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Issues and Practices

Pretrial Services Programs: Responsibilities and Potential

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Pretrial Services Programs: Responsibilities and Potential

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Issues and Practices in Criminal Justice is a publication series of the National Institute of Justice. Each report presents the program options and management issues in a topic area, based on a review of research and evaluation findings, operational experience, and expert opinion on the subject. The intent is to provide information to make informed choices in planning, implementing, and improving programs and practices in criminal justice.

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Foreword

Pretrial services programs can be valuable resources for making significant improvements in the criminal justice system because they are used in the early stages of the criminal case process. Unnecessary detention before trial not only results in unnecessary jail costs, it also deprives defendants of their liberty. From a policy perspective, decisions about detaining or releasing defendants should balance the benefits of release and the risk of flight or threat to public safety.

Money bail remains a common mechanism for releasing or detaining arrestees. But bail limits the decision to release defendants to one primary factor: a defendant's ability to raise money. Pretrial services programs offer the court alternatives by improving the breadth and quality of information about defendants—including their housing and employment situation, relationships with family, and other ties to the community—and by providing services to address identified needs. All 94 districts in the Federal court system and more than 300 localities now operate pretrial services programs, which use a variety of mechanisms, including bail, to help the court decide whether to release or detain defendants pending further legal proceedings.

This report provides a review of issues and practices in the pretrial services field. It describes how pretrial programs operate, discusses key policy issues, and outlines issues and challenges for the future. It pays particular attention to how pretrial services programs obtain and convey information relevant to the pretrial release/detention decision. It also describes how pretrial services agencies, the court, and other criminal justice system agencies can work together to minimize the risks of nonappearance and pretrial crime.

This report encourages policymakers and practitioners to examine front-end decisionmaking practices and consider the roles pretrial services programs can play in making criminal justice processes more effective while enhancing public safety.

Preface

This document reflects contributions made by a great many individuals. The report addresses both policy issues and operational practices, and in preparing it we have gained knowledge, insight, and ideas from a broad range of policymakers, practitioners, and researchers.

A number of practitioners from jurisdictions across the United States patiently answered our questions and sent materials describing their programs. In particular, we gratefully acknowledge help received from Susan W. Shaffer, Director, and Janice Bergin and Laura DeVol, District of Columbia Pretrial Services Agency; Robin Rooks, Director, Pretrial Services Agency, and Theresa Westerfield, Court Administrator, Sixteenth Judicial Circuit of Florida; Joseph A. Cairone, Court Administrator, Criminal Trial Division, First Judicial District, (Philadelphia) Pennsylvania; Perry Mitchell, Administrator, Maricopa County (Arizona) Pretrial Services Agency; John Hendricks and Melinda Wheeler, Kentucky Pretrial Services; Kim Holloway, Director, Pima County (Arizona) Pretrial Services; Laura Lilienfeld, Supervisor, Pretrial Services Assessment Section, Montgomery County (Maryland) Department of Correction and Rehabilitation; Lance Forsythe, Director, Southside Community Corrections and Pretrial Services, Emporia, Virginia; Carol Oeller, Director, Harris County (Texas) Pretrial Services Agency; Robert Schwab, Assistant Administrator, San Mateo (California) Bar Association; and Susan Bookman, Director, Berkeley (California) Own Recognizance Project.

Advisory board members Legrome Davis, Bennie H. Frazier, John S. Goldkamp, D. Alan Henry, Robert Wessels, and Melinda Wheeler offered very useful suggestions during two meetings, one in Washington, D.C., and another in Philadelphia. They also provided helpful comments on drafts of this report.

Carolyn Peake, Program Monitor at the National Institute of Justice (NIJ), took an active interest in the project. She provided a number of useful suggestions about topics to be covered and valuable input on drafts. Cheryl Crawford and Marilyn Moses, Contracting Officer's Technical Representatives at NIJ, offered encouragement and helpful suggestions. Two unidentified reviewers selected by NIJ also contributed valuable comments and suggestions, and Barbara Brown and Toni Little at the Justice Management Institute (JMI) furnished excellent administrative support throughout report preparation.

Peter Finn of Abt Associates, Inc., provided fine editing and valuable guidance on scope, organization, and content. Karen Swetlow of the National Criminal Justice Reference Service was enormously helpful during the final editing stages.

In preparing the final draft, we considered the comments and suggestions of all individuals who reviewed an earlier draft. In many instances, we made significant revisions based on reviewers' thoughtful comments, and the final version is undoubtedly a better product because of their input. We have not, however, incorporated all of the suggestions received. In some instances, different reviewers adopted very different (sometimes diametrically opposing) positions with respect to report content and the emphasis to be given to particular topics. Choices between different perspectives had to be made, and we have done our best to make these choices in a reasonable fashion.

This report addresses both policy and operational issues. It is not intended to be a "how to" manual, although there is certainly much—particularly in chapters 2 and 3—that should be valuable for pretrial practitioners concerning the practical techniques of information gathering, verification, risk analysis, and monitoring and supervision of released defendants. Additionally, chapter 6 offers considerable information on the resources available to help practitioners deal with operational problems.

We have placed strong emphasis on discussing policy issues—and on providing information about the roots of pretrial services in the bail reform movement of the 1960s and 1970s—for two main reasons. First, the policy issues—particularly those related to information systems,

the commercial surety bail system, and the appropriate scope for exercise of judicial discretion—are of great importance not only to the future of pretrial services programs but also to the future of criminal justice in this country. Second, we believe that practitioners concerned about operational issues are likely to do a better job of addressing those issues—and will have greater realization of the consequences of alternative approaches to particular operational problems—if they understand the history, constitutional framework, and policy context within which operational issues arise.

In our view, the concepts of fundamental fairness and equal justice under law are at the heart of the American justice system. The traditional commercial surety bail system—which makes release of an arrested person dependent on the individual's ability to post a money bond—runs directly contrary to these concepts. Well-designed and well-managed pretrial services programs have the potential to help justice systems function more fairly and more effectively for all citizens.

Pretrial services programs were developed initially, in the 1960s and 1970s, to make our justice system more fair and to reduce the extent to which persons were held in detention solely because they could not afford to post bail. As the volume of arrests grew in the 1980s and jail overcrowding became an increasingly serious issue in many communities, criminal justice policymakers began to recognize that pretrial services programs could help alleviate the crowded conditions and—with appropriate supervision techniques—help minimize the risks of pretrial crime. But the fact that many recently established programs have been developed in response to jail crowding—and are appropriately focused on helping to identify those in detention who may be safely released from custody before trial—should not obscure the basic issues of fairness that lie at the heart of pretrial decisionmaking. The techniques used by well-functioning pretrial services programs—including information gathering, risk assessment, and supervision of released defendants applying a broad array of methods—have been developed to help make pretrial decisionmaking more fair and even-handed, to alleviate jail crowding, and to provide a greater measure of public safety.

We would have preferred to have included all of the issues that appropriately might be addressed in a report on pretrial services and to have covered the issues that *are* included in greater depth. In some sections, we refer readers to other sources for indepth coverage of particular topics, but for many topics, relevant recent research and available literature are scarce. Chapter 5 includes a discussion of topics where further research or other work would be valuable, drawing heavily on suggestions made by reviewers.

