
- There existed sufficient resources in the Agency to design and implement the experiment and complete an evaluation without the need for additional funding or outside assistance.
- Under some circumstances random assignment can be done with less cost and disruption to normal operations than other design types.
- One conclusive evaluation using an experimental design can be far less costly than many inconclusive studies using weaker designs.

Although these are persuasive arguments for the use of an experimental design, such a design is seldom employed in criminal justice research. Among the arguments against the technique are political and ethical problems in random assignment, familiarity with the technique, and the "supposed" cost of implementation. The successful completion of the study demonstrates that it is possible. Among the reasons that such a study was successful here were the following:

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<sup>6</sup> In this study pretrial releasees assigned to passive supervision are defined as the control group. Those assigned to moderate or intensive supervision constitute the experimental (treatment) groups.

- Defendants were not denied release from jail because of the experiment. Rather, they were provided with normal services and assigned to different supervision groups *after* they had obtained release.
- There existed sufficient resources in the agency to design and implement the experiment and complete an evaluation without the need for additional funding or outside assistance.
- The experiment was implemented with relatively little effort compared to a study that would have called for simple statistical description.
- The experiment and the staff people implementing it had the necessary continuity so that the time period required to complete the study was not an impediment to the project.

Two experimental groups and one control group were employed in this study. Each received a different level of supervision.<sup>7</sup>

- Group 1—Passive Supervision: Agency staff carried out its normal supervision and recorded all defendant-initiated contacts.
- Group 2—Moderate Supervision: In addition to the normal level of supervision, defendants in this group were contacted every two weeks either by telephone or letter (if the defendant had no phone). The purpose of these contacts was to remind the defendants of future court dates, to warn them of their responsibilities pertaining to conditions set by the court, and to determine whether there were any problems that might affect their pretrial performances. Two counselors maintained logs of all contacts with and about each defendant.
- Group 3—Intensive Supervision: This group received the same type of supervision as the defendants in Groups 1 and 2 but were also visited at their residences or places of employment on a monthly basis by the Bail Agency's Street Investigation Unit.<sup>8</sup> During the visit Agency staff reinforced the conditions of release and the upcoming court date. The Unit also alerted the defendants' counselors to unusual activity or behavior which might require further contact.

We have every confidence that the random assignment procedure used to choose the defendants in each group produced groups that were similar

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<sup>7</sup> The Agency is required by law to notify defendants of court dates, supervise conditions of release and report noncompliance to the courts, and keep support records necessary to carry out these tasks. These services were provided to all three groups.

<sup>8</sup> During the period of the study the Agency received a grant from the Law Enforcement Assistance Administration to test the value of community contact. Two automobiles and sufficient staff to carry out these contacts were provided.

in characteristics. Any differences in outcome can be attributed solely to the differences in the levels of supervision. One way to demonstrate this is to compare the characteristics among the three groups. This information is presented in Table 1.

**TABLE 1**

**COMPARISON OF GROUP CHARACTERISTICS BY  
SELECTED VARIABLES**

	Group I Passive Supervision	Group II Moderate Supervision	Group III Intensive Supervision
Demographic:			
Age (Mean)	27	27	26
Black/White	94/6	93/7	94/6
Male Population	88	91	88
Community Ties:			
Area Residence (5 years or more)	93	96	88
Present Address (1 year or more)	71	76	74
Living with family	65	67	61
Socio-Economic:			
Less than 12th Grade Education	61	64	64
Unemployed at Arrest	42	39	48
System Related:			
Number with prior record of convictions	42	39	34
Number under sentence (on probation or parole)	15	19	17
Number with cases pending at beginning of study	16	12	12
Number charged with crimes of violence	80	71	62
Number originally recommended for release by Agency	97	88	85
Number of Court appearances on original charge	435	405	450
Average number of days from arrest to disposition	183	187	174
Average number of days on release in the community	157	149	148

The table shows few differences among the three groups. Thus it can be argued that the three groups are equivalent. Among the findings in this table are:

- There are no differences in demographic variables, community ties and socio-economic variables.
- Of the criminal justice system variables, only the "Charged with Crime of Violence" category exhibited any differences among the

three groups. It was not clear why this difference appeared since random assignment had been employed. However, this difference did not appear to affect the results of supervision impact on defendant outcomes.

