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# Methodological Issues in Court Research: Pretrial Release Decisions for Federal Defendants

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*Combining elements of “response as outcome” studies and “response as process” studies overcomes deficiencies resulting from methodological bifurcation, improves our understanding of court outcomes, and leads to theoretical transformation. Using observational and in-depth interview data to inform hypotheses and to create contextual variables, we develop and test models of the pretrial release decision for federal defendants. These models suggest that the emphasis in outcome research on defendants’ ascribed status characteristics has been exaggerated. It is asserted that too little attention has been devoted to processual factors, including labeling, and to jurisdictional and organizational factors determining court outcomes.*

Methodological Issues in  
Court Research  
Pretrial Release Decisions  
for Federal Defendants

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**S**ociological interests in power, social control, and social problems merge in the study of societal responses to deviants. Two distinctive methodological traditions by which to study these responses—“response as outcome” and “response as process”—have developed. The study of societal responses to deviants benefits from simultaneous consideration of process *and*

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**AUTHORS’ NOTE:** *The authors contributed equally to and are solely responsible for this research. Readers may correspond directly with Robin Stryker, 1033*

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outcome, and from insights resulting from data analysis responsive to both traditions.

The study of response as outcome is steeped in a quantitative tradition locating responses to deviants in statistics produced by official agencies. Typically, researchers begin with outcomes—e.g., incarceration/nonincarceration (Bensing and Schroeder, 1960)—and seek to explain variation in these outcomes. The model for such analyses has numerically observable inputs and outputs, and little in between. Researchers attempt to measure the relative influence of each input on the societal output conceived as outcome.

The response as outcome tradition has contributed sophisticated models of how easily measurable attributes of individuals impact on societal responses. Theories of which attributes are most salient are tested against empirical data. To the extent that consensus is reached on means of measurement and analytic procedures, as well as on the generalizability of such undertakings, debates about the power and robustness of any particular model can move toward resolution (see Gove, 1975).

The study of societal response as outcome has been only modestly successful in specifying models strongly supported by empirical findings. This failure stems from the emphasis on isolated decisions, lack of attention to variables not readily available in official records and to organizational characteristics of the social contexts in which the outcomes occur, the use of single contexts as research settings, and a failure to link process and outcome. Quantitative studies of response as outcome often provide disaggregated knowledge, limited to single decisions in single contexts. Theoretical growth from these studies has been similarly disaggregated.

The response as process tradition is largely qualitative. Primary attention is given to labels that accrue to subjects

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of societal responses as they move through labeling institutions. Ethnographic description, frequently opening to public view back regions of processing institutions, is a trademark of "response as process." Its studies describe, for example, counseling practices of "lawyer regulars" in "defending" criminal defendants (Blumberg, 1967), gradually producing pictures of processing institutions and practices governing decision-making policies. This tradition has heightened sensitivity to how the interaction among individuals and institutions shapes responses to deviants. While compensating for what is not apparent from case records, the insights of response as process studies are seldom tested against outcomes recorded in official archives; qualitative inferences are more plausible than proven.

Our research focuses on societal responses to criminal defendants, the study of which has developed within the context of the traditions described. The response as outcome tradition delimits factors determinative of court outcome decisions, e.g., bail (Goldkamp, 1979; Nagel, 1983), plea bargains (Bernstein et al., 1977), and sentencing (Chiricos and Waldo, 1975; Hagan et al., 1979); the response as process tradition describes the patterns surrounding and underlying these outcome decisions, e.g., prosecutorial responses to normal crimes (Sudnow, 1965), and negotiated pleas (Rosett and Cressey, 1976; Katz, 1979).

Despite substantial gains in theory and method in response as outcome studies (see Nagel and Hagan, 1978), research in this tradition would benefit from (1) expanding the variables *ordinarily* considered, including ascribed and achieved status characteristics of the defendant, and characteristics of charged offenses; (2) considering variables reflecting the act of being processed; (3) considering variation in outcome as a function of jurisdictional context, and the organizational characteristics along which jurisdictions vary; and (4) studying the relationship of process and outcome across decisions. Here we explore the benefits of the first three of these.<sup>1</sup> Guided by a desire to refine traditional response as outcome studies, we examine one outcome decision, including variables suggested by the response as process approach; we also consider variation in organizational context.

The outcome studied is the decision concerning a criminal defendant's *release status pending adjudication*, specifically whether and under what conditions the defendant may be released. Studying the pretrial release decision is strategic. First, this decision substantially determines whether the defendant will be incarcerated between arrest and the disposition of his or her case; any decision that may result in the denial of liberty is vital. Moreover, since pretrial detention may cause physical, psychological, and economic hardship (Foote et al., 1954; Freed and Wald, 1964), and may limit the defendant's ability to participate in the preparation of his or her defense, it is of social as well as sociological interest to study the determinants of the pretrial release decision.

Second, the pretrial release decision may impact later decisions. Hagan et al. (1980) argued that defendants detained prior to the disposition of their cases may experience prejudicial handling in the variety of court decisions that follow. Defendants detained may be more willing to settle for a less favorable plea to advance their release from detention. Judges may be more likely to sentence a detained defendant to prison since the shock of incarceration no longer mitigates against the harshness of imprisonment. Understanding the pretrial decision may be crucial to modeling the entire decision-making process. While pretrial detention may not be causally related to all later outcomes, both pretrial and later decisions may be affected by the same consideration, e.g., dangerousness to society. Whether or not links between pretrial release conditions and later outcomes are causal, studying pretrial release decisions is an integral part of research on societal responses to criminal defendants.

Last, the literature on societal responses to criminal defendants contains a dearth of quantitative research on outcomes *preceding* sentencing (notable exceptions include Landes, 1974; Bernstein et al., 1977; Goldkamp, 1979). Since each decision may be affected by a different configuration of exogenous factors, each outcome should be carefully examined before modeling the entire process. Since the criminal justice system filters out and classifies defendants at many points (Swigert and Farrell, 1977), it is useful to

begin the study of court outcomes by focusing on an early outcome in this multiple-decision-point process.

### *RESEARCH QUESTIONS*

#### Question 1

Most research in the response as outcome tradition includes some measure of (a) ascribed status characteristics of defendants, e.g., race, age, sex; (b) achieved status characteristics of defendants, e.g., education, earnings, prior criminal record, and (c) characteristics of the charged offense, e.g., crime severity, type of offense. The theoretical rationale for these independent variables affecting the pretrial release decision is their presumed link to labeling and conflict theory (see Bernstein et al., 1977). Whether one purports to test conflict theory (e.g., Chiricos and Waldo, 1975), labeling theory (e.g., Swigert and Farrell, 1977), or some variation on the conflict versus consensus theme, (e.g., Myers, 1977), the categories and variables remain largely the same. Since we want to assess the impact of previously neglected variables, and to establish a baseline with which to compare models including other categories of variables, we first ask, What is the effect of variables traditionally included on the pretrial release outcome?