The authors assume full responsibility for presentation of the information and ideas in this report. While we are enormously grateful for the contributions of all who helped, those individuals are in no way responsible for errors of omission or commission in report preparation. That responsibility lies with us.

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Executive Summary

Pretrial services programs perform two critically important functions in the effective administration of criminal justice:

- They gather and present information about newly arrested defendants and about available release options for use by judicial officers in deciding what (if any) conditions are to be set for defendants' release prior to trial.
- They supervise the defendants released from custody during the pretrial period by monitoring their compliance with release conditions and by helping to ensure they appear for scheduled court events.

When both functions are performed well, jurisdictions can minimize unnecessary pretrial detention, reduce jail crowding, increase public safety, ensure that released defendants appear for scheduled court events, and lessen invidious discrimination between rich and poor in the pretrial process. This report describes how pretrial services programs operate and discusses related policy issues. It focuses particularly on how these programs obtain and convey information relevant to the pretrial release/detention decision and how, by working with the courts and other justice system agencies, programs can help manage and minimize the risks of nonappearance and pretrial crime.

Techniques Used to Inform the Release/Detention Decision

The core of pretrial services program operations is the collection, verification, and analysis of information about newly arrested defendants and available supervisory options. Pretrial programs should collect and provide to the court at least the following defendant information:

- Identity, including date of birth and gender.
- Community ties, including residence, employment, and family status.
- Physical and mental condition, including alcohol or drug abuse.
- Criminal record, including history of adjudication of delinquency.
- Prior record of compliance with conditions of release, including record of appearing for scheduled court dates.

Defendants are primary sources of information about themselves and should be interviewed as soon as possible after arrest. Other sources—including the pretrial services program's own records, other criminal justice agencies, motor vehicle departments, the defendant's family members, and the defendant's employer—can provide information about the defendant and can verify information provided in interviews with the defendant. If information cannot be verified, it should be labeled as unverified in the program's report to the court.

Most pretrial services use the information they collect to develop recommendations or identify options for the judicial officer who makes the release/detention decision. The analysis process—*risk assessment*—is a key step in the court's decisionmaking process and, if the defendant is released, in managing the risks of nonappearance and pretrial crime.

Risk Management for Released Defendants

Defendants who miss a court appearance generally return to court when contacted, but a missed appearance nevertheless disrupts the court schedule, inconveniences victims and other witnesses, delays case disposition, and wastes valuable time. Pretrial services programs use a variety of monitoring and reminder techniques to anticipate and avoid possible nonappearance problems. When a defendant does miss a court appearance, programs seek to contact the defendant immediately to resolve the problem.

Pretrial services programs are not police agencies, and their capacity to supervise defendants directly is often limited by lack of both law enforcement powers and resources. The following program activities can play an important role, however, in managing the risks that released defendants pose to public safety:

- Monitoring released defendants' compliance with conditions of release designed to minimize pretrial crime, including curfews, orders restricting contact with alleged victims and possible witnesses, home confinement, and drug and alcohol testing.
- Providing direct "intensive" supervision for some categories of defendants by using program staff and collaborating with the police, other agencies, and community organizations.

Sharing Information for Use Beyond the Release/Detention Decision

Pretrial services programs collect information that can be valuable in the work of other justice system agencies, but much of this information is of a very sensitive, personal nature. Often it is collected from defendants who are emotionally distraught and have had no contact with a lawyer before the interview. Given the sensitive nature of the information and the need to obtain information from defendants who likely would be uncooperative if they knew what they said could be made available to others, it is important for pretrial services programs—and for the justice systems within which they operate—to develop realistic policies that ensure appropriate confidentiality and prevent misuse of the information. New technology will make it feasible both to share information broadly and to establish safeguards for information that should remain confidential.

Looking Toward the Future: Key Issues

A great many courts still must make critically important release/detention decisions without access to the information typically collected by pretrial services programs or to the monitoring and supervision these programs can provide. Even in jurisdictions with well-established pretrial services, a number of operational issues and new challenges must be addressed in coming years. Much remains to be learned if pretrial services programs are to reach their full potential. Key issues for the future include how to—

- Bring effective pretrial services to jurisdictions that do not yet have them.
- Handle pretrial release issues in cases involving juveniles charged as adults.
- Use new technologies to enhance the quality of pretrial release/detention decisionmaking and the supervision of released defendants.
- Use delegated release authority (including field citations, station house release, and jail release) most effectively.
- Determine the extent to which, if at all, courts should continue to rely on commercial surety bail as a mechanism for releasing arrested persons prior to trial.
- More effectively structure judicial decisionmaking in the pretrial process, without making the process a mechanical one.
- Develop a current base of useful knowledge about key issues using research at the national and local levels.
- Develop a full range of education and training programs for pretrial practitioners and policymakers.

Chapter 1
Pretrial Services: An Overview

Key Points

- Pretrial services programs perform two crucial functions:
  - — Gathering and presenting information about newly arrested defendants and about available release options for use by a judicial officer in making decisions concerning a defendant's pretrial custody or release status.
  - — Supervising defendants who are released from custody during the pretrial period by monitoring their compliance with release conditions and by helping to ensure they appear for scheduled court appearances and do not endanger community safety.
- Both functions described above are essential for jurisdictions to achieve the central goal of a fair and effective pretrial release/detention policy, which is to minimize unnecessary detention by releasing as many defendants as possible who are likely to appear for scheduled court dates and who will refrain from criminal behavior before trial.
- The pretrial decision has significant consequences for the community. It affects how limited jail space is allocated and how the risks of nonappearance and pretrial crime by released defendants are managed.
- The decision also has important consequences for defendants. It directly affects their ability to assert their innocence, negotiate a disposition, and mitigate the severity of a sentence.
- Pretrial release/detention policies and decisions have very important implications for society's capacity to achieve the ideal of equal justice under law. By providing judicial officers with essential information for decision-making and by helping to supervise released defendants, pretrial services programs help courts reduce discrimination based on wealth and other factors not related to risk of flight or danger to the community. Fair and effective pretrial release policies are an essential component of equal justice.
- As pretrial services programs have evolved since the 1960s, they have increasingly demonstrated their capacity to provide information about defendants and about available supervised release options that is relevant to assessing both the risk of flight and the risk to public safety. In some jurisdictions, programs have also developed a capacity to supervise defendants and to help minimize both types of risk.

What Do Pretrial Services Programs Do?

Pretrial services programs play—or can play if their potential is fully utilized—a critically important role in the effective administration of criminal justice. While the scope of program responsibilities varies to some extent across jurisdictions, fully developed pretrial services programs perform two vital core functions:

- They gather and present the information about newly arrested defendants and about possible options for supervised release that judicial officers need when deciding whether or not to release these individuals.

- They supervise defendants who are released from custody during the pretrial period, monitoring their compliance with conditions of release that are designed to minimize the risks of nonappearance and danger to the community, reminding them of scheduled court appearances, and reporting to the court on their performance while on pretrial release.

Both functions are essential for a judicial decisionmaking process that, in each individual case, seeks to strike the right balance between two core societal values: individual liberty and public safety. How this balance is struck at the outset of a criminal proceeding—whether the defendant is detained or released and, if released, what level of supervision is provided—has enormous implications for both the community and the defendant. It also has very important implications for society's capacity to meet the ideal of equal justice under the law.

