

Federal Probation

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This Issue in Brief

What Punishes? Inmates Rank the Severity of Prison vs. Intermediate Sanctions.—Are there intermediate sanctions that equate, in terms of punitiveness, with prison? Authors Joan Petersilia and Elizabeth Piper Deschenes report on a study designed to examine how inmates in Minnesota rank the severity of various criminal sanctions and which particular sanctions they judge equivalent in punitiveness. The authors also explore how inmates rank the difficulty of commonly imposed probation conditions and which offender background characteristics are associated with perceptions of sanction severity.

Using Day Reporting Centers as an Alternative to Jail.—An intermediate sanction gaining popularity is day reporting in which offenders live at home and report to the day reporting center regularly. Authors David W. Diggs and Stephen L. Pieper provide a brief history of day reporting centers and explain how such centers operate. They describe Orange County, Florida's day reporting center, which is designed to help control jail overcrowding and provide treatment and community reintegration for inmates.

Locating Absconders: Results From a Randomized Field Experiment.—Absconders are a problem for the criminal justice system, especially for probation agencies responsible for supervising offenders in the community. Authors Faye S. Taxman and James M. Byrne discuss how the Maricopa County (Arizona) Adult Probation Department addressed the problem by developing a warrants unit devoted to locating and apprehending absconders. They present the results of a randomized field experiment designed to test the effects of two different strategies for absconder location and apprehension.

Rehabilitating Community Service: Toward Restorative Service Sanctions in a Balanced Justice System.—While community service sanctions used to be regarded as potentially rehabilitative interventions for offenders, now they are often used as a punitive "add-on" requirement or not clearly linked to sentencing objectives. Authors Gordon Bazemore and Dennis Maloney argue that community service could be revitalized by developing principles and guidelines

for quality and performance based on a clear sanctioning policy and intervention mission. They propose restorative justice as a philosophical framework for community service and present the "Balanced Ap-

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The Mirmont Evaluation: Drug Treatment as a Condition of Pretrial Release*

BY THOMAS J. WOLF

Supervising United States Pretrial Services Officer, Eastern District of Pennsylvania

PRETRIAL SERVICES in the Federal courts has two main functions: 1) to investigate the background of the defendant charged with a Federal criminal offense and submit a report to the court with a recommendation for release or detention and 2) to supervise defendants placed on pretrial release¹ and monitor their compliance with any conditions the court may impose (18 U.S.C. § 3154).

In providing the court with a recommendation for release, pretrial services also recommends appropriate release conditions (18 U.S.C. § 3154). The objectives of release conditions are to reasonably assure the defendant's appearance in court and the safety of any other person and the community (18 U.S.C. § 3142). The concept of community safety "refers to danger that the defendant might engage in criminal activity to the detriment of the community" (S. Rep. No. 98225, 98th Cong., 2nd Sess. 3 (1983) ["Senate Report"], reprinted in 1984 U.S. Code Cong.).

This article focuses on drug treatment as a condition of pretrial release. Specifically, it reports on a study of Federal defendants who were court ordered to complete a 28-day residential drug treatment program as a condition of pretrial release in 1990-91 in the Eastern District of Pennsylvania. The study was conducted to determine how effective this condition of pretrial release is in meeting the objectives of the Bail Reform Act of 1984, i.e., in assuring the defendant's appearance in court and the safety of any other person and the community.

The study, conducted by the U.S. Pretrial Services Office for the Eastern District of Pennsylvania, centers on defendants sent to the Mirmont Residential Treatment Program located approximately 20 miles from downtown Philadelphia. The first objective of the research was to determine the number of defendants who violated and the types of violations committed. Generally, a defendant violates pretrial release if he or she:

1. fails to appear at a future court proceeding or to surrender for service of sentence;
2. is arrested for a new criminal offense;
3. tests positive for illegal drug² use through urinalysis;

*This article is based on the author's in-district project report prepared as part of the Federal Judicial Center's Leadership Development Program. For information about the program, contact Michael Siegel at (202)273-4100.

4. fails to complete the 28 days of residential treatment; or

5. fails to comply with other conditions of release imposed by the court such as outpatient drug treatment or a curfew.

The second objective of the study was to gain insight into the characteristics of defendants who violate. The third objective was to obtain information about the referral and supervision process to enable pretrial services to develop new policies to provide more effective supervision of defendants sent to residential drug treatment programs.

Although the Pretrial Services Office for the Eastern District of Pennsylvania has been operational since March 1976, its placement of 68 defendants in a particular residential treatment program in a 2-year period was a new approach. Before 1989 the pretrial services office placed no more than five or six defendants per year in residential treatment programs. In 1988 pretrial services used Mirmont for the first time. The number of defendants the district placed at the facility for each year were as follows: 1988, 1; 1989, 11; 1990, 24; 1991, 44; and 1992, 13. Fiscal constraints in July, August, and September 1992 kept the referrals low in that year.

Why have the number of placements generally increased in recent years? Two factors have contributed to the increase, one of which is the Federal Government's "war on drugs," which has increased the number of defendants charged with drug crimes in the Federal courts. The other contributing factor has been the Bail Reform Act of 1984. That Act allowed judicial officers to consider danger in setting conditions of pretrial release prior to conviction (18 U.S.C. § 3142). Under the Bail Reform Act of 1966 the only criterion for setting conditions of pretrial release was the defendant's potential for failing to appear in court (18 U.S.C. §§ 3141-3151, amended 1984). Danger could not be considered prior to conviction. Under the Bail Reform Act of 1984, treating a defendant's drug problem as a condition of release is intended to curtail drug activity (18 U.S.C. § 3142(c)).

The pretrial services office began using Mirmont because the U.S. probation office already had an existing contract with the program. The pretrial services office was able to "piggyback" the probation contract and use pretrial funds to pay for defendants sent to

Mirmont as a condition of pretrial release. To make a referral all that was necessary was a phone call to the admissions office to determine if a bed was available and to provide some limited information. A response was given immediately, and the pretrial services office has no record of any defendant being refused. A few defendants did require detoxification in a hospital setting before entering Mirmont. Staff from the facility would transport the defendant from the courthouse to the program and upon discharge back to the pretrial services office or other residential facility.

In no case was it necessary for Mirmont staff to interview the defendant prior to acceptance or admittance, which other residential programs require. Such interviews were difficult to arrange because of the short time between arrest and a decision to release or detain. Complicating the time problem was that the defendant was in custody and therefore not easily accessible. Mirmont was used often because making referrals to Mirmont was easy. They became a habit—an expensive habit. In 1990 Mirmont's daily rate was \$220; presently it is \$226. Pretrial services had an officer who acted as liaison with Mirmont, but all officers made referrals; screening and approval by the chief was not required.

Defendants entered Mirmont at one of three stages. First, a defendant arrested for a criminal offense has an initial appearance or a bail hearing before a magistrate judge within 24 hours. At this hearing the court can order the defendant to complete the Mirmont program.

Second, in many cases because of the nature of the offense, usually a drug charge, the Government's attorney motioned for a detention hearing in an attempt to have the defendant held without bail pending trial (18 U.S.C. § 3142(f)). There was a continuance for several days, and the defendant was held in custody pending the detention hearing. The basis for detaining a defendant prior to trial is that the court must determine that there is no condition or combination of conditions to reasonably assure the defendant's appearance and the safety of any other person and the community (18 U.S.C. § 3142). At the detention hearing and usually upon the recommendation of pretrial services, the court determines that release upon the condition the defendant complete the 28-day Mirmont treatment program would reasonably assure the defendant's appearance and the safety of any other person and the community.

The third method of entering Mirmont was through a violation hearing. A defendant was already on pretrial release and, because of a violation of release conditions—usually positive urines—the defendant was returned to court, and instead of detention, the

court ordered the defendant to complete the 28-day Mirmont program.

Method

This writer reviewed the invoices received from Mirmont for the years 1990-91 and early 1992. During the time period reviewed, 68 defendants were sent to the residential program through a court order and the pretrial services office. All defendants have a pretrial services case file. However, using the names from the invoices, only 66 of the files could be located.³ A code sheet was used to record social characteristics, court data, treatment data, and the violations for each of the 66 case files. It is important to note that there was no control group for the study. Defendants who were detained in jail were determined to be more serious risks than those sent to Mirmont. Those who were released on less restrictive conditions were assumed to be a lower risk of failing to appear and posing a danger to the community.

The file information for the 66 defendants was used as a basis for determining how well the Mirmont program and supervision by pretrial services met the objectives of the Bail Reform Act of 1984. The research was to address questions including: How many defendants failed to appear? How many defendants were arrested for a new criminal offense while on pretrial release? How many defendants tested positive for illegal drugs? How many defendants were terminated from Mirmont and how many committed other technical violations? Not only the effectiveness of the Mirmont program was considered but also the effectiveness of pretrial services supervision upon a defendant's discharge from the residential treatment center. What did pretrial services do as far as urinalysis, followup treatment, etc.? Were violations affected by the stage in the judicial process at which a defendant enters Mirmont? Were violations influenced by where the defendant resided after discharge from Mirmont? Did the charged offense affect violations or particular defendant characteristics?

Once the research reveals the number and types of violations, how do we know if conditions imposed have been effective in meeting the objectives of the Bail Reform Act of 1984? The study also considered the overall failure to appear rate and the rearrest rate for criminal defendants on pretrial release nationally and in the Eastern District of Pennsylvania for the years 1990-91.

As a further point of comparison, the study included data on failures to appear, rearrests, and technical violations in the Eastern District of Pennsylvania (for the years 1990-91) on 67 defendants who were placed on pretrial release under the condition of home confinement⁴ with electronic monitoring. There are simi-

larities and differences in the home confinement population and the Mirmont population; nonetheless, comparing the violations of these two groups may add valuable insight.

Findings

Population Social Characteristics

Two-thirds of the population were male. One-third was under 25 years of age and 55 percent were between 26 and 39. Less than 11 percent were married. Twenty-one percent were cohabiting and slightly more than 68 percent were single, including separated and divorced. Almost 70 percent had at least one child. Fifty-seven defendants or 86 percent were unemployed at the time of their arrest. Of the 57 who were unemployed, almost 55 percent had not worked in the past 2 years.

Fifty-two defendants or 79 percent reported their drug problem was cocaine and 12 or 18 percent indicated heroin. Many reported using other drugs. While the length of time drugs were abused is not reported, it is noteworthy that what defendants reported to pretrial services was different from what Mirmont discharge summaries indicated. Most defendants told pretrial services that they used drugs for 2 or 3 years and some for as many as 6 or 7. Two or three reported using illegal drugs for 10 or more years. However, the Mirmont counselor in every discharge summary reported the defendants' drug use began in their teenage years and indicated that almost everyone abused alcohol. This writer is sure many defendants under-reported their drug use to pretrial services but also surmises that what was contained in the Mirmont reports may be an exaggeration.

Twenty-eight defendants reported having prior treatment and 20 reported having prior residential treatment. Five defendants previously had been at two or more residential treatment programs. The families of 20 defendants participated in treatment while the defendants were in Mirmont.

Fifty-two defendants or 79 percent had prior arrests. Fifty-two percent had between one and three prior arrests and 48 percent had four or more prior arrests. Seventeen defendants or almost 26 percent of the Mirmont group had at least one prior failure to appear in court. Thirty-five defendants or 53 percent of the population had prior convictions.

Thirty-four or almost 52 percent of the population were charged with drug offenses and slightly less than 20 percent with some form of theft. More than 73 percent of the drug offenses involved cocaine. Sixty-two defendants or 94 percent were convicted and three were dismissed. A little more than 56 percent of those convicted were sentenced to imprisonment. The prison sen-

tences ranged from a low of 3 months to a high of 135 months. The average was 41 months and the median was 38 months.

Violations

A total of 38 defendants violated conditions of pretrial release, as follows: 11 failed to appear in court; 5 were arrested for new criminal offenses; 23 tested positive for illegal drugs; 5 were terminated from Mirmont; and 4 had technical violations. While 38 defendants violated, the total number of violations was 48 because several defendants had more than one type of violation (table 1).

TABLE 1. VIOLATIONS

Type	Number	Percent of Total Population
Failures to Appear	11	16.7%
Rearrests	5	7.6%
Positive Urines	23	34.8%
Terminated From Mirmont	5	7.6%
Technical Violations	4	6.1%
Total Violations	48	

Four of the failures to appear tested positive for illegal drugs; one was terminated from Mirmont and one was rearrested. Three of the defendants who were charged with new criminal offenses also tested positive for illegal drugs. One of the defendants who was terminated from Mirmont later had a technical violation which resulted in his detention. Many of those who failed to appear or were rearrested also had technical violations. These are not included in the total of 48 and are not in the analysis. Obviously, the 11 who failed to appear in court and became absconders also stopped reporting to pretrial services and failed to abide by other conditions. Of the four technical violators in the analysis, three had technical violations only and the other technical violator had previously been terminated from Mirmont.

Violators' Social Characteristics

Looking at violators in terms of sex (table 2), 64 percent of the females violated compared to 55 percent of the males. Almost 64 percent of the under 25 age group violated compared to 50 percent of the over 40 group and 56 percent of the 26 to 39 age group. Almost 29 percent of the married group violated compared to 60 percent of those who were single and 64 percent of those who were cohabiting. Those with children violated at a rate of 67 percent and those without children at almost half that rate, 35 percent. The defendants who were unemployed had a violation rate of almost one-third more than those who were employed. Almost 61 percent of those who had not worked during the past

24 months violated, compared to 55 percent who had been employed at some time in the 2 years prior to their arrest.

The cocaine users violated at a rate almost exactly the same as the heroin users. Those with no prior treatment had a 7 percent higher violation rate than those who underwent prior treatment. Defendants with no prior arrests violated at a rate almost 9 percent higher than those with prior arrests (table 3). Those with prior failures to appear in court had a violation rate of almost 65 percent compared to 55 percent for those with no prior failures to appear. Defendants with no prior convictions violated at a rate 8 percent higher than those with prior convictions.

Half of all violators were charged with drug offenses and almost 56 percent of those charged with drug offenses had violated. Those charged with "other" offenses (firearms violations, bribery, robbery, assault, etc.) had a much higher rate of violating. This is more apparent when viewing violators within each category. Seven of eight defendants charged with "other" offenses had violated.

TABLE 2. SOCIAL CHARACTERISTICS

Total Population	Violators	Nonviolators
Sex		
Male	44	24 (54.5%)
Female	22	14 (63.6%)
Age		
25 & Under	22	14 (63.6%)
26 - 39	36	20 (55.6%)
40 & Above	8	4 (50.0%)
Marital Status		
Married	7	2 (28.6%)
Single	45	27 (60.0%)
Cohabiting	14	9 (64.3%)
Children		
Yes	46	31 (67.4%)
No	20	7 (35.0%)
Employed		
Yes	9	4 (44.4%)
No	57	34 (59.6%)
Employed Within 24 Months		
Yes	33	18 (54.5%)
No	33	20 (60.6%)

Failures to Appear and Positive Specimens

Table 4 compares the social characteristics of the total population and those who failed to appear and those who tested positive for illegal drugs. Because of the small number of the other three types of violations, they will not be analyzed separately. While women were one-third of the population, they had almost

two-thirds of the failures to appear and only 22 percent of the positive urines. Defendants 25 years of age and under comprised one-third of the population but more than 45 percent of the failures to appear. They had a slightly lower percentage of positive urines.

The single population was 68 percent; however, almost 82 percent of those who failed to appear were single. Almost 70 percent of the population had children, but 82 percent of those who failed to appear and 76 percent of those who tested positive had children. Almost 14 percent of the population were employed, but none of those who failed to appear and slightly more than 17 percent of those who tested positive were employed. The failures to appear had a 9 percent lower rate of being employed within the last 2 years and a 2

TABLE 3. PRIOR CRIMINAL RECORD

Total Population	Violators	Nonviolators
Prior Arrests		
Yes	52	29 (55.8%)
No	14	9 (64.3%)
Prior Failures to Appear		
Yes	17	11 (64.7%)
No	49	27 (55.1%)
Prior Convictions		
Yes	35	19 (54.3%)
No	31	19 (61.3%)

TABLE 4. FAILURES TO APPEAR AND POSITIVE URINES
— SOCIAL CHARACTERISTICS

Population	FTA	Positives
Sex		
Male	44 (66.7%)	4 (36.4%)
Female	22 (33.3%)	7 (63.6%)
Age		
25 & Under	22 (33.3%)	5 (45.5%)
26 - 39	36 (55.5%)	4 (36.4%)
40 & Over	8 (12.1%)	2 (18.2%)
Marital Status		
Married	7 (10.6%)	1 (9.1%)
Single	45 (68.2%)	9 (81.8%)
Cohabiting	14 (21.2%)	1 (9.1%)
Children		
Yes	46 (69.7%)	9 (81.8%)
No	20 (30.3%)	2 (18.2%)
Employed		
Yes	9 (13.6%)	0 (0.00%)
No	57 (86.4%)	11 (100%)
Employed Within 24 Months		
Yes	26 (45.6%)	4 (36.4%)
No	31 (54.4%)	7 (63.6%)

percent less rate of positive urines than the total population.

The percentage of cocaine users who failed to appear and tested positive mirrored the total population. Those whose primary drug was heroin had a lower rate of failing to appear and a slightly higher rate of testing positive than the total population of heroin users. The failures to appear had a 12 percent higher rate of prior treatment and those who tested positive a slightly lower rate than the total population. Amazingly, every defendant who had prior treatment and tested positive participated in a prior residential treatment program. Many of these nine also had prior outpatient treatment, but no one had outpatient treatment only. For these nine defendants, Mirmont was at least the second, and for some the third, residential treatment program. Regarding the defendants whose families participated in treatment at Mirmont, three failed to appear in court and nine tested positive for illegal drugs.

Looking at prior criminal record, the failures to appear had about a 5 percent lower rate of arrests and the positive urines a 4 percent higher rate of arrests than the total population. The difference for prior failures to appear is less than 2 percent more for the failures to appear and almost 5 percent more for the positive urines. Interesting is that both groups of violators had a lower rate of convictions than the total population (table 5).

Seven or almost 64 percent of the defendants who failed to appear were charged with drug offenses. Thirteen or almost 57 percent of those who tested positive were charged with drug offenses. While seven of the eight with miscellaneous offenses violated, none failed to appear and three tested positive.

This writer had assumed that more than 90 percent of the defendants were sent to Mirmont as a result of detention hearings. It was a surprise to learn that an equal number of defendants were sent to the program after a violation hearing as well as a detention hearing,

as shown in figure 1. Eight defendants went to Mirmont after initial appearances before the court.

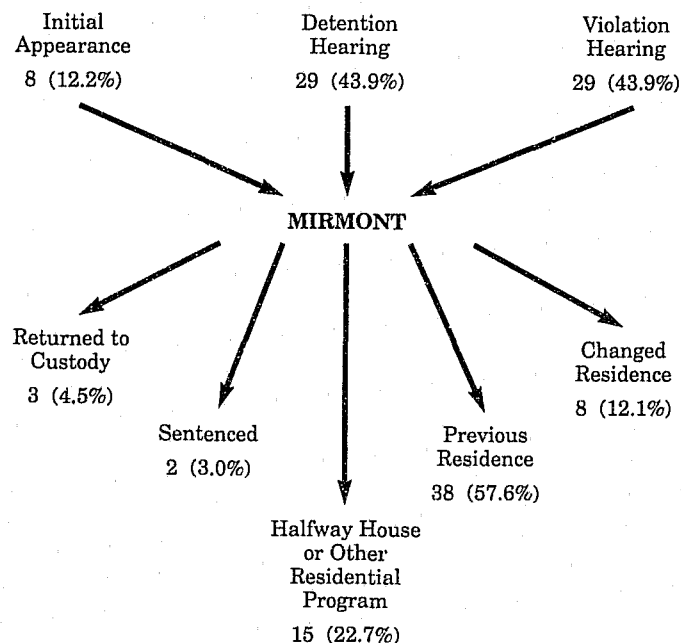


FIGURE 1. METHOD OF ENTRY TO MIRMONT AND DESTINATION UPON DISCHARGE

Figure 1 also shows where the defendants went after Mirmont. When this research was begun, it was assumed that all the defendants would be on pretrial release upon their discharge. This writer did not consider that some judges would release defendants to attend Mirmont and upon defendants' completion of the program would return the defendants to jail to await disposition of the charges. This happened to two individuals. A third was returned to custody before completing the Mirmont program, not because of a violation but as a result of the assistant U.S. attorney's appeal of a magistrate judge's release order to a district court judge. The district court judge revoked the magistrate judge's release order and placed the defendant in custody. This was based on the judge's finding that Mirmont was not sufficient to reasonably assure the defendant's appearance and the safety of the community.

Two defendants appeared before the court the day they were discharged from Mirmont and were sentenced to probation. Therefore, five defendants were not on pretrial release after Mirmont. Fifteen defendants went to a halfway house or other residential treatment facility. Also, 38 defendants returned to the same home in which they were residing prior to entering Mirmont and eight changed their residence to reside with relatives.

Looking at violators in terms of the methods of entry into Mirmont, table 6 shows that almost 58 percent of the violators went to the residential facility by means

TABLE 5. FAILURES TO APPEAR AND POSITIVE URINES — PRIOR CRIMINAL RECORD

Population	FTA	Positives
Prior Arrests		
Yes	52 (78.8%)	19 (82.6%)
No	14 (21.2%)	4 (17.4%)
Prior Failures to Appear		
Yes	17 (25.8%)	7 (30.4%)
No	49 (74.2%)	16 (69.6%)
Prior Convictions		
Yes	35 (53.0%)	12 (52.2%)
No	32 (47.0%)	11 (47.8%)

of a violation hearing. A total of 29 defendants went to the program through this method and 22 or 76 percent violated. They were sent to Mirmont because of a violation of release conditions and again violated upon their discharge from the facility. They are the double failures. Those who went to Mirmont as a result of a violation hearing had a much higher rate of violating than those who were sent to the program by the other two methods.

Looking at violations in terms of where the defendants went after discharge from Mirmont, we know that the three who were returned to custody and the two who were sentenced could not violate because they were no longer on pretrial release. It is important to note that they were on release while at Mirmont and could have violated by being terminated or absconding. The study was concerned with those who upon discharge from Mirmont went to a halfway house or other residential facility, returned to the same residence, or went to a different residence. Table 7 shows the number of violators for each of these categories. While overall the violation rate was slightly more than 57 percent, the violation rate of defendants on pretrial release after Mirmont was a little more than 62 percent.

Less than half of the defendants who went to a halfway house were violators, while more than two-thirds of those who returned to the same residence and slightly less than two-thirds of those who changed their residence violated. Defendants who went to another residential facility had a lower violation rate and therefore were more successful than those in the other two categories.

Days on Pretrial Release

Defendants on pretrial release the shortest time had the lowest percentage of violations and those on re-

TABLE 6. VIOLATORS BY METHOD OF ENTRY INTO MIRMONT

Method	Number	Percent
Initial Appearance	4	10.5%
Detention Hearing	12	31.6%
Violation Hearing	22	57.9%
Total	38	100.0%

TABLE 7. NUMBER OF VIOLATORS AND NONVIOLATORS ACCORDING TO RESIDENCE

	Violators	Nonviolators
Halfway House or Other Residential Program	7 (11.5%)	8 (13.1%)
Same Residence	26 (42.6%)	12 (19.7%)
Different Residence	5 (8.2%)	3 (4.9%)
Total	38 (62.3%)	23 (37.7%)

lease the longest the highest percentage of violations. Certainly, this is to be expected. The longer a defendant is on pretrial release, the more opportunity the defendant has to violate. This is one reason for the passage of the Speedy Trial Act of 1974, which not only shortened the number of days from arrest to trial but also was the beginning of Federal pretrial services in 10 demonstration districts (18 U.S.C. §§ 3152-3156 (amended 1985)). However, the percentage of violators among defendants on release 251 days or more was only slightly higher, almost 71 percent, compared to the percentage of violators on release 31 to 100 days, which was almost 69 percent. The difference was less than 2 percent. Those on pretrial release a longer period of time did not have significantly higher violation rates.

Urine Specimens

The case files revealed that urine specimens were taken on 35 of the 61 defendants on pretrial release upon their discharge from Mirmont. For 26 defendants or almost 43 percent there was no record of urine specimens being submitted. There are two reasons for this. One, urine specimens cannot be taken from a defendant unless specifically ordered by the court. In many cases there was no such order after a defendant's discharge from Mirmont. Second, as mentioned previously, 15 defendants went to a halfway house or other residential treatment facility. These programs did take urine specimens from the residents. However, the files did not reflect whether specimens were taken and, if so, the results. Three of the defendants who went to a second residential facility were discharged and later submitted specimens to pretrial services. Sixty-five percent of the 35 defendants who submitted specimens tested positive at least once for illegal drugs. Would the percentage have been the same if everyone were tested? One can only speculate. Nine of the defendants tested positive only once. Several of these had provided numerous negative specimens and tested positive near the time of sentencing. This may indicate that the stress of going to court for sentencing may trigger a relapse. It is interesting that five defendants had submitted 16 or more specimens but tested positive only once.

One defendant had been on release for 301 days and submitted 30 specimens and another defendant was on release for 411 days and submitted 45 specimens, yet both tested positive only once. It was these two, with perhaps two others, who tested positive only once near the time of sentencing. Another defendant was on release for 400 days and tested positive only once. However, for some reason, this defendant submitted only five specimens.

Comparing Failures to Appear and Rearrests

Comparing the failure to appear rate for the Mirmont population—almost 17 percent—with the rates

for all Federal districts and the Eastern District of Pennsylvania, table 8, the Mirmont group had a rate five times the national rate and at least four times the rate for Eastern Pennsylvania as a whole (Administrative Office of the U.S. Courts, 1993). As table 9 shows, the rate of rearrests for the Mirmont defendants was also higher compared to those of the other two populations, but the difference was not as great for failures to appear (Administrative Office of the U.S. Courts, 1993).

Also, table 10 compares failures to appear and rearrests for the Mirmont group and 67 defendants placed on home confinement in the Eastern District of Pennsylvania for the years 1990-91. The Mirmont group had significantly more failures to appear than the home confinement population. Defendants who went to Mirmont also had more arrests, but the difference was not as great.

There are limitations to these comparisons. The Mirmont group differed significantly from the national population of Federal defendants on pretrial release and even from the population from the Eastern District of Pennsylvania. The national differences were too numerous to discuss here. However, many of the defendants in the other two populations were assessed to be lower risks of failing to appear and posing a danger to the community and were released on less restrictive conditions than the Mirmont population.

TABLE 8. FAILURE TO APPEAR RATES NATIONALLY, EASTERN DISTRICT OF PENNSYLVANIA, AND MIRMONT GROUP

Year	Nationally	Eastern District of PA	Mirmont Group
1990	3.0%	1.7%	16.7%
1991	3.2%	3.8%	

TABLE 9. REARREST RATES NATIONALLY, EASTERN DISTRICT OF PENNSYLVANIA, AND MIRMONT GROUP

Year	Nationally	Eastern District of PA	Mirmont Group
1990	3.1%	2.5%	7.6%
1991	3.0%	1.5%	

TABLE 10. FAILURE TO APPEAR AND REARRESTS FOR MIRMONT AND HOME CONFINEMENT POPULATIONS 1990-1991

	Mirmont	Home Confinement
Failure to Appear	11 (16.7%)	3 (4.5%)
Rearrests	5 (7.6%)	2 (3.0%)

Despite the differences in these populations, the rates of failure to appear and rearrests for all Federal districts and for the Eastern District of Pennsylvania place some perspective on the Mirmont violators.

The home confinement group probably was more similar to the Mirmont population than the other groups. Home confinement is a very restrictive condition of release reserved for higher risk defendants. If the sentence imposed was any measure of risk, the home confinement group may be considered a higher risk. Ninety percent of those convicted in the home confinement population were sentenced to imprisonment compared to 57 percent of the Mirmont defendants. The average length of the sentences was 62 months and the median was 61 months for the home confinement group compared to 41 months and 38 months respectively for those who went to the treatment program.

Eighty-two percent of the home confinement population were charged with drug offenses compared to 52 percent of the Mirmont defendants. The major difference between the Mirmont group, the home confinement defendants, and the other two populations was that all of the defendants who went to Mirmont had a serious problem with illegal drug use. Although what percentage of the other three populations had a problem with drugs is not known, it was certainly less than 100 percent.

Other factors associated with illegal drug use made the Mirmont population different from the other populations. Only 11 percent of the Mirmont group were married and 86 percent of the population were unemployed. Also, 55 percent of the unemployed population had not worked in the past 2 years. These and other factors made the Mirmont population different from the home confinement group. While there were differences between rearrests for the Mirmont and the home confinement groups, the differences were substantially greater regarding failures to appear. Certainly, the conditions associated with Mirmont were less effective in assuring the Mirmont defendants' appearance than was the home confinement condition in assuring those defendants' appearance. Note that two defendants appeared both in the Mirmont population and in the home confinement group. Neither defendant failed to appear or was rearrested.

Conclusions

The study yielded interesting information about the Mirmont population—and not always what might have been expected. Females violated at a higher rate than males overall. Women failed to appear at almost twice the rate of men. While females had a much higher rate of failing to appear, they had a significantly lower rate of testing positive for illegal drugs. The

youngest age group had the highest rate of violations and the oldest age group the lowest. This was also the case for failures to appear where the youngest group failed to appear at a rate two and a half times that of the oldest group. However, for positive urines the middle age group, 26 to 39, violated at a rate significantly higher than that of the youngest and the oldest. Being married and employed seemed to have some relationship with success on pretrial release. However, having children seemed to have the opposite effect. Defendants with no children violated at a rate almost half that of those with children.

Overall, violations were not affected by the drug the defendant used. The cocaine and heroin users violated at a rate almost exactly the same. This also was true for positive urines. However, only one of the 12 heroin users failed to appear compared to 9 of the 52 cocaine users. Defendants who were involved in prior residential treatment and whose families participated in treatment at Mirmont had a violation rate slightly higher than that of the total population. Those two factors in themselves did not influence success on pretrial release. This was also true for the failures to appear and those who tested positive.

The opposite of what one would expect occurred concerning prior criminal record. Defendants without prior arrests and defendants without prior convictions violated at higher rates than those with prior arrests and convictions. This also was true specifically for those who failed to appear and tested positive. However, defendants with prior failures to appear had a 10 percent higher violation rate than those without prior failures to appear. But a prior failure to appear was not an indicator of failing to appear for the present offense. Eight of the 11 who failed to appear after Mirmont had no prior failures to appear. There did not appear to be a significant relationship between the offense charged and violations except that seven of the eight defendants charged with "other" offenses (varying charges) violated and none of them failed to appear.

There seemed to be a strong relationship between the method by which a defendant was sent to Mirmont and violations. Defendants sent to the facility through a violation hearing were much more likely to violate than those sent to the program by way of the initial appearance or detention hearing. Defendants who previously violated conditions of release were more likely again to violate conditions of release after going to Mirmont. Some relationship may exist between where the defendant resided after Mirmont and violations, but such factor was certainly not as significant as method of entry into Mirmont. Defendants who went to another residential program had a lower violation rate than did the general population, and defendants

who returned to the same residence had a higher violation rate. There seemed to be some relationship between the number of days on pretrial release and violations; however, it was not significant.

How effective was pretrial services in supervising defendants upon discharge from Mirmont? In some areas it could be improved. First, urine specimens were not taken from every defendant because in some cases the court gave no explicit orders for them. Even when urinalysis was performed, pretrial services was sometimes inconsistent in the collection of specimens. Second, some defendants were not referred for outpatient treatment upon their discharge from the residential program. Other defendants were referred for followup treatment to a specific program and their attendance was monitored regularly. However, some were left to their own resources to return to Mirmont or attend Narcotics Anonymous without their attendance being monitored. Third, the files revealed that some officers seemed to forget about the defendant after the defendant was placed at Mirmont, while others maintained contact with the defendant and counselor.

As mentioned earlier, a referral to Mirmont was convenient because of the quick admissions procedure which was necessary in the short time from arrest to release decision. This was true when the referral was for the initial appearance and the detention hearing. However, the study has shown that 29 defendants or almost 44 percent of the population were sent to Mirmont as a result of violation hearings. For these defendants pretrial services had ample time to refer them to other programs which required interviews with defendants. However, the referrals to Mirmont continued despite the extra time. Considering the expense of Mirmont and the percentage of violations, such actions were not cost effective. Would there have been the same percentage of violators had a less expensive program been used? Also mentioned previously was that pretrial services officers made referrals to Mirmont without approval from the chief or any other oversight. There was no screening process within the pretrial services office.

Policy Changes and Recommendations

Based on the preliminary findings of this research, the pretrial services office's supervisor, chief, and drug and alcohol treatment specialist have introduced new policies. First, if urine screening and followup treatment upon discharge from Mirmont are not ordered explicitly by the court, pretrial services now petitions the court to impose such conditions. Therefore, every defendant is court ordered to submit to urine screening and followup treatment upon discharge from Mirmont or any other residential drug treatment

program. Also, pretrial services petitions the court to impose any other conditions it believes are necessary to reasonably assure the defendant's appearance and the safety of the community after the defendant leaves the residential facility.

Second, to ensure consistency in the collection of urine specimens, pretrial services has developed a policy which specifies the number of collections to be taken within the first 3 months of discharge. Four specimens are required the first month, three the second month, and two the third month. If all nine specimens are negative, the officer has discretion in collecting specimens, but the defendant must submit at least one random specimen every 30 days.

Third, the drug and alcohol treatment specialist has thoroughly investigated alternative residential drug treatment programs. As a result of that officer's endeavors, pretrial services is now using a facility in New Jersey which is less expensive than Mirmont and treats defendants for a minimum of 90 days. Also, pretrial services is using two other facilities in the Philadelphia area which are less expensive than Mirmont.

As mentioned earlier, Mirmont was paid from funds allocated from the Administrative Office of the U.S. Courts to pretrial services in the Eastern District of Pennsylvania. The drug and alcohol treatment specialist has been able to find alternative sources of funding for some defendants. The Pennsylvania Bureau of Vocational Rehabilitation, the Pennsylvania Department of Public Assistance, and a defendant's employee health insurance have paid for residential drug treatment without any cost to pretrial services for some defendants.

Because of the high rate of violations for defendants who entered Mirmont as a result of violation hearings, closer supervision of these defendants upon their discharge is well worth considering. The same holds true for younger defendants. Also, consideration should be given to placing the previous violators in a halfway house instead of immediately having them return to their homes.

The drug and alcohol treatment specialist's role in referring defendants to residential treatment programs has been increasing. The drug and alcohol treatment specialist should screen all referrals for residential drug treatment and make referrals to the appropriate program based on the needs of the defendant, the court, and limited financial resources. While officers should continue to recommend residential drug treatment to the court, the determination as to which facility is appropriate should be the decision of the drug specialist in consultation with the supervisor or chief. Also, after a defendant is placed in a residen-

tial drug treatment program, the case should be transferred to the drug specialist. This will ensure consistent application of policies and the efficient use of the specialist who maintains regular contact with the drug treatment programs. The caseload of the drug specialist should be adjusted so that the specialist will be able to handle cases sent for and discharged from residential treatment. A regular schedule should be set for the supervisor to review these cases to ensure consistent application of all policies.

The study has been a valuable tool for assessing what happened to defendants placed in the Mirmont program. The findings and conclusions will allow the pretrial services office to make necessary changes in the referral and supervision process in order to serve the court better in meeting the objectives of the Bail Reform Act of 1984. The Mirmont evaluation has shown the pretrial services office the usefulness of tracking cases sent to residential drug treatment programs, and it will continue to collect data on such cases.

NOTES

¹For purposes of the research reported here, a defendant is on pretrial release if at some point after arrest the court orders the defendant released from the custody of the U.S. marshal. Unless revoked for some reason, a defendant remains on pretrial release until the charges are dismissed or, if convicted, until the execution of the sentence.

²An illegal drug is defined as one which is prohibited by law, such as cocaine, heroin, or LSD, or a prescription drug for which the defendant does not provide a doctor's prescription.

³Two files are missing, probably misfiled. A serious limitation of the two missing cases is that one absconded, failed to appear in court, and is still a fugitive. Data are missing on an important violation, and the case will be excluded from the analysis.

⁴Home confinement refers to any court-imposed condition of supervision requiring a defendant to remain in his or her residence for any portion of the day as a condition of pretrial release. This could be a curfew, 24-hour house arrest, or 24-hour house arrest with an exception for work. The defendant wears an ankle transmitter which sends a radio frequency signal to a home monitoring unit attached to the defendant's phone line. Through the phone line data are transmitted to a monitoring center which reports the presence or absence of the defendant in the home (see Home Confinement Policies and Procedures, Administrative Office of the U.S. Courts, 1991).

REFERENCES

- Administrative Office of the United States Courts, Probation and Pretrial Services Division, Case Closings 1990 and 1991.
- Administrative Office of the United States Courts, Probation and Pretrial Services Division, Home Confinement Policies and Procedures, 1991.
- Administrative Office of the United States Courts, Statistical Tables for the Twelve Month Period Ended September 30, 1992.