#### Question 2

Next, we ask how the addition of variables not traditionally considered, but consistent with the ascribed, achieved, and offense categories, improves our understanding of pretrial release decisions. These variables are available in the record data. Recognition of the potential import of these, as well as of processual and contextual variables, came from in-depth interviews with magistrates and judges responsible for pretrial release decisions, from interviews with additional participants in the process—including U.S. Attorneys and Assistant U.S. Attorneys,

Public Defenders and Pretrial Service agents—and from observational data. Thus, underlying a deceptively simple question is an exploration of the fundamental benefit of using qualitative data to inform quantitative analyses.

Interviews and observation suggest that the defendant's physical and mental illness should be included with other ascribed status characteristics.<sup>2</sup> Defendants identified as having some physical ailment are hypothesized to receive, net of other factors, less restrictive outcomes because incarceration, either pre- or post-trial, may deprive them of valuable medical treatment. Defendants identified as mentally impaired are hypothesized to receive less harsh outcomes because the presumption of culpability is less tenable given evidence of mental illness.

Our qualitative data suggest the following additions to the category of achieved status characteristics: defendant's citizenship, marital status, factors reflective of ties to the community, employment history, drug and alcohol abuse histories, prior violations of court release conditions, present parole/probation status, and whether or not the defendant is on welfare.

We hypothesize that (1) illegal aliens will receive more restrictive outcomes because of the presumption that, faced with a trial, they will leave the country; (2) married persons will receive less restrictive outcomes than single persons, either because of a concern for the family unit, or a presumption that marriage leads to stability and/or reflects strong community ties; (3) home ownership, and a relatively longer time spent in present residence or in the district of arrest, because they evidence ties to the community,<sup>3</sup> stability, and responsibility, will help the defendant receive a more favorable outcome; (4) length of employment will be inversely related to severity of outcome, since pretrial incarceration could lead to job loss, and since those who have been long employed prior to the alleged offense are presumed to exhibit stability and responsibility; (5) alcohol and drug abusers will be treated more severely in pretrial release since they are perceived as less responsible, thus more likely to need imposed incentives to appear in court, and perhaps as more deserving of harsh pretrial outcomes;<sup>4</sup> (6) defendants with prior pretrial release, parole or probation violations will receive less favorable

outcomes since they are perceived as having failed to appreciate prior favorable treatment, as more likely to commit additional crimes, and/or as less likely to make their court appearances; (7) defendants presently on parole or probation will receive more restrictive outcomes since they are alleged to have committed the charged offense while owing good behavior in exchange for system leniency;<sup>5</sup> and (8) defendants on welfare will receive more favorable outcomes either because it makes little practical sense to impose the financial burden of money bail on welfare recipients (this results in the transference of funds from one governmental agency to another)<sup>6</sup> or because decision makers presume welfare recipients are so impoverished that they resort to crime for economic support and, thus, are less culpable.

### Question 3

On the premise that outcome studies would benefit from inclusion of response as process variables, we examine the impact of some processual considerations, asking what is their effect on pretrial release status, relative to the categories of independent variables traditionally considered?

Swigert and Farrell (1977) have called general attention to the potential impact of informal labels. In pretrial release decisions, the U.S. Attorney has the discretion to label a defendant "high risk." Both Senate and House reports to Congress comment on appropriate criteria to consider in applying this label. The Senate report on the Speedy Trial Act refers to danger to self, a witness, and the community; the House report refers to the likelihood of "fugitivity." Since no criteria are statutorily specified, the label "high risk" is left to prosecutorial discretion. Our interviewees indicated that the label has been applied, although rarely, since 1974. Whether such labeling reflects a presumption that the defendant is dangerous, or is not likely to appear in court, or both, the high risk label will likely result in restrictive pretrial release conditions.

Based on interview and observational data, defendants represented by public defenders are hypothesized to fare better on pretrial release outcomes than those represented by the private



bar, because of organizational ties between public defenders and federal prosecutors. As members of the same legal fraternity, often housed in the same building, paid by the same government, and frequently interacting, public defenders and prosecutors may share more values and a greater ease in interacting than do prosecutors and private counsel. Moreover, since public defenders may have more experience in handling criminal cases, and may be more familiar with the presiding judge or magistrate, they may present more effective arguments.

A third processual factor explored is the impact of appeals that result in rehearings. Those who challenge the system by repeated requests for rehearing may ultimately fare better than they would otherwise have fared, or than comparable defendants who do not request rehearing.

Finally, we consider the impact of a pretrial service agent's recommendation. Our interview data suggest that such recommendations for release contribute to a more favorable outcome. Our observational data suggest a more complicated pattern. Two presumptions underly the hypothesized relationship. First, the presence of a pretrial agent serves to remind the judge that the sole purpose of bail is to ensure court appearance (Nagel, 1981). Second, the pretrial agent makes an effective argument for release. The pretrial agent, however, may not make a recommendation, and even when he or she does and it is effectively argued, it will make a difference only if both judge and pretrial agent use the same criteria to determine pretrial release outcomes. Nagel (1981) concluded that judicial noncompliance with the 1966 Federal Bail Reform Act is common. Since pretrial agents recommend outcomes solely in compliance with the Act, and judges do not, a recommendation may fail to impact the ultimate pretrial decision.

#### Question 4:

Given our interest in context, we examine jurisdictional variation as one unexplored source of variation and ask whether being processed in one district versus another has an impact on

pretrial release decisions. Presuming an impact, we test the hypothesis that varying district organizational patterns help explain district variation in pretrial outcomes. We then ask, what is the effect of contextual factors, relative to factors previously considered?

Wheeler et al. (1982) and Nagel (1983) argued that the context in which decisions are made affects outcomes and may alter patterns of relationships traditionally found. While context may be conceptualized along many dimensions (e.g., time, location), we attend only to jurisdiction. Moreover, we explore contextual effects additively, leaving elaboration and testing of theoretically relevant interactions for later work.<sup>7</sup>

The impoverishment of response as outcome studies resulting from execution in single settings probably reflects an overreliance on state court data. Since states differ in statute and rules of criminal procedure, cross-state comparisons are difficult. We can compare across jurisdictions since we analyze data from ten federal jurisdictions, subject to the same federal statutes and Federal Rules of Criminal Procedure. While the ten jurisdictions considered are not a random sample of federal jurisdictions,<sup>8</sup> examining their impact on pretrial outcomes allows some exploration of this source of contextual variation.

