

last more than one year. A surprisingly large number of felony defendants who skip town remain at large after one year, approximately 30%. Alternatively stated, some 7% of all released felony defendants skip town and are not brought back to justice within one year. We call FTAs that last more than one year, fugitives. In Table 7 we present estimates of treatment effects on fugitives using matching estimators.²⁶

The results in Table 7 are stark; the fugitive rate is lower for those released on surety bond than for any other type of release and only surety matters. The surety advantage is similar across categories – fugitives rates are approximately 50% lower for those released on surety bonds compared to every other category.

Table 7 provides strong evidence that bounty hunters are highly effective at recapturing defendants who attempt to flee justice, considerably more so than the public police. We can isolate the bounty hunter effect even more precisely, by focusing on the fugitive rate conditional on FTA. Table 7 at looks at the probability that a released defendant will become a fugitive and how this probability varies with release type. The probability of being a fugitive, however, can be decomposed into the probability of not showing up for trial and the probability of not being recaptured within one year. We now focus more specifically on the latter probability. Given that a defendant fails to appear what is the probability that the defendant is not brought to justice within one year and how does this vary with release type? Note that once a defendant has decided to abscond there is no reason why anything other than the different effectiveness of public police and bail enforcement agents should have a systematic effect on the probability of being recaptured.

²⁶ In order to match appropriately we create new propensity scores based on the probability of being a fugitive conditional on FTA. Results available upon request.

The main diagonal of Table 8 contains the mean fugitive rate conditional on FTA along with the number of observations in each category. The estimated treatment effect for the row versus column variables are shown in the off diagonals. The probability of remaining at large for more than a year conditional on an initial FTA is lower for those released on surety bond. The surety treatment results in a fugitive rate that is lower by 5.5, 6.8, and 13 percentage points (18%, 20%, 32%) compared to own recognizance, deposit bond and cash bond respectively. Similarly, the own recognizance, deposit and cash bond treatments result in fugitive rates that are 28%, 41%, and 80% higher than under surety.

There are also some interesting non-surety effects. Note that the fugitive rate *conditional on an FTA is higher* for deposit and cash bond relative to release on own recognizance. Earlier (see Table 5) we had found that the FTA rate was *lower* for deposit and cash bond relative to release on own recognizance. What this suggests is that defendants on cash and deposit bond are less likely to fail to appear than those on own recognizance but if they do fail to appear they are less likely to be recaptured. We discuss two potential explanations for this finding, one based on incentives and the other on unobservables. First, all else equal, a defendant on deposit or cash bond is more likely to appear than a defendant released on his own recognizance because the latter defendant gets their deposit or cash bonds returned to them when they appear. Similarly, a deposit bond defendant who flees is more likely to stay hidden because the costs of returning (paying the whole bond) are larger than on own recognizance. Once the cash bond defendant has failed to appear for a significant amount of time, however, his bond is sunk so ex-post the cash and own recognizance defendants are in a similar

situation. Nevertheless, ex-ante the cash bond defendant who intends to flee is likely to take greater precautions against being recaptured in order not to "waste" the cash he put up on bond.

The first explanation for the higher rate of fugitives on cash or deposit bond relative to own recognizance is a true "treatment" explanation. It may be, however, that the deposit, cash, and surety bond defendants differ from the own recognizance defendants in ways not captured by the observables. Assume, therefore, that the higher fugitive rates conditional on FTA for deposit and cash bond defendants are inflated as a result of unobserved factors. This has two important implications, first if an unobserved variable increases the probability that a defendant will FTA for a year it also seems likely that the same variable will make it more probable that the defendant will FTA. Thus, the treatment effects on FTA in Table 5 are positively biased, i.e. if we could control for unobserved variables the measured effects would be even more negative (larger in absolute size). Furthermore, and more importantly, it seems plausible that any unobserved variable that inflates the fugitive rate for deposit and cash bond defendants will also inflate the fugitive rate for surety bond defendants. Since we estimate that the surety treatment reduces fugitive rates, controlling for unobserved variables would tend to make the measured effect more negative, i.e. once again increase the size of the effect. Alternatively stated, to the extent that unobservables are similar in the deposit, cash and surety bond samples any reduction in the deposit and cash treatments towards zero implies a corresponding reduction in the surety treatment away from zero.

We discuss the potential influence of unobserved variables at greater length below.

Kaplan-Meier Estimation of FTA Duration

The higher rate of recapture for those released on surety bond compared to other release types can be well illustrated with a survival function. For a subset of our data, just over 7000 observations, we have information on the time from the failure to appear until recapture (return to the court). A survival function graphs the percentage of observations that survive at each time period. We estimate a survival function for each release type using the non-parametric Kaplan-Meier estimator. Typically, the Kaplan-Meier estimator is used only for preliminary analysis and is then followed by a parametric or semi-parametric model. Although parametric and semi-parametric models allow for covariates they require sometimes tenuous assumptions about functional form. Instead, we follow our earlier approach of creating matched samples. Thus, using the same procedure as earlier, we create three matched samples surety v. own, surety v. deposit and surety v. cash. We then compare the survival function across each matched sample. The matching procedure ensures that covariates are balanced across the matched samples so it is not necessary to include additional controls for covariates.

Figure 1 presents the survival functions. In each case the survival function for those on surety bond is markedly lower than that for own recognizance, deposit bond, or cash bond. The ability of bail enforcement agents relative to police to recapture defendants who skip bail is evident within a week of the failure to appear.²⁷ By 200 days the surety survival rate is some 20 to 30 percentage points or 50 percent lower than the

²⁷ A number of estimates have been made that bounty hunters take into custody between 25,000 and 35,000 fugitives a year, depending on the year (see various sources in Drimmer 1996, also Barr 2000). These figures are consistent with a recapture rate of over 95 percent and are consistent with the number of fugitives on surety bond. It appears, therefore, that almost all fugitives on surety bond are recaptured by bail enforcement agents and not by the police. Bounty hunters, however, will sometimes track down defendants and then tip police as to their whereabouts so police will sometimes be involved in some aspects of recapture.

survival rate for those on cash bond, deposit bond or out on their own recognizance, i.e. the probability of being recaptured is some 50% higher for those released on surety bond relative to other releases. (Note that there are three surety bond survival functions, one for each comparison group, but that these are nearly identical). Figure 2 presents a similar regression matching on propensity score and bail. The survival functions appear more ragged but otherwise the results are very similar.

Table 9 shows the results of a log rank test. Let $t_1 < t_2 < \dots < t_{365}$ be the ordered end of FTA spells; let d_{ij} be the number of FTAs released on type i returned to court in day t_j and n_{ij} be the population on release i still at large. The null hypothesis is

$$H_0 : \lambda_1(t) = \lambda_2(t) = \dots = \lambda_{365}(t) \quad (5)$$

where $\lambda(t)$ is the hazard function at time t against an alternative hypothesis that at least one $\lambda_i(t)$ is different for some t_j . As described in Kalbfleisch and Prentice (1980) for the null to be true the expected number of failures of release type i at time t are $e_{ij} = n_{ij}d_j / n_j$ and the test statistic, which is distributed χ^2 , is

$$u' = \sum_{j=1}^{365} W(t_j)(d_{1j} - e_{1j}, \dots, d_{365j} - e_{365j}) \quad (6)$$

The log rank test confirms Figures 1-2; we can easily reject the null of equality of the survivor functions - defendants released on surety bond are much more likely to be recaptured (i.e. less likely to remain at large, "survive") than are those released on their own recognizance, deposit bond or cash bond.

Exploration of the Impact of Unobserved Variables

Judges may observe variables, such as defendant demeanor and (in some cases) things like defendant work and residence history, that we do not. In assigning defendants to release treatments, however, judges must choose the least restrictive form consistent with reasonable assurance that the defendant will appear at trial. "Cream

skimming," therefore, is built into the release process and without observing the unobserved, we can plausibly assume that the effect of unobserved variables is to *increase* the probability of FTA and FTA duration. Since we find that the surety treatment lowers FTA rates and FTA duration we can regard our estimates as lower bounds on the surety treatment effect. Surety bonds, therefore, are, if anything, more effective at reducing FTA rates and duration than our results suggest.

We now provide further evidence, albeit circumstantial, that supports the conclusion that unobserveds will tend to inflate FTA rates and duration. Bond dealers have an incentive to ensure that their charges show up at trial. Typically, however, the rearrest of a defendant is not grounds for the forfeiture of the bond dealer's bond.²⁸ Although bond dealers may monitor their charges and such monitoring might perhaps reduce rearrest rates there is otherwise little reason to think that, after controlling for observables, release assignment influences rearrest rates (note that we control for such observables as crime type, defendant age, a previous history of arrests etc.) If we assume that true treatment effects for rearrest rates are zero and we assume that unobserveds have the same directional effect on FTA rates and duration as on rearrest rates then the sign of the measured effects on rearrest rates will indicate the sign of any potential effects on FTA rates and duration.

Tables 10 (matching on propensity score) and 11 (matching on propensity score and bail) present "treatment effects" for the various release types on rearrest rates. Our assumption is that these effects represent the influence of unobserveds and that the sign

²⁸ The only circumstance where this might occur is if the defendant is arrested in another state and for this reason fails to show up at trial. Reynolds (2002) suggests that parole and probation bonds be created such that bond dealers would forfeit their bonds if the defendant was rearrested. If this were to occur then bond dealers would have the same incentives to reduce defendant rearrest as they today have to ensure that defendants appear at trial.

of the influence suggests the sign of any influence of unobserveds on FTA rates and duration. The most consistent result is that relative to release on own recognizance rearrest rates are higher for those released on deposit, cash, or surety bond. Judges are apparently doing their job in assigning the least dangerous to own recognizance. There appears to be only small differences between deposit, cash and surety bonds relative to own recognizance (with surety bonds having perhaps a slight advantage in reducing rearrest rates). The surety bond treatment is positive relative to all other release types, the difference is statistically significant with respect to cash bonds and own recognizance but not deposit bond. (Also, the cross diagonals are not always consistent as they typically were in earlier tables). The results matching on bail and propensity score are similar. The positive sign on the surety treatment suggests that unobserved variables tend to increase rearrest rates and hence suggest that if unobserveds have any influence on FTA rates and durations it is in the direction of raising such rates and durations.

