Pretrial Bond Supervision: An Empirical Analysis With Policy Implications

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Introduction

THE PURPOSE of this article is to discuss certain policy and operational implications derived from an empirical analysis of bond supervision data obtained from a county-based pretrial release program. The study examines various trends and developments of Lake County's (Illinois) Pretrial Bond Supervision Program (PTBS) including (1) the growth of PTBS between 1986 and 1990, (2) who gets placed on bond supervision by offense type, felony seriousness, and type of supervision, (3) the use of electronic monitoring, and (4) the success and failure rates of PTBS defendants. From these analyses and findings, conclusions are drawn that could have both practical and theoretical significance for pretrial release programs.

Lake County is situated just north of Cook County (Chicago); it is considered one of the suburban, "collar" counties that surround the city of Chicago. As of 1990, Lake County's population consisted of more than one-half million persons, with a racial and ethnic makeup of 83 percent white, 7 percent black, 7 percent Hispanic, and 3 percent Asian or other. Lake County is an area of contrasts: There are, for example, the affluent, racially homogenous "North Shore" and the economically and racially mixed county seat, Waukegan. Lake County has both rural and urban characteristics, with most of the population and built-environment situated along Lake Michigan but with rural areas located in the western portion of the county.

Pretrial bond supervision involves supervising defendants who have been released from jail custody on a personal recognizance bond (nonfinancial release) and monitoring their compliance with court-ordered conditions of release. If the defendant is considered an appropriate candidate for supervised release, a recommendation is made to the court, highlighting any significant issues and outlining the various conditions of bond that should be imposed to ensure court appearance and minimize the risk of pretrial misconduct. The kind of supervision recommended, theoretically depending upon the degree of risk involved, does vary and can consist of phone contacts, home visits, curfew checks, 24-hour home confinement with electronic monitoring, random drug testing, substance abuse treatment, and so forth.[1] If the court determines that the defendant is acceptable for PTBS, he or she is released from jail custody and Pretrial Services begins to monitor compliance with the court-ordered conditions of release.

A large portion of this article is devoted to analyzing the use of electronic monitoring. In Lake County, electronic monitoring is a special component of bond supervision—not all defendants who are released on supervised pretrial release are placed on "the monitor." The use of electronic monitoring is generally reserved for defendants who are considered "higher risk" and therefore require a more structured supervision plan. The design of Lake County's Bond Supervision Program allows for the comparison of electronically monitored defendants and nonelectronically monitored defendants to see, for example, how these two groups varied in terms of growth over the aforementioned 5-year period.

Besides the focus on the use of electronic monitoring, another concern of this article is to describe patterns of success and failure on bond supervision. Success and failure on bond has been linked to various factors, including prior criminal record, length of time on pretrial release, drug use, and different measures of community stability. Unfortunately, with the limitations of the current data, success and failure on bond supervision can only be analyzed in relation to type of supervision, felony seriousness, and type of offense. Not to minimize the importance of these three variables, this research should only be viewed as a preliminary investigation into success and failure on supervised release. Certainly, any future analysis needs to incorporate within it other kinds of data, such as prior criminal record and failure-to-appear history. Although narrow in scope, this article does begin to present a picture of who succeeds and who fails on bond supervision. With these kinds of data and analyses available, programmatic adjustments and changes can be made that minimize risk of bond failure and maximize successful completion of bond.

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Empirical Findings and Policy Implications

Anticipate Growth and Acceptance

Henry (1991) and Segebarth (1991) discuss the "steady growth" of pretrial services programs in the United States over the past 10 years. The experience of Lake County confirms this observation. Between 1986 and 1990, the number of bond supervision evaluations increased by 148 percent; the total number of defendants released to Pretrial Services for supervision increased by 192 percent. Further evidence of judicial support and acceptance: In 1986 one out of every four referrals for a bond supervision evaluation came from the court (i.e., from the judge); by 1990 nearly half of the referrals for an evaluation emanated from the court. In addition, over the entire 5-year period, the court went along with Pretrial's supervised release recommendation more than 90 percent of the time. Clearly these data alone suggest that the Bond Supervision Program has become an accepted and established pretrial release alternative provided to the Lake County judiciary.

Another indicator of growing judicial confidence was the increasing proportion of sex and drug defendants placed on bond supervision during the 5-year period. In the first year of operation (1986), over half of the defendants placed on supervision were charged with property crimes; by 1990 the proportion of property defendants placed on supervised release declined by 14 percent. Comparing the same 2 years, the proportion of sex and drug defendants released to Pretrial increased by 6 percent and 12 percent, respectively. Although property defendants, relative to other types of offenses, compose the greater proportion of Pretrial's caseload, that particular proportion has substantially declined since 1986 and the proportion of sex and drug defendants has increased, offenses that are generally deemed "more serious" by the community and the judicial system.

If there is this kind of strong judicial support and acceptance, new pretrial release programs should probably expect growth in their formative years, especially if the implementation of a pretrial release program is driven by an overcrowded jail and/or legal mandate. Given growth, criminal justice planners need to anticipate the effects of such expansion on the delivery of pretrial services. What impact, for example, will workload increases have on staffing allocations, on needed workspace and technology, and on the "kind" as well as the "quality" of services being provided? Granted, pretrial services agencies need to be flexible and adapt to the exigencies of development. However, without realizing in advance the potential need for additional resources, what may start out as a well-designed and sufficient operation may become insufficient and sacrificial to the demands of growth.

The Use of Electronic Monitors

Of the total number of defendants released to bond supervision between 1986 and 1990, 35 percent were electronically monitored. In terms of absolute numbers, since 1987 the application of the electronic monitor (EMS) remained fairly consistent over time. This volume consistency may be related to two factors: what could be called an "equipment ceiling" and the "capacity-driven" nature of electronic monitoring use. In other words, the utilization of electronic monitoring is determined by (1) the specific number of pieces of EMS equipment available and by (2) the tendency to utilize *all* available equipment. The more equipment you have, the more you will use. This is important because not everyone released on a supervised recognizance bond needs to be electronically monitored. If a pretrial release program is using electronic monitoring because "it's there, sitting on a shelf," then this is an inappropriate use of such technology.

The operational and fiscal ramifications of equipment ceilings and capacity-drives are numerous: How much electronic monitoring equipment should be bought or leased? What are the parameters defining EMS use? What proportion of the total number of defendants supervised by a pretrial release program should be electronically monitored? Ten percent? Thirty percent? Fifty percent? How far does a program want to "widen the net" of "electronic" control? A relatively low equipment ceiling, for example, may prevent the net from widening. Besides this "hardware effect," appropriate selection criteria, fitting the level of supervision to the actual risk of pretrial misconduct, and operating from the general principle that the court should impose the least restrictive set of conditions possible to ensure court appearance and community safety, are necessary procedures to curb the random and discretionary use of electronic monitoring.

Who Gets the Electronic Monitor?

There is a direct correlation between class of felony and the use of electronic monitoring: On the average, the more serious the felony charge, the more likely electronic monitoring will be imposed as a condition of release (see table 1). Conversely, the less serious the felony charge, the less likely electronic monitoring will be imposed.

In reference to type of offense, persons charged with sex offenses are much more likely to be placed on bond supervision with electronic monitoring than any other category of offense (see table 2). With the exception of sex defendants, on the average all other offense types—property, violent, drug, and public order—were

TABLE 1. PERCENT DISTRIBUTION OF PTBS PLACEMENTS BY FELONY CLASS AND TYPE OF SUPERVISION, 1986–90

	X		1		2		3		4		T/M	
	PTBS	EMS	PTBS	EMS	PTBS	EMS	PTBS	EMS	PTBS	EMS	PTBS	EMS
1986	36%	64%	58%	42%	68%	32%	70%	30%	82%	18%	100%	0%
1987	20%	80%	30%	70%	53%	47%	51%	49%	70%	30%	33%	67%
1988	12%	88%	49%	51%	63%	37%	71%	29%	62%	38%	96%	4%
1989	47%	53%	42%	58%	72%	28%	76%	24%	84%	16%	100%	0%
1990	50%	50%	59%	41%	73%	27%	79%	21%	83%	17%	92%	8%
Total	35%	65%	48%	52%	68%	32%	72%	28%	78%	22%	93%	7%

Note: In Illinois, felonies range from Class X, the most serious kinds of felony crime (with the exception of first degree murder which is in a separate class) to Class 4, the least serious. Class X offenses are nonprobationable as are some Class 1 felonies, such as Residential Burglary, Criminal Sexual Assault, and certain drug offenses. "T/M" represents traffic and/or criminal misdemeanor cases. Although traffic and misdemeanor data are presented in the tables (to round out the numbers and percentages), since the proportion of these cases is relatively small and because Lake County's Bond Supervision Program is primarily a felony release program, the misdemeanor and traffic data are excluded from any discussion or analysis in the body of this article.

more likely to be placed on bond supervision without electronic monitoring than with it. Public-order defendants and property defendants are less likely to be electronically monitored than any other offense category.

The data, then, indicate that the imposition of electronic monitoring as a condition of pretrial release is associated with felony class and offense type. Persons charged with a more serious felony, as measured by felony class, or persons charged with a sex offense are more likely to be electronically monitored than persons charged with less serious felonies or charged with other kinds of offenses.

These findings suggest some possible operational and policy consequences. Any significant increase in the number of sex defendants or "serious felony" defendants brought into the system could perhaps bring about an increase in the use of electronic monitoring, especially if it is a categorical requirement that, for example, any person charged with a sex offense or serious felony shall be electronically monitored as a condition of his or her pretrial release. Unfortunately, stipulating that all sex defendants or persons charged with a Class X felony are required to be electronically monitored could create potential release problems given a finite supply of equipment. As a result, a pretrial program precludes certain groups of defendants from being released if it runs out of available equipment. The point is that a program should not exclude defendants from other forms of supervised release simply because there is no EMS equipment available or because it's mandated that defendants charged with a certain class of felony or type of offense need to be electronically monitored. On the contrary, which defendants get the electronic monitor should be determined by assessing the *individual's* own unique risk level and not by the generic offense category into which he or she fits.

Widening the Electronic Net?

Although the number of electronically monitored defendants remained, for the most part, evenly distributed over the 5-year period, there has been a steady decline in the proportion of electronically monitored defendants released on pretrial bond supervision: from a high of 57 percent in 1987 to a low of 28

TABLE 2. PERCENT DISTRIBUTION OF PTBS PLACEMENTS BY TYPE OF OFFENSE AND TYPE OF SUPERVISION, 1986–90

	PROPERTY		CRIMES AGAINST PERSONS		SEX OFFENSES		DRUG OFFENSES		PUBLIC ORDER		TRAF/ MISD	
	PTBS	EMS	PTBS	EMS	PTBS	EMS	PTBS	EMS	PTBS	EMS	PTBS	EMS
1986	73%	27%	52%	48%	67%	33%	56%	44%	87%	13%	100%	0%
1987	50%	50%	36%	64%	9%	91%	40%	60%	60%	40%	33%	67%
1988	67%	33%	45%	55%	16%	84%	57%	43%	67%	33%	96%	4%
1989	72%	28%	62%	38%	41%	59%	68%	32%	89%	11%	97%	3%
1990	80%	20%	66%	34%	55%	45%	66%	34%	84%	16%	91%	9%
Total	70%	30%	55%	45%	41%	59%	60%	40%	82%	18%	92%	8%

Note: "Public Order" offenses include, but are not limited to, offenses such as mob action, weapon offenses, obstructing justice, and fugitive from justice.

percent by 1990. The reason for this relative decline is obviously related to the growing number of defendants released on standard (i.e., nonelectronically monitored) bond supervision. That part of the PTBS program has substantially expanded, whereas the use of electronic monitoring has not. This would seem to suggest that the electronic "net" hasn't widened.

Further evidence which indicates that the electronic net hasn't widened can be detected by examining the changes in the percent distribution of PTBS placements by felony class, type of offense, and type of supervision (see tables 1 and 2). Since 1987, there has been a steady decline in the use of electronic monitoring in all felony offense categories. For example, in 1987 9 out of every 10 persons charged with a sex offense were electronically monitored, but by 1990 not even half of the sex defendants were supervised with electronic monitoring.

In terms of felony class, in 1987, 7 out of every 10 defendants charged with a Class 1 felony were placed on bond supervision with electronic monitoring. By 1990, only 4 of every 10 defendants charged with a Class 1 felony were electronically monitored. In 1988, almost 90 percent of all defendants who were charged with a Class X felony were electronically monitored. However, by 1990 that proportion dropped to 50 percent. Indeed, by 1990 persons charged with a Class X felony were just as likely to receive standard bond supervision as they were likely to receive supervision with electronic monitoring.

Generally speaking, there has been a moderation in the use of electronic monitoring over the 5-year period in each felony class category. Especially in reference to the Class X and Class 1 felonies, this reduction in the use of electronic monitoring suggests that by 1990 felony class is perhaps less of a determining factor as to who receives electronic monitoring than it was previously. Perhaps other factors such as prior criminal record and community-stability factors have more of an impact on who gets electronic monitoring and who doesn't.

Success and Failure on Bond Supervision

Of the total number of defendants supervised by Pretrial Services from 1986 through 1990, 85 percent were terminated successfully, whereas 15 percent violated their conditions of bond by either failing to appear for a scheduled court date, getting arrested on a new charge, or committing a technical violation.[2] Specifically, only three percent of the total number of defendants supervised violated with a new arrest. The remainder of the violations, in terms of percentages, was divided evenly between failing to appear and technical violations: six percent in each respective category. Of the total number of violations during the 5-year period (N=209), the greater proportion were of a technical nature (41 percent), followed by failure-to-appears (36 percent) and new arrests (23 percent). Success and failure on bond supervision varies, however, by type of supervision, type of offense, and class of felony. As will be discussed in greater detail below, violation rates are generally tied to three factors: the use of electronic monitoring, less serious felonies, and property-type crimes.

Electronic Monitoring Use Produces Higher Violation Rates

Electronically monitored defendants had a higher overall violation rate than did nonelectronically monitored defendants: 19 percent versus 14 percent, respectively. Much of this difference is due to the much higher technical violation rate—14 percent—of EMS defendants, whereas non-EMS defendants only had a 3 percent technical violation rate (see table 3). Indeed, of the total number of violations committed by EMS defendants (N=81), 73 percent were of a technical nature. On the other hand, of the total number of violations committed by non-EMS defendants (N=128) only 20 percent were of a technical nature. To put it another way, of the total number of technical violations committed by both groups (N=85), almost 7 out of 10 were committed by EMS defendants. Even when breaking down the data by type of offense and felony class, the tendency for EMS defendants to have higher technical violation rates still occurred. In every felony class and in every type-of-offense category, EMS defendants had overwhelmingly higher technical violation rates than did standard PTBS defendants. There are probably several reasons for the difference between these two groups.

First of all, this discrepancy does not imply that EMS defendants are more likely than non-EMS defendants to engage in violating behavior; on the contrary, it probably means that EMS defendants are more likely to "get caught" during an unauthorized absence from their home. The use of electronic surveillance technology increases the detectability of the left-home violation under conditions of home confinement and curfew.

In addition, EMS defendants tend to be persons charged with more serious crimes or deemed "high-risk" defendants—the margin of error given to a EMS violator charged with a Class X sexual assault is probably much less than the allowance given to a non-EMS violator charged with a Class 3 theft. In other words, the court's response to a violation could be much harsher (e.g., return to jail custody) for the EMS defendant charged with a more serious crime than to a defendant charged with a less serious crime. Furthermore, if EMS defendants are considered more

TABLE 3. VIOLATION RATES BY TYPE OF SUPERVISION, 1986-90

	FTA		ARREST		TECHNICAL	
	PTBS	EMS	PTBS	EMS	PTBS	EMS
1986	8 (8%)	0 (0%)	4 (4%)	3 (9%)	2 (2%)	3 (9%)
1987	5 (5%)	4 (6%)	4 (4%)	5 (8%)	4 (4%)	9 (14%)
1988	9 (6%)	0 (0%)	8 (5%)	0 (0%)	3 (2%)	13 (14%)
1989	21 (10%)	0 (0%)	14 (6%)	3 (3%)	5 (2%)	17 (15%)
1990	26 (7%)	3 (2%)	3 (1%)	4 (3%)	12 (3%)	17 (13%)
Total	69 (7%)	7 (2%)	33 (4%)	15 (4%)	26 (3%)	59 (14%)

"at risk" than their non-EMS counterparts, then it follows that any given EMS defendant would be more likely, by definition, to engage in pretrial misconduct than the "less riskier" non-EMS defendant.

There is also more opportunity for violating behavior to occur with conditions of electronic monitoring imposed. For example, tampering with the electronic monitoring equipment—a sure way of returning to jail—is obviously a function of "being on" the electronic monitor: A non-EMS defendant cannot be violated for such an infraction.

Given these detectability and opportunity factors as well as the potential harsher sanctioning of EMS violators, electronic monitoring could generate higher violation rates for pretrial programs which use such technology. That is why the application of electronic monitoring (and any other bond supervision conditions) should be carefully scrutinized. As suggested earlier, operating from a policy that emphasizes recommending the least restrictive set of conditions to satisfy the requirements of bond—court appearance and community safety—a pretrial program could prevent the overuse or inappropriate use of electronic monitoring and, as a consequence, curtail its violation rate.[3]

Electronic Monitoring Use and Failing to Appear

Although electronically monitored defendants have a higher technical violation rate than nonelectronically monitored defendants, EMS defendants are much less likely to fail to appear for their court dates (a 2 percent FTA rate versus a 7 percent FTA rate for non-EMS defendants—see table 3). Of the total number of violations committed by EMS defendants, only about 1 out of 10 was for missing a scheduled court date. On the contrary, of the total number of violations committed by non-EMS clients, 5 out of 10 were for failing to appear for a court date.