Our interview and observational data suggest that some jurisdictions are more release oriented, others more inclined to request surety bonds and still others to prefer their defendants to post a 10% cash deposit with the court. A release orientation tends to exist in liberal jurisdictions; conversely, the extensive use of surety bonds occurs in more conservative jurisdictions. Reliance upon 10% cash deposit may result from early experience with "10% cash" as an innovative pretrial release condition.

Jurisdictional variation may also stem from differential demands on district resources, space for detention, inurement to violence, differing criminal populations, and differential priorities for allocating limited resources. Our interviews underscore the importance of the way in which districts organize their priorities for prosecution. We conceptualize this as a proactive/reactive continuum (Hagan and Bernstein, 1979; Hagan et al., 1980).

Prosecutors can follow a reactive policy by organizing resources to respond to the demands of federal investigative agents. Alternatively, prosecutors can adopt a proactive policy, organizing resources to prosecute previously neglected offenses, e.g., complex white-collar crimes. A proactive orientation is hypothesized to produce less restrictive pretrial outcomes. Since proactive prosecution likely signals an overall progressive/liberal approach, districts so characterized may have a release orientation toward pretrial outcomes. The priority allocation of resources to white-collar cases reduces the prosecutor's energy devoted to seeking harsh pretrial outcomes, since white-collar defendants are presumed responsible and nonviolent. Nonwhite-collar defendants are not top priority. Thus, the proactive-reactive dimension may account for some of the variation in pretrial outcomes associated with jurisdictional context.

We can test the contribution of one more organizational factor to the explanation of jurisdictional variation in pretrial outcomes. Five jurisdictions have pretrial service agencies that operate as subunits within district probation offices. The remaining five have independent pretrial service agencies supervised by a board of trustees composed of representatives from the judiciary, the U.S. Attorney's Office, and others. The latter are assumed more able and more likely to argue for nonrestrictive release conditions, especially in cases in which release is unusual (e.g., armed robbery), because they are independent of the court and its traditions. The former are assumed less likely to argue for release because they are more traditional, used to dealing with convicted offenders, sensitive to considerations of danger, and reluctant to jeopardize their credibility as trusted court advisors. However, independence may be the very thing that limits the effectiveness of board-supervised pretrial agents, because they do *not* have an established position of trust in the court family. Probation-supervised agents have an established position of trust, but this limits their inclination to argue for less restrictive conditions of release. Thus, it is not clear whether defendants processed in board- or probation-organized districts will fare better on pretrial outcomes.

### METHODS AND MEASUREMENT

Three sources of data were tapped. In each of ten federal jurisdictions, Nagel and Hagan interviewed the chief judge and three to five presiding judges, the U.S. Attorney and his or her assistants, the pretrial service agency director and one or two agents, the senior magistrate and other magistrates, the Public Defender Office Director (in districts where there was a Public Defender Office), and a private attorney practicing in the jurisdiction. Pretrial release hearings were observed in each jurisdiction. Interview and observational data informed hypotheses tested with the archival record data collected for 9068 defendants—the population of defendants prosecuted in the ten jurisdictions over a period beginning in 1974 and ending in 1977.<sup>9</sup>

Our dependent variable is the pretrial release condition that the judge requires the defendant to meet in order to secure his or her pretrial liberty. One-fourth of our defendants had at least one review of the initial pretrial decision. Since the final release decision may be the most important for understanding later outcomes, we analyze the final judicially determined condition of release, after all appeals have been exhausted.

The final pretrial release condition is an ordinal variable, coded from least to most restrictive; ordering accords with our interview responses, which indicate it approximates an interval scale (see Table 1).

Independent variables are measured as reported in Table 1. The crucial contextual variable, district organizational priorities (the proactive/reactive continuum) is a construct theoretically identified in our qualitative research, statistically explored using varimax factor rotation procedures on the set of ten variables we believed theoretically most important, and statistically verified using confirmatory factor analysis (Jöreskog, 1969) on the seven input variables that had the highest loadings on the strongest of two factors emerging from the exploratory factor analysis. Of these two factors, the one later confirmed as a single underlying construct ( $\chi^2 = 20.36$ ,  $df = 14$ ,  $p = .12$ ) was by far the stronger. As can be seen in Table 1, the variables input into the proactive-

*(text continues on page 485)*

TABLE 1  
Categories of Variables, Measurement and Descriptive Statistics

Variables	Measurement	Mean or Frequency	S.D. or Percentage <sup>2</sup>
<u>Ascribed Status Characteristics</u>			
Age: *			
20-26	1 = > 20 and < 26	3036	33.5%
27-45	1 = > 27 and < 45	4519	49.8%
46-55	1 = > 46 and < 55	754	8.3%
56 and over	1 = > 56	304	3.4%
Sex <sup>C</sup>	1 = Female	1520	16.8%
Ethnicity:*			
White	1 = White	4431	48.9%
Black	1 = Black	3727	41.1%
Latino	1 = Latino	665	7.3%
Physical Illness <sup>C</sup>	1 = Presently Being Treated for Physical Illness	1794	19.8%
Mental Illness <sup>C</sup>	1 = Has Undergone Psychiatric Treatment	744	8.2%
<u>Achieved Status Characteristics</u>			
Citizenship:*			
Legal Alien	1 = Legal Alien	272	3.0%
Illegal Alien	1 = Illegal Alien	265	3.0%
Marital Status:*			
Cohabitation	1 = Cohabitation or Common Law	637	7.0%
Married	1 = Married	3213	35.5%
Home Ownership <sup>C</sup>	1 = Owns His/Her Residence	1790	20.2%
Residency	Months at Present Address Codes are: 0-99.	32,5539	38.2831

TABLE 1 (Continued)

Time in District	Months in Arrest District Codes are 0-99.	75.3617	38.1228
Employment	1 = Employed and On Job $\geq$ 6 mo. 2 = Employed and On Job $<$ 6 mo. 3 = Unemployed and Off Job $\leq$ 6 mo. 4 = Unemployed and Off Job $>$ 6 mo.	2.5518	1.2040
Education	Years of Education, Codes are 0-22.	11.0103	2.7099
Drug Abuse <sup>C</sup>	1 = Addicted to Opiates in Past 2 Years and/or Abused Nonopiates in Past 2 Years	1876	20.7%
Alcohol Abuse <sup>C</sup>	1 = Abused Alcohol in Past 2 Years	628	6.9%
Bail Jumping <sup>C</sup>	1 = Has Jumped Bail	848	9.4%
Parole/Probation Revocation <sup>C</sup>	1 = Parole and/or Probation Revoked in Past	948	11.0%
Prior Adult Record	1 = No Prior Convictions 2 = Prior Misdemeanor Conviction(s) 3 = 1 or 2 Prior Felony Conviction(s) 4 = 3 or More Prior Felony Convictions	2.0362	1.0887
Present Parole/Probation Status <sup>C</sup>	1 = Presently on Parole or Probation	1483	16.4%
Welfare <sup>C</sup>	1 = Presently Receives Welfare	819	9.0%
Earnings	1 = Weekly Earnings Truncated at 400 Codes are 0-400.	90.0953	116.2452
<u>Characteristics of Charged Offense</u>			
Crime Categories: 2, *			
Assault	1 = Assault (61%), Kidnapping (37%), and Murder (2%)	145	1.6%
Bank Robbery	1 = Bank Robbery Involving Use of Force, Violence or Intimidation	293	3.2%