Impact on the community

Unnecessary pretrial detention means unnecessarily high jail costs for the community as well as deprivation of the defendant's liberty. Despite unprecedented construction of correctional facilities over the past two decades, many jails are seriously overcrowded. Policies and decisions that result in needless detention of arrestees contribute to jail overcrowding and, ultimately, to further expenditures of public resources for construction and operation of jail facilities.

If defendants are released, however, two types of potentially adverse consequences may affect the community: The defendant may not return for scheduled court appearances, or the defendant may commit a criminal offense, including the attempted intimidation of victims or other witnesses.

To minimize unnecessary detention and adverse consequences to the community, both the initial release/detention decision and the implementation of a decision to release require pertinent information about the defendant and about available options for supervision. Pretrial services programs can provide the necessary information and, when a decision is made to release a defendant during the pretrial period, can help manage the risk of nonappearance and the threat to public safety.

Impact on the accused

If a defendant is ordered held in custody, or if money bond is set at an amount the defendant cannot meet, several significant consequences may result:

- The defendant who remains in jail may have difficulty participating in his or her own defense. (An incarcerated defendant cannot look for friendly witnesses and, in some jurisdictions, is unlikely to have much contact with a defense lawyer.)
- Defendants held in detention often have a heightened incentive to plead guilty, even though they may have

The Continued Prevalence of Money Bail as a Mechanism for Determining Pretrial Release or Detention

Although release on nonfinancial conditions is now used far more widely than before the advent of the bail reform movement in the 1960s, money bail is still the predominant mechanism used for release/detention decisionmaking in most American courts. A 1998 report published by the Bureau of Justice Statistics indicates that in 1994, in the 75 most populous jurisdictions in the United States, 56 out of every 100 defendants charged with a felony were either released on money bail or detained because of inability to post bail. Of the 56, a total of 25 were able to gain their release while the other 31 awaited disposition of their cases in jail. Of the other 44, a total of 37 were released under some form of nonfinancial conditions (although not necessarily under the supervision of a pretrial services program) and 7 were held without bond.[a]

a. Reaves, B.A., *Felony Defendants in Large Urban Counties, 1994*, Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1997: 17 (table 14).

a valid defense, simply to gain their freedom—particularly if they can receive a sentence of "time served" or receive credit for their jail time against a relatively short jail or prison sentence.

- Statistically, defendants detained prior to trial plead guilty more often, are convicted more often, and are more likely to be sentenced to prison than are defendants who are released prior to trial.[1]

By contrast, released defendants can be in touch with a lawyer relatively easily and can assist in developing a defense to specific charges. They can also take steps to reduce the severity of a sentence if they ultimately plead or are found guilty by, for example, getting or keeping a job, maintaining or reestablishing family ties, and developing a record of complying with conditions of release.[2]

Equal justice

The concept of equal justice under law is deeply embedded in the U.S. Constitution and is a core value of American society. In the area of pretrial release/detention decision-making, it means, at a minimum, that all defendants should have the same opportunity for consideration for release without invidious discrimination based on race, sex, or economic status. In particular, poor defendants should not be denied pretrial release solely because they are financially unable to post a money bond (see "The Continued Prevalence of Money Bail as a Mechanism for Determining Pretrial Release or Detention"). By providing judicial officers with information about defendants and available supervision options, pretrial release programs enable courts to move toward the goal of equal justice.

Need for This Report

From a policy perspective, the rational goal of an effective policy for pretrial release and detention is clear: Jurisdictions should seek to release as many arrested persons as possible (and thus minimize the use of jail space for pretrial defendants), consistent with the objectives of (1) ensuring attendance at required court proceedings, and (2) minimizing threats to public safety.[3]

A variety of sources offer ample evidence that many jurisdictions are having difficulty balancing these objectives and have not taken full advantage of the potential benefits of pretrial services programs. Consider the following:

- The proportion of felony defendants released prior to trial varies widely across jurisdictions, from as low as 18 percent to as high as 88 percent.[4]
- Reported rates of rearrest and failure to appear (FTA) for scheduled court appearances also vary widely. In many jurisdictions, FTA rates reported in the 1990s appear to be markedly higher than those in the 1960s and 1970s.[5]
- Some jurisdictions with high release rates nevertheless have relatively low FTA and rearrest rates.
- Minorities, especially blacks, are more likely to be detained during the pretrial period than are white defendants who have similar charges and prior records.[6]

The wide variations in pretrial release practices and outcomes, coupled with increasing jail populations and with FTA and rearrest rates that often seem too high, should give justice system policymakers and practitioners cause to examine the pretrial policies (or, conversely, the absence of such policies) in their jurisdictions. While more research is clearly needed, even the fragmentary data now available raise obvious questions. In particular, if some jurisdictions can release a high percentage of newly arrested persons without having unacceptably high FTA and rearrest rates, why are others unable to achieve similar results?

This report is intended to provide justice system policymakers and practitioners with information and ideas that can be useful in examining the effectiveness of pretrial processes in their own jurisdictions. While this report includes a discussion of issues related to pretrial services for juveniles who are being prosecuted as adults (see chapter 5), the focus is on the role of pretrial services programs in handling cases involving adults charged with crimes. Moreover, this report spotlights key policy issues, identifies areas of disagreement and consensus, and includes descriptions of operational practices and methods that pretrial services programs use to handle specific types of situations.

The report is intended for judges, court administrators, prosecutors, public defenders and leaders of the private defense bar, managers of pretrial services programs, and senior officials in law enforcement agencies, probation departments, agencies responsible for jail management, and State and local criminal justice planning agencies. It should also be useful for State legislators and for county

The Creation of Pretrial Services Agencies in the Federal Courts: Meeting the Need for Reliable Information

How the Federal judicial system responded to its need for more timely information to assist the pretrial release/detention decision illustrates the value of using a pretrial services agency to meet this demand. The Federal Bail Reform Act of 1966, directed primarily toward making the pretrial release/detention decision more fair and rational, required judicial officers—judges and magistrates—to release defendants on the least restrictive conditions that would ensure their appearance at trial. The law instructed judicial officers to consider the following factors:

- Nature and circumstance of the offense.
- Weight of evidence.
- Family ties.
- Employment.
- Financial resources.
- Character and mental condition.
- Length of time at current residence.
- Record of convictions.
- Appearance record at court proceedings.

Who would provide judicial officers with this information? The 1966 statute contained no mechanism for gathering background information on defendants. This need for information served as the impetus for title II of the Speedy Trial Act of 1974, which created 10 pilot pretrial services agencies in the Federal courts. The pilot agencies were designed to provide judges with the information necessary to make conditional release decisions. The agencies were authorized to collect, verify, and report to the judicial officer background information about defendants and to recommend appropriate release conditions. The pilot agencies, following and expanding on approaches initially developed by pretrial services projects in State court systems, developed strong support from judges and magistrates in the pilot districts. In the early 1980s, when Congress was considering expansion of pretrial services into all Federal courts, Federal magistrates testified that neither defense lawyers nor prosecutors were able to provide them with the requisite information for an informed bail decision.