The cream-skimming nature of assignment to release, the evidence from deposit and cash bond fugitive rates conditional on FTA, and the evidence from rearrest rates all suggest that unobserveds work in the direction of higher FTA rates and durations for those released on surety bond. The estimated treatment effects of surety bonds in reducing FTA rates and durations is therefore, if anything, an under-estimate.

Conclusions

When the default was for every criminal defendant to be held until trial it was easy to support the institution of surety bail. Surety bail increased the number of releases relative to the default and thereby spared the innocent some jail time. Surety release also provided good, albeit not perfect, assurance that the defendant would later appear to stand

trial. When the default is that every defendant is released, or at least when many people believe that "innocent until proven guilty" establishes that release before trial is the ideal, support for the surety bail system becomes more complex. How should the probability of failing to appear, and all the costs this implies including higher crime rates, be traded-off against the injustice of imprisoning the innocent or even the injustice of imprisoning the not yet proven guilty? We cannot provide an answer to this question but we can provide a necessary input into this important debate.

Compared to similar defendants released by other methods defendants released on surety bond are less likely to fail to appear and are much less likely to remain at large for extended periods of time. We interpret this finding as indicating the effectiveness of bond dealers and bail enforcement agents ("bounty hunters") at discouraging flight and at recapturing defendants. Our results suggest that it is bounty hunters, not public police, who are the true long arms of the law.

References

- American Bar Association. 1985. Criminal Justice Standards; Chapter 10, Pretrial Release. Standard 10-5.5, Compensated Sureties.
- Augurzky, B., and C. M. Schmidt. 2000. The Propensity Score: A Means to an End. *Working Paper*. University of Heidelberg.
- Ayres, I., and J. Waldfogel. 1994. A Market Test for Discrimination in Bail Setting. *Stanford Law Review* 46:987-1047.
- Barr, W. P. 2000. Letter to Charles T. Canady On the Bounty Hunter Responsibility Act. *NABIC Bulletin* 2000 (March).
- Chamberlin, J. A. 1998. Bounty Hunters: Can the Criminal Justice System Live Without Them? *University of Illinois Law Review* 1998:1175-1205.
- Clark, S., J. Freeman, and G. Koch. 1976. Bail Risk: A Multivariate Analysis. *Journal of Legal Studies* 5:341-85.
- Clines, F. X. 2001. Baltimore Gladly Breaks 10-Year Homicide Streak. *The New York Times* 2001 (3 January). Available online by search at www.nytimes.com, last accessed October, 01.
- Dehejia, R. H., and S. Wahba. 1998. Causal Effects in Non-Experimental Studies: Re-Evaluating the Evaluation of Training Programs. *NBER Working Paper Series* 6586.
- Drimmer, J. 1996. When Man Hunts Man: The Rights and Duties of Bounty Hunters in the American Criminal Justice System. *Houston Law Review* 33:731-93.
- . 1997. America's Least Wanted: We Need Rules to Stop Abuses. *The Washington Post* 1997 (21 September):C6.
- Feeney, F. 1976. Foreword. In *Bail Reform in America*, ed. W. H. J. Thomas, ix-xiii. Berkeley, CA.: University of California Press.
- Freed, D. J., and P. M. Wald. 1964. *Bail in the United States: 1964*. Washington, D.C.: National Conference on Bail and Criminal Justice.
- Greene, W. H. 2000. *Econometric Analysis*. 4th ed. Upper Saddle River, N.J.: Prentice Hall.
- Heckman, J. J., H. Ichimura, and P. Todd. 1998. Matching As an Econometric Estimator. *Review of Economic Studies* 65:261-94.

- Howe, K. 1999. Massachusetts Undertakes Sweeping Reform of Its Warrants System. *San Francisco Chronicle* (23 June). Available online by search at www.sfgate.com, last accessed October, 01.
- Howe, K., and E. Hallissy. 1999. When Justice Goes Unserved: Thousands Wanted On Outstanding Warrants - But Law Enforcement Largely Ignores Them. *San Francisco Chronicle* (22 June). Available online by search at www.sfgate.com, last accessed October, 01.
- Imbens, G. W. 1999. The Role of the Propensity Score in Estimating Dose-Response Functions. *NBER Technical Working Paper* 237.
- Kennedy, S., and D. A. Henry. 1996. Commercial Surety Bail: Assessing Its Role in the Pretrial Release and Detention Decision. Pretrial Services Resource Center (Washington, D.C.).
- Landes, W. 1973. The Bail System: An Economic Approach. *Journal of Legal Studies* 2:79-105.
- . 1974. Legality and Reality: Some Evidence of Criminal Procedure. *Journal of Legal Studies* (3):287-.
- Lechner, M. 1999. Identification and Estimation of Causal Effects of Multiple Treatments Under the Conditional Independence Assumption. *Working Paper*. University of St. Gallen.
- . 2000. Programme Heterogeneity and Propensity Score Matching: An Application to the Evaluation of Active Labour Market Policies. *Working Paper*. University of St. Gallen.
- Lecky, G. 1997. Police Name "200 Most Wanted". *Cincinnati Post* 1997 (5 September). Available online by search at www.cincypost.com, last accessed October 01.
- Lee, H. K., and K. Howe. 2000. Plan to Clear Backlog of Warrants: Santa Clara County Offering Amnesty to Some. *San Francisco Chronicle* 2000 (12 Jan). Available online by search at www.sfgate.com, last accessed October 01.
- Myers, S. L. J. 1981. The Economics of Bail Jumping. *Journal of Legal Studies* 10:381-96.
- NAPSA. 1998. Performance Standards and Goals for Pretrial Release. 2nd ed. National Association of Pretrial Service Agencies.
- Prendergast, J. 1999. Warrant Amnest Offered for 1 Day. *Cincinnati Enquirer* 1999 (19 Nov). Available online by search at <http://enquirer.com>, last accessed Oct. 01.

- Reynolds, M. 2002. Privatizing Probation and Parole. In *Entrepreneurial Economics: Bright Ideas from the Dismal Science*, ed. A. Tabarrok, 117-28. New York: Oxford University Press.
- Romano, J. 1991. Defendants Increasingly Skip Bail. *The New York Times* 1991 (22 December):1 col.5.
- Rosenbaum, P., and D. Rubin. 1983. The Central Role of the Propensity Score in Observational Studies for Causal Effects. *Biometrika* 70:41-55.
- . 1984. Reducing Bias in Observation Studies Using Subclassification On the Propensity Score. *Journal of the American Statistical Association* 79:516-24.
- Rubin, D. 1974. Estimating Causal Effects of Treatments in Randomized and Nonrandomized Studies. *Journal of Educational Psychology* 66:688-701.
- . 1977. Assignment to Treatment Group On the Basis of a Covariate. *Journal of Educational Statistics* 2:1-26.
- Thomas, W. H. J. 1976. *Bail Reform in America*. Berkeley, CA.: University of California Press.
- Toborg, M. A. 1983. Bail Bondsmen and Criminal Courts. *The Justice System Journal* 8 (2):141-56.

Table 1 : Algorithm for the estimation of $\theta_0^{m,l}$	
Step 1	<p>Estimate the Propensity Score via an Ordered Probit For each treatment $T=1 \dots M$ and individual $N=1 \dots K$ obtain $[\hat{p}_N^1(x), \hat{p}_N^2(x), \dots, \hat{p}_N^M(x)]$ and compute $\hat{p}_N^{m,l}(x) = \frac{\hat{p}_N^m(x)}{\hat{p}_N^l(x) + \hat{p}_N^m(x)}$.</p>
Step 2	<p>Match Observations. Calculate the outcome for pair of observations For a given pair of treatments m and l:</p> <ol style="list-style-type: none"> i) Choose an observation i that received treatment m ii) Match i to an observation j in the treatment subsample that is less than the caliper distance and closest to i in terms of $\hat{p}_N^{m,l}(x)$. If no such observation exists drop observation i. (In the case of multivariate matching 'closeness' is based on the Mahalanobis distance.) iii) Repeat i) and ii) until no observations in m remain. iv) Using the matched comparison group compute sample mean of $\hat{E}_N(Y^m T = m)$ and $\hat{E}_N(Y^l T = l)$
Step 3	<p>Compute the estimate of the treatment effects $\hat{\theta}_N^{m,l} = \hat{E}(Y^m T = m) - \hat{E}(Y^l T = l)$</p>

Table 2: Mean FTA Rates by Release Category, 1988-1996					
	Own Recognizance	Deposit Bond	Cash Bond	Surety Bond	Emergency Release
Own Recognizance	26% [21,477]	5%*	5%*	9%*	-18%*
Deposit Bond		21% [2968]	0%	4%*	-23%*
Cash Bond			21% [2378]	4%*	-23%*
Surety Bond				17% [9051]	-27%*
Emergency Release					44% [566]

Mean FTA rates for release categories are along the main diagonal with the number of observations in square brackets. Off diagonal elements are the difference between the mean FTA rate for the row category and the mean FTA rate for the column category.
 * Statistically significant at the greater than 1% level.

Table 3: Ordered Probit on Stringency of Release, also includes county and year fixed effects (not shown).

Variable	Coefficient	Std. Error	P-Value
Time to Trial	-.5840323	.0037841	0.000
Local Clearance Rate	-.2236601	.1821932	0.220
Age	.0008741	.0006485	0.178
Female	-.1942633	.0166902	0.000
Murder	.8933799	.0791958	0.000
Rape	.3707915	.0512138	0.000
Robbery	.3884066	.0324539	0.000
Assault	.1530621	.0285269	0.000
Other Violent	.2070112	.0403428	0.000
Burglary	.0478598	.0298808	0.109
Theft	-.0973431	.0280607	0.001
Other Property Crime	-.1567544	.0295343	0.000
Drug Trafficking	.2171987	.0272274	0.000
Other Drug Crime	-.1094124	.0276005	0.000
Driving Related Crime	-.0029089	.0415815	0.944
Active Criminal Justice Status	.202072	.0141458	0.000
Previous Felonies	.2290783	.0136314	0.000
Previous Failure to Appear	.1298379	.0151584	0.000
Number of Observations	58,599		

Table 4: Mean Absolute Standardized Bias and (Variance of Standardized Bias) Before and After Matching

	Own Recognizance		Deposit Bond		Cash Bond		Surety Bond	
	Before	After	Before	After	Before	After	Before	After
Own Recognizance	0	0	16 (206)	16.5 (140)	11 (80)	11 (66)	14 (131)	11 (153)
Deposit Bond	16 (205)	16 (99)	0	0	17.6 (251)	17 (216)	20.4 (403)	20.1 (204)
Cash Bond	10.9 (80)	10.9 (51)	17.6 (251)	17.5 (244)	0	0	16.1 (255)	14.3 (140)
Surety Bond	14 (131)	11.7 (163)	20.4 (403)	21 (274)	16 (255)	13 (126)	0	0

For each variable in Table X (the ordered probit) the standardized bias is the difference in the before and after mean divided by the square root of the weighted average of the variances. It can be interpreted as the bias in percent of the average standard deviation. The mean absolute standardized bias (MASB) is the average across all variables of the absolute standardized biases. The variance of standardized bias, reported below the MASB in parentheses, is the variance of the standard biases taken across all variables.

Table 5: Treatment Effects of Row versus Column Release Category on FTA Rates, 1988-1996

	Own Recognizance	Deposit Bond	Cash Bond	Surety Bond
Own Recognizance	26%	+3.3%*	+4.1%*	+6.8*
Deposit Bond	-3.7%*	22%	2.0%	+3.0%**
Cash Bond	-7.5%*	-2.2%	23%	+2%
Surety Bond	-7.1*	-3.0**	.5%	17%

Mean FTA rates for release categories for the full sample are along the main diagonal. Off diagonal elements are the difference between the mean FTA rate for the row category and the mean FTA rate for the column category.

* Statistically significant at the greater than 1% level (two sided).

** Statically significant at the greater than 5% level.

** Statistically significant at the greater than 10% level.

Table 6: Treatment Effect of Row versus Column Release Category on FTA Rates using Samples Matched on Propensity Score and Bail Amount, 1988-1996

	Deposit Bond	Cash Bond	Surety Bond
Deposit Bond	22%	+3.4%***	+2.5%**
Cash Bond	-1.6%	23%	-.3%
Surety Bond	-2.3%***	+6%	17%

Mean FTA rates for release categories for the full sample are along the main diagonal. Off diagonal elements are the difference between the mean FTA rate for the row category and the mean FTA rate for the column category.

* Statistically significant at the greater than 1% level (two sided).

** Statically significant at the greater than 5% level.

** Statistically significant at the greater than 10% level.

Table 7: Treatment Effect of Row versus Column Release Category on the Fugitive Rate, 1988-1996

	Own Recognizance	Deposit Bond	Cash Bond	Surety Bond
Own Recognizance	8.3% [1779]	0.6%	-0.5%	+4.0%*
Deposit Bond	-1.2%	7.3% [216]	0.5%	+3.6%*
Cash Bond	0.6%	1.0%	8.5% [204]	+4.7%
Surety Bond	-5.3%*	-4.8%*	-3.4%*	3.5% [323]

Mean fugitive rates, defined as FTAs that last longer than a year, for release categories for the full sample are along the main diagonal. Off diagonal elements are the difference between the mean fugitive rate for the row category and the mean fugitive rate for the column category.

* Statistically significant at the greater than 1% level (two sided).

** Statically significant at the greater than 5% level.

** Statistically significant at the greater than 10% level.

	Own Recognizance	Deposit Bond	Cash Bond	Surety Bond
Own Recognizance	32% [1779]	-17%*	-9%*	+5.7%**
Deposit Bond	+10.4%*	34% [216]	.7%	+8.7%**
Cash Bond	+8.0%**	-5.5%	40% [204]	+17.3%*
Surety Bond	-5.5%**	-6.8%***	-13%*	21% [323]

Mean fugitive rates, defined as FTAs that last longer than a year, for release categories for the full sample are along the main diagonal. Off diagonal elements are the difference between the mean fugitive rate for the row category and the mean fugitive rate for the column category.

* Statistically significant at the greater than 1% level (two sided).

** Statistically significant at the greater than 5% level.

** Statistically significant at the greater than 10% level.

	Matching on Propensity Score			Matching on Propensity Score and Bail	
	Surety v. Own	Surety v. Deposit	Surety v. Cash	Surety v. Deposit	Surety v. Cash
Surety	823 [620]	671 [546]	639 [458]	495 [603.73]	344 [462.71]
Own	947 [1150]				
Deposit		585 [709]	485 [665]	571 [462.27]	
Cash					449 [330.29]
Total	1770	1256	1124	1066	
χ^2 against null of equality of hazard rates	104*	51*	123*	47.03***	76.45***
Matched on:	Pr(surety)	Pr(surety)	Pr(surety)	Pr(surety) and bail	Pr(surety) and bail

Column entries equal the actual number of FTAs returned to court. Column entries in brackets represent the expected number of FTAs returned.

* Statistically significant at the greater than 1% level (two sided).

** Statistically significant at the greater than 5% level.

** Statistically significant at the greater than 10% level.

Table 10: Treatment Effects of Row versus Column Release Category on Rearrest Rates, 1988-1996

	Own Recognizance	Deposit Bond	Cash Bond	Surety Bond
Own Recognizance	26% [5607]	-5.2%* (1.2)	-4.6%* (1.2)	-5.5%* (.87)
Deposit Bond	+4.9%* (1.2)	28% [841]	+1.9% (1.7)	-0.03 1.4
Cash Bond	+4.9%* (1.4)	-4.8* (1.8)	32% [801]	.78% (1.6)
Surety Bond	+3.6%* (.77)	+1.3% (1.3)	+4.0%* (1.5)	25% [2260]

Mean rearrest rates for release categories for the full sample are along the main diagonal with numbers of rearrests below in square brackets. Off diagonal elements are the difference between the mean FTA rate for the row category and the mean FTA rate for the column category in the matched samples with standard errors below in parentheses.

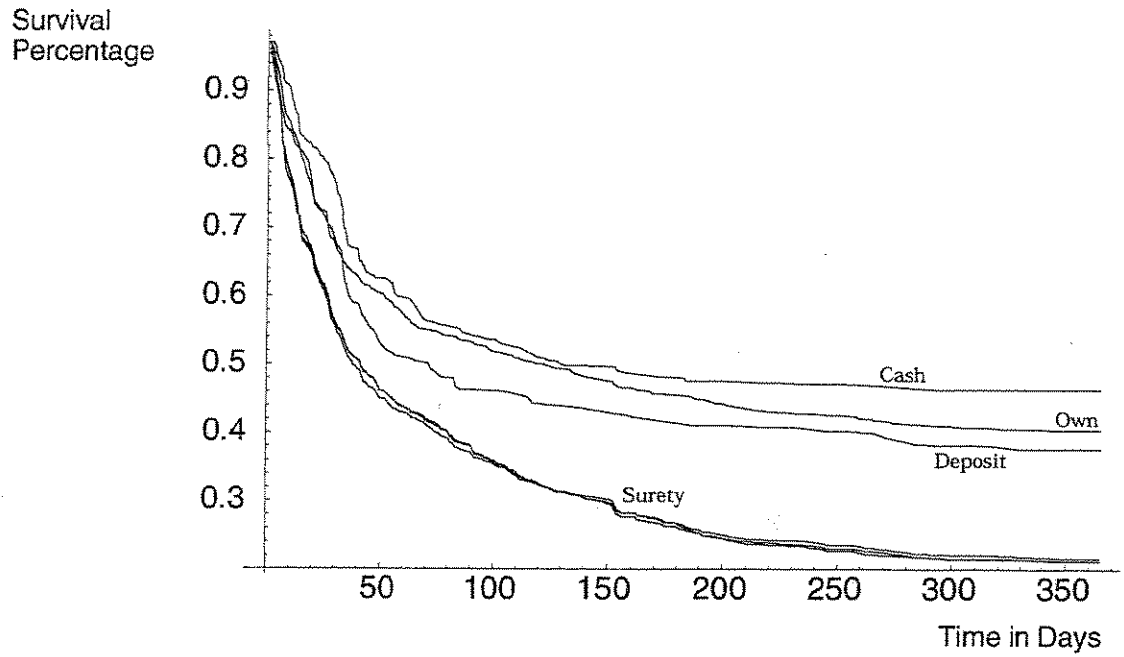
* Statistically significant at the greater than 1% level (two sided).
 ** Stastically significant at the greater than 5% level.
 ** Statistically significant at the greater than 10% level.

Table 11: Treatment Effect of Row versus Column Release Category on Rearrest Rates using Samples Matched on Propensity Score and Bail Amount, 1988-1996

	Deposit Bond	Cash Bond	Surety Bond
Deposit Bond	28% [841]	+4.9%** (2.2)	-1.1 (1.4)
Cash Bond	-2.4 (2.2)	32% [801]	-2.75% (1.9)
Surety Bond	.14% (1.5)	+4.2%** (1.8)	25% [2260]

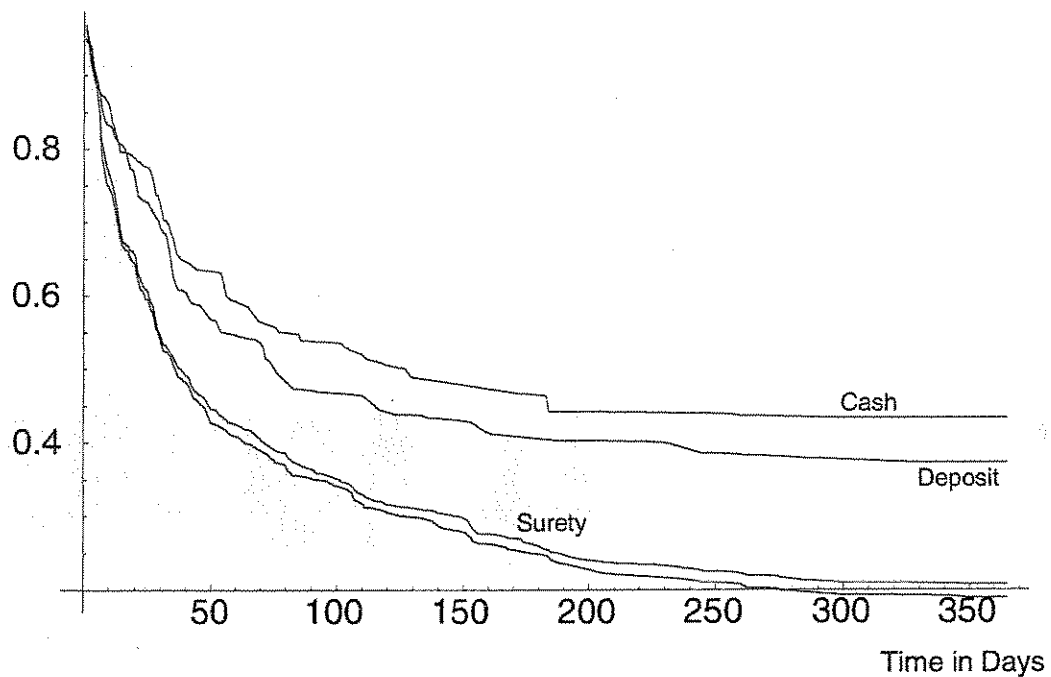
Mean rearrest rates for release categories for the full sample are along the main diagonal with numbers of rearrests below in square brackets. Off diagonal elements are the difference between the mean rearrest rate for the row category and the mean rearrest rate for the column category in the matched samples with standard errors below in parentheses.

* Statistically significant at the greater than 1% level (two sided).
 ** Stastically significant at the greater than 5% level.
 ** Statistically significant at the greater than 10% level.



Kaplan-Meier Survival Function for Defendants on Surety Bond versus those on Cash Bond, Deposit Bond and Own Recognizance - Using Matched Samples

Survival
Percentage



Kaplan-Meier Survival Function for Defendants on Surety Bond versus those on Cash Bond, Deposit Bond and Own Recognizance - Using Samples Matched on Propensity Score and Bail

Back to the future: Bail bondsmen could be a workable idea

Back to the future.

For the administration of justice in Milwaukee — and for the good of population control at the new County Jail — Sheriff Richard E. Artison is making a suggestion that takes everyone back to the quick-deal days of the bail bondsmen.

Truth is, however, that reintroducing bondsmen to the criminal justice process may be the only way to hold down the prisoner population at the new jail.

Nearly two decades ago, bail bond firms were banished because some people believed they took advantage of poor people.

There were abuses that not everyone remembered that, for 10% of a defendant's bail,

the firm promised the court that it would pay the full amount if the defendant missed a court date. The firm kept the 10% when the person showed up for court.

That's capitalism, some said. Others noted that the system gave all defendants, rich and poor, the same opportunity to stay out of jail, pending adjudication of the case against them.

Today, however, it's more a matter of managing population at a facility that nearly everyone concedes will be too small when it is officially opened later this year.

Officials are already selectively releasing inmates, or limiting the number of new occupants, in order to keep the population within acceptable levels.

Memories of federal orders to reduce levels in the old jail — the main reason the new facility is being opened — are still fresh.

So Artison is urging the county's lobbyists to petition the Legislature for a change in state law to reactivate the bail bondsmen system. His figures show that use of bail bondsmen would have made available 170 more beds for other purposes this month alone.

That's based on the assumption that about half of the 340 prisoners held on bail of \$10,000 or less would have been able to make bail using a bond firm.

Bail bond firms, Artison argued, have been used successfully in other states.

The sheriff has other concerns, too. And jail food

is one of them.

The new jail is expected to add more than \$1 million to the cost of feeding inmates, who could number near 1,000, if you include about 200 short-term prisoners who probably would be released before spending a night in the facility but who still must be fed.

So is it back to the future?

Artison probably has the most salable idea for addressing immediate space needs. Long term, however, officials will still have to devise a policy that is more public-safety conscious.

In short, we are continually making it easier for people, some of them dangerous, to remain on the street, much to the consternation and concern of the general public.

FOR CONSIDERATION IN CHOOSING METHOD OF PRETRIAL RELEASE

I. SOME HARD "FACTS" REGARDING THE PROBLEMS SURROUNDING THESE "OWN RECOGNIZANCE" (FREE) RELEASES THROUGH TAXPAYER-FUNDED AGENCIES.

FACT: with **SECURED** release, defendants are far more likely to come back to court and answer the charges against them.

*Federal Bureau of Justice Statistics, NCJ-148818, November, 1994
*NATIONAL PRETRIAL RESOURCE CENTER, April, 1994

FACT: experts acknowledge that **SECURED** release is the more responsible method.

"William Barr, U.S. Attorney General under President George Bush: "Private bail has done an excellent job of ensuring that defendants get to court . . . and they do it at no cost to the taxpayer. It's a system that has a long history of success."

FACT: the community is safer under the **SECURED** release approach. More persons are rearrested while out on **FREE** release than when out on **SECURED** release.

*NATIONAL PRETRIAL REPORTING PROGRAM, U.S. Department of Justice, NCJ-139560

FACT: State Legislators favor **SECURED** release.

*SAMUEL A. BRUNELLI, Executive Director, American Legislative Exchange Council: "The publicly funded pretrial release system has failed the American people."

FACT: The **FREE** release approach is grossly unfair to the law abiding citizen. The process of getting out of jail, being monitored while out and being encouraged to appear in court is expensive. Somebody has to pay for this, and there are only two funding services:

1. The accused who got himself into jail, or
2. The taxpayer citizen who did not get himself into jail.

FACT: With **SECURED** release, private industry is in place to provide a service and do work that otherwise must be performed by, and at the cost of, local government. Utilizing the private sector is now being seen as more desirable.

*Dr. Morgan Reynolds, U.S. Congress Joint Committee On Economics: "Shut down pretrial release bureaus and so-called free bonds in favor of competitive, commercial bail bonds."

FACT: there is a place for **FREE** release. The justice system needs a way to get the person out of jail who is a first offender (no prior record), charged with a non-violent offense and who is truly a financial indigent. But when **FREE** release is routinely given to the multiple offender, or the violent offender or the person capable of paying for his own release, then **FREE** release acts against the best interests of the community. Unfortunately, it is used in this broad, non-restrictive, unfair way today.

*Pretrial Services Director, Tucson, Arizona, July 26, 1993: "We don't care how much money they have . . . whether they live in a shelter or have a house in foothills."

*The Houston Chronicle, June 13, 1993: "In the last 21 months the perpetrators of 9,357 crimes, of which 2,826 were felonies, including murder, manslaughter, rape and sexual assault on a child, were released on bail bonds funded . . . by the taxpayers, through the County Pretrial Release Agency."

FACT: the **FREE** release system is, for the most part, a secret to all but a select few. Until recently, state lawmakers were unaware of the system's abuses. Taxpaying citizens, whose money underwrites the local **FREE** release agency, do not even know it exists. If they do find out about it they are generally outraged.

Example: When an article was recently run in a local newspaper about the types of serious offenders being released by the local **FREE RELEASE AGENCY** (Houston Chronicle, Monday, June 13, 1994) citizens unsolicited written protests flooded in.

FACT: the **FREE** release approach literally "flies in the face" of our common sense. If we reward *poor performance* we will get an increase in *poor performance*.

FACT: the *FREE* release programs are very expensive to the local taxpayer. When these programs began (all populous counties now have them), they had few employees and low budgets. Today, for many of them, employees are numerous and the annual budgets run into the millions.

FACT: the *SECURED* release approach is in keeping with the proven desires of the voting public. Recent polls have shown that what is wanted is: *LESS GOVERNMENT, LESS TAXES and LESS CRIME*, and that is exactly what is delivered by *SECURED* release.

Statistics conclusively prove, on the other hand, that *FREE* release creates just the opposite: *MORE GOVERNMENT, MORE TAXES and MORE CRIME*.

*Federal Bureau of Justice Statistics, NCJ-1488113, November, 1994

*NATIONAL PRETRIAL REPORTING PROGRAM, U.S. Department of Justice, NCJ-139560

We will be pleased to provide effective evidence and statistics demonstrating the truth of all these assertions.

CONCLUSION: local government leaders across the country are casting critical eyes at continued government-sponsored pretrial release of state case defendants. Many are cutting funding, closing agencies or refusing funding requests; witness Washington, D.C., Dallas, San Diego, Albuquerque, and Houston just to name a few. The consideration seems to be, "*Why fund programs in the face of the experts telling us they do not work?*"

Using the Private Sector To Deter Crime

by

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Executive Summary

Since 1965, the share of gross domestic product (GDP) devoted to the U.S. criminal justice system has more than doubled. Yet the amount of crime reported to the police is near an all-time high and the amount of violent crime reported is *at* an all-time high. Perhaps it is time to consider turning more of the criminal justice burden over to the more efficient, innovative private sector, which already plays an important part in the system. For example:

- There are nearly three times as many private security guards as public law enforcement officers — 1.5 million in 1990, and the private sector spends almost twice as much on private security as we pay in taxes to support the public police.
- Private bounty hunters, or bail enforcement agents, make the private bail bonding system work for persons accused of crimes by tracking down and apprehending those who try to flee.
- And the private sector on occasion has been used innovatively in other ways — to prepare cases for district attorneys, to prosecute criminal cases and to employ prisoners behind bars.

This study analyzes ways to expand the role of the private sector to reduce crime and lessen the burden of criminal justice for taxpayers. The proposed reforms include:

1. Contract out noncrime, nonemergency police functions to private security firms, allowing public law enforcement officers to concentrate more of their own efforts on crime. Pay bonuses or special incentives to departments that achieve independently verified reductions in crime.
2. Make greater use of reserve law enforcement officers and explore ways to expand their ranks.
3. Shut down pretrial release bureaus and so-called free bonds in favor of competitive, commercial bail bonds.
4. Increase the use of private rewards for criminal convictions, including bounties offered by commercial insurance policies.
5. Pay bounty hunters for recovering criminals who are wanted on bench warrants (orders by judges or courts to arrest persons charged with criminal offenses).
6. Make greater use of private attorneys to prepare and/or litigate criminal cases at private expense in order to expand prosecutor resources at no taxpayer expense.
7. Reduce legal obstacles to integration of criminal prosecution and civil remedies in order to raise the price of crime to criminals and compensate victims more adequately.
8. Require convicts eligible for probation and parole to post a private bond to guarantee good behavior, thus ensuring supervision by a bondsman, raising the cost of committing another crime or violating the terms of their release and encouraging self-control.
9. Accelerate private construction and operation of prisons to control costs and raise quality.
10. Accelerate the private employment of prison labor and explore private employment of convict labor alongside nonconvict labor.

The debate over crime has been in a rut for decades, with conservatives emphasizing tough policies and liberals emphasizing soft remedies and improved economic opportunities. Privatizing the criminal justice system on an incremental basis is a win-win solution: the innovation and productivity of private enterprise can reduce crime, reduce taxes and improve the protection of civil liberties.

Introduction: The Failure of the Criminal Justice System

The U.S. criminal justice system costs billions of dollars to operate each year, and the cost is growing rapidly as police, courts and prisons are added. As Table I shows:

- In 1965, the justice system cost taxpayers \$4.6 billion, about six-tenths of 1 percent of gross domestic product (GDP).
- By 1993 the cost had grown to about \$100 billion, 1.57 percent of GDP.
- The number of justice system employees grew from 600,000 in 1965 to nearly 2 million in 1993.¹

Despite these increases in spending and personnel, the number of serious crimes reported to the police is near an all-time high [see Figure I] and the number of violent crimes reported to the police is at an all-time high [see Figure II].² The more resources government applies to the war on crime, the less effective they seem to be.

In light of this government failure, is it possible that the private sector could be more successful? Let's take a look.

"The more resources government applies to the war on crime, the less effective they seem to be."

TABLE I

Spending on the Criminal Justice System¹

Year	Total Expenditures (millions \$)	Spending as a Percent of GDP	Number of People Employed (thousands)
1965	\$ 4,573	.65	600
1970	8,571	.84	775
1975	14,954	.94	1,011
1979	26,028	1.05	1,178
1985	45,607	1.13	1,369
1988	60,980	1.24	1,601
1990	74,000	1.34	1,722
1993 ²	100,000	1.57	2,000

¹ Public sector expenditures, all levels of government. Includes some civil court expenditures which are not separated from the total.

² Preliminary estimates.

Source: U.S. Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, annual.

Public Bail: A System That Doesn't Work

In addition to the commercial bail bonding system, we have a public bail system administered by tax-funded pretrial release (PTR) bureaus. These are usually operated by county governments, which historically were administrative subdivisions of state government. PTR staff members interview defendants and recommend to judges whether they should be released. In the public bail system, defendants rarely post any kind of monetary bond, usually being released under a personal recognizance bond. The defendant simply promises the judge that he or she will appear in court. As a consequence, the defendant has little or nothing to lose if he or she fails to appear.

Origins of Public Bail. Why do we have tax-funded bail? The system originated in the mid-1960s. Its original intent was to provide selective help for indigents charged with nonviolent crimes who couldn't afford to post bond. But it rapidly evolved into an indiscriminate release mechanism to cap the jail population. It has failed miserably to accomplish any of its aims. According to Gerald Monks, the Houston bail bondsman, defendants who can get no help from family, friends or coworkers usually "have robbed, lied to, or otherwise mistreated their friends, relatives, employees, or coworkers to the extent that they will not come to their rescue to pay bond. Many of them believe they (the defendants) should stay in jail."⁴⁹

Higher Fugitive Rates. Since the salaries of PTR staff members do not go down when defendants fail to appear, they do not have the same incentives as private bail bondsmen to keep their fugitive rate to a minimum. And since the defendants bear no cost when they fail to appear, predictably the no-show rate is high. Studies show that:⁵⁰

- As many as half of the criminal defendants released before trial by PTR agencies have previously jumped bail.
- Half of the defendants released have one or more prior felony convictions.
- Overall, about 27 percent of defendants supervised by PTR agencies fail to appear in court.

Higher Costs. This poor performance harms the general public in two ways. First, the taxpayers pay a small fortune in rearrest warrants. Second, while on release, the defendants commit more crimes. In these respects, the PTRs contrast unfavorably with private agencies.⁵¹

"About 27 percent of defendants supervised on public bail fail to appear in court."

"Defendants on public bail commit twice as many crimes as those on private bail."

- A 1986 Department of Justice study found that PTR defendants committed twice as many crimes while awaiting trial as did defendants released on private bail.
- This poor performance persists despite the fact that PTR often releases the most attractive or eligible prisoners while private bail bondsmen deal with the remainder.

Administering public bail is expensive for taxpayers. For example, public bond cost \$356 per defendant in Harris County (Houston), Texas, in 1992. The Harris County PTR agency had one staff employee for every 16 defendants it supervised, compared to one staff person for every 87 defendants supervised by a private bail bond company in Houston.⁵² Yet, as noted above, commercial bail agents have a fugitive rate that is less than one-third that of the public agencies.⁵³ The only time the public police are likely to get prisoners on PTR release who jump bail is during a routine traffic stop when they check to see if the driver is wanted for any offense.⁵⁴ Detectives, already burdened with caseloads of 60 to 200 cases, do not have the incentive or wherewithal to track them down. Many urban counties have more than 50,000 fugitives and the national total surely exceeds 1 million — and that does not include parole and probation violators.

Inadequate Standards. Some criminal court judges refuse to deal with pretrial release agency bonds because they release felony defendants on their "honor" with "little or no recourse against them for failure to appear in court," according to Judge Ted Poe, 228th District Court in Houston.⁵⁵ The agencies should be abolished but, as with any government agency, this is a politically difficult feat. Failing that, some state legislators have tried to force PTR agencies to apply more responsible release criteria (the so-called Uniform Bail Act), including no release of those with prior criminal convictions or those who have "jumped" previous free recognizance bonds. These efforts have been prompted by high-profile, vicious crimes committed by felons released on PTR agency recommendations.⁵⁶

Encouraging Irresponsibility. Perhaps the worst thing about public bail is that it removes the pressure on the criminal to depend on his family and begin to rehabilitate himself. All recovery programs recommend support groups to help prevent relapses. Free bail separates the criminal from the support group that matters most — his family. "If you go over to the jail after a bond hearing, you'll see these people getting out on pretrial release and they'll all be high-fiving each other and they'll be saying, 'I can't believe they bought that crap again.' These guys have the system figured out," says Frank Di Rocco, private bail bondsman.⁵⁷

"There are more than one million fugitives nationwide."

NABIC LEGISLATIVE COMMITTEE

MEMO

Telephone: (800) 383-0145 Fax: (903) 597-0332

113 West Rusk, Tyler, Texas 75701

DATE: *February 1, 1995*

FROM: *Jerry Watson*

TO: *Gary Barrett*
STRIKE BACK!

SUBJECT: **10% CASH DEPOSIT BAIL**

We recently passed a Bill in New Jersey that did away with 10% cash deposit bail in most cases. It (10%) was widely used in that state before enactment of N.J.A. 526/212.

Here are some of the arguments we used there against opponents of the Bill.

FOUR MYTHS THAT ARE COMMONLY USED IN SUPPORT OF 10%:

Myth No. 1: The type of Bond System has no Impact on the Appearance Rate of the Defendant.

A worthwhile discussion of this subject needs to begin with the reminder that the purpose of bail is to insure a defendant's appearance at his/her court proceedings. In a recent article, Mr. Charles J. Hollenbeck cites a study which concludes that New Jersey has a "significant number of defendants who have failed to show up for court." He goes on to note a Supreme

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Court committee study that identified the reasons for this failure to appear to be (i) lack of enforcement resources, (ii) inefficient noticing of defendants, and (iii) other systemic problems. Mr. Hollenbeck wrongfully concludes that the use of the private bail bond system will not address these problems.

The failure to appear issue is not unique to New Jersey. Numerous state legislatures and judicial committees faced with this have funded studies similar to those conducted in New Jersey in an effort to identify the causes of defendants' failure to appear. Currently, for reasons I will explain, 45 states prefer to use a form of privately funded bail bonds to combat the problem. Through the use of bail bonds the failure to appear rate is lowered. Thus, both the state judicial system and the state taxpayers benefit.

When a defendant fails to appear in a case where he has posted bail in the form of 10%, unsecured cash, the defendant simply forfeits the 10%. The remaining 90% of the bail amount is most likely uncollectible. When a defendant fails to appear after posting a private bail bond, the friend or family member who co-signed for the bond is also at risk. The stakes are much higher and the defendant is more likely to appear. Common sense confirms that the more economic incentive a defendant has to appear for his court appearances, the more likely he is to appear.

Because the defendants' friends or family members have an economic interest in the defendants' appearance, they provide notice to the defendants of upcoming court dates and are often willing to act as the informal enforcers for the court. These factors go a long way toward solving the problems identified by the New Jersey Supreme Court. The end result is a benefit to the taxpayers because court time, court salaries, and law enforcement efforts are not wasted by the non-appearance of a defendant.

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When a defendant fails to appear in a case where he has posted bail in the form of 10%, unsecured cash, it becomes the state's obligation to track, locate and apprehend him. This places a burden on overworked court personnel and law enforcement, all at taxpayer expense. Should the state be unsuccessful in locating the defendant, the state is left with one tenth of the bail set by the court. Ironically, if the state is successful in locating the defendant, the defendant will probably be re-released on 10% bail and the risk of flight begins anew.

When a defendant fails to appear in a case where he has posted a bail bond, it becomes the bonding company's obligation and financial responsibility to track, locate and apprehend him. If the defendant fails to appear, co-signers are available to assist the bonding company in locating and returning the defendant to the court. Because the bonding company is securing the appearance of absent defendants, law enforcement officials are free to do other work. Furthermore, if an appearance is not made and the bonding company fails to bring the defendant back, the court will receive 100% of the bail from the solvent surety.

There is another, positive ramification achieved by the use of bail bonds which receives little attention in the usual discussions regarding this issue. As mentioned above, a defendant who uses a bail bond typically elicits assistance from his/her family, friends or co-workers. Private bail results in a pro-family approach toward involving the defendant's support network in confronting the problems and consequences of the defendant's actions. Both the defendant and society benefit from this arrangement.

Myth No. 2: Use of a Private Bail Bond System will Result in Jail Overcrowding.

In 1980, California initiated a 10% bail option as a five-year test program to alleviate overcrowding in its jails. Upon the expiration of that period California elected not to continue the

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program because the facts demonstrated that 10% cash bail did not alleviate overcrowding.