TABLE 1 (Continued)

Robbery	1 = Other Robbery (88%), and Burglary (12%)	90	1.0%
Theft	1 = Theft (95% Postal Theft)	875	9.6%
Embezzlement	1 = Embezzlement and Theft (96%), Embezzlement (4%)	647	7.1%
Fraud	1 = Fraud	761	8.4%
Auto Theft	1 = Auto Theft	243	2.7%
Forgery and Counterfeiting	1 = Forgery and Counterfeiting	1448	16.0%
Narcotics	1 = Narcotics Offenses (92% 21 USC § 841)	1592	17.6%
Immigration	1 = Immigration Offenses	211	2.3%
Extortion and Threats	1 = Extortion and Threats	135	1.5%
Felony	1 = Present Crime is a Felony	8251	91.0%
<u>Processual Variables</u>			
Counsel:*			
Public	1 = Public Counsel	5411	59.7%
Private	1 = Private Counsel	3028	33.4%
High Risk <sup>C</sup>	1 = Defendant Labeled 'High Risk'	291	3.2%
Bail Review <sup>C</sup>	1 = At Least One Bail Review, Hearing or Appeal	2267	25.0%
PTSA Recommendation <sup>C</sup>	1 = Pretrial Services Agency Submitted Bail Recommendation	5477	60.4%
<u>Organizational-Contextual Variables</u>			
District Organizational Priorities <sup>3</sup>	Proactive-Reactive Continuum; Codes Range Between -1 and +1, with Districts Receiving Scores Calculated Using Lamdas From Confirmatory Factor Analysis on Seven Input Variables	.0017	.0474
PTSA Organization <sup>C</sup>	1 = Supervision of Pretrial Services Agency by Probation Office	4909	54.1%
<u>District Variables</u>			
District:*			
District K	1 = District K	756	8.3%

TABLE 1 (Continued)

District L	1 = District L	728	10.2%
District M	1 = District M	628	6.9%
District N	1 = District N	896	9.9%
District O	1 = District O	709	7.8%
District P	1 = District P	1493	16.5%
District Q	1 = District Q	468	5.2%
District R	1 = District R	1532	16.9%
District S	1 = District S	642	7.1%
<u>Dependent Variable</u>			
Pretrial Release Status	1 = Released on Own Recognizance	4,2393	2.8847
	2 = Unsecured Bond		
	3 = Unsecured Bond Plus Either PTSA or Third Party Supervision or Other Conditions of Bail		
	4 = Ten Percent Cash Deposit		
	5 = Ten Percent Cash Deposit Plus Either PTSA or Third Party Supervision or Other Conditions of Bail		
	6 = Collateral		
	7 = Collateral Plus Either PTSA or Third Party Supervision or Other Conditions of Bail		
	8 = Surety Bond		
	9 = Surety Bond Plus Either PTSA or Third Party Supervision or Other Conditions of Bail		
	10 = Remand to Custody (Bail Not Set)		

NOTE: Variables marked by an asterisk are those coded using a series of contrast-coded variables (using 1, 0, and -1 coded). For these variables the reference (-1) category is as follows: age, -1 =  $\geq 15$  and  $\leq 19$ ; ethnicity, -1 = Other; citizenship, -1 = U.S. citizen; marital status, -1 = divorced, separated, single, or widowed; crime categories, -1 = others; counsel, -1 = no counsel or other, district, -1 = District T. Variables marked by a "c" are contrast-coded variables. The reference (-1) category for each of these variables is as follows: sex, -1 = male; physical illness, -1 = not presently being treated for physical illness; mental illness, -1 = never received psychiatric treatment; home ownership, -1 = does not own residence; drug abuse, -1 = no drug use in past two years; alcohol abuse, -1 = did not abuse alcohol in past two



## Notes to TABLE 1 (Continued)

years; parole/probation revocation, -1 = neither parole nor probation revoked ever in past; present parole/probation status, -1 = presently on neither parole nor probation; welfare, -1 = does not receive welfare; felony, -1 = present crime is not a felony; high risk, -1 = defendant not labeled "high risk"; bail review, -1 = no bail review; PTSA recommendation, -1 = pretrial services did not submit bail recommendation; PTSA organization, -1 = board supervision of pretrial services agency.

1. Frequencies are presented in this column for categorical (contrast-coded) variables; otherwise variable means are presented.
2. Percentages are presented in this column for categorical (contrast-coded) variables; otherwise variable standard deviations are presented.
3. Age was categorized to reflect the nonlinearity of the age effect on pretrial release status. The interval age variable was truncated at 60 for the analyses of nonlinearity.
4. The crime categories are aggregates of title, section, and, if appropriate, subsection numbers in the United States Code. Aggregation was done on the basis of the June, 1977 Criminal Offense Citation listing prepared by the Administrative Office of the United States Courts, as well as on the basis of the United States Code itself. The Criminal Offense Citation listing presents all federal criminal statutes promulgated by the U.S. Congress as of 1976, in order by title, section and, where appropriate, subsection number, and for each gives a general description of the offense. Such description, checked by reference to the U.S. Code itself, was used to construct the crime categories. In construction we tried to create categories that were both substantively coherent and large enough to analyze statistically, though in the classification of difficult cases (we were advised by attorneys) the construction is not a legal classification. A detailed description of the title and section (and if appropriate, subsection) combinations composing each of the crime categories, along with each combination's frequency, is available from the authors, as is more information on the references "other" category and the rationale guiding the construction of the categories.
5. The seven input variables for the proactive-reactive continuum were (1) declination policy with respect to cases referred by federal investigative agents; (2) the orientation/training of the staff of assistant U.S. attorneys; (3) the percentage of staff prosecuting white collar crime; (4) the percentage of cases generated in house by assistant U.S. attorneys; (5) the percentage of staff prosecuting narcotics cases; (6) the coupling between assistant U.S. attorneys and federal investigative agents; and (7) the level of involvement of assistant U.S. attorneys in sentencing decisions. The proactive-reactive continuum was constructed as follows. For each of the 7 variables, a mean score for the 10 jurisdictions was calculated, then the real score for each jurisdiction was subtracted from the mean score, and multiplied by the lambda coefficients produced in the confirmatory factor analysis. The resulting scores (for each variable) were summed, within each district, and divided by 7, producing summary scores for each district. These summary scores constitute the values for the proactive-reactive continuum. More information on the construction of the continuum, including coding and descriptive statistics for the input variables, is available from the authors.

reactive continuum reflect organizational characteristics of prosecution in the various districts and the allocation of resources and prosecutorial priorities of U.S. Attorneys' offices.