Members of the judiciary were clear on how to resolve this need: Judge Gerald B. Tjoflat (11th Circuit), then Chairman of the Committee on the Administration of the Probation System of the Judicial Conference of the United States, stated:

> [T]he administration of justice is far better served when a magistrate or judge setting conditions of bail under the Bail Reform Act of 1966 has sufficient accurate and objective information regarding the defendant, his background, the offense and all other evidence that relates to the question of whether he will appear for trial. The system is far better served when the judge can make an informed decision, and pretrial services has made a major step in that direction.[a]

In the Pretrial Services Act of 1982, Congress expanded the pilot program by establishing pretrial service agencies in all 94 Federal district courts.

a. Tjoflat, G.B. "Extend the Operations of the Pretrial Services Agencies," testimony presented at hearings before the Subcommittee on Crime of the House Committee on the Judiciary, 97th Congress, 1st Session, Washington, DC, 1981: 12.

Historical Evolution of Bail and Pretrial Release/ Detention Policies

The Manhattan Bail Project and other pretrial services programs that started in the 1960s and 1970s were designed to provide an alternative to the money bail system. Although specifics of the money bail system vary from one jurisdiction to another, the basic principle is the same: Courts will release a defendant if he or she can arrange to have bail bond posted in the amount of money set by the judicial officer. Courts assume that defendants released on bond will return for future court appearances rather than lose their money or pledged collateral.

In the 17th and 18th centuries, the person who posted bail and guaranteed the appearance of the defendant at trial was a private individual—usually a friend, relative, or employer of the accused. The personal association between the defendant and surety was at least as important as the monetary stake of the surety in ensuring the defendant's appearance for trial. As the population grew more mobile in the 19th century, commercial bondsmen gradually replaced private sureties.

For a fee, the bondsman would post the amount of the bail bond. Since the commercial bondsman would at least theoretically be liable if the defendant fled, the bondsman would require defendants, or their friends and relatives, to post collateral or agree to indemnify the bondsman if the bond were forfeited for nonappearance. This practice became well established by the end of the 19th century and was upheld by the U.S. Supreme Court in 1912 against claims that it was contrary to public policy. Since the late 19th century, money bail had been the principal method used in the United States to resolve the question of whether a defendant in a criminal case should be released before trial.

The transition to commercial bondsmen largely moved the pretrial release decision out of court control and into the hands of the bondsmen. In a jurisdiction that relies on money bail, a judicial officer sets bail in a specific amount or, alternatively, sets bail mechanically by reference to a "bail schedule" that fixes bond amounts in accordance with the seriousness of the charge. To obtain release on surety bond, the defendant has to be able and willing to pay the bondsman a nonrefundable fee, typically 10 percent of the bond. The defendant may also need to be able to provide collateral equal to or greater than the bond. Even then, the bondsman may decline to do business with defendants deemed to be bad risks. As a result, the judicial officer who sets a money bond cannot know whether a defendant will be able to get out of jail. This system is still the primary method of addressing release/detention decisions in many jurisdictions today.

The consequence of relying on the money bail system is that the defendant's freedom hinges largely on one factor—the ability to raise money. If the defendant can raise the money, even if the charges are serious and there is a risk of flight or potential danger to the community, the defendant will be released. Conversely, a defendant unable to raise the money languishes in jail even when the charges are minor, the person's roots in the community reduce the likelihood of flight, and release poses little threat to community safety.

Recurrent criticism of this system, based on studies in Chicago, Cleveland, and the State of Missouri during the first quarter of the 20th century, had scant impact. Not until the early 1960s were significant efforts made to develop viable alternatives. The Manhattan Bail Project used a control group research design to test the hypothesis that courts could release more defendants successfully on their own recognizance if judges were given verified information at arraignment about the individual's character and roots in the community.

Once the results confirmed the hypothesis, judges in Manhattan began releasing many more defendants on their own recognizance. Moreover, these released defendants had considerably lower failure-to-appear rates than did

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Historical Evolution of Bail and Pretrial Release/ Detention Policies, continued

defendants released on bail. Acclaimed a success, the project was emulated rapidly across the country. Pretrial release projects were implemented in dozens of other jurisdictions, and significant bail reform legislation was passed by Congress and several States.

The initial reforms focused primarily on providing alternatives to the traditional surety bail system. The alternatives fall into two main categories: (1) release on nonfinancial conditions that restrict the liberty of the accused in various ways, and (2) release under "deposit bail" procedures that bypass the professional bondsman and provide for money bond (or a percentage of the bond amount, typically 10 percent) to be posted directly with the court.

During the 1970s and 1980s, legislation involving the release/detention decision began to focus increasingly on the issue of potential danger to the community. At the Federal level, the Bail Reform Act was amended in 1984 to allow consideration of danger and to allow preventive detention in limited circumstances. Most States and the District of Columbia now address danger in their bail laws and allow—at least implicitly—preventive detention and denial of bail or severely restricted release options under some circumstances.

During the 1980s, as the volume of arrests increased in most jurisdictions, jail crowding became a significant issue in many jurisdictions. In some localities, lawsuits brought on behalf of jail inmates led to the imposition of jail population caps that required the release of new arrestees or previously detained inmates if the population exceeded the ceiling. Some of the more recently created pretrial services programs evolved from local efforts to address jail crowding problems, especially in jurisdictions operating under court-ordered caps.

and city government officials concerned about developing policies that will promote public safety while minimizing the drain on public resources for jail construction and operation. In jurisdictions that do not yet have well-developed pretrial services programs, this report may serve as a catalyst for the development of programs to improve both the release/detention decisionmaking process and the capacity for effective supervision of defendants released before trial.

Background: Why and How Pretrial Services Programs Have Been Implemented

Pretrial services programs, which now operate in more than 300 counties and in all 94 districts in the Federal court system, were not a part of any criminal justice system in 1960 (see "The Creation of Pretrial Services Agencies in the Federal Courts: Meeting the Need for Reliable Information"). In examining the potential role and function of these programs, it is important to understand why pretrial services programs were originally developed and how they have evolved since the first such program—New York City's Manhattan Bail Project—was implemented in 1961 (see "Historical Evolution of Bail and Pretrial Release/Detention Policies").

Early bail reform efforts sought to improve the release/detention decisionmaking process by improving the breadth and quality of information available to judges at the point of initial decisionmaking. Thus, for example, the Manhattan Bail Project demonstrated that judges would release more defendants on their own recognizance if they had information regarding defendants' housing arrangements, family ties, and employment, rather than information about only the current charge and the individual's prior criminal record.[7] Subsequent legislation, including the Federal Bail Reform Act of 1966, encouraged judges to consider factors other than the seriousness of the charge in setting conditions of release and to use conditions other than the setting of a money bond amount.

Pretrial services programs were developed during the 1960s and 1970s to help provide judges with information

that would enable them to use a range of nonfinancial conditions. However, neither the legislation nor the courts themselves produced effective policies to guide judges in using information to set conditions of release in a fashion that would maximize the number of persons who could be released without posing unacceptable risks to public safety. Jail crowding became an increasingly serious problem as the volume of arrests rose during the 1980s but did not lessen much as crime and arrest rates dropped during the 1990s. A "second generation" of pretrial services programs that came into existence during this period focused primarily on trying to identify defendants who were unable to make bail but who would be acceptable risks for release either on their own recognizance or under supervision. These new programs were less firmly rooted in concerns about equal justice than were the early programs; rather, their primary concern was often simply to help keep jail populations at an acceptable level.