- Variables important for the analysis of failure-to-appear rates and rearrest rates, such as exposure time and number of court dates, did not differ among the three groups.

Defendant performance is examined from three perspectives: failure-to-appear (court appearance), rearrest during the pretrial period and compliance with court-ordered conditions (such as cooperation with drug treatment, reporting conditions, etc.). Each of these variables is defined below, their importance is discussed, and measurements are selected.

## **1. FAILURE TO APPEAR**

Failure-to-appear is probably the most important factor in measuring the quality of a defendant's pretrial behavior. For example, The National Association of Pretrial Services Agencies' (NAPSA) "Standards and Goals for Pretrial Release" argue that "the primary purpose of bail is to assure the appearance of the defendant at trial. It is essential that pretrial release agencies orient their operations—criteria for recommendations, notification systems, defendant supervision—toward this goal."<sup>9</sup>

Methodological concerns are especially important in measuring failure-to-appear. For example, failure-to-appear can be defined as any missed court appearance or a deliberately missed appearance. Depending upon which is chosen, the rates will differ dramatically. This may be one of the major reasons there is no national failure-to-appear rate. It is almost impossible to compare rates in different jurisdictions since each program has its own definitions.

Failure-to-appear is narrowly defined in this study. Only persons who missed a court date and had a warrant issued for arrest at the close of daily business are classified as having missed an appearance. Persons who were late for court or missed the first calling of a case but who appeared later in the day were not counted as having missed an appearance. The warrant had to be outstanding on the following day before a defendant was considered to have failed-to-appear.

The use of warrants to measure failure-to-appear produces a figure which may be lower than that found in other jurisdictions. By the same token, to some degree, such a measure eliminated from consideration those defendants who did not deliberately miss their court date. Failure-to-appear is analyzed from three different perspectives in this study:

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<sup>9</sup> *Performance Standards and Goals for Pretrial Release*, Washington, D.C.: National Association of Pretrial Services Agencies, First Draft, May, 1977, p. 44.



- Failure-to-appear—Appearance Based: Since each defendant often is required to make more than one court appearance during the life of the case, a measure was selected to take this into account. Thus, the total number of appearances and the total number of failures-to-appear were computed. The average number of appearances was slightly more than four per defendant for each group examined.
- Failure-to-appear—Defendant Based: Many programs measure the rate of failure-to-appear by counting and comparing the number of defendants who miss appearances rather than the total number of appearances required and missed. The Defendant based measurement provides this rate.
- Failure-to-appear—Willful: It is difficult to use “willful” to describe “deliberate” failures. Neither the courts nor the Agency gather information on reasons for failures. Further, it is difficult to define defendant motivation. Therefore, the surrogate chosen to indicate willful failure was based on prosecutor decision making. Those cases in which the prosecutor chose to charge the defendant with the crime of bail jumping were called “willful”. Though not perfect, such a definition selects the cases most likely to represent deliberate failures.

## 2. PRETRIAL CRIME

As more and more data is gathered it is becoming increasingly clear that judges consider suspected potential danger in setting release conditions for many defendants. The NAPSA Standards and Goals also speak to this issue:

While the relationship between anticipated criminal activity and the pretrial release decision is a controversial area, in a very practical sense, pretrial agencies must address the possibility of dangerousness since their existence and the continued growth of nonfinancial release as a replacement, for the traditional surety bond system depend on judicial and public support.<sup>10</sup>

There are a number of methodological problems in defining rearrest rates. The National Center for State Courts argues that the problems with measuring the extent of pretrial crime committed by releasees are even more severe than the problems of measuring failure-to-appear rates.<sup>11</sup> Some of these problems relate to the fact that not all crimes are reported; only a small percentage of crimes leads to arrest; crimes may occur in other jurisdictions; record-keeping of county and city police departments may not be coordinated; defendants may use aliases, etc. Probably one of the greatest problems with this rearrest measurement is

<sup>10</sup> *Id.* at 45.