Some authorities have postulated that the use of the public 10% cash bail system results in higher incarceration rates. These individuals explain that judges are more likely to set bail higher if the only consequence to the defendant when he/she fails to appear is the loss of the 10% posted with the court. Where there is no obligation to a bonding company for the remaining 90%, and where none of the defendant's friends or family are indemnitors, the risk of non-appearance is greater. Hence, the judges will compensate by setting bails higher.¹

When analyzing the bail systems, we must always remember that the judge determines the amount of bail early in the criminal process. The judge's decision, not the bail system itself, will determine whether the defendant is able to obtain his/her release. If bail is determined by taking into account a defendant's ability to pay, a defendant should have a reasonable chance of obtaining pretrial release regardless of the bail system in use.

As can be seen, the amount of money paid by the defendant to obtain a release under either system is the same 10%. Thus, the use of one system over the other will not have a significant impact on the release rates of defendants. The more significant factor is the amount at which the judge sets the bail in the first instance.

Myth No. 3: The Use of a Private Bail Bond System Adversely Impacts Minorities.

An important aspect of the bail system debate is the claim that a private bail system will adversely affect indigent people. The

¹See Reinventing Bail: A Misguided Public Policy Initiative, William B. Shatz p. 24 (January, 1993)

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problem becomes a social consideration when we recognize that a higher percentage of the indigent are minorities.

As was mentioned previously, the cost to the defendant is determined by the judge at the time the bail is set. In order to remedy any disparate treatment of minorities, the problem needs to be addressed at the inception of the process, that is, at the time bail is set.

Furthermore, a bonding company has more flexibility when dealing with defendants. Bonding agents are often willing to set up payment plans. Competition in the free market can also result in the bond premium being reduced. The court system, unfortunately, does not have the flexibility to meet the needs of the poor.

Finally, when looking at this issue it is also necessary to understand and consider "criminal indigency." There is a segment of the defendant population who experience financial indigency because of a pattern of habitual arrest, conviction and incarceration. Where a defendant (whether minority or majority) does not have the financial resources or support network necessary to make bail because of their repeated criminal behavior, it is not the fault of the system.

Myth No. 4: A Private Bail Bond System Adversely Impacts the Presumption of Innocence.

We all agree that criminal defendants in this country are entitled to a presumption of innocence. This is one of the tenets upon which our system of criminal law is based. At the same time, however, this country has always recognized that bail serves a fundamental purpose in our criminal justice system. The defendant's rights, including the presumption of innocence, are protected by the Bill of Rights which prohibits "excessive bail." The states' interests in insuring the appearance of defendants, and the efficient operation of the court system, are protected by putting in place a bonding system that results in defendants appearing for their scheduled court hearings.

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The institution of bail has been used in this country for over two hundred years, and no one can reasonably argue that the imposition of bail damages the presumption of innocence as it exists today. In fact, 45 states now rely on private bail bonds as a means of protecting their criminal justice system.

The issue is not "how do we protect the presumption of innocence?" Rather, the issue is "how do we best achieve all of the goals of the criminal justice system as effectively and efficiently as possible?" As we have seen, the use of a private bail bond system addresses many of the existing problems. Private bail bonds provide a financially sound and inherently fair system that does not require taxpayer-funded assistance. The costs of monitoring and locating a defendant are borne exclusively by the bonding company.

Conclusion

Probably the most telling example of the success and preference for bail bonds over 10% cash is the experience of California. In addition to finding that a 10% cash bail program did not alleviate jail overcrowding, California concluded that 1) bonds were more successful in assuring reappearance of defendants, and 2) taxpayers carried a significantly higher financial burden with 10% cash as opposed to bonds.

In its 1992-1993 legislative session, the Colorado General Assembly heard and considered House Bill 1297 which proposed 10% cash as an alternative to bail bonds. After thorough debate by proponents of both public and private bail, and legislature concluded that bail bonds were preferred and defeated HB 1297.

In 1994, at the request of the Racial Bias Task Force, the Minnesota Legislature and the Minnesota Supreme Court considered amending their rules to provide for 10% cash bail. After carefully considering the issues involved, and for the reasons set forth in this letter, both the Legislature and the Court refused to modify the existing system.

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I hope these arguments/comments re the unworkability of 10% are helpful.

I have many more thoughts on the subject and we can explore the matter further if you like.



THE TEN PERCENT SOLUTION:

BAIL LIGHT?



PREFACE

In the classic form, 10% cash deposit bail is simple. The defendant posts with the court cash in the amount of 10% of the penal sum of the bail. If all court appearances are made, the defendant is refunded 90% of the deposit with the court keeping the remainder. If the defendant fails to appear, the court keeps all of the deposit.

There are at least five methods of pretrial release: (1) release on own recognizance (ROR) [No Dollar amount set for bail.], (2) cash bail [Defendant posts full amount of bail.], (3) unsecured financial bail [Defendant posts no dollar amount and is released on promise to appear, upon failure of which, he is obligated for full amount.], (4) surety bail [A private party guarantees appearance of defendant in court, otherwise, the agent pays the court the full amount.], and, the subject of this report, (5) cash deposit bail [Defendant pays a small percentage of the bond set.].

The time honored purpose of bail since the time of Edward the Confessor in England, has been to insure the appearance of the defendant in court. Of all the above methods of pretrial release, cash deposit bail is the least effective. The supposed financial windfall to the court (that is, the forfeiture of the cash deposit upon his failure to appear [FTA]) is illusory because it is offset by the cost of each FTA.

The cost is not only fiscal. Cash deposit bail spawns a high number of FTAs who in turn prey on local citizens driving up the community's crime rate.

These two failures associated with the 10% cash deposit bail program -- financial loss and increased crime -- are driven by the high failure to appear rate. These failures will be demonstrated in this report to be the inevitable result of the 10% cash deposit bail system.

REPORT PROPER

Wherever they have been tried, 10% cash deposit bail programs have produced three phenomena:

I. HIGH FAILURE TO APPEAR RATES.

One need only review a few historical examples, from diverse geographical areas, to conclude that far too many people released on deposit bail simply don't come back to court.

- a. In 1973, **Oregon** passed a 10% deposit bail Bill. A later comprehensive study showed that over 40% of those so released failed to appear.
- b. In 1964, **Illinois** became the first state to adopt the 10% cash deposit approach. The Illinois Criminal Justice Information Authority reports that the failure to appear rate is 21% for women and 30% for men.
- c. **California** is probably the most telling example of deciding against 10% cash deposit bail. After the completion of a comprehensive deposit bail pilot project California concluded that (1) deposit bail did not alleviate jail overcrowding, (2) commercial bonds were more successful in assuring reappearance of defendants, and (3) taxpayers carried a significantly higher financial burden with deposit bail.
- d. **New Jersey** had a 10% program for years. In 1995 the legislature dismantled the program because of its horrendous failure.
- e. **Other States Recent Refusals:** a number of other states, just in their most recent sessions (Texas and Minnesota, for two

examples), have turned down 10% cash deposit proposals after finding that such programs create not only crime increases but huge local government costs.

As just one proof of the fact that persons released on deposit bail are less apt to make their court appearances, please see Exhibit A. This data, compiled by the National Pretrial Reporting Program, a program of the Department of Justice's Federal Bureau of Justice Statistics is conclusive -- it was the result of some 15,000 state case defendants closely "tracked" for missed court appearances and re-arrests.

II. ESCALATES CRIME RATE.

Deposit bail programs are proven to be public safety dangers.

There is no question but that persons released pretrial via a 10% cash deposit program commit more crimes than persons released on a commercial, private sector bond. And the recidivism differential is considerable.

In Illinois a state criminal justice research project showed deposit bail release re-arrest rates of 17% for women and 39% for men. For commercial bond releases, however, a nationwide study of enormous scope shows that the re-arrest rate is only 9%.

Notice Exhibit B, taken from the same U.S. Justice Department report mentioned above. This table reveals that persons released on deposit bail are almost twice as apt to be rearrested while released as are persons under commercial surety controls.

Experts in the field all agree: there is a direct correlation between the number of bail fugitives at large in a community and the number of serious crimes committed there.

Deposit bail programs breed bail fugitives at large and thereby increase the number of crimes committed.

When a deposit bail releasee fails to appear, who goes after him? Local law enforcement has too many pressing priorities rather than to allocate resources to chasing FTAs. Some jurisdictions have thousands of fugitives. For example, Prince George's County in Maryland with 30,000, and Philadelphia with around 50,000 outstanding warrants for FTAs.

Even though deposit bail may appear to make the court money, it assuredly makes more crime victims, and puts more citizens in harm's way.

III. ECONOMIC UNSOUNDNESS.

The idea that government is better equipped to release and monitor people accused of crimes rather than the private sector is a total fabrication. Furthermore, government run programs are terribly expensive in terms of personnel costs. No deposit bond program can monitor the day to day activities of a person after release. Deposit bond fulfills only half of the equation -- thus explaining their dismal failure to appear rates.

Can this high failure to appear rate be translated into actual dollars? It can. A very comprehensive study performed by leading experts in the field of assessing the effects of pretrial release misconduct on the local justice system was completed in May, 1997.

This work entitled Runaway Losses, underwritten and published by The American Legislative Exchange Council, shows the actual cost to the local system, per failure to appear, to be \$1,273.81. Please see Exhibit C, a copy of the Executive Summary page from that extensive report.

It's simple: deposit bail will generate, regularly, large numbers of failures to appear. These in turn, become actual and substantial monetary losses to the local government.

CONCLUSION: a 10% deposit bail program will increase the crime rate, be fiscally irresponsible and burden the local criminal justice system. It should not be implemented.

Nearly half of the defendants placed on emergency release (44%) and about a third of the defendants released on unsecured bond (35%) had missed at least 1 court appearance during a previous case. Lower percentages of defendants released on surety bond (16%), conditional release (19%), recognizance (21%), full cash bond (22%), or deposit bond (25%) had previously missed a court appearance.

Misconduct by defendants placed on pretrial release

Failure to appear in court

A primary goal of any pretrial release decision by the court is to ensure the defendant's appearance in court as scheduled. Among those felony defendants who were released prior to case disposition, 3 out of 4 made all scheduled court appearances. A bench

warrant was issued for the arrest of the remaining 25% because they had missed one or more court dates (table 14). Two-thirds of these defendants had been returned to the court by the end of the 1-year study period, while a third of them, 8% of all released defendants, remained fugitives.

The percentage of defendants who failed to appear varied somewhat by the type of arrest charge. Bench warrants for failure to appear were issued more often for released property defendants (29%) and drug defendants (27%) than for defendants charged with public-order offenses (18%) or violent offenses (17%).

Rates of failure to appear varied little by sex or age. By race, failure-to-appear rates ranged from 27% for black defendants to 21% for whites and 15% for defendants of other races. When Hispanic origin was considered, failure-to-appear rates were higher for Hispanics (30%) and non-Hispanic blacks (28%) than for other defendants.

A defendant's court appearance history for previous arrests was related to the probability of failing to appear on the current charges. For those who had missed one or more court dates in the past, about 36% failed to make a scheduled court appearance during the current case, nearly twice the failure-to-appear rate of defendants who had made all court appearances related to prior arrests (22%) or had no prior arrests (20%).

By type of release, defendants on emergency release (49%) were the most likely to have a bench warrant issued because they failed to appear in court, although in 7 out of 10 such cases they were returned to the court. The next highest failure-to-appear rate was for defendants released on unsecured bond (42%). Bench warrants for failure to appear were less likely to be issued for defendants released on surety bond (15%), conditional release (19%), deposit bond (21%), full cash bond (22%), or personal recognizance (26%).

Table 14. Released felony defendants who failed to make a scheduled court appearance, by selected defendant characteristics, 1992

Defendant characteristic	Number of defendants	Percent of released felony defendants in the 75 largest counties:				
		Total	Made all court appearances	Failed to appear in court		
				Total	Returned to court	Remained a fugitive
All released defendants	33,484	100%	75%	25%	17%	8%
Most serious arrest charge						
Violent offenses	8,159	100%	83%	17%	11%	6%
Property offenses	11,449	100	71	29	20	10
Drug offenses	10,958	100	73	27	19	8
Public-order offenses	2,918	100	82	18	13	6
Sex						
Male	27,700	100%	75%	25%	17%	8%
Female	5,696	100	78	22	14	8
Race						
Black	17,701	100%	73%	27%	19%	9%
White	12,525	100	79	21	14	7
Other	395	100	85	15	10	5
Race/Hispanic origin*						
Non-Hispanic						
Black	12,566	100%	72%	28%	19%	8%
White	7,166	100	81	19	13	6
Other	391	100	86	14	9	5
Hispanic, any race	5,885	100	70	30	17	13
Age at arrest						
Under 21	7,528	100%	78%	22%	15%	6%
21-24	6,110	100	77	23	16	7
25-29	6,264	100	73	27	18	9
30-34	5,319	100	73	27	18	9
35 or older	7,482	100	75	25	17	8
Court appearance history						
Failed to appear	5,967	100%	62%	38%	28%	11%
Made all appearances	8,396	100	78	22	18	5
Had no prior arrests	12,586	100	80	20	11	9
Type of release						
Recognizance	12,054	100%	74%	26%	18%	9%
Surety bond	6,764	100	85	15	12	3
Conditional	4,205	100	81	19	14	5
Full cash bond	3,115	100	78	22	14	8
Deposit bond	2,403	100	79	21	15	6
Unsecured bond	2,249	100	58	42	23	19
Emergency	796	100	51	49	36	13

Note: Data on the court appearance record for the current case were available for 99% of cases involving a defendant released prior to case disposition. All defendants who failed to appear in court and were not returned to the court within the 1-year study period are counted as fugitives. Some of these defendants may have been returned to the court at a later date. Detail may not add to total because of rounding.

*Based on defendants with known race and Hispanic origin. See Methodology on page 15 for a discussion of underreporting of Hispanic origin.

When a defendant missed a court date and a bench warrant was issued, the failure to appear occurred within 1 week of release in 12% of the cases, within 1 month of release in 35% of the cases, and within 3 months in 74% of the cases. For all defendants failing to appear in court, the median time between pretrial release and the initial missed court date was 46 days.

Time from release to failure to appear	Percent of defendants
1 week	12%
1 month	35
3 months	74
6 months	94
1 year	100
Median	46 days

Return of fugitive defendants to the court

Overall, about 1 in 13 released felony defendants had failed to appear in court as scheduled and were still fugitives at the end of the year-long study. The percentage of defendants who were fugitives at the end of the study was higher when the method of release was unsecured bond (19%) or emergency release (13%) than when some other type of release was used.

About a third of the defendants for whom a bench warrant was issued were returned to the court within 1 month of their failure to appear, and about half had been returned after 3 months. At the end of the 1-year study period, about two-thirds of all defendants who had failed to appear had been returned to the court.* The remaining third were still fugitives.

Time from failure to appear to return	Percent of defendants
1 week	14%
1 month	34
3 months	51
6 months	59
1 year	68
Median	29 days
Not returned within 1 year	32%

*Some defendants returned to the court voluntarily, and the bench warrant for their arrest was withdrawn.

Among those defendants who failed to appear, the percentage who were still fugitives at the end of the study was highest for those who had been

released on unsecured bond (44%). Less than a third of the defendants for whom a bench warrant had been issued remained fugitives when they

Table 15. Released felony defendants who were rearrested while on pretrial release, by selected defendant characteristics, 1992

Defendant characteristic	Number of defendants	Not rearrested	Percent of released felony defendants in the 75 largest counties: Rearrested		
			Total	Felony	Misdemeanor
All released defendants	30,051	85%	14%	10%	3%
Most serious original arrest charge					
Violent offenses	6,991	88%	12%	8%	3%
Property offenses	10,147	86	14	11	4
Drug offenses	10,146	84	16	13	4
Public-order offenses	2,765	91	9	7	2
Sex					
Male	24,839	85%	15%	11%	3%
Female	5,184	91	9	6	3
Race					
Black	15,830	85%	15%	12%	4%
White	11,329	89	11	8	3
Other	365	85	5	5	0
Race/Hispanic origin*					
Non-Hispanic					
Black	11,292	85%	15%	11%	4%
White	6,313	91	9	7	3
Other	361	94	6	6	0
Hispanic, any race	5,126	84	16	12	4
Age at arrest					
Under 21	7,008	84%	16%	12%	4%
21-34	15,907	86	14	11	3
35 or older	6,730	89	11	9	2
Type of release					
Financial release	11,877	88%	12%	9%	3%
Surety bond	6,811	91	9	6	3
Full cash bond	2,697	84	16	13	4
Deposit bond	2,275	84	16	14	3
Property bond	294	91	9	3	6
Nonfinancial release	16,089	85%	14%	11%	3%
Recognizance	9,785	85	15	11	4
Conditional	4,075	90	10	7	2
Unsecured bond	2,228	84	16	15	1
Emergency release	776	82%	18%	12%	6%
Number of prior convictions					
10 or more	1,154	82%	38%	27%	11%
5-9	2,393	74	26	19	7
2-4	4,691	82	18	14	4
1	4,122	88	14	10	4
None	15,670	91	9	7	2
Most serious prior conviction					
Felony	7,884	76%	24%	19%	5%
Misdemeanor	4,948	86	14	8	6
None	15,642	91	9	7	2

Note: Rearrest data were collected for 1 year. Rearrests occurring after the end of this 1-year study period are not included in the table. Information on rearrests in jurisdictions other than the one granting the pretrial release was not always available. Rearrest data were available for 94% of released defendants. Detail may not add to total because of rounding. *Based on defendants with known race and Hispanic origin. See *Methodology* on page 15 for a discussion of underreporting of Hispanic origin.

AMERICAN LEGISLATIVE EXCHANGE COUNCIL

**REPORT CARD
ON CRIME AND PUNISHMENT**

**Evidence of a
Failed System**

A Study of the Performance of
Pretrial Release Agencies in California

by

Michael K. Block, Ph.D.

Steven J. Twist

Edited by Timothy Beauchemin

April 1995

Evidence of a Failed System

A Study of the Performance of
Pretrial Release Agencies in California

EXECUTIVE SUMMARY

Too many crimes are being committed by repeat criminals who have been through the judicial system at least once before. A symptom of this problem is the failure of released defendants to appear for trial, since they are likely to commit additional crimes while on pretrial release.

When criminal suspects are arrested, few are actually forced to be confined to jail until trial. Most are released pending trial. Pretrial release options fall into one of two broad categories: private secured release and government secured release.

The government secured release programs were initially developed to serve only truly indigent, non-dangerous defendants. Like many government programs, they have since expanded beyond their original intent. Government pretrial release programs have become the most common form of pretrial release in most states, and the only form in some states.

■ This study found that in the counties of San Diego, Los Angeles and San Francisco, private secured release is much more effective than government secured release in ensuring defendants appear for trial.

More than 60% of defendants are released prior to trial by the courts of the nation's 75 most populous cities. In the three counties examined in this study, that number is lower, a little more than 40%. Of those that are released in the three counties, a slim majority (52%) are released under some form of government secured release without the requirement that they post financial security for their promise to appear for trial. The others are released under some form of private secured release, generally surety bail which requires the posting of a bond.

San Francisco County relies more heavily on government secured release than the other two counties, with nearly 70% of released defendants in such programs. In comparison, in San Diego County less than 40% of the released defendants participate in government secured release programs. But, in San Francisco County, 53% of released defendants had their releases revoked due to a violation of the release order, whereas, only 4% of the defendants released in San Diego County had their releases revoked.

■ Defendants released on surety bail (the predominant private secured release program) in the three counties are more likely to be violent and repeat offenders than those released on government secured release without financial security.

■ However, a defendant is more than *twice as likely to fail to appear for trial* if released on government secured release without financial security than if released on a private surety bail program.

■ For those without a prior record of arrest or conviction, defendants on government secured release are *five times more likely to fail to appear for trial*.

■ Defendants released on any non-financial government secured release are *over three times more likely to fail to appear on multiple occasions*.

■ It is estimated that the failure to appear rate in Los Angeles County would fall from 27% to 19% if the proportion of defendants released under a surety bond rose from its current 40% to 86%.

More than 700 crimes per day are committed by defendants released prior to trial.¹ It is probable that most of them are committed by the same people who fail to appear for trial. By shifting away from government secured releases toward privately secured releases the 'failure to appear' rate can be cut dramatically and the streets and neighborhoods can be made safer.

