

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by
Justice Education Center, Inc.

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

ALTERNATIVES TO INCARCERATION

Phase I: Pretrial Evaluation

Section I

Executive Summary

Prepared by: The Justice Education Center, Inc.

Research staff: Research and Evaluation Services
Child & Family Services, Inc.

August 1993

ACKNOWLEDGMENTS

The Justice Education Center, Inc. applauds the efforts of the Connecticut General Assembly and the Judicial Branch, specifically The Honorable Ellen Peters, Chief Justice, and The Honorable Aaron Ment, Chief Court Administrator, for their continued commitment to the creation and expansion of a graduated system of meaningful punishments within Connecticut's criminal justice system.

The Justice Education Center, Inc. gratefully acknowledges the efforts of the state agencies and their divisions in providing access to the data necessary to conduct the study. The Center wishes to express its deep appreciation to the Judicial Branch's Bail Commission, Chief Bail Commissioner Paul Brown and his staff; the Office of Adult Probation, Director Robert Bosco; and Judicial Information Systems, particularly Frank Goetz, Paul Stanulis, and Stephanie Kwasnicki; the Department of Correction, Commissioner Larry Meachum; and the Office of Public Safety, especially James Zelle. In addition, The Center wishes to thank the Judicial Branch's Office of Alternative Sanctions and its Director, William H. Carbone, and James Greene, for their contributions throughout this study.

Further, The Center wishes to extend its deepest gratitude to Dr. Eleanor Lyon, Research Associate at Child & Family Services, Inc., for directing this study with such diligence under contract with The Center. The substantial assistance of Dianna Aprea, part of Research and Evaluation Services' staff, was invaluable. In addition, thanks are due to the following research aides who worked on the study: Elizabeth Vanvig, Sherena Valico, Dianna Hester, Lauri Steigler, Marc Casarella and Vera Hall.

The Center also wishes to extend its deepest appreciation to Janet Shute, writing consultant, whose contributions to the editing of the reports was invaluable. In addition, our gratitude is extended to Jennifer Cook who diligently worked on the revisions of the texts and provided the final reports.

Without the cooperation of these individuals and agencies this study would not have been possible.

The evaluation of these data and the conclusions drawn in this study benefitted from review by many individuals throughout the criminal justice system. They are, however, the sole responsibility of The Justice Education Center, Inc., and do not represent the views of the State of Connecticut or any of its agencies.

In closing, The Justice Education Center, Inc. sincerely hopes that the information in this report will be a valuable tool for the Judicial Branch in promoting and developing a wider range of viable pretrial options for Connecticut's Judiciary.

TABLE OF CONTENTS

A.	The Study	1
1.	Rationale for Phase I	2
2.	Goals of Phase I	3
3.	Overview of Pretrial Judicial Release Options	4
4.	Study Methodology	5
5.	Description of Conditional Release Options	6
B.	Major Findings	7
C.	Recommendations	12

A. THE STUDY

This study is the first comprehensive, statewide evaluation of Connecticut's alternatives to incarceration¹, providing information to the Judicial Branch about the outcomes of pretrial and sentenced clients. The study is being done in two phases:

Phase I: This report provides an evaluation of pretrial alternatives to incarceration, comparing defendants in the community on conditional release with a comparison group of defendants without conditions as part of their release status.

The second phase will provide an evaluation of the programs for offenders who are sentenced to alternative to incarceration programs, compared to those sentenced to incarceration and intensive probation. Initial results for this phase will be prepared by June 30, 1994.

¹It is also the first statewide study of its kind in the country. A copy of the full narrative of the study can be obtained through The Justice Education Center, Inc., 151 New Park Avenue, Hartford, Connecticut 06106 (203) 231-8180, Sherry Haller, Executive Director.

RATIONALE FOR PHASE I
Evaluation of Pretrial Alternatives to Incarceration

An array of pretrial options has been in the process of expansion and development within the Judicial Branch for several years, under the guidance and supervision of the Office of Alternative Sanctions, the Office of the Chief Bail Commissioner, and the Family Division. A 1992 Court Disposition Study² yielded findings about the pretrial population that were of particular interest to the Judicial Branch.

Findings of particular interest from the 1992 study that warranted further investigation included:

- Decisions made about the status of a defendant pretrial had an important relationship to subsequent case disposition. For example, defendants incarcerated pretrial were more likely to be sentenced to incarceration upon conviction. Furthermore, the number of days incarcerated pretrial was one of the predictors of a sentence to prison.
- Defendants who had been released with conditions prior to case disposition had a greater likelihood of appearing in court, and had fewer arrests than those released on written promise to appear or forms of bond.
- Defendant race/ethnicity was one of many statistically significant predictors of whether bond was ordered and whether or not defendants were incarcerated pretrial. This finding might also have been explained by other factors not available to that study: e.g., economic, educational and language differences, employment, family support or defendant demeanor in court.

Because of the importance of the relationship described above between pretrial status and case disposition, pretrial judicial release options needed to be studied closely: that is, which options were appropriate for which populations.

²**Court Disposition Study: Criminal Offenders in Connecticut's Courts in 1991.** Data collected on a random sample of 3131 offenders with cases that resulted in convictions during 1991 enabled the Office of Alternative Sanctions to: project population flow and sentencing patterns to facilitate OAS' planning and development of community-based sanction programs; identify criteria for targeting appropriate offenders for intermediate sanctions; and develop a data base for longitudinal studies of outcomes and program effectiveness in future years.

GOALS OF PHASE I
Evaluation of Pretrial Alternatives to Incarceration

This evaluation of pretrial alternatives was conducted to achieve the following goals:

- To learn which categories of defendants are arrested for new offenses or commit program violations, and what those offenses or violations are.
- To learn which categories of defendants fail to appear in court.
- To investigate differences in rates of new arrest, in failures to appear, and in dispositions among defendants conditionally released, defendants released on unconditional promise to appear, and defendants ordered to pay bond (without any conditions attached to their release).
- To determine if there are differences in disposition among categories of defendants given different types of supervision.
- To describe the demographic and criminal justice characteristics of defendants who were given pretrial conditional release, and to compare these characteristics among defendants granted different types of supervision.
- To provide a basis for estimating the incarceration bed-days saved by the correctional system by the use of conditional supervision in the community.
- To provide a basis for estimating the cost savings of conditional supervision in the community.

OVERVIEW OF PRETRIAL JUDICIAL RELEASE OPTIONS

Critical to the understanding of this report is an overview of the pretrial release options available to the Judiciary.

At point of arrest: When people are arrested for a crime based on a warrant issued by a court, the warrant may state the terms of his/her release. When a person is arrested for a crime at the scene, the police are the first to make a decision about his/her release. There are two options which secure the release of approximately $\frac{2}{3}$ of arrestees at this point:

1. **"Written promise to appear" (WPTA).** The defendant will be released based on an assurance that s/he will appear in court.
2. **Bond.** The defendant will be required to deposit (or have a professional bondsperson guarantee) a specific amount of money to assure the defendant's appearance in court.

At Bail Commission interview: If the defendant is required to post money, and is unable to do so and as a result remains incarcerated, s/he is interviewed by a Bail Commissioner, who applies the weighted criteria for release, which include factors such as: the nature and circumstance of offense; prior record and appearance history; and social and medical assessment. Bail Commissioners interview about $\frac{1}{3}$ of all arrestees. The options at this stage include:

1. **"Written promise to appear" (WPTA).**
2. **Non-surety bond.** A written promise by the defendant to pay to the court a specified amount of money if s/he fails to appear.
3. **Surety bond.** Money posted by the defendant or a written guarantee by a bondsperson that if the defendant does not appear when required, the amount of bond will be paid to the court.

At initial court appearance: When the defendant appears in court, the court can keep or change the WPTA/bond order in effect. The additional options available to the court include:

1. **10% bond.** The defendant is ordered to execute a written bond in a specified amount guaranteeing his/her appearance in court and posting 10% in cash of that amount with the court.
2. **Orders to comply with special conditions.** Conditions may be added to either a WPTA or bond order, and may involve particular behavioral monitoring (such as drug testing or avoiding specified people) and/or supervision.
3. **Real estate bond.** Some third parties (typically relatives of the defendant) execute a written bond in a specified amount guaranteeing his/her appearance in court and secure that bond by posting real estate as collateral.

STUDY METHODOLOGY

To conduct this study of pretrial alternatives, two separate offender-based samples were drawn for comparative purposes.

Sample 1: Conditional release defendants

Sample: The first sample comprises 785 defendants: 9% of all defendants given conditional release at arraignment between March 1, 1991 and February 29, 1992. The sample was drawn randomly by geographical area court.

Judicial release options: The six different types of community supervision conditional release options available to the court for these conditional release defendants are compared:

1. Alternative to Incarceration Center (AIC) programs
2. Bail contract programs
3. Bail supervision
4. "Condition only"
5. Family Relations Supervision
6. "Other"

These options are described on the following page.