<sup>11</sup> Maloney, Barry, *An Evaluation of Policy Related Research on the Effectiveness of Pretrial Release Programs*, Denver, Colorado: National Center for State Courts, p. 58.

the time frame used (exposure time). For the purpose of this study, pretrial crime is defined as a rearrest while on bond for the study period where the prosecutor chose to file charges with the court. Persons arrested a second time but who had charges against them dropped at the initial hearing were not counted as having been rearrested. Rearrest in this study is measured in the following ways:

- **Rearrest—Defendant Based:** As with failure-to-appear, a defendant-based measure of rearrest is employed. Since rearrest is not related to number of court appearances, an appearance-based measure is unnecessary.
- **Rearrest—Exposure Time:** Exposure time is one of the more important determinants of the extent of pretrial crime. A North Carolina Study by Clarke, *et. al.* showed that: "court disposition time . . . must be considered the variable of most importance"<sup>12</sup> in predicting rearrest. This measure of rearrest was defined as the number of arrests per 100 man-days of pretrial freedom.

### **3. CONDITION COMPLIANCE**

Compliance with release conditions was the third outcome variable employed. Compliance with court ordered conditions, *e.g.* drug treatment, is required if release agencies are to have any impact on either failure-to-appear or pretrial crime. The NAPSA Standards and Goals argue that: "the pretrial release agency should monitor compliance with all conditions of release . . . In cases of serious violations, the Agency should submit a report in writing to the court."<sup>13</sup>

Compliance is not as important a measure as failure-to-appear or rearrest for it does not involve behavior clearly affecting the court. In this study compliance covered the entire pretrial period. Non-compliance could occur without a violation being submitted to the court. Initial non-compliance, even if rectified at a later time by the defendant, was considered to be a violation. Non-compliance was defined from two perspectives:

- **Non-compliance—Defendant based:** If at any time during the pretrial period a defendant failed to comply with any of the following conditions he was charged with non-compliance:

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<sup>12</sup> Clarke, Stevens *et. al.*, *The Effectiveness of Bail Systems: Analysis of Failure-to-Appear in Court and Rearrest While on Bail*, Chapel Hill, North Carolina: University of North Carolina, Institute of Government, 1976.

<sup>13</sup> *Performance Standards and Goals for Pretrial Release*, Washington, D.C., National Association of Pretrial Services Agencies, First Draft, May 1977, p. 54.

- Maintain regular contact with the Bail Agency;
  - Cooperate with requirements of third party custody programs;
  - Participate in court ordered drug treatment programs; and
  - Refrain from contact with a complaining witness.
- Non-compliance—Specific by type: Each of the conditions outlined above was analyzed individually.

#### **4. AN INDEX OF REARREST AND FAILURE-TO-APPEAR**

An index of rearrest and failure-to-appear was the fourth outcome variable employed. The index was used because a measure was desired to combine these two important indicators of pretrial failure. The index was defendant-based and identified those defendants who either were rearrested or failed to appear for their court dates.

The selection of defendants for the study was accomplished between July and August of 1975. Data on the outcomes, such as rearrest and failure-to-appear, were gathered in the Summer of 1977 after all of the original cases were disposed of by the court. Information on outcomes was not gathered until all of the cases were disposed of. Group members were selected by a random process until each group had one hundred members. All defendants charged with felonies and released on non-financial conditions were included in the groups during the selection period. A true random sample using a "goldfish bowl" method of selection was employed. The data were primarily obtained from the Bail Agency's record system although police data and court records were used to supplement missing information.

Every attempt has been made to write for the non-methodologist. Thus, statistical techniques and descriptive statements have been written as clearly and simply as possible. For example:

- Data is presented in percentage form for each supervision type.
- Only essential data is put into the table so that even the non-quantitatively oriented person can easily consult the tables.
- Unless otherwise indicated, the number of cases for each group is 100, with a total of 300 cases in the entire study.

The reader is urged to compare the percentages of the three groups. Note especially that Group 1 (Passive Supervision) and Group 2 (Moderate Supervision) have results very different from Group 3 (Intensive Supervision). For those interested in more advanced statistical

techniques, T-tests were computed for variables such as failure-to-appear and rearrest.<sup>14</sup>

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<sup>14</sup> The T-test is designed to compare results between two groups. Since the study uses three groups, the test is applied to all the possible combinations of groups to determine the effect of supervision. The T-test is only appropriate for interval levels of measurement for variables such as failure-to-appear and rearrest. A statistically significant relationship is defined at .05 level of significance. Data for the compliance outcomes is not in this format but rather is ordinal or discrete. Thus, only percentage differences are available for this latter data. Suffice to say, qualitative analysis of percentages is the primary analytical tool.