From an operational perspective, the fact that EMS defendants are much less likely to miss a scheduled court date than non-EMS defendants would suggest the need to *intensify contacts* on non-EMS clients in order to minimize their risk of failing to appear. Research has shown that defendant/system contact and pretrial supervision correlates with lower failure-to-appear rates (e.g., see D.C. Bail Agency, 1978; Clarke, Freeman, & Koch, 1976; Austin, Krisberg, & Litsky, 1984). For whatever the reason that makes EMS defendants more inclined to appear for their court dates, this present analysis suggests that a pretrial supervised release program could reduce its contact level on EMS defendants and thereby focus more of its supervision energies and contacts on the more riskier, in terms of failing to appear, non-EMS clients.[4]

Less Serious Felonies Produce Higher Violation Rates

Success and failure on bond supervision tends to vary by class of felony. Generally speaking, as offense seriousness decreases, the likelihood of pretrial misconduct increases. For example, Class 3 felony defendants had the highest overall violation rate with 20 percent, whereas Class 1 defendants had the lowest overall violation rate with 9 percent. In reference to failing to appear, as the seriousness of the felony decreased, the probability of failing to appear *always* increased with non-EMS defendants. The inverse relationship between felony class and success on bond also applied when comparing EMS and non-EMS defendants: In either supervision category, persons charged with less serious felonies generally were more likely to violate their bond.

Success and Failure by Type of Offense

Of the total number of violations committed from 1986 through 1990 (N=209), 101 (48 percent) were committed by property defendants, 47 (22 percent) were committed by violent defendants, 31 (15 percent) were committed by drug defendants, 15 (7 percent) were committed by sex defendants, and 6 (3 percent) were committed by public-order defendants. In terms of volume, property defendants commit the greater proportion of the total number of bond violations.

However, in terms of rates, of the felony cases supervised by Pretrial Services, defendants charged with violent offenses had the highest overall violation rate, 18 percent, followed closely by property defendants with a 17 percent failure rate. Fourteen percent of the defendants who were charged with a sex offense violated bond. Persons charged with either drug offenses

TABLE 4. PTBS VIOLATION RATES BY TYPE OF VIOLATION AND TYPE OF OFFENSE, 1986-90

OFFENSE TYPE	FTA	ARREST	TECHNICAL	TOTAL
PROPERTY	35 (6%)	27 (5%)	39 (7%)	101
VIOLENT	15 (6%)	12 (5%)	20 (8%)	47
SEX	3 (3%)	1 (1%)	11 (10%)	15
DRUG	15 (5%)	4 (1%)	12 (4%)	31
PUBLIC ORDER	5 (8%)	1 (2%)	0 (0%)	6
TRAF/MISD	3 (5%)	3 (5%)	3 (5%)	9
Total	76 (6%)	48 (3%)	85 (6%)	209

or public-order crimes were least likely to violate, each group having a 10 percent overall violation rate.

In terms of specific violation patterns (see table 4), when compared to other offense types, public-order defendants were more likely to miss a court date but less likely to fail due to a technical violation. Indeed, persons charged with public-order offenses had no technical violations. With the exception of this category, drug defendants had the lowest technical violation rate: four percent. On the other hand, sex defendants were least likely to fail to appear but more likely to violate a technical condition of release. Property and violent defendants shared the highest rearrest rates, while sex and drug defendants had the lowest rearrest rates.

Electronically monitored property defendants and non-EMS property defendants had the same overall violation rate of 17 percent. However, there were substantial differences in most other felony offense categories when comparing EMS and non-EMS defendants (see table 5). EMS violent, sex, and drug defendants all had much higher violation rates than their non-EMS counterparts. On the contrary, EMS public-order defendants had perfect compliance. In respect to specific kinds of violations, EMS drug and public-order defendants *always made their court dates*; while non-EMS defendants—regardless of type of offense—had higher failure-to-appear rates (see table 6). As noted earlier, EMS defendants, in every felony offense category, had higher technical violation rates than their non-EMS counterparts.

To sum up, property defendants, considering at the same time their overall violation rate and their contribution to the total number of violations committed (more than twice that as any other offense group), represent the most noncompliant group among the different felony offense categories. On the other hand, drug and public-order defendants, by and large, are the most compliant, followed by sex defendants and then violent defendants.

Since there is a tendency for persons charged with certain types of offenses or accused of less serious felonies to violate their conditions of bond, a supervised release program that chooses as its target population only defendants charged with property-type crimes or "less serious" felonies may experience higher violation rates. Indeed, our findings suggest that a pretrial services agency could have a "more successful" program if it supervised more defendants charged with more serious crimes, since it is these kinds of defendants who are less likely to violate their conditions of bond. For example, a Class X drug defendant has a greater probability of successful completion of bond than a Class 4 property defendant.

In addition, since defendants charged with property crimes and/or less serious felonies are apt to be the more riskier clients, appropriate supervision strategies need to be assessed and implemented to reduce such risk. A rational and effective program of pretrial supervision should ultimately be multidimensional and adjust the level or kind of supervision to the degree of risk involved. Although it seems certain that success and failure on bond supervision is linked to offense type, felony class, and type of supervision, it is just as certain that these variables alone are not the only ones that determine pretrial performance. The

TABLE 5. SUCCESS/FAILURE RATES OF BOND SUPERVISION CLIENTS BY TYPE OF SUPERVISION AND TYPE OF OFFENSE, 1986-90

OFFENSE TYPE	PTBS		EMS	
	SUCCESS	FAILURE	SUCCESS	FAILURE
PROPERTY	345 (83%)	73 (17%)	136 (83%)	28 (17%)
VIOLENT	122 (85%)	21 (15%)	86 (77%)	26 (23%)
SEX	46 (92%)	4 (8%)	48 (81%)	11 (19%)
DRUG	198 (92%)	17 (8%)	72 (84%)	14 (16%)
PUBLIC ORDER	46 (88%)	6 (12%)	10 (100%)	0 (0%)
TRAF/MISD	47 (87%)	7 (13%)	1 (33%)	2 (67%)
Total	804 (86%)	128 (14%)	353 (81%)	81 (19%)

TABLE 6. PTBS VIOLATION RATES BY TYPE OF VIOLATION, TYPE OF OFFENSE, AND TYPE OF SUPERVISION, 1986–90

OFFENSE TYPE	FTA		ARREST		TECHNICAL	
	PTBS	EMS	PTBS	EMS	PTBS	EMS
PROPERTY	32 (8%)	3 (2%)	22 (5%)	5 (3%)	18 (4%)	21 (13%)
VIOLENT	12 (8%)	3 (3%)	5 (3%)	7 (6%)	4 (3%)	16 (14%)
SEX	2 (4%)	1 (2%)	1 (2%)	0 (0%)	1 (2%)	10 (17%)
DRUG	15 (7%)	0 (0%)	2 (1%)	2 (2%)	1 (**)	11 (13%)
PUBLIC ORDER	5 (10%)	0 (0%)	1 (2%)	0 (0%)	0 (0%)	0 (0%)
TRAF/MISD	3 (6%)	0 (0%)	2 (4%)	1 (33%)	2 (4%)	1 (33%)
Total	69 (7%)	7 (2%)	33 (4%)	15 (4%)	26 (3%)	59 (14%)

** = less than one percent.

research problem then becomes one of identifying other risk factors which can help explain the tendency of persons charged with property crimes and less serious felonies to violate their conditions of bond.

The Importance of Screening and Evaluation

Defendants who are placed on bond supervision without an evaluation have a much higher overall violation rate than defendants who were evaluated for the program (25 percent versus 15 percent, respectively). In other words, for every four defendants placed on bond supervision without an evaluation, one ends up violating in some capacity. It would seem, then, that the formal screening and assessment process by a pretrial services program is an important component of ensuring a certain degree of success.

In terms of specific violations, defendants who are not evaluated for bond supervision are much more likely to miss a scheduled court appearance than are defendants who are evaluated. Nonevaluated defendants had a 13 percent FTA rate compared to a 6 percent FTA rate for screened defendants. Of the total number of violations committed by nonevaluated defendants (N=46), over half (52 percent) were for failing to appear for court. In the arrest and technical violation categories, nonevaluated defendants had slightly higher rates of violation than the evaluated defendants.

These findings suggest that screening and assessment before release plays an important role in identifying and minimizing FTA risk and may also have some impact on identifying rearrest and technical violation risks. It is also possible that nonevaluated defendants are placed on bond supervision with less restrictive conditions which do not meet the degree of risk involved and that this less intense level of supervision may contribute to the higher violation rate.

A Note on Bench Warrants

As noted earlier, the FTA rate is based on missing a scheduled court appearance that resulted in a bench warrant being issued. As an alternative measure, the FTA rate can be measured by combining all failure to appears that resulted in a warrant *and* all technical violations that resulted in a warrant being issued. The common denominator here is the fact that a warrant was issued in either case. The assumption is that if the defendant had a technical violation (e.g., a person removing his electronic monitoring transmitter and absconding) that resulted in a warrant being issued, then that particular defendant would probably not appear for his next scheduled court date. Thus, this alternative measure probably gives us a more accurate indicator of actual court nonappearance, but it is a less accurate measure of the true technical violation rate.

Using this alternative measure, of the total number of violations that occurred between 1986 and 1990, over half (54 percent) resulted in a bench warrant being issued. Also, the proportion of violations that resulted in a bench warrant issued increased steadily through the 5-year period, from 45 percent in 1986 to 62 percent in 1990. In other words, in 1986, approximately 4 out of every 10 violations resulted in a bench warrant issued; by 1990, 6 out of every 10 violations resulted in a bench warrant being issued.

Given the costs to the judicial system of issuing and following through on bench warrants (paperwork, apprehension, booking, court time, housing the defendant, etc.), especially during times of budgetary constraints and fiscal responsibility, it would seem reasonable that a pretrial program give some consideration to implementing a failure-to-appear unit as part of its operations.[5] Basically, a FTA unit follows up on defendants who have missed their court dates and returns them to court voluntarily, thus simplifying the process of returning "no-shows" to court and eliminating many, if not all, of the aforementioned costs.

Successful Dispositions

In respect to successful pretrial bond supervision terminations and their case dispositions (see table 7),

TABLE 7. NUMBER AND PERCENTAGE OF SUCCESSFUL PTBS TERMINATIONS BY TYPE OF DISPOSITION AND TYPE OF SUPERVISION, 1986-90

	PTBS	EMS	TOTAL
DOC/JAIL	55 (7%)	53 (14%)	108 (9%)
MIXED[1]	124 (16%)	73 (19%)	197 (17%)
PROBATION[2]	392 (51%)	143 (38%)	535 (46%)
DISMISSED[3]	150 (19%)	75 (20%)	225 (19%)
VACATED[4]	55 (7%)	37 (10%)	92 (8%)
Total	776	381	1157

[1]A sentence of probation with a period of incarceration.
[2]Includes probation, intensive probation, and conditional discharge sentences.
[3]Includes nolle prosse, no probable cause, no true bill, and not guilty dispositions.
[4]Defendant removed from bond supervision by judicial order.

almost half of Pretrial's successfully terminated cases received a probationary sentence, and about 20 percent of the total number of cases were either dismissed, nolle prosse, or ended in acquittal. Another interesting finding was that EMS defendants were twice as likely as non-EMS defendants to receive an incarceration sentence.

The probationary and dismissal/nolle prosse outcomes of the vast majority of Pretrial's cases suggest the relevance of favoring a presumption of release on personal recognizance—supervised or otherwise—during the pretrial bond screening and assessment stage. For the most part, defendants entering the system, at least in this sample, are ultimately returned to the community with a disposition of either some form of probation or the case being dismissed. If this is so, then the presumption of release at the earliest possible time also seems imperative as well as imposing the least restrictive set of bond conditions.

Summary and Conclusion

The purpose of this article was to examine certain policy and procedural implications derived from an empirical analysis of bond supervision data. That is to say, what do the data tell us and what do these observations suggest about policy and operations for a supervised pretrial release program? Several interesting findings were discovered, including the firm establishment and judicial acceptance of supervised pretrial release, the decline in the rate of electronic monitoring use, the positive correlation between offense seriousness and the application of electronic monitoring as a condition of bond, the importance of screening defendants for supervised pretrial release, the tendency of EMS defendants to be "technically" violated while at the same time the proclivity of these defendants not to miss a scheduled court date, the eventual return to the community of most PTBS defendants upon final disposition of their case, and the variation of success on bond by offense type, offense seriousness, and type of supervision.

From the empirical findings, conclusions and explanations were drawn which have certain policy and practical significance. For example, the data suggest that the more restrictive the supervision (i.e., the use of electronic monitoring as a condition of bond), the higher the violation rate. Specifically, the use of electronic monitoring contributes to a higher technical violation rate. Thus, any policy that mandates increasing the use of electronic monitoring (e.g., all Class X defendants, or all defendants charged with violent crimes, shall be electronically monitored) could have an effect of increasing the violation rate.

Illustrating the need for pretrial programs to develop variable supervision strategies that not only link the level of supervision to the "degree" of risk involved but also to the "kind" of risk involved, is the finding that EMS defendants are more likely to have failed bond due to a technical violation, while non-EMS defendants are more likely to have failed bond for not appearing in court. A quality pretrial program should be able to assess risk—both kind and degree—and offer effective solutions to minimize pretrial misconduct.

Finally, an unstated objective of this research is to demonstrate the significance and value of data collection and analysis, especially at the local program level. Although it is limited by the amount and kind of data collected and by its fairly unsophisticated statistical approach, the research does begin to answer some basic questions—questions that a quality pretrial program should be able to answer. Pretrial programs need to commit themselves to what they used to call (and perhaps still do) "R and D" or research and development. Collecting and analyzing information ("intelligence," to use military jargon, seems to be an appropriate word here) allow for a pretrial operation "to take a look at itself," to see where it succeeds and fails, to make adjustments, and to keep what works.

Without such data and analysis, pretrial practitioners end up "armchair theorizing" and speculating about their program's impact, effectiveness, and worth.

NOTES

[1]I say theoretically because, in a practical sense, sometimes it is not a question of what are the appropriate conditions of release that "fit" the degree of risk, but rather what does it take to get someone out of jail. Using, for example, electronic monitoring on any given defendant may not have anything to do with that particular defendant's likelihood of getting arrested again while out on bond or failing to appear for a scheduled court date. Rather, it may have more to do with the nature of the charge itself and making the pretrial agency as well as the court "feel comfortable" with releasing the defendant back into the community. This categorical and self-assured use of supervision—supervising a defendant when he or she actually doesn't need it in terms of behavioral risk—is a form of net widening.

[2]Failing to appear (FTA) is defined as missing a scheduled court appearance which resulted in a bench warrant being issued. The FTA rate is defendant-based rather than appearance-based (see Toborg, 1981, pp. 15-16; Austin et al., 1984, pp. 89-90 for an explanation of these different FTA measures). An arrest violation involves any kind of new charge allegedly occurring while the defendant was on bond supervision which resulted in the defendant's apprehension and return to jail custody. Common examples of technical violations include unauthorized absences, tampering with the electronic monitoring equipment, absconding, failing to notify Pretrial Services of a residency change, testing positive for drug use, etc.. Technical violations can either result in a warrant being issued if the defendant was not available to address the violation in court (e.g., absconding) or, if the defendant was present for the violation hearing, a cash bond being reinstated and the defendant remanded.

[3]It should be noted that electronic monitoring will not necessarily prevent failure to appears. If a defendant poses a significant failure-to-appear risk, electronic monitoring in and of itself will not ensure court appearance. On the contrary, all electronic monitoring does is monitor the defendant's presence or absence at home. If there is a substantial FTA or flight risk, then that person will "take off" or miss court regardless of whether or not he or she is electronically monitored. It would seem that a more productive use of electronic monitoring would involve its application in cases where community safety—and not flight—is at issue.

[4]If not reduce the number of contacts, then change the nature or location of the contacts: For example, instead of seeing clients at their homes, see them in the office. The office mode of contact is probably less labor intensive than community-based contacts. Another note: Given the tendency that electronic monitoring is more likely to be used with defendants charged with more serious crimes, a possible reason why EMS defendants tend not to miss their court dates could be related to their "stake in conformity." In other words, they have more to lose if they fail to appear and more to gain if they don't—whether it's in terms of remaining in the community on bond or relating to the final disposition of their case. The stake in conformity explanation, however, can't account for the higher technical violation rate by EMS defendants; that, as mentioned in the text, is probably related to other factors.

[5]For example, in Washington DC it is estimated by the D.C. Pretrial Services Agency that it costs the city about $25 to return a defendant to court by means of the Agency's FTA Unit as compared to $1200 if the defendant had to be rearrested (Klaidman, 1991).

REFERENCES

Austin, J., Krisberg,B., & Litsky, P. (1984). *Evaluation of the field test of supervised pretrial release.*

Clarke, S.H., Freeman, J.L., & Koch, G.G. (1976). Bail risk: A multivariate analysis. *Journal of Legal Studies, 5*, 341.

D.C. Bail Agency. (1978). *How does pretrial supervision affect pretrial performance?*

Henry, D.A. (1991). Pretrial services: Today and yesterday. *Federal Probation, 55*(2), 54-62.

Klaidman, D. (1991). Mr. Lost and Found woos court's no shows. *Legal Times, 13*(39).

Segebarth, K.L. (1991, March). *Pretrial services and practices in the 1990's: Findings from the enhanced pretrial services project.*

Toborg, M.A. (1981). *Pretrial release: A national evaluation of practices and outcomes.* Washington DC: National Institute of Justice.