Sample 2: Comparison group

Sample: The comparison group is a sample drawn from defendants who were arraigned during the same twelve month period, but who did not have any conditions as part of their release status. This second sample comprises 645 defendants, and was generated randomly by computer from a tape provided by Judicial Information Systems (JIS).

Judicial release options: The defendants in this sample were released on one of the judicial release options available for this group, which are compared to the conditional release options:

1. Written Promise to Appear (WPTA)
2. Non-Surety Bond
3. Surety bond, 10% bond, and real estate bond

DESCRIPTION OF CONDITIONAL RELEASE OPTIONS

For the defendants released with conditions, six different types of community conditional release options³ are available to the court:

1. **Alternative to Incarceration Center (AIC)** programs are operated by private non-profit agencies in 17 sites across the state. They are designed as community-based alternatives to jail for pretrial and sentenced clients, and accept clients for periods up to six months. The AICs have developed more of their monitoring and programming for this population than any other.
2. **Bail contract** programs are also operated by private non-profit agencies, and are located primarily in the larger urban areas of the state. Nine Bail contract programs exist. They provide monitoring and social services to defendants upon referral from a Bail Commissioner.
3. **Bail supervision** is provided directly by the Bail Commissioners located in each court. This monitoring may require defendants to report to the Commissioner by phone or in person at designated intervals; Commissioners may also refer defendants to community programs.
4. **"Condition only"** defendants are also under the authority of the local Bail Commissioners. However, they have not been ordered by the court to report directly to the Commissioners, and so are not formally supervised. Instead, they have been directed to maintain particular behavior ordered by the court.
5. **Family Relations Supervision** is provided by staff of the Family Division in each court in cases which involve criminal behavior in a family context, primarily family violence.
6. **"Other"**, in this sample, includes a small number of defendants referred to a federally funded drug treatment program, or defendants released on a condition not specifically identified in available records.

³ Community release options comprise a range of programming initiatives, many of which are funded in part through state appropriations and/or the federal Drug Control and System Improvement Grant Program.

B. MAJOR FINDINGS

Introduction

Pretrial community release raises two primary public concerns:

1. Whether the defendant released into the community, on any of the conditions which the court can impose, will commit offenses while awaiting case disposition.
2. Whether the defendant released into the community, on any of the conditions which the court can impose, will fail to appear in court for scheduled proceedings.

According to statute, the defendant's potential failure to appear is the sole consideration available to the court in making release decisions in nearly all cases. In addition, the court is particularly interested in determining how those defendants released to the six different types of conditional community release programs compare with those released on WPTA or some form of bond.

Data from this study yield findings about program effectiveness that are of significant importance in response to these concerns -- findings that will assist court and program planning efforts for this population, and that address public safety concerns.

MAJOR FINDINGS

1. The most important finding revealed in this study is that defendants released with conditions pose far less risk to the community of new arrests and failures to appear in court than defendants ordered to post bond without conditions. The data indicate that current pretrial release decisions are effectively matching defendants with the appropriate level of supervision in the community. Defendants who pose the least risk (based on seriousness of charges, histories of felony convictions and prior FTAs) in most cases are being released under the least restrictive conditions and those defendants who pose higher risk are receiving more intensive levels of supervision.
 - **Conditional release group:** 82% of the total conditional release group, under all six types of supervision, were charged with neither failure to appear in court nor a new crime during the pretrial period, and just 4% were arrested for both offenses: 90% had no new arrests; 88% appeared for all court hearings.
 - **Bond group:** 74% of the defendants who posted bond were not charged with additional pretrial illegal behavior; 6% had both FTAs and new arrests. An additional 17% of the total bond group were never released, most because of detainers.
2. Regardless of the form of release, over 80% of the defendants were not charged with illegal behavior pretrial. Most did not have arrests; most did appear in court. However, there were differences in rates of charged illegal behavior among defendants with different types of release.
 - **Written promise to appear (WPTA):** 90% of all WPTA defendants were not charged with additional pretrial illegal behavior, and only 1% had both FTAs and new arrests.
 - **Non-surety bond:** 94% of all non-surety defendants were not charged with additional no pretrial illegal behavior, and 3% had both FTAs and new arrests. (However, due to the small number of non-surety defendants in the sample, the 3% represents only one person.)
3. The study's data yield predictors that can identify, with over 98% accuracy, which pretrial defendants are least likely to be arrested on new charges or fail to appear in court.
4. Defendants at high risk of failure to appear are different from those who are at high risk of new arrests. Different, but identifiable, principles operate for the two types of pretrial misconduct. For example, for conditional release defendants:
 - Drug defendants were more likely to have new arrests, but not failure to appear.
 - Defendants charged with crimes against persons were more likely to have FTAs, but not to have new arrests.
5. There are important demographic and criminal justice differences among the three main types of conditional release supervision.
 - **Alternative Incarceration Centers (AICs):** Defendants in the AIC programs are the youngest and face the most serious charges and the highest rate of drug charges.