□ □ □



Bureau of Justice Statistics Bulletin

National Pretrial Reporting Program

November 1994, NCJ-148818

Pretrial Release of Felony Defendants, 1992

By
Brian A. Reaves, Ph.D.
and
Jacob Perez, Ph.D.
BJS Statisticians

An estimated 63% of the defendants who had State felony charges filed against them in the Nation's 75 most populous counties during May 1992 were released by the court prior to the disposition of their case. About a third of these released defendants were either rearrested for a new offense, failed to appear in court as scheduled, or committed some other violation that resulted in the revocation of their pretrial release. Of the 25% of released defendants who had a bench warrant issued for their arrest because they did not appear in court as scheduled, about a third, representing 8% of all released defendants, were still fugitives after 1 year.

These findings are drawn from a sample of felony cases filed in State courts during May 1992. The cases were followed for up to 1 year as part of the National Pretrial Reporting Program (NPRP) sponsored by the Bureau of Justice Statistics.

Highlights

- Murder defendants (24%) were the least likely to be released prior to case disposition, followed by defendants whose most serious arrest charge was rape (48%), robbery (50%), or burglary (51%).
- A sixth of the defendants detained until case disposition were held without bail. Defendants held without bail comprised 6% of all felony defendants, with defendants charged with murder (40%) the most likely to be denied bail.
- Among defendants already on pretrial release for a prior case when arrested on the current felony charges, 56% were released again. Thirty-two percent of those arrested while on parole and 44% of those already on probation were released.
- Twenty-seven percent of released defendants had at least one prior felony conviction, including 9% with a prior conviction for a violent felony. Among detained defendants, 57% had a prior conviction, including 21% with at least one prior conviction for a violent felony.
- Among released defendants who had failed to appear in court at least once on a previous charge, 38% had a bench warrant issued because they failed to appear during the current case. This was about twice the failure-to-appear rate of other released defendants (20%).
- About 14% of all released defendants were rearrested while on pretrial release, 10% for a felony. Released defendants with at least one prior conviction (19%) were about twice as likely to be rearrested as those with no prior convictions (9%). Twenty-nine percent of released defendants with five or more prior convictions were rearrested while on pretrial release.
- The overall pretrial release rate of 63% recorded by the 1992 NPRP was similar to that found in 1990 (65%) and 1988 (66%). Failure-to-appear rates have also remained constant at about a fourth of those released. The 1992 rearrest rate of 14% for defendants on pretrial release represented a slight decrease from the 18% rate recorded in 1988 and 1990.

Nearly half of the defendants placed on emergency release (44%) and about a third of the defendants released on unsecured bond (35%) had missed at least 1 court appearance during a previous case. Lower percentages of defendants released on surety bond (16%), conditional release (19%), recognizance (21%), full cash bond (22%), or deposit bond (25%) had previously missed a court appearance.

Misconduct by defendants placed on pretrial release

Failure to appear in court

A primary goal of any pretrial release decision by the court is to ensure the defendant's appearance in court as scheduled. Among those felony defendants who were released prior to case disposition, 3 out of 4 made all scheduled court appearances. A bench

warrant was issued for the arrest of the remaining 25% because they had missed one or more court dates (table 14). Two-thirds of these defendants had been returned to the court by the end of the 1-year study period, while a third of them, 8% of all released defendants, remained fugitives.

The percentage of defendants who failed to appear varied somewhat by the type of arrest charge. Bench warrants for failure to appear were issued more often for released property defendants (29%) and drug defendants (27%) than for defendants charged with public-order offenses (18%) or violent offenses (17%).

Rates of failure to appear varied little by sex or age. By race, failure-to-appear rates ranged from 27% for black defendants to 21% for whites and 15% for defendants of other races. When Hispanic origin was considered, failure-to-appear rates were higher for Hispanics (30%) and non-Hispanic blacks (28%) than for other defendants.

A defendant's court appearance history for previous arrests was related to the probability of failing to appear on the current charges. For those who had missed one or more court dates in the past, about 38% failed to make a scheduled court appearance during the current case, nearly twice the failure-to-appear rate of defendants who had made all court appearances related to prior arrests (22%) or had no prior arrests (20%).

By type of release, defendants on emergency release (49%) were the most likely to have a bench warrant issued because they failed to appear in court, although in 7 out of 10 such cases they were returned to the court. The next highest failure-to-appear rate was for defendants released on unsecured bond (42%). Bench warrants for failure to appear were less likely to be issued for defendants released on surety bond (15%), conditional release (19%), deposit bond (21%), full cash bond (22%), or personal recognizance (26%).

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All released defendants	33,484	100%	75%	25%	17%	8%
Most serious arrest charge						
Violent offenses	8,159	100%	83%	17%	11%	6%
Property offenses	11,449	100	71	29	20	10
Drug offenses	10,958	100	73	27	19	8
Public-order offenses	2,918	100	82	18	13	6
Sex						
Male	27,700	100%	75%	25%	17%	8%
Female	5,696	100	78	22	14	8
Race						
Black	17,701	100%	73%	27%	19%	9%
White	12,525	100	79	21	14	7
Other	395	100	85	15	10	5
Race/Hispanic origin*						
Non-Hispanic						
Black	12,566	100%	72%	28%	19%	8%
White	7,166	100	81	19	13	6
Other	391	100	86	14	9	5
Hispanic, any race	5,885	100	70	30	17	13
Age at arrest						
Under 21	7,828	100%	78%	22%	15%	6%
21-24	5,110	100	77	23	16	7
25-29	6,264	100	73	27	18	9
30-34	5,319	100	73	27	18	9
35 or older	7,482	100	75	25	17	8
Court appearance history						
Failed to appear	5,967	100%	52%	38%	28%	11%
Made all appearances	8,396	100	78	22	18	5
Had no prior arrests	12,586	100	80	20	11	9
Type of release						
Recognizance	12,054	100%	74%	26%	18%	9%
Surety bond	6,764	100	85	15	12	3
Conditional	4,205	100	81	19	14	5
Full cash bond	3,115	100	78	22	14	8
Deposit bond	2,403	100	79	21	15	6
Unsecured bond	2,249	100	58	42	23	19
Emergency	796	100	51	49	36	13

Note: Data on the court appearance record for the current case were available for 99% of cases involving a defendant released prior to case disposition. All defendants who failed to appear in court and were not returned to the court within the 1-year study period are counted as fugitives. Some of these defendants may have been returned to the court at a later date. Detail may not add to total because of rounding.
*Based on defendants with known race and Hispanic origin. See Methodology on page 15 for a discussion of underreporting of Hispanic origin.

When a defendant missed a court date and a bench warrant was issued, the failure to appear occurred within 1 week of release in 12% of the cases, within 1 month of release in 35% of the cases, and within 3 months in 74% of the cases. For all defendants failing to appear in court, the median time between pretrial release and the initial missed court date was 46 days.

Time from release to failure to appear	Percent of defendants
1 week	12%
1 month	35
3 months	74
6 months	94
1 year	100
Median	46 days

Return of fugitive defendants to the court

Overall, about 1 in 13 released felony defendants had failed to appear in court as scheduled and were still fugitives at the end of the year-long study. The percentage of defendants who were fugitives at the end of the study was higher when the method of release was unsecured bond (19%) or emergency release (13%) than when some other type of release was used.

About a third of the defendants for whom a bench warrant was issued were returned to the court within 1 month of their failure to appear, and about half had been returned after 3 months. At the end of the 1-year study period, about two-thirds of all defendants who had failed to appear had been returned to the court.* The remaining third were still fugitives.

Time from failure to appear to return	Percent of defendants
1 week	14%
1 month	34
3 months	51
6 months	59
1 year	68
Median	29 days
Returned within 1 year	32%

*Of defendants returned to the court early, and the bench warrant for their arrest was withdrawn.

Among those defendants who failed to appear, the percentage who were still fugitives at the end of the study was highest for those who had been

released on unsecured bond (44%). Less than a third of the defendants for whom a bench warrant had been issued remained fugitives when they

Table 15. Released felony defendants who were rearrested while on pretrial release, by selected defendant characteristics, 1992

Defendant characteristic	Number of defendants	Not rearrested	Percent of released felony defendants in the 75 largest counties: Rearrested		
			Total	Felony	Misdemeanor
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Most serious original arrest charge					
Violent offenses	5,991	88%	12%	8%	3%
Property offenses	10,147	86	14	11	4
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Male	24,839	85%	15%	11%	3%
Female	5,184	91	9	6	3
Race					
Black	15,830	85%	15%	12%	4%
White	11,329	89	11	8	3
Other	365	95	5	5	0
Race/Hispanic origin*					
Non-Hispanic					
Black	11,292	85%	15%	11%	4%
White	6,313	91	9	7	3
Other	361	94	6	5	0
Hispanic, any race	5,126	84	16	12	4
Age at arrest					
Under 21	7,008	84%	16%	12%	4%
21-34	15,907	86	14	11	3
35 or older	6,730	89	11	9	2
Type of release					
Financial release	11,877	88%	12%	9%	3%
Surety bond	6,511	91	9	5	3
Full cash bond	2,697	84	16	13	4
Deposit bond	2,275	84	16	14	3
Property bond	294	91	9	3	6
Nonfinancial release	16,089	86%	14%	11%	3%
Recognizance	9,785	85	15	11	4
Conditional	4,075	90	10	7	2
Unsecured bond	2,228	84	16	15	1
Emergency release	776	82%	18%	12%	6%
Number of prior convictions					
10 or more	1,154	62%	38%	27%	11%
5-9	2,393	74	26	19	7
2-4	4,691	82	18	14	4
1	4,122	86	14	10	4
None	15,570	91	9	7	2
Most serious prior conviction					
Felony	7,684	76%	24%	19%	5%
Misdemeanor	4,948	86	14	8	6
None	15,642	91	9	7	2

Note: Rearrest data were collected for 1 year. Rearrests occurring after the end of this 1-year study period are not included in the table. Information on rearrests in jurisdictions other than the one granting the pretrial release was not always available. Rearrest data were available for 94% of released defendants. Detail may not add to total because of rounding. *Based on defendants with known race and Hispanic origin. See Methodology on page 15 for a discussion of underreporting of Hispanic origin.

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