The Context in Which Pretrial Services Programs Operate

Because jail crowding remained a pervasive problem in localities throughout the United Stated during the 1990s, some observers have begun to call for a comprehensive reexamination of the "front end" of the criminal justice process. Since pretrial services programs play—or can play—an integral role in the early stages of criminal case processing, it is important to understand the roles that these programs and other justice system participants play in the pretrial release/detention decision process.

The participants' roles, responsibilities, and activities may vary depending on their legal authority (different States have different statutory provisions); the resources of the jurisdiction; its geographic location and case volume; and the bundle of attitudes, traditions, expectations, and practices that make up the local legal culture. One example of a pretrial process, from arrest to trial or plea, is shown in the following figure. The discussion below outlines key roles in the process.

Law enforcement personnel

Police officers prepare incident reports and other documents providing basic information concerning the circumstances of the arrest or charge. Generally, either the police agency responsible for the arrest or officials at the jail fingerprint the arrested person and may check for any prior criminal record. Usually, the police agency forwards the incident report and any prior record information to the prosecutor for further use in determining what charges should be filed, although sometimes the police agency files charges directly with the court.

Prosecutor

In most jurisdictions, the prosecutor determines what charge or charges will be filed, basing that decision on police reports and other available information, including the possible existence of other pending cases against the arrestee. The prosecutor then draws up a formal charging document (called by various names, often a complaint or information) that sets forth the charges and files it with the clerk of the court. At the first court appearance, the prosecutor typically presents information to the court regarding the charge; any prior criminal record; the existence of any other pending cases; the condition of any victims; the State's view of the strength of its case; and, finally, a recommendation concerning detention or release, which may include setting bond at a specific amount.

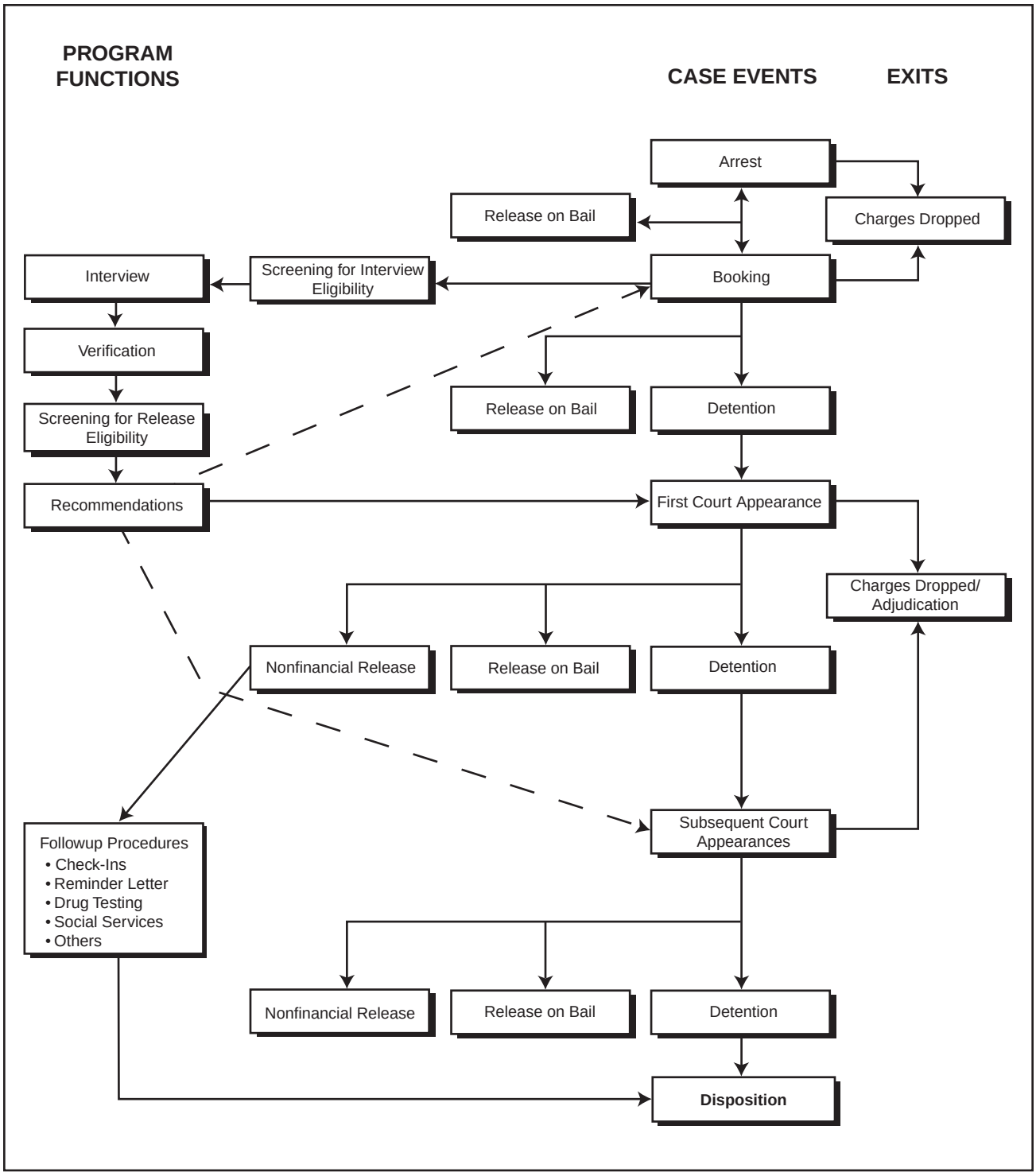
Defense attorney

The defense lawyer, whether retained or appointed by the court to represent the defendant, interviews the defendant as soon as possible. In court, the defense attorney will make the strongest possible case for releasing the defendant on the least restrictive conditions. In many jurisdictions, however, the defendant is *not* represented by counsel at the first appearance, when determinations concerning release or detention are initially made.

Judicial officers

Optimally, a judicial officer—a judge, magistrate, commissioner, or hearing officer—makes the initial pretrial release/detention decision after considering the representations of the prosecutor and the defense attorney, as well as significant background information provided by the pretrial services program. In making this decision, judicial officers are concerned about two types of risk—the risk of flight or nonappearance for scheduled court appearances and the risk to public safety. In assessing these risks, judicial officers tend to focus on four key factors:

Prototype operations: Early intervention pretrial services programs



- The seriousness of the current charge, as set forth in the complaint and the representations of the prosecutor.
- The defendant's prior criminal record, which is widely viewed as relevant to assessing the risk to public safety that would be posed by a decision to release or to set a relatively low money bond amount.
- Information about the defendant, including community and family ties; employment status; housing; existence and nature of any substance abuse problems; and (if the defendant had been arrested before) record of compliance with conditions of release set on previous occasions, including any failures to appear.
- Information about available supervisory options if the defendant is released.

While the statutory framework within which judicial officers make release/detention decisions varies from State to State, it generally gives the judicial officer broad discretion in setting conditions of release, including the setting of bond amounts. Statutes typically direct the judicial officer to consider a number of factors in setting release conditions but give little guidance with respect to how to weigh different factors. (See the section "Judicial Discretion and the Effective Management of Release/Detention Decisionmaking" in chapter 5.)

While decisions about release conditions are generally made by a judicial officer (especially in felony charge cases), in many situations a judicial officer has a minor role or no role in the decisionmaking process. Instead, other individuals may have primary or exclusive responsibility (see "Delegation or Abrogation? When the Release Decision Is Not Made by a Judge").

Pretrial services staff

Pretrial services program personnel gather and present information pertinent to the defendant's risk of flight and community safety. In some jurisdictions, the program also may be responsible for providing information on available options for supervised release and for conducting mental health screening or drug testing and informing the court of the results. Although practices vary (see chapter 2), many programs also present an analysis of the known risk factors and make recommendations concerning possible release options.

Bail bondsmen

Surety bail remains a widely used mechanism for release/detention decisionmaking in many jurisdictions. In these jurisdictions, once bail is set at a designated amount, bondsmen or bail agents decide whether to offer the defendant bail. They also determine what fee will be charged and what (if any) collateral will be required.

Organizational Structures for Pretrial Services Programs—Five Examples

Pretrial services programs in Kentucky, the District of Columbia, Florida, Arizona, and Pennsylvania are representative of the various ways in which jurisdictions have structured pretrial services agencies, different techniques the agencies have employed to obtain information that will assist judicial officers in making release/detention decisions, and some of the methods they have used to supervise released defendants. One of the agencies operates on a statewide basis, one serves the Nation's capital, and three operate at the local level.

Kentucky: A statewide pretrial services agency

The Kentucky State Legislature established the Pretrial Services and Court Security Agency in 1976 to replace the commercial bail bonding system. The new agency immediately assumed responsibility for implementing the pretrial release process, and the enabling act made it a crime to post a bond for profit in Kentucky.

The agency now has 220 staff members located in 60 offices, serving a State population of approximately 4 million. The agency operates within the judicial branch as part of Kentucky's Administrative Office of the Courts. Staff members interview about 180,000 defendants each year, or approximately 84 percent of all arrestees. They conduct interviews around the clock in the State's population centers of Louisville, Lexington, and the Kentucky sector of the Cincinnati metropolitan area. Interviewers are on duty 16 to 20 hours per day in smaller cities and on call at all times in rural regions.

The agency maintains a policy of neutrality. The training manual advises new officers: "The neutral stance you

Delegation or Abrogation? When the Release Decision Is Not Made by a Judge

In many American jurisdictions, judicial officers do not decide whether an arrested person will be detained or released. Some observers have, however, taken the position that the critical issue, at least at the initial decision point, is not whether the decisionmaker is a judge but, rather, whether there are clear and appropriate criteria for making the decision and a decisionmaker who has adequate information and has been well trained in pretrial release/detention decisionmaking. Decisionmakers and release/detention mechanisms include the following:

- **Police officers and desk appearance tickets.** Desk appearance tickets, or citations, are summonses given to defendants at the police station, usually for petty offenses or misdemeanor charges. The tickets can greatly reduce the use of pretrial detention and can save the court system a great deal of time by avoiding initial pretrial release or bail hearings in minor cases. Because they are typically based only on the current charge (and sometimes on a computer search to check for outstanding warrants), the potential exists to release high-risk defendants without supervision or monitoring. As computerized access to criminal history information becomes easier (and thus enables rapid identification of individuals with prior records indicating they pose a risk to the community), desk appearance tickets may become more widely used. (See the section "Delegated Release Authority" in chapter 5.)

- **Jail administrators.** In many jurisdictions, jail officials have authority to release (or, in some instances, to refuse to book into jail) arrested persons who meet certain criteria. In some localities, they exercise this authority pursuant to a court order that specifies priorities with respect to the categories of defendants that can be admitted to the jail and the categories that are to be released when the jail population exceeds a court-imposed ceiling. The "automatic release" approach helps minimize jail crowding, but does so at the risk of releasing some defendants who pose a high risk of becoming fugitives or committing criminal acts. To help minimize these risks, some sheriffs and jail administrators have developed their own pretrial services or "release on recognizance" units with staff who conduct risk assessments based on interviews with arrestees, contact with references, and prior record checks.

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maintain in your daily operation sets you apart in the criminal justice structure. . . . [I]f you cannot sustain an approach of neutrality in implementing this information, you will not be an effective pretrial officer."

A pretrial officer interviews all arrestees except those who decline to be interviewed or who post bail immediately. The officer's top interview priority is obtaining background information for use by the judge at the defendant's first court appearance. Increasingly, the agency is able to draw on information in its own records system. As is generally the situation nationally, immediate legwork to obtain more current and detailed information poses the greatest challenge to officers operating within the tight timeframe in which pretrial services agencies function.

Interview information is treated as confidential—only the judge is given access to the report, and neither the interview nor the report can be subpoenaed. The information goes into the agency's records system for future reference in subsequent cases involving the defendant and also may be used by the agency's failure-to-appear unit.

Pretrial officers are responsible for verifying the interview information as rapidly as possible to complete the process prior to the defendant's first court appearance. Priority items for verification are residency, employment, and family contacts in the locality. To verify information, staff members make phone calls to references and interview family members who are present at the jail during the interview with the defendant.

Delegation or Abrogation? When the Release Decision Is Not Made by a Judge, continued

- **Bail schedules.** These are predetermined schedules setting levels of bail (from release on recognizance to amounts of surety bond) based solely on the offense charged. Depending on local practices, release pursuant to a bail schedule may take place at a police station, at the local jail, or at court. This practice can save time for judicial officers and allow rapid release of defendants who can afford to post the bail amount. However, release determinations based solely on the current charge are of dubious value because there is no proven relationship between a particular charge and risk of flight or crime. Release pursuant to a bail schedule depends simply on the defendant's ability to post the amount of the bond. Moreover, when a defendant is released by posting bond set pursuant to a bail schedule, there is generally no capacity for supervision to minimize the risks of crime and nonappearance.
- **Bail bondsmen.** When a judicial officer sets the amount of bond that a defendant must produce to be released, or when bond is set mechanically on the basis of a bail schedule, the real decisionmakers are often the surety bail bondsmen. If no bondsman will offer bond, the defendant without other sources of money remains in jail. The defendant's ability to pay a bondsman the 10-percent fee (and sometimes to post collateral) often bears no relationship to his or her risk of flight or danger to the community.
- **Pretrial services agencies.** In some jurisdictions, these agencies have authority to release certain categories of defendants. The authority is usually limited to relatively minor cases, although agencies in a few jurisdictions can release some categories of felony defendants. Because the pretrial services agency can obtain information about the defendant's prior record, community ties, and other pending charges, its decision to release or detain is based on more extensive information and criteria than when the decision is based on application of a bail schedule. However, because these programs lack the independence of judicial officers, they can be targets for political and public pressure.

Pretrial officers in Kentucky must be prepared to present information to the judge at the court appearance and to provide—or renew the search for—information the judge may request at that time. Using a point-scoring system that accounts for current charges, prior record, and family and community ties, the agency recommends release on recognizance (ROR) for defendants who score above the cutoff line. Judges are required by law to consider ROR and to identify in writing issues regarding risk of flight or community safety, although this does not always happen in practice. In making the release/detention decision, judges can use a variety of methods in addition to ROR, including placing the defendant in the custody of a person or organization, placing restrictions on the defendant's travel or residence, and requiring the defendant to post a cash bond with the court.

The agency supervises defendants principally through a tracking and notification system, using the system to remind defendants of upcoming court appearances. More intensive supervision is reserved for major felony cases and court requests. Drug testing is done at court request.

The FTA rate for defendants under the agency's supervision is 8 percent. Most FTAs occur in cases involving minor offenses, such as public intoxication. In most FTA cases, a warrant is issued and the agency's FTA unit draws on all the information the agency has collected to locate and return the defendant.

Kentucky Pretrial Services reviews its risk assessment point-scoring system every 2 years. The process includes suggestions from judges, circuit clerks, jail officials, and a sample group of pretrial service officers. The agency has an active inservice training program and is working to broaden officer skills related to domestic violence, cultural diversity, victim advocacy, and driving while intoxicated.

District of Columbia Pretrial Services Agency: Merging State and Federal procedures

The District of Columbia Pretrial Services Agency has served the Superior Court since the District's courts were reorganized in the early 1970s to resemble the structure of most State court systems. The agency also provides pretrial services to the U.S. District Court for the District of Columbia.

The agency, with nearly 170 staff members, operates 24 hours a day, 7 days a week. The director reports to an executive committee composed of the chief judges of the Federal and district appellate and trial courts, the U.S. Attorney, the public defender, and the director of the District's Court Services and Offender Services Agency. As of 1998, along with the courts and criminal justice agencies in the District, the agency was transitioning to Federal status under the supervision of a trustee appointed by the Attorney General of the United States.

In 1998, agency staff conducted more than 22,000 interviews in the cell blocks of the Federal and D.C. courthouses. Staff presented more than 20,000 reports to the court and also conducted postrelease interviews in more than 12,000 cases to explain release conditions. Interview information entered into an automated system forms part of the basis for a printout that becomes the report presented to the court. Most defendants are interviewed less than 24 hours after they have been arrested. D.C. Pretrial Services does not interview individuals arrested on traffic charges or municipal ordinance violations.

Defendants are tested for recent drug use, and the results are entered into the automated information system used in preparing the report for the judge. Both the interviews and the drug tests are conducted voluntarily. At the outset of the process, the interviewer describes the purpose of the interview or drug test and how the information will be used and informs the defendants of their right to refuse to participate without the advice of counsel.

During the interview, the defendant is asked for references to verify residence, employment, and community ties. Verification takes place after the interview. Date of birth is checked, along with criminal history, through a National Crime Information Center (NCIC) record check. Defendants who have no phone numbers for contacts and defendants who are reluctant to give references pose the biggest obstacles to verification, along with unavailable or uncooperative references.

The agency provides its printout report to the court, prosecutor, and defense counsel. The report reflects the information gathered in the interview along with the drug test results and prior record check. It does not specify reference names or phone numbers, nor does it cover some types of possibly relevant (but highly sensitive) information, such as whether a defendant has AIDS. However, a "consult" notification on the report signals the judge or commissioner to obtain further information from agency staff with respect to this type of information.

The agency does not use a point-scoring or bail guidelines system. Rather, officers specify risk factors with respect to flight and community safety and, for each factor, identify a proposed solution, usually through a condition of release. Release on recognizance, for example, might be conditioned on the defendant's providing proof of address within 24 hours.

The agency's computer system is an important part of its operations. The automated system is used to record information about each defendant, conditions of release, and compliance with conditions. Computer-generated letters remind defendants of their next court date and direct them to acknowledge receipt of the reminder letter. The drug-testing laboratory, located in the Superior Court Building, performs more than 80,000 urinalysis tests annually on persons in a pretrial status, and the results are entered immediately into the automated system for use in setting conditions of release and monitoring compliance. The agency is planning to install an electronic mail process for notifying judges of violations of conditions of release.

At any given time, approximately 9,500 defendants are under agency supervision; of these, about 500 are assigned to heightened or intensive supervision or are participants in the Drug Court Program. The agency follows up promptly on any missed court appearance using a three-person FTA unit that operates mostly through telephone contacts.

Monroe County, Florida: Pretrial services in a rural environment

The Monroe County Pretrial Services Program began operations in 1988 in response to a problem of rising caseloads and severe jail overcrowding. Monroe County includes the Florida Keys—a 120-mile chain of small islands that stretches from the southern tip of the mainland to Key West—plus a portion of the mainland that is largely within Everglades National Park. The county has a population of only 78,000 persons, but it receives more than 4 million visitors each year. The pretrial services program has nine staff members who work in several locations—a main office in Key West, an office at the detention center in Key West, and satellite locations in the other two towns (Plantation Key and Marathon) that have a courthouse and a jail. During a single year, the program conducts approximately 3,300 interviews and supervises approximately 650 defendants released on nonfinancial conditions. The program director reports to the court administrator for Florida's Sixteenth Judicial Circuit.

Three of the program's four investigators are located in Key West, the county seat and main population center. Every day (including weekends and holidays), staff interview newly arrested defendants at the jail beginning at 7 a.m. By the time defendants first appear before a judge at about 1:30 p.m., the investigators have obtained their addresses and information about their family and community ties, employment, and prior criminal records. Time permitting, staff also will have verified information obtained through the interviews by contacting family members or other references. Additionally, if the charge involves a victim (and especially if the charge involves domestic violence), staff will have tried to contact the alleged victim to ask his or her opinion about the release of the defendant and to learn of any concerns about future contact with the defendant. Staff will also have conducted a criminal history record check, beginning with the program's own records of any prior contacts with the same defendant. Using a computer, the staff check Monroe County records and criminal history information maintained by the Florida Department of Law Enforcement and the NCIC.

Before the court session begins, staff will use a point-scoring form to develop a recommendation concerning ROR or supervised release for each defendant. No recommendation is made concerning release on money bond. At the first appearance hearing, a staff member presents the information and recommendations and either answers questions or seeks to obtain additional information.

The procedures in the other two jail and courthouse locations are similar to those followed in Key West but are complicated by staffing limitations—the program has only one full-time staff member in Marathon and one part-time officer in Plantation Key.

In making the release/detention decision, the judge considers information provided by the program and the staff's recommendations but may also exercise discretion to set a money bond amount. Under Florida law, the judge must consider two primary criteria in establishing conditions of release: likelihood of appearance for scheduled court dates and risk of physical danger to the community. There is a statutory presumption in favor of nonmonetary release except in capital cases, but judges nevertheless make extensive use of financial conditions of release. A bail schedule is used to set bond amounts in misdemeanor cases, and money bond amounts are commonly set in both felony and misdemeanor cases when the judge decides not to release a person on nonfinancial conditions. Occasionally, a judge may set a money bond amount and also impose additional conditions such as periodic drug testing and call-in reporting, both administered by the pretrial services program.

When a defendant is released under supervision of the pretrial services program, program staff review the conditions of release with the defendant and explain the requirements for reporting by phone or in person. The call-ins and in-person visits are used as an opportunity to remind the defendant about the next court date. If a defendant under the program's supervision fails to report as required, the program's compliance officer (or one of the staff members in Marathon and Plantation Key if the defendant resides in the Middle or Upper Keys) immediately seeks to make contact by phone or through a home visit. Usually, the problems can be resolved quickly and informally. However, if there is egregious noncompliance or if the defendant appears to have fled the community, the program will report the facts to the court and request that a bench warrant be issued. A bench warrant will also be issued if the defendant fails to appear for a scheduled court date. When a warrant is issued, program staff try to locate the defendant, learn what happened, and encourage the defendant to return promptly to court. If there is

an acceptable reason for the nonappearance, the warrant may be rescinded.

In addition to gathering information for the initial release/detention decision and staying in touch with defendants released on their own recognizance or on supervised release, the program monitors the jail population. A program staff member reviews the jail records, interviews any defendants who may have been missed during the initial round of interviewing, and updates interview and verification information on defendants who have been unable to make bond. If the information indicates that the defendant would be a good candidate for release, the program submits a written report, with recommendations, to the court. The program also notifies the defense attorney, who can request a bond-reduction hearing.

Maricopa County, Arizona: Pretrial services for a high-growth area

Maricopa County, Arizona, first launched its Pretrial Services Agency in 1975 with Federal Law Enforcement Assistance Administration (LEAA) funding. Three years later, the county assumed funding by incorporating the agency into the Superior Court, where the agency now is located under the chief pretrial officer/administrator.

With a staff of 48 as of mid-1999 (up from 36 in 1997), the agency serves Phoenix and the surrounding county, where the population is approximately 2.8 million—an increase of more than a million since 1985. Staff conduct interviews at the Madison Street Jail in Phoenix, where the Central Intake Unit is located. In 1996, pretrial officers interviewed more than 44,000 arrested felony-charge defendants (75 to 80 percent of all initial appearances), excluding only defendants also charged with probation or parole violations, immigration law violations, or flight from other jurisdictions.

Judicial officers consider the agency's bail guidelines matrix, which incorporates a point scale, in deciding whether to order ROR or conditional release and in setting money bail amounts. Arizona statutes and constitutional provisions allow detention of persons charged with felonies if, after a hearing, they are found to pose a risk of substantial danger to a person or to the community that cannot be met by any conditions of release. When a money bail amount is set, it can be posted either in cash or through a bail bondsman.

Interviews conducted by pretrial services program staff focus primarily on obtaining information about community ties and criminal history. The agency tries to verify as much information as possible before the initial court appearance. However, the commissioners who preside over initial appearances frequently must act on the basis of uncorroborated information because the officer who conducted the interview is not always able to reach references in time to verify employment and residence information. Officers conduct interviews using a laptop computer. For presentation to the court, the officer provides a printout of the completed automated interview form.

The score that the agency assigns using the bail guidelines classification matrix provides a basis for judicial officers in setting release conditions or ordering detention. Risk factors incorporated into the matrix include current charge, prior record severity, prior failures to appear, and the defendant's living situation and employment. The completed form presented at the initial appearance before the commissioner shows the calculation of the risk factors and may include additional officer comments. A review of the guidelines was initiated in 1999.

Although many Maricopa County defendants obtain release on surety bond, some are released on nonfinancial conditions that involve supervision by the pretrial services agency. Some defendants in the agency's supervision program are simply required to report weekly (either by telephone or in person), while others are under intensive supervision that can include 24-hour house arrest, field visits, and random drug testing. The level of supervision is stipulated in the release conditions set by the initial appearance commissioner.

The failure-to-appear unit, consisting of two officers, concentrates on locating nonappearing defendants placed under the agency's supervision within 7 days after the missed court date. If the defendant does not appear for the next scheduled event, the court issues a bench warrant. For failure to comply with conditions, the agency uses a three-step process. First, it gives the defendant a verbal warning with a reminder of imminent termination from the program if noncompliance continues. Staff members may also refer the defendant to drug counseling if urinalysis tests have been positive. For a second incident of noncompliance, the defendant receives a sanction, such as increased contact or a switch from telephone check-in to office visit, accompanied by a reminder of

imminent termination if noncompliance continues. The third time, staff members terminate the defendant from the release program and recommend revocation of release to the court.

Philadelphia, Pennsylvania: Improving pretrial release practices through a guidelines approach and the use of new technology

Philadelphia, Pennsylvania, was one of the first jurisdictions in the United States to have a full-fledged pretrial services program operating on an around-the-clock, 7-day-a-week basis. First established in 1970, the Philadelphia program has changed substantially since its early days. It is now a pretrial release guidelines approach developed on the basis of extensive research, employing a broad range of supervisory options for released defendants (see "Learning From Experience and Policy-Focused Research: The Background to Philadelphia's Adoption of Bail Guidelines and Supervised Release").

Currently, with more than 70,000 new arrests annually, pretrial services staff conduct about 60 percent of their interviews by video teleconference, using two-way linkages between the program's central location and five satellite police lockups. Staff conduct the other interviews in person at the police headquarters building, but—in light of the success in conducting interviews by video—all interviewing will probably be conducted by video in the near future. Information obtained through the interviews is entered directly into the program's computer system, as is information about the defendant's criminal history and prior record of compliance with release conditions.

Once the district attorney has made a charging decision, information about the charge is also entered into the computer. The computer is programmed to analyze the information about the defendant and the specific charge and to place the defendant into one of 40 categories in a matrix of pretrial release guidelines. The defendant's placement in the matrix, reflecting the severity of the charge and the predicted risk of failure to appear or rearrest, provides a basis for the bail commissioner to set conditions of release following guidelines applicable to the category.

The program provides options for ROR for low-risk defendants and for release to structured pretrial supervision of medium- to high-risk defendants charged with relatively serious crimes. These are defendants who would probably otherwise have remained in jail because of inability to post money bail. One of the critical functions of the pretrial services program is to supervise these releasees using a variety of case management techniques, including personal reporting, drug testing, and arranging for housing, drug treatment, and other needed services.

As of mid-1999, Philadelphia's pretrial services program operated with a staff of 107 full-time and 140 part-time employees who interview defendants, verify information obtained through the interviews, prepare the guidelines worksheets and reports (using the computer program), notify defendants of upcoming court dates, supervise medium- to high-risk defendants, and follow up on defendants who fail to comply with the conditions that have been set. FTA and rearrest rates have dropped sharply since 1992, even though release rates are high compared with rates in most other urban jurisdictions. Furthermore, the system has been able to keep the jail population under control.

Methodology and Organization of This Report

This report's review of issues and practices in the pretrial services field has drawn from three main types of sources. First, a literature review covered relevant case law, numerous articles and monographs, three sets of national standards addressing pretrial release, a report on the results of a 1989 national survey of pretrial services programs (the most recent survey data available), and documents and reports prepared by individual pretrial services programs. Second, structured interviews were conducted in person and by telephone with criminal justice professionals, including pretrial service agency officials, judges, court administrators, prosecutors, defense counsel, and academic researchers. Third, the authors have benefited from comments and suggestions made at meetings of an advisory board composed of a State trial judge, a trial court administrator, Federal and State pretrial services agency managