

# CAN LESS RESTRICTIVE MONITORING BE AS EFFECTIVE AT ENSURING COMPLIANCE WITH PRETRIAL RELEASE CONDITIONS?

## Evidence from Five Jurisdictions

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On any given day, nearly 450,000 people in the United States—still legally innocent—are detained while awaiting the resolution of their criminal charges, many because they could not afford to pay the bail amount set as a condition of their release.<sup>1</sup> In response, jurisdictions across the United States are making changes to their pretrial systems to reduce the number of people who are held in pretrial detention. As part of this effort, many jurisdictions are moving away from money bail as a primary means of encouraging people to return for future court dates. Instead, they are increasingly relying on strategies such as pretrial supervision, which requires released people to meet regularly with supervision staff members, and special conditions, such as electronic monitoring and sobriety monitoring.

In theory, the added layer of oversight that these release conditions provide would encourage people to appear for court dates and avoid new arrests. Yet until the last two years, research on the effectiveness of these conditions was either limited (in the case of pretrial supervision) or had faced methodological limitations and yielded mixed findings (in the case of special conditions).<sup>2</sup> A more rigorous understanding of the effectiveness of these release conditions is critical, particularly given their immense burdens and costs to both jurisdictions and people awaiting the resolution of their criminal charges.

This brief synthesizes findings from three recent impact studies that assessed the effectiveness of varying intensities and modes of pretrial supervision, as well as electronic monitoring and sobriety monitoring, at ensuring court appearances and preventing new arrests.<sup>3</sup> Among the most rigorous evaluations of pretrial monitoring conducted to date, these studies were set across five geographically diverse U.S. jurisdictions.<sup>4</sup> Findings from each of the three studies are presented in the sections below, followed by a discussion of overarching policy and practice implications. In sum, these analyses suggest that more restrictive levels and modes of pretrial supervision and special conditions do *not* improve the rates at which clients appear in court or avoid new arrests, at least among those assessed as having a low to moderate probability of pretrial noncompliance (that is, failing to appear in court or being rearrested during the pretrial period). Jurisdictions should consider reducing their reliance on these release conditions and instead seek less restrictive requirements to support pretrial compliance among this population.

## Findings

### **Study #1: Lower-intensity supervision was as effective as higher-intensity supervision in helping clients to appear in court and avoid new arrests.**

Jurisdictions often attempt to match the intensity and frequency of supervision with a client's assessed likelihood of failing to appear in court or being rearrested, for example by requiring more frequent contacts with pretrial services agencies for clients who are assessed as having a higher likelihood of pretrial noncompliance. For two jurisdictions—one urban and one rural in the western United States—the MDRC Center for Criminal Justice Research conducted a quasi-experimental impact study to assess the comparative effectiveness of differing intensities, or “levels,” of pretrial supervision. The research team employed a regression discontinuity design, comparing the outcomes of people whose risk scores were just below and just above the cutoff for a level of supervision.<sup>5</sup> They did so for four supervision levels: (1) no supervision, (2) low-intensity supervision that involved only check-ins with supervision staff members after court hearings, (3) medium-intensity supervision that also required one in-person meeting a month with a supervision staff member, and (4) high-intensity supervision that required three in-person meetings per month.

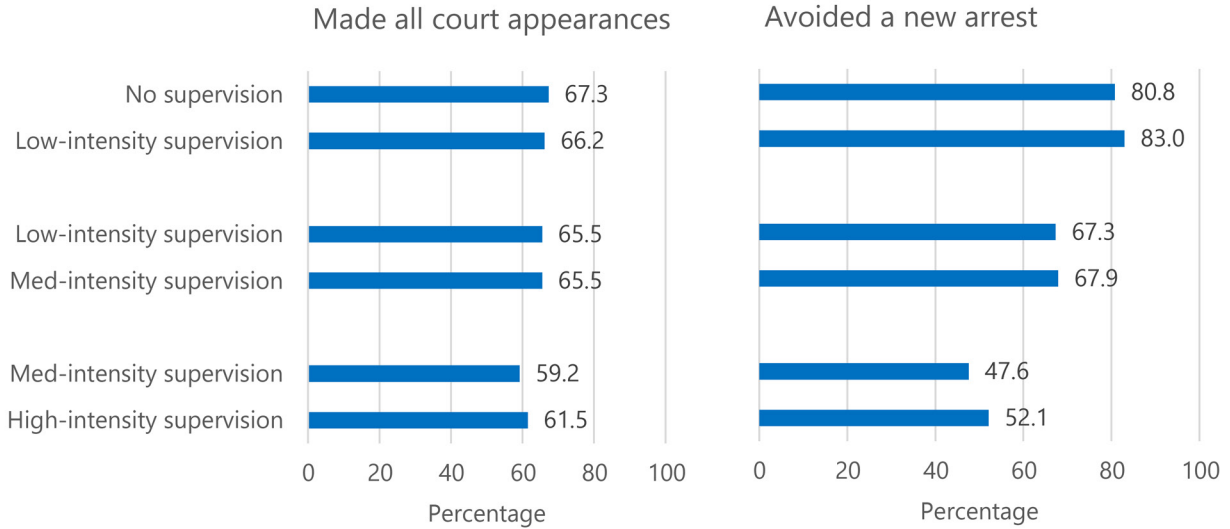
The study found that when comparing each level of supervision with the next level in intensity, assignment to less intensive supervision led to similar outcomes as assignment to more intensive supervision. The rates of these outcomes for each group are shown in Figure 1. In other words, individuals assessed as having a similar likelihood of pretrial noncompliance appeared in court and avoided new arrests at similar rates, despite receiving differing supervision intensities.

### **Study #2: Remote supervision was as effective as hybrid supervision in upholding levels of court appearance and avoidance of new felony charges.**

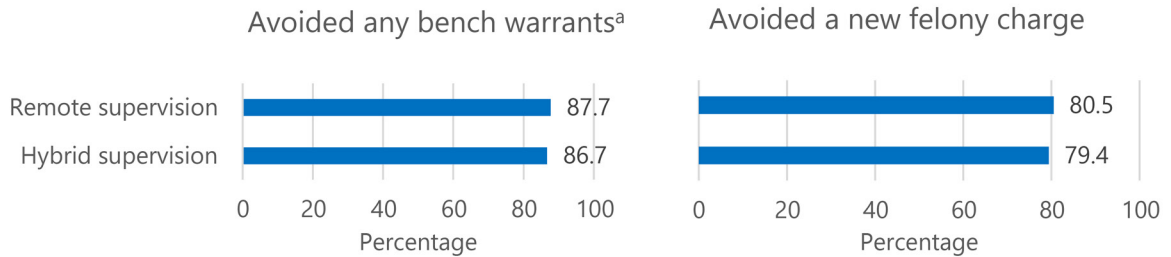
Pretrial supervision may require an individual to attend check-ins with a case manager or pretrial officer remotely (largely through phone calls), in person, or both remotely and in person (known as hybrid

**Figure 1**  
**Effects of Pretrial Monitoring Strategies**

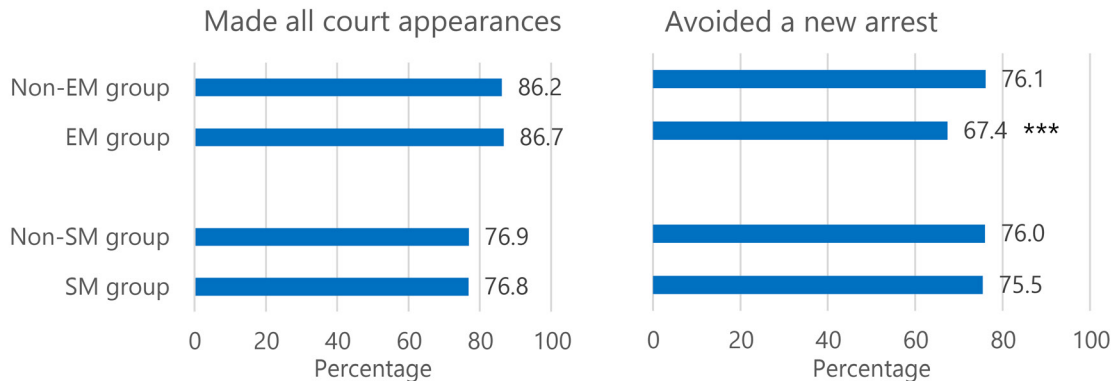
**Study 1**



**Study 2**



**Study 3**



SOURCE: MDRC calculations based on court and pretrial services data provided by the study sites.

NOTES: Statistical significance levels are indicated as: \*\*\* = 0.1 percent; \*\* = 1 percent; \* = 5 percent.

A six-month follow-up period was used in all analyses. EM = electronic monitoring; SM = sobriety monitoring.

<sup>a</sup>Bench warrants are most commonly issued by judges in response to a failure to appear in court, though they can be issued for other forms of pretrial noncompliance. In Study 2, avoidance of bench warrants serves as a proxy measure for making all court appearances.

supervision). To compare the performance of different supervision modes, the MDRC Center for Criminal Justice Research conducted a randomized controlled trial in the Queens borough of New York City. Specifically, to test the causal relationship between supervision mode and pretrial success, individuals were randomly assigned to receive either hybrid supervision or remote supervision. The outcomes of the two groups were then compared.

The study found that court appearance rates and avoidance of new felony charges were similar across the hybrid and remote supervision groups, as shown in Figure 1. This finding indicates that, at least in the New York City context, remote supervision can be used in place of hybrid supervision while achieving the same outcomes. Furthermore, remote supervision was also associated with higher rates of supervision attendance and a lower incidence of reports to the court for noncompliance with supervision conditions. This finding probably reflects the relative ease of attending phone check-ins compared with in-person check-ins, particularly for people who are employed, have caregiving duties, or face transportation challenges.

**Study #3: Overall, being released on electronic monitoring or sobriety monitoring did not make people more likely to appear in court or avoid arrest.**

People released on electronic monitoring must typically wear an electronic device, often in the form of a bracelet fitted to the ankle or wrist, to monitor their movement and location. Being released on sobriety monitoring, on the other hand, requires that an individual be regularly tested for drug or alcohol use, sometimes via a remote sobriety-monitoring device. Many jurisdictions employ special conditions such as electronic monitoring and sobriety monitoring as an alternative to pretrial detention. In this study, the MDRC Center for Criminal Justice Research assessed the comparative effectiveness of these special conditions in ensuring court appearances and preventing new arrests using a propensity score matching design. This method allowed the team to compare court appearance and rearrest outcomes for individuals released with special conditions with those of statistically comparable individuals who were released without special conditions. This analysis was conducted across four diverse jurisdictions: one small and rural, one medium-sized, and two large and urban jurisdictions.

The analysis found that being released on electronic monitoring or sobriety monitoring did not make people more likely to appear in court or avoid arrest overall. Figure 1 shows the rates of these outcomes for the different groups. However, for arrest avoidance, the results were nuanced. For example, the analysis found that the electronic monitoring group had a *higher* pretrial-rearrest rate than the group without electronic monitoring. Additionally, while being released on sobriety monitoring did not improve the percentage of people who avoided a new arrest, there was variation in this effect among jurisdictions. In two of the four jurisdictions studied, people who were assigned to sobriety monitoring were more likely to avoid new arrests, while in the other two, the result was the opposite.

## Policy and Practice Implications

The results from these three studies suggest that more restrictive pretrial monitoring—including higher levels and more intensive modes of pretrial supervision and special conditions—does *not* make people more likely to appear in court or avoid new arrests. It is important to note that these studies were conducted on low- to moderate-risk populations and therefore the findings may not extend to higher-risk individuals. Taken together, however, the findings indicate that jurisdictions should curtail their use of these release conditions for lower-risk individuals and instead seek less restrictive release requirements.

This recommendation is consistent with the least-restrictive-conditions standard, which holds that release conditions for those awaiting trial—who have not been convicted of any crime—should infringe on their freedom as little as possible while reasonably ensuring court appearance and community safety. Additionally, based on existing research that has found that more restrictive community supervision and monitoring often does not improve outcomes and, for lower-risk individuals, can actually worsen them, unnecessary requirements should be carefully avoided wherever possible.<sup>6</sup> Furthermore, less restrictive pretrial monitoring—whether in the form of reduced supervision frequency, remote rather than in-person check-ins, or the removal of special conditions—is less costly and burdensome for both those being monitored and the jurisdictions overseeing them. Thus, making a shift toward less onerous requirements may allow limited resources to be reallocated to higher-risk individuals more likely to benefit from expanded support.

## Notes and References

- 1 Wendy Sawyer and Peter Wagner, "Mass Incarceration: The Whole Pie 2024" (Northampton, MA: Prison Policy Initiative, 2024).
- 2 See Advancing Pretrial Policy and Research, "Pretrial Monitoring" (Washington, DC: Advancing Pretrial Policy and Research, 2020); Advancing Pretrial Policy and Research, "Pretrial Drug Testing" (Washington, DC: Advancing Pretrial Policy and Research, 2021); Advancing Pretrial Policy and Research, "Pretrial Location Monitoring" (Washington, DC: Advancing Pretrial Policy and Research, 2021).
- 3 See Erin Valentine and Sarah Picard, *Assessing the Effectiveness of Varying Intensities of Pretrial Supervision: Full Findings from the Pretrial Justice Collaborative* (New York: MDRC, 2023); Melanie Skemer and Emily Brennan, *Comparing Pretrial Supervision Modes: Findings from a Random Assignment Study of Remote Versus Hybrid Supervision in New York City* (New York: MDRC, 2024); and Chloe Anderson, Erin Valentine, and Daron Holman, *Assessing the Effectiveness of Pretrial Special Conditions: Full Findings from the Pretrial Justice Collaborative* (New York: MDRC, 2023).
- 4 These five jurisdictions, along with three other jurisdictions not featured in this brief, have partnered with MDRC's Center for Criminal Justice Research and Justice System Partners, with support from Arnold Ventures, to form the Pretrial Justice Collaborative. The goal of the Collaborative is to build and disseminate reliable, usable evidence about the most effective strategies for reducing pretrial detention, minimizing conditions of supervision while cases are adjudicated, and reducing racial and economic disparities, while maintaining court appearance rates and public safety. For more information, see: <https://www.mdc.org/project/pretrial-justice-collaborative#overview>.
- 5 In the context of this brief, "risk scores" refer to the scores calculated by pretrial risk-assessment tools in the jurisdictions to assess a person's probability of appearing in court and avoiding a new arrest during the pretrial period. All jurisdictions in the study employed a validated, actuarial risk-assessment tool that uses factors such as criminal history and community ties to estimate these probabilities. (Notably, New York's tool only assesses a person's probability of appearing in court, as the New York State bail statute indicates that a judge can only legally consider risk of flight when determining release conditions.) Such tools and their accompanying, jurisdiction-specific decision matrices (which produce release-condition recommendations based on the results of the tool and local policies) are widely used (including in the jurisdictions studied here) to guide release conditions.
- 6 Jennifer L. Doleac, "Strategies to Productively Reincorporate the Formerly Incarcerated into Communities: A Review of the Literature," (website: <https://ssrn.com/abstract=3198112> or <http://dx.doi.org/10.2139/ssrn.3198112>, 2018); Marie VanNostrand and Gena Keebler, "Pretrial Risk Assessment in the Federal Court," *Federal Probation* 73, 2 (2009); Christopher T. Lowenkamp and Marie VanNostrand, *Exploring the Impact of Supervision on Pretrial Outcomes* (Houston, TX: Laura and John Arnold Foundation, 2013); Pew Charitable Trusts, *Policy Reforms Can Strengthen Community Supervision* (Philadelphia: Pew Charitable Trusts, 2020).

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