- **Bail contract:** Defendants supervised by Bail contract programs had the second highest rate of felony charges and of drug charges of any type of supervision. They are also the second youngest.

- **Bail supervision:** Defendants supervised by Bail Commissioners were older, had longer criminal careers and a history of more convictions.

6. **Types of supervision can be identified that deal most effectively with populations at high risk of new arrest and failure to appear, notably AIC and Bail contract programs. For example:**

- **AIC programs** have particularly high success rates with substance abuse offenders, as measured by high rates of program completion and low rates of failure to appear.

- Defendants supervised by AIC and Bail contract programs are significantly less likely to have multiple charges of failure to appear than those supervised by Bail Commissioners, primarily explained by prior criminal justice differences among the groups.

7. **Chronic and petty misdemeanor offenders are responsible for many of the failures to appear and arrests for new crimes. The number of prior convictions – not the number of felony convictions nor the severity of the present charge – is a predictor of failure to appear and new arrests.**

8. **There was no statistically significant difference in rates of new arrest or failure to appear by race/ethnicity, either for those defendants in the conditional release group or those defendants in the comparison group (WPTA, non-surety bond, bond).**

9. **Defendants released with conditions were less likely to be sentenced to incarceration and more likely to be sentenced to probation than defendants who were released on bond for the entire pretrial period:**

- **Sentenced to incarceration**

- **Conditional release:** 6% of the conditional release defendants who were charged with felony crimes against persons or with felony property crimes were sentenced to incarceration.

- **Released on bond:** 28% of the people who were released on bond for the entire pretrial period who were charged with felony crimes against persons or with felony property crimes were sentenced to incarceration.

- **Did not post bond:** 70% of the defendants who did not post bond and who were incarcerated throughout the pretrial period received prison sentences notwithstanding time served pretrial. It is important to note that over 96% of these defendants were incarcerated with detainees.

- **Sentenced to probation**

- **Conditional release:** 44% of the defendants were sentenced to probation.

- **Released on bond:** 25% of the defendants were sentenced to probation.

10. **Substantial short-term jail bed and cost savings have been accomplished by pretrial Alternative to Incarceration Programs (AIP).** Based on conservative assumptions, it appears that, in general, AIC clients would otherwise have been incarcerated an average of 80 days, and at least two-thirds of Bail contract clients would have been incarcerated an average of 70 days. Drawing from these calculations alone, in FY 92-93⁴ an estimated minimum of 456,250 jail bed days would have been saved by these two groups, or approximately 1,250 jail beds on any given day. This represents a FY 92-93 correctional system savings of \$23.7 million for this part of the pretrial population alone. Follow-up research would be needed to determine if savings for these clients are sustained in the longer-term or represent postponed expenses.

Broader pretrial cost savings:

●Throughout FY 92-93, a daily average of 1,500 slots within the Alternative Incarceration Centers, Federal Drug, and Bail contract programs were occupied by pretrial clients. The average cost of managing one of their slots for a full year is approximately \$5,000, or \$7.5 million for the 1,500 slots.

Had the individuals occupying these slots remained incarcerated, the approximate cost would have been \$23,000⁵ per bed per year, or \$34.5 million for the 1,500 beds.

The net operational savings for the broader pretrial supervision network was an estimated \$27 million for FY 92-93⁶. This savings represents just 60% of the overall gain provided by community-based alternatives to incarceration; the remainder comes from programs for sentenced clients.

●Additionally, the average capital cost for constructing a correctional bed is \$150,000. These costs include initial capital outlay and interest payments throughout the life of the loan. Without the specific community-based pretrial programming mentioned above, Connecticut would have had to build two additional 750 bed facilities at a capital cost of \$225 million.

⁴ This figure is based on the Bail Commission's estimate that 2/3 of the 1,971 Bail contract clients served in FY 92-93 would otherwise have been jailbound.

⁵ This figure is based on an estimate by the Office of Policy & Management; it includes operating costs only -- not the cost of construction.

⁶ The estimated savings would be much greater if Bail supervision defendants were added.

C. RECOMMENDATIONS

Introduction

Data from this report provide evidence that pretrial community release supervision programs have myriad benefits:

- Defendants who are released with conditions are less likely to fail to appear in court and to have new arrests than defendants released on bond.
- The large majority of individual defendants released to the community with supervised conditions do not engage in illegal behavior while awaiting case disposition, and do not pose a risk to public safety.
- Defendants released with conditions are sentenced to incarceration at a lower rate than those released on bond for the entire pretrial period.
- Pretrial community release supervision programs reduce prison and jail overcrowding, save the state considerable money, and reserve prison capacity for violent and chronic offenders.

These findings argue strongly for a continuing expansion of the use of community release programs that provide supervision, enhance public safety and ensure defendant appearance in court.

RECOMMENDATIONS

It is clear that the investment Connecticut has made in the expansion of community supervision pretrial release programs is working. **Defendants released under supervision with pretrial conditions pose less risk of new arrests and failures to appear in court than those ordered to post bond.** Even when the comparison is restricted to the most serious of the conditional release defendants—clients of AICs, Bail contract programs, and Bail supervision—the defendants who receive pretrial supervision fare better than those released on bond. This finding has major implications for the development of policy and programming with regard to placing less emphasis on bail bonds alone and more emphasis on conditional release options.

In light of this significant finding, attention must be directed to targeting offenders who would benefit from more intensive program supervision. This will enable the court to utilize a range of interventions with increasing levels of supervision based on the seriousness of risk, and likelihood of appearance in court. The following are detailed recommendations to inform program and policy development emanating from the study's data.

1. **A greater number of defendants at high risk of new arrests and failures to appear should be referred to intensive supervision programs, especially Alternative to Incarceration Centers (AIC) and Bail contract programs.** Defendants who reported to these programs had relatively low rates of both new arrests and failures to appear, in spite of facing relatively serious charges, e.g., sales of narcotics and Burglary 2.
2. **An assessment instrument, based on criteria shown by this study to have predictive value, should be used to identify high-risk defendants who are appropriate for referral to AIC and Bail contract programs and other types of intensive supervision.**
3. **Certain categories of offenders were identified by the data as being at particular risk of new arrests and failures to appear: for example, drug defendants, young men charged with crimes against persons, those with prior felony convictions and history of failure to appear.** Defendants who have these characteristics should be screened particularly carefully for their appropriate level of supervision, for example:

- **Defendants charged with substance abuse should be targeted for supervision by AICs.**

- **Defendants charged with crimes against persons and defendants with histories of failure to appear - especially young men charged with A misdemeanors - should be targeted for more intensive supervision, including AICs, Day Incarceration Centers⁷ and Bail contract programs. Older defendants charged similarly should be targeted for supervision by Bail Commissioners.**

⁷ Day Incarceration Centers (DICs) are more intensive non-residential programs requiring 9 hours per day of direct supervision with either supervised housing or electronic monitoring in the evenings - in effect a 24 hour supervision program. Currently, the DIC's focus is sentenced offenders, however a pilot program is under way with pretrial defendants in Bridgeport.

●Chronic and petty misdemeanants (who are responsible for most of the new arrests and failures to appear) should be targeted for AIC monitoring or specialized programming. Defendants charged with crimes against persons (e.g., Assault 3) had the highest rates of non-appearance, while defendants charged with public order crimes (e.g., breach of peace, criminal trespass) had moderate rates of both new arrests and failures to appear .

4. **Substance abusers would benefit from an expansion of AIC residential capacity, electronic monitoring, and other intensive supervision mechanisms designed to reduce the number of new arrests.** The AIC clients discharged with the highest rates of successful program completion were those charged with substance offenses. The AICs have developed more of their monitoring and programming for this population than any other. These defendants are not significantly more likely than those supervised by Bail Commissioners to be arrested on new charges, and are significantly less likely to fail to appear in court. They are also the least likely of the AIC clients to commit program violations.
5. **Bail contract programs should be expanded to more sites.** Defendants who reported to these programs had relatively low rates of both new arrests and failure to appear; and the Bail contract programs' clients were facing relatively serious charges.
6. **Expanded specialized culturally sensitive programming is important for this population, and could further reduce rates of program and criminal violations.** For example, Latinos had lower rates of violations in bail contract programs with higher proportions of Latino staff, than they did in AICs in general.
7. **Follow-up, longitudinal study of this population is warranted to determine the extent of the jail bed and cost savings provided by community supervision pretrial release programs in the longer term.**