### III. Findings

#### A. FAILURE-TO-APPEAR

Comparison of FTA rates among the three groups shows variations according to the level of supervision received. As supervision is intensified the rate of failure-to-appear decreases. Group members receiving the highest level of supervision have the lowest failure rate at 1.55 percent. By contrast, the failure-to-appear rate is over four percent for members of the other two groups receiving less intense supervision. (Moderate Group 4.20 percent and 4.59 percent for group members with passive supervision).<sup>15</sup>

Based on the number of people who failed to appear, the ranking among groups changes. More persons in the moderate supervision category (Group 2) actually failed-to-appear than those in the passive supervision category (Group 1). The effect of applying higher levels of supervision seems to have been to reduce the incidence of multiple failures-to-appear for the same court case. That is, 5 persons failed to appear two or more times in Group 1, and 4 persons did likewise in Group 2, while no members of the group receiving intensive supervision failed-to-appear more than once during the experiment. Table 2 illustrates these points.

TABLE 2

#### PRETRIAL PERFORMANCE BASED ON APPEARANCE AT COURT

	Level of Supervision		
	Passive (Group 1)	Moderate (Group 2)	Intensive (Group 3)
Failure-to-Appear Rate	4.59%	4.20%	1.55%
Percentage of Group Failing to Appear	10%	13%	7%
"Willful" Failure to Appear Rate	3.22%	2.47%	0.44%

Using the "willful" failure-to-appear measure discussed in the methodology section, the ranking of groups remains the same as when using a regular failure-to-appear rate, however, a dramatic rate decrease is seen. Persons who received the highest level of supervision have a rate that is below one percent (0.44 percent), while the rate for those with moderate supervision decreases to 2 percent, and the passive group has a

<sup>15</sup> Using these rates, the difference between Intensive Supervision and Passive Supervision is confirmed statistically with a t value of 1.71 with 109 degrees of freedom. A similar difference is found when the Moderate Group is compared with the Intensive level with  $t=1.66$  and with  $p=.05$ . No statistical difference is found for failure rates when the Passive Group is compared with the Moderate Group.

rate of three percent. It is important to note that regardless of the level of supervision none of the defendants failing-to-appear avoided prosecution by absconding from the jurisdiction.

## B. REARREST

Examination of rearrest information discloses that increasing the level of supervision has no effect on reducing the incidence of new arrests during the pretrial period. Table 3 shows that the total numbers of new arrest cases for each group are similar, ranging from a low of 34 for those persons supervised intensively to a high of 37 for those in the moderate supervision group. While the intensive supervision group has the fewest number of rearrest cases, it is surprising to learn that more persons in that category were arrested during the experiment than were persons in the other groups.

The similarity of pretrial performance among the three groups is evident when examining rearrest based on the exposure time, in this instance 100 person days.<sup>16</sup> The "rearrest-exposure time" rate averages 19 new arrest cases for each of the three groups.

**TABLE 3**

### **COMPARISON OF REARREST INFORMATION ACCORDING TO LEVEL OF SUPERVISION**

	Level of Supervision		
	Passive	Moderate	Intensive
Total Number of Rearrest Cases	36	37	34
Number of Persons Charged with New Offenses	25	26	28
Rearrest Exposure Rate (Based on 100 man-days)	19.6	19.8	19.5