A series of multiple regressions enables us to test our hypotheses concerning the effect of specific variables,<sup>10</sup> and to assess the relative explanatory power of the various categories of variables.

### *RESULTS*

Question 1 asks, what is the effect of variables traditionally included on the pretrial release outcome? In Table 2, column 1, the  $R^2$  is .2288, consistent with prior research on pretrial outcomes (Nagel, 1983). Findings on effects of individual independent variables are generally consistent with prior research. Females receive the less restrictive outcomes (Nagel and Hagan, 1982a); white and black defendants are asked to meet somewhat less restrictive options than Latinos and others, also consistent with prior research (Nagel, 1983). Defendants with a prior record are asked to meet more restrictive conditions. The higher the defendant's earnings, the less restrictive is the release condition; the release condition is more restrictive for felony defendants. For defendants with more education, the release condition is slightly less restrictive.

The effect of defendant's age, as well as type of crime for which a defendant is prosecuted, are interesting because of the way we coded these variables. As anticipated, the effect of age is nonlinear. Defendants between the ages of 27 and 45 fare the worst; defendants between the ages of 20 and 26 fare worse than all others except those between 27 and 45. Defendants 56 and over receive the least restrictive outcomes, while those between 15 and 19 receive outcomes that are more restrictive relative to those 56 and over, and less restrictive than those between 20 and 45.

With respect to type of crime, our findings suggest that property crimes are in varying degree responded to with less restrictive outcomes, the notable exception being auto theft. Our interviewees identified auto theft defendants as well as those

**TABLE 2**  
**Metric and Standardized Coefficients for Regressions of**  
**Pretrial Release Status on Categories of Independent Variables<sup>a</sup>**

Independent Variables	Model I	Model II	Model III	Model IV	Model V
Twenty to Twenty-Six <i>Metric</i> <i>Standardized</i>	.2702 .0516	.1414 .0270	.1704 .0326	.1606 .0307	.1331 .0254
Twenty-Seven to Forty-Five	.4168 .0852	.3418 .0698	.3369 .0689	.3363 .0688	.3299 .0674
Forty-Six to Fifty-Five	-.0827* -.0104*	.0745* .0094*	.0569* .0072*	.0299* .0038*	.0762* .0096*
Fifty-Six and Over	-.5414 -.0542	-.3589 -.0359	-.3814 -.0382	-.3759 -.0376	-.3531 -.0354
Sex	-.3012 -.0780	-.2521 -.0653	-.2329 -.0603	-.2781 -.0720	-.3062 -.0793
White	-.2010 -.0383	.0094* .0018*	.0534* .0102*	-.0031* -.0006*	-.0887* -.0169*
Black	-.3708 -.0693	-.0213* -.0040*	.0327* .0061*	.0563* .0105*	-.0003* -.0001*
Latino	-.0023* -.0003*	-.0179* -.0019*	-.0034* -.0004*	-.0993* -.0108*	.0138* .0015*
Physical Illness		-.0291* -.0081*	-.0307* -.0085*	-.0504* -.0139*	-.0695 -.0192
Mental Illness		.0622* .0118*	.0605* .0115*	.0743* .0141*	.0910 .0173
Legal Alien		-.0576* -.0076*	-.0760* -.0100*	-.0812* -.0107*	-.0338* -.0044*
Illegal Alien		.8400 .1093	.8264 .1076	.8871 .1155	.8523 .1110
Cohabitation		.0219* .0047*	-.0124* -.0027*	-.0212* -.0046*	-.0085* -.0018*
Married		-.1829 -.0595	-.1582 -.0515	-.1470 -.0478	-.1515 -.0493
Home Ownership		.0449* .0125*	.0546* .0152*	.0441* .0122*	.0106* .0030*
Residency		-.0030 -.0373	-.0031 -.0391	-.0014* -.0172*	-.0006* -.0080*
Time in District		-.0102 -.1345	-.0100 -.1316	-.0085 -.1122	-.0081 -.1072
Employment		-.1457 -.0608	-.1349 -.0563	-.1443 -.0602	-.1667 -.0696
Education	-.0385 -.0361	-.0371 -.0349	-.0403 -.0379	-.0475 -.0446	-.0424 -.0398
Drug Abuse		.1488 .0418	.1361 .0382	.1421 .0399	.1438 .0404

TABLE 2 (Continued)

Alcohol Abuse		-.0710*	-.0627*	-.0612*	-.0897*
		-.0125*	-.0110*	-.0107*	-.0158*
Bail Jumping		.2578	.2242	.2798	.3114
		.0523	.0454	.0567	.0631
Parole/Probation Revocation		.2538	.2531	.2149	.2159
		.0551	.0550	.0467	.0469
Prior Adult Record	.5292	.4186	.4123	.3771	.3311
	.1997	.1580	.1556	.1423	.1250
Present Parole/Probation Status		.0272*	.0254*	.0211*	.0189*
		.0070*	.0065*	.0054*	.0048*
Welfare		-.3838	-.3828	-.2923	-.2542
		-.0763	-.0761	-.0581	-.0505
Earnings	-.0019	-.0003*	-.0003*	-.0004*	-.0002*
	-.0771	-.0129*	-.0133*	-.0172*	-.0092*
Assault	-.0084*	.0961*	.1195*	.2230*	.1932*
	-.0014*	.0160*	.0199*	.0371*	.0322*
Bank Robbery	2.1379	2.1285	1.9447	2.0232	2.0074
	.3749	.3732	.3409	.3548	.3520
Robbery	.1543*	.2379*	.0626*	.1871*	.3102*
	.0252*	.0388*	.0102*	.0305*	.0506*
Theft	-1.5721	-1.3518	-1.2880	-1.2844	-1.1862
	-.3219	-.2768	-.2638	-.2630	-.2492
Embezzlement	-1.2692	-1.0662	-.9983	-1.0479	-1.0098
	-.2463	-.2069	-.1938	-.2034	-.1960
Fraud	-.7809	-.6375	-.5850	-.6040	-.5720
	-.1558	-.1272	-.1167	-.1205	-.1141
Auto Theft	1.0358	.7494	.8206	.7536	.5059
	.1786	.1292	.1415	.1299	.0872
Forgery and Counterfeiting	-1.1439	-1.0105	-.9428	-.9684	-.9557
	-.2608	-.2304	-.2150	-.2208	-.2179
Narcotics	.1468	.2330	.2099	.2211	.2973
	.0342	.0543	.0489	.0515	.0693
Immigration	1.6013	.7486	.8202	.5900	.4960
	.2731	.1277	.1399	.1006	.0846
Extortion and Threats	-.3436*	-.2074*	-.2613*	-.1898*	-.1901*
	-.0570*	-.0344*	-.0434*	-.0315*	-.0315*
Felony	.7955	.7817	.7345	.7058	.6641
	.1579	.1552	.1458	.1401	.1318
Public			.0040*	-.1076	-.0401*
			.0009*	-.0232	-.0087*
Private			.1006	.0507*	.1881
			.0201	.0101*	.0377

TABLE 2 (Continued)

High Risk				.6119	.6805	.6864
				.0749	.0831	.0839
Bail Review				.2082	.3023	.3784
				.0625	.0908	.1136
PTSA Recommendation				-.0106*	-.0295*	-.0431*
				-.0036*	-.0100*	-.0146*
District Organizational Priorities (Proactive-Reactive Continuum)					-10.5514	
					-.1732	
PTSA Organization (Probation)					.0603	
					.0208	
District K						.5333
						.0816
District L						-.2768
						-.0444
District M						-1.0303
						-.1513
District N						-.3768
						-.0600
District O						1.0557
						.1591
District P						-.1504
						-.0273
District Q						1.0190
						.1413
District R						.6628
						.1211
District S						-.6573
						-.0970
Constant	3.1927	5.1852	5.7597	6.1366	6.1733	
R <sup>2</sup>	.2288	.2781	.2878	.3166	.3255	

a. Model I includes variables traditionally considered. Model II includes all ascribed, achieved, and offense variables; Model III adds processual variables to Model II. Model IV adds organizational-contextual variables to Model III; Model V adds district variables to Model III.

\*Not significant ( $p > .05$ , two-tailed tests).

prosecuted for narcotics and immigration violations as particularly high risk candidates for failures to appear. Persons experienced in pretrial release have testified to the same perception (Congressional Hearings on Proposals to Modify Federal Bail Procedures, 1965).

Thus, it is not surprising that these defendants are asked to meet more restrictive conditions to secure their pretrial release.

The offense category generating the most restrictive outcome is bank robbery. Not only a crime of interpersonal violence,<sup>11</sup> such armed robbery represents, for some, an attack on sacred property, and on the heart of the American economic system. Moreover, since armed bank robbers are alleged to be career crime specialists, and recidivists, it is not surprising that they are asked to meet the most stringent conditions for pretrial release.

Our model of variables traditionally included generally comports with prior research. Since we argue that adding new variables refines this model, it is comforting that our population is not atypical in terms of the bases on which pretrial release decisions are made.

Question 2 asks, how does the addition of variables not traditionally considered, but consistent with the ascribed, achieved, and offense categories, improve our understanding of pretrial release decisions? Simply adding in variables not previously considered increases the  $R^2$  by .0493 (Table 2, columns 1 and 2). To verify that our understanding of pretrial release decisions is improved, we examine the independent variables hypothesized earlier to affect it. Since it is more meaningful to interpret the net effects reported in Model V, we refer to the coefficients in that equation rather than citing the coefficients in Model II.

Most of the assumptions growing out of the qualitative data are affirmed in our quantitative analysis. Of the ascribed status characteristics, the effect of physical illness is relatively small, but as predicted; the effect of mental illness is inconsistent with our hypothesis—those with a history of mental illness do not receive less restrictive conditions—the positive effect is, however, small.

Of the achieved status characteristics, the effect of being an illegal alien is as predicted, with illegal aliens receiving pretrial release outcomes substantially more restrictive than comparable defendants who are legal aliens or citizens. The hypothesis that married defendants fare better is borne out, though the effect is not large. Contrary to our hypothesis, home ownership and time at same residence make no difference in pretrial release conditions.

The hypothesis concerning time in the district is, however, supported; the longer a defendant has lived in the district in which he or she is prosecuted, the less restrictive are conditions for pretrial release.

The hypothesis that employed defendants fare better is supported; the hypothesis that defendants with a history of drug abuse fare less well is supported, albeit the effect is smaller than expected. The effect of alcohol abuse is not consistent with our hypothesis, since it is insignificant. While the effect of prior bail-jumping is consistent with our hypothesis, if appearance is what a judge is trying to ensure, a prior record of failure to appear should have a larger effect. This suggests, as argued elsewhere (Nagel, 1981), that appearance is not the only judicial concern. The effect of prior probation or parole revocation is as predicted, but again is smaller than anticipated. Whether a defendant is, at the time of the charged offense, on parole or probation, has no impact on his or her pretrial release outcome. Finally, our hypothesis that defendants on welfare are asked to meet less restrictive conditions for release is affirmed.

To summarize, most of the variables underscored in our qualitative data for their potential importance increase explained variance when considered in the quantitative analysis of pretrial release decisions; also, most of the hypothesized relationships between these new variables and pretrial release are affirmed. Our knowledge of the bases on which this outcome is determined is improved.

Question 3 asks, what is the impact of processual considerations on pretrial release outcomes? When the small number of processual variables available is added to the "ascribed, achieved, and offense" model (Table 2, column 2), the  $R^2$  is increased by almost .01, to .2878 (Table 2, column 3). The effects of the processual variables, interpreted in the context of Model V, are generally consistent with our hypotheses.

The impact of being labeled "high risk" is in the hypothesized direction and is relatively large. As hypothesized, those represented by a public defender fare better on final pretrial outcomes than those represented by private counsel. The effect of having a pretrial agent submit a recommendation is insignificant.

The impact of pretrial release condition rehearings is substantial; those whose initial pretrial status is reviewed receive final outcomes *more* restrictive than those whose initial conditions are not reviewed. This effect must be understood as a function of several factors, some perhaps artifactual. The likelihood of a review increased as defendants fared worse on initial pretrial release condition, with 50.8% of those required to post surety bonds being reviewed, as compared with 25% of defendants overall, 19% of those who had been released on their own recognizance, 9.8% of those who had been required to sign an unsecured bond, and 12.7% of those who had received “unsecured bond plus conditions.” However, the number of defendants who received relatively nonrestrictive initial pretrial release outcomes and also experienced a review comports with two observations. First, defendants may be released on their own recognizance while being required to meet conditions, (e.g., reporting weekly to a pretrial service agent) and may request review hoping to relieve themselves of onerous conditions. The coding of pretrial release condition does not allow us to measure such improvements as might occur. Second, prosecutors as well as defendants can request a pretrial release rehearing. In most prosecutor-requested rehearings, the evidence against the defendant will have become stronger or the defendant will have violated conditions of release. We suspect that defendants reviewed at the request of prosecutors will in fact receive a more restrictive final release condition than they otherwise would have experienced. Additionally, “floor” effects may occur. While “ceiling” effects as well as theory indicate that those who experience relatively harsh outcomes on initial pretrial release will, if reviewed, fare better on final pretrial outcome than they otherwise would have fared, those who receive relatively nonrestrictive initial pretrial release conditions and are reviewed are likely to fare worse on final pretrial release condition, simply because there is more room to move in that direction.

In fact, 30% of defendants whose release conditions were reviewed received final conditions that were *more* restrictive than their initial status. Of those reviewed who had been released on their own recognizance at the initial hearing, 25% received more



restrictive final outcomes; most were ultimately required to post a surety bond. Only 4.4% of those reviewed who were required to post a surety bond at the initial pretrial hearing ultimately fared worse. An equivalent number were ultimately released on their own recognizance; 10.2% received other relatively less restrictive outcomes. Of those who were required to post a surety bond at the initial hearing, 81% experienced no change from initial to final pretrial condition, although it is likely that the amount of the surety did change. Of those reviewed who were remanded to detention at the initial hearing, 93% were ultimately released, many on the posting of a surety bond, with or without special conditions. Seven percent of those initially remanded and reviewed were, after review, released on their own recognizance.

Examining regression Model V *within* categories of initial pretrial release status—thus, contrasting comparable defendants who experienced review or not—also provides findings consistent with earlier observations.<sup>12</sup> Thus, the impact on final pretrial release condition of having a review is best understood as it interacts with defendants' initial pretrial release status.

To summarize, processual variables improve the specification of bases for pretrial release decisions; most important is the labeling factor.

Question 4 asks, what is the impact of jurisdictional variables on final pretrial release outcomes? Adding the district variables to Model III increases the  $R^2$  by .0377, to .3255. As hypothesized, some districts are more release oriented than others. While we cannot identify individual districts, our results show that release orientation covaries in the expected direction with liberalism, progressivism, lack of detention facilities, and inurement to violence. Relative to other effects, district effects are large.

Substituting the organizational-contextual variables for the jurisdictional variable results in Model IV; the  $R^2$  for this model is .3166. Seventy-six percent of the additive increment due to jurisdictional variation is captured by the proactive-reactive continuum and the organization of the pretrial services agency. Of the two variables, the proactive-reactive continuum is by far the more important. Using it alone to predict pretrial outcomes,

the  $R^2$  for the model is .032, and entering it into Model IV, after all other independent variables, results in a net increment to  $R^2$  of .0228.<sup>13</sup> Alternatively, 9% of the explained variance of the latter model is accounted for by the proactive-reactive continuum. The impact of probation supervision as compared to board supervision is significant though relatively small, consistent with the hypothesized trade-off between the greater release orientation of pretrial service agents supervised by a board of trustees and the greater effectiveness of pretrial service agents supervised by the probation department.

To summarize, jurisdictional differences are an important source of contextual effects on pretrial release outcomes. The proactive-reactive continuum and, to a lesser extent, the way in which Pretrial Service Agencies are organized help specify this contextual effect.

### CONCLUSIONS

Five conclusions can be drawn, based on the results of this study. They are elaborated below.

(1) To study exclusively response as process or response as outcome presumes the two approaches are antithetical rather than complementary, obscuring the impact of process on outcome.

(2) It is unwise for research to proceed along bifurcated methodological traditions; multiple methods can lead to theoretical transformation. Our qualitatively collected data, included in quantitative analyses, lead us to argue that prior research overemphasized ascribed status characteristics as determinants of court outcomes; that the underemphasis on achieved status characteristics should be remedied; and that models of court outcomes should include processual and jurisdictional factors, including characteristics of the organizational context in which decisions are made. The overemphasis on ascribed status characteristics can be seen by examining, in Table 3, the  $R^2$ s representing gross and net effects of this category, respectively .0436 and .0053. Of all the categories considered, ascribed status characteristics

TABLE 3  
Gross and Net Effects of Categories of Independent Variables in Pretrial Release Status Equation

	$R^2$ Representing Gross Effects <sup>1</sup>	$R^2$ Representing Net Effects <sup>2</sup>
Ascribed	.0436	.0053
Achieved	.1781	.0616
Ascribed and Achieved Together	.1924	.0817
Offense	.1622	.0626
Process	.0496	.0146
Organizational-Contextual	.0356	.0288
District	.0594	.0377

1. Gross effects were calculated by regressing Pretrial Release Status on the labeled category of independent variables alone.

2. Net effects were calculated by subtracting from the  $R^2$  of Pretrial Release Status regressed on all categories of independent variables, the  $R^2$  of Pretrial Release Status regressed on all categories of independent variables except the labeled category (or categories). For the organizational-contextual net effect, the full Pretrial Release Status equation was calculated using the organizational-contextual variables. For all other net effects the full equation was calculated using District.

provide the smallest net  $R^2$ . The relative importance of achieved status characteristics is illustrated by the gross and net  $R^2$ s associated with it, .1781 and .0616. Characteristics of the charged offense are also important. The gross  $R^2$  associated with the offense category is .1622; the net  $R^2$  is .0626. Adding only the few processual and contextual variables available increases the explanatory power of our model. The category of processual variables has a gross  $R^2$  of .0496 and a net  $R^2$  of .0146. The gross  $R^2$  associated with jurisdiction is .0594; the net  $R^2$  is .0377. The organizational-contextual variables included to specify jurisdictional effects are associated with a gross  $R^2$  of .0356 and a net  $R^2$  of .0288. Thus, the inclusion of previously neglected categories of independent variables, and the addition of new variables consistent with prior categories, shifts the theoretical focus of debate away from ascribed status characteristics of defendants toward greater exploration of the other four categories.

(3) Qualitative data lead to improved specification of the model predicting pretrial release outcomes. While the impact of some variables—e.g., sex—remains relatively constant across regression equations (see Table 2), the impact of other variables changes; e.g., the range of coefficients associated with a defendant's age, and the impact of a defendant's prior record, are reduced. In Model V, the effect of ethnicity is nonexistent. While the effects of some of the crime categories remain consistent across equations—e.g., bank robbery—others are significantly reduced in absolute value in the final equation—e.g., auto theft and immigration violations. When a defendant's employment status is added to an equation containing a measure of the defendant's earnings, the effect of earnings disappears. These examples illustrate the improved specificity of a model that results from the linkage of qualitative data to quantitative analyses.

(4) Among processual considerations, a labeling factor emerges as a relatively important determinant of court outcomes. In the case of pretrial decisions, the "high risk" label may be crucial. While we cannot be sure whether it is causally related to pretrial release decisions, or whether label and outcome are functions of the same considerations, defendants labeled high risk fare worse

on pretrial outcomes. Because applying this label is discretionary, prosecutors are unclear about the characteristics of defendants so labeled. In our population, those labeled high risk are disproportionately male, unmarried, illegal aliens, drug abusers, and have disproportionately severe prior records, records of jumping bail, and parole or probation revocations.<sup>14</sup> Districts M and S prosecute 6.9% and 7.1% of the defendants in our population, but account for 22.7% and 21.3% of those labeled high risk. Whereas 3.2% of the defendants are charged with bank robbery, 17.9% of the high risks are prosecuted for such armed robbery. Strikingly, the joint occurrence of being prosecuted for bank robbery *and* being in District M or S makes a defendant a likely candidate for the high risks are prosecuted for such armed robbery. Strikingly, other labels and their impact on processing and outcome decisions.

(5) Qualitative data made obvious jurisdictional differences in pretrial outcomes, independent of other considerations. Not only have we verified the importance of jurisdiction as a source of contextual variation, but we have identified one dimension of that contextual category, i.e., the proactive-reactive continuum. Despite long-standing, abstract certainty that organizational structure plays a role in court outcomes, previous research failed to identify a starting point for exploring this organizational dimension. The proactive-reactive continuum can serve this function. Research that follows our lead in reconceptualizing court outcome studies should be able to contribute to the greater specificity and greater explanatory power of models of decision-making in the processing of criminal defendants.

## NOTES

1. The fourth is the focus of Nagel and Hagan (forthcoming).
2. Physical and mental illness are partly ascribed, although placed in the ascribed category. Conversely, although citizenship is in part ascriptive, we consider it achieved since we focus on effects of illegal entry into the United States.
3. The purpose of bail is to ensure the defendant's appearance at scheduled hearings. The 1966 Federal Bail Reform Act statutorily prescribed community ties as a major factor to consider (Federal Rules of Criminal Procedure, 18 U.S.C. §3146b).

4. Despite attempts to classify drug and alcohol abuse as illnesses, the criminal justice community attaches unfavorable presumptions to abusers.

5. A defendant's parole/probation status may interact with the strength of the evidence against him or her. When evidence of guilt is strong, being on parole or probation should negatively impact pretrial release outcomes. When evidence is weak, however, present parole/probation status may be immaterial. Unfortunately, strength of evidence data are not available.

6. Despite including both receipt of welfare and employment status variables, we did not create a multicollinearity problem. Not all unemployed receive welfare, nor are all who receive welfare unemployed.

7. Research using these data to examine other outcomes indicates that despite the presence of some interactions with jurisdiction—e.g., the effect on sentencing of being a white-collar offender varies across districts (Hagan et al., 1980)—there is support for a general additive model, at least with respect to some outcomes, e.g., decision to incarcerate (Nagel and Hagan, 1982b). There is also remarkable similarity for nine of our ten jurisdictions, at least with regard to models of sentencing (Nagel and Hagan, 1982b). In further research, we expect to find that some ascribed, achieved, offense, and processual variables interact with jurisdiction in their effects on pretrial release outcomes. For instance, we expect the impact of sex will vary by jurisdiction. Conservative jurisdictions are likely to be even more release oriented than other jurisdictions when responding to women, relative to men, because of these districts' general paternalistic attitudes toward women (Nagel et al., 1982). Nagel and Hagan (forthcoming) explore the extent to which the model of pretrial outcomes varies across jurisdictions.

8. The jurisdictions and their principal cities are eastern and southern New York (Brooklyn and Manhattan), northern Illinois (Chicago), eastern Pennsylvania (Philadelphia), Maryland (Baltimore), northern Texas (Dallas), western Missouri (Kansas City), northern Georgia (Atlanta), central California (Los Angeles), and eastern Michigan (Detroit). We agreed not to identify individual districts in analyses. Since we do not have a random sample, no inferences can be made about external validity. Given the potential importance of both geographic and historical context, we advise against generalizing from our findings, across time or space. However, when we estimate a model including only variables traditionally considered, findings are consistent with prior research on different populations or samples of criminal defendants.

9. These data were collected with special provisions for quality and comprehensiveness through a mandate of the Speedy Trial Act of 1974 to evaluate the experimental pretrial release agencies established under this Act. Except for 88 cases from 1974, cases are from 1975-1977. The evaluation provided data for the population of cases prosecuted during this period. Interviews indicated full cooperation in the fulfillment of this mandate.

10. The literature on ordinal dependent variables suggests significance tests are meaningful. While our analyses are done on a population, we assume population normality and, in Table 2, present significance levels. (Standard errors are available from the authors.) With a  $p$  level of .05, two-tailed, the test can be roughly interpreted as indicating that for 95% of our population, the coefficient whose significance is tested is in fact different from 0.

11. Other crimes of personal violence include offenses categorized as "assault" or as "extortion and threats"; neither affects pretrial outcomes. However, these categories' coefficients may be by-products of our coding scheme, since these categories, along with "robbery," contain a relatively diverse set of offenses due to the small frequencies of groups of offenses in them. The most diverse categories are also the only insignificant ones.

Had we been able to look at more discrete groups of offenses within "assault" and "extortion and threats," we might have found larger (and different) effects.

12. Since it was not meaningful to estimate the regression for defendants released on their own recognizance at the initial hearing, and given the small frequencies of "collateral," "collateral plus conditions," and "remand" at that hearing, we estimated within category regressions for those who were coded 2-5, 8, and 9 on initial pretrial release condition. In general, looking at the impact of an independent variable on "comparable" defendants means controlling for the other independent variables in Table 2. For the effect of being reviewed, comparable defendants must also have the same initial pretrial release condition. Within "surety bond" and "surety bond plus conditions," being reviewed generates less restrictive outcomes, while within "unsecured bond" and "unsecured bond plus conditions" being reviewed generates more restrictive outcomes. Within the middle conditions, the effect of being reviewed is relatively slight.

13. Even assuming an interval dependent variable, the magnitude of the metric coefficients associated with the proactive-reactive continuum would be somewhat arbitrary, since the continuum's metric was obtained by setting the lambda associated with percentage of cases generated in-house equal to 1. Had we set the metric differently, by fixing a different loading to 1, we would have obtained a factor model solution that differs by a scalar, but that maintains the relative magnitude of the loadings. This change would then affect the values obtained for the continuum, making it impossible to do more than look at the direction for the continuum's effect and its relative importance.

14. Zero-order correlations between "high risk" and other independent variables are *not* disproportionately high; the largest—between high risk and District M—is only .09.

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