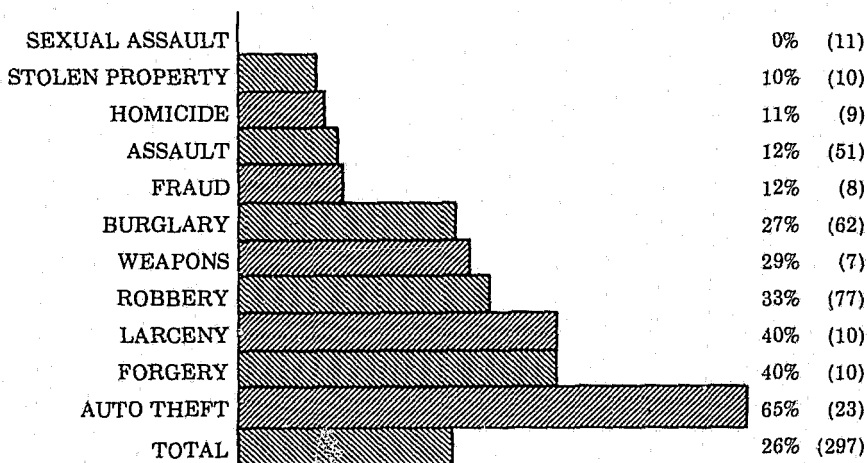
While increased contact did not reduce the incidence of rearrest as expected, an unanticipated association between rearrest and classification of original charge was found. Persons originally charged with offenses of robbery, burglary, auto theft, forgery, and larceny had significantly higher rearrest rates than persons charged with other types of offenses. Thirty-six percent of the defendants charged with these crimes were rearrested as compared to 14 percent for persons charged with other types

<sup>16</sup> For a more detailed discussion of the computation of failure rates based on exposure time see Galvin, John, *et al. Instead of Jail: Pre and Post-Trial Alternatives to Jail Incarceration*. Volume 2, October, 1977, pp. 78-81 and 97-98.

of crime.<sup>17</sup> Overall, 80 percent of the persons rearrested during the pretrial period were initially charged with crimes that fell into one of these five categories.

**TABLE 4**

**PERCENTAGE OF PERSONS REARRESTED—  
DISTRIBUTED BY INITIAL FELONY CHARGE**



**C. COMPLIANCE WITH RELEASE CONDITIONS**

Based on the levels of supervision initiated by the program, persons provided with higher levels of supervision complied with conditions of release more often than those receiving passive supervision. No violations of court-ordered conditions were discovered for over seventy percent of the persons having the most intensive level of supervision. In contrast, the rate of overall compliance was 52 percent for defendants passively supervised. Persons receiving moderate supervision fell between the two extremes at 62%.

Compliance with individual conditions of release also varies according to the level of supervision provided. As expected, defendants receiving increased supervision maintained greater contact throughout the pretrial period than those receiving normal supervision. Also, the numbers of violations reported by third party custody groups and narcotics treatment organizations for those defendants receiving increased supervision were significantly reduced.

<sup>17</sup> Charge categories with particularly low rearrest rates include assault, sexual assault, fraud, homicide, and charges involving stolen property.

TABLE 5

### COMPARISON OF COMPLIANCE WITH CONDITIONS OF RELEASE ACCORDING TO THE LEVEL OF SUPERVISION

	Level of Supervision		
	Passive	Moderate	Intensive
Overall Percentage Complying with Conditions of Release	52%	62%	71%
Percentage Failing to Comply with "Reporting" Condition	54% (74)	44% (82)	30% (79)
Percentage Failing to Comply with Third Party Custody	19% (42)	11% (46)	12% (51)
Percentage Failing to Comply with Drug Treatment	47% (17)	9% (22)	11% (19)
Percentage Failing to Stay Away From a Complaining Witness	2% (50)	— (46)	2% (41)

#### D. INDEX OF REARREST AND FAILURE-TO-APPEAR

The previous discussions have focused on the effects of varying levels of supervision by independently examining information about non-appearance, rearrest, and compliance with conditions of release. In order to present more clearly the overall effect of supervision an index that combines information on both rearrest and failure-to-appear was constructed.<sup>18</sup> Overall, 69 percent of the total population supervised appeared for all court dates and were not rearrested during the pretrial period. Of the remaining defendants, 21 percent were rearrested at least once, five percent failed-to-appear for at least one court date, and five percent both failed-to-appear and were charged with new crimes.

If the effect of defendants' missing more than one court date or being rearrested two or more times is ignored, little difference among groups is found. The net effect of increased contact in this study seems to have been the reduction of multiple failures to appear by some individuals. Of the total population succeeding (no rearrest or failure-to-appear) 70 percent complied with conditions of release during the pretrial period. By comparison, 60 percent of the group rearrested and/or failing to appear did not comply with conditions of release. Since the level of supervision affected compliance its usefulness becomes apparent. Condition compliance information can be used as an indicator of possible failure-to-appear or rearrest during the pretrial period.

<sup>18</sup> Information in this discussion is defendant-based. The overall effect of persons missing more than one court appearance or persons having two or more rearrest cases is not accounted for here.



**TABLE 6**

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**INDEX OF REARREST AND FAILURE-TO-APPEAR  
ACCORDING TO LEVEL OF SUPERVISION**  
**(Defendant-Based)**

	Level of Supervision			
	Passive	Moderate	Intensive	TOTAL
Percentage Appearing for All Court Dates and Having No Rearrests	69%	68%	70%	69%
Percentage Failing to Appear at Least Once	6%	6%	2%	5%
Percentage Rearrested at Least Once During Study	21%	19%	23%	21%
Percentage Rearrested and Failing to Appear	4%	7%	5%	5%

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## IV. Conclusion

The purpose of the experiment described herein was to investigate the effect of supervision on "high risk" defendants released non-financially by the court. Our supposition that more intensive supervision would increase the likelihood of court appearance; would reduce the level of rearrest during the pretrial period; and would improve defendants' compliance with court-ordered conditions of release was only partly correct. Among the most significant findings we learned that:

- Increased levels of supervision—improved the appearance rates of conditional releasees charged with felony offenses.
- Increased levels of supervision—not only reduced the overall number of missed appearances, to some degree it reduced the number of individuals missing multiple appearances for the same case.
- Increased levels of supervision—improved compliance with conditions of release set by the court.
- The types of increased supervision used by the Agency (Agency initiated phone contact and visits in the community) substantially improved condition compliance of pretrial releasees.
- The supervision provided by the Agency, regardless of intensity, had no affect on the level of recidivism during the pretrial period.
- Persons charged with assault, sexual assault, fraud, homicide, and property crimes had lower rearrest rates than those charged with other felonies.

Some of the findings contradict common beliefs about supervision. For example, when rearrest is used as a measurement of pretrial crime and suspected danger it is disconcerting to learn that increasing the intensity of supervision seems to make no difference. It may be possible, however, to do something to decrease this rate.

First, the "high risk" population of this experiment included all persons charged with felony offenses regardless of the particular type of charge. Eighty percent of the persons rearrested were initially charged with crimes involving robbery, burglary, auto theft, forgery, and larceny. Future efforts could consider developing individualized supervision plans that focus specifically on offense data. Aside from charge other areas that might be considered include: whether the defendant was originally recommended for release; defendant drug use; age and unemployment characteristics; etc. Any one area may go beyond a program's capability to provide specialized services. The more discriminating the supervision model, the greater the chance of focusing resources where they will do the most good.

Second, much of the empirical research on release practices has focused on the release decision itself. In order to develop recommendation criteria which are more accurate predictors of both failure-to-appear and pretrial crime much more research needs to be done. Release program recommendation schemes that focus primarily on defendant characteristics such as strength and stability of community ties are ignoring factors which may be better predictors of pretrial behavior.

Third, the implementation of an intensive supervision model using home visits, may not be possible because of cost. Perhaps, however, various programs of community volunteer services or even of offender volunteer services could be tested. Clearly, intensive supervision of all but the highest risk defendants would be costly and unnecessary.

Fourth, while we cannot fix rearrest as an absolute indicator of the extent of pretrial danger (many arrests do not result in conviction and many dangerous, anti-social acts do not result in arrests) we can see that 26% of those charged with felonies are candidates for closer scrutiny. That scrutiny, either through the means of detention hearings or condition violation hearings, should begin.

At the same time other impressions have been confirmed. Frequency and intensity of contact make a difference in the appearance rates of pretrial releasees. Whether this fact is the result of the correction of an otherwise faulty notification system or is the result of positive reinforcement about the same fact is unclear. What we have learned is that for the primary purpose of insuring court appearance increased levels of supervision bring proportionally better results. Since, after all, return to court is the sole purpose (traditionally and legally in most places) for bail then we have learned how to do it better.

There are many questions left unanswered. We've discovered as many questions during the course of this experiment as we have answers. Most important, we have learned the need to conduct continuous research on factors that affect the pretrial period. Money and resources are becoming scarcer each day. There is tremendous temptation to give in to those calling for fewer services for those accused of crime. The only way to continue to contribute to the realization of equal justice is to see that our resources are concentrated where they can be most effective. This study is but one step in the efforts of the D.C. Bail Agency to carry out this mandate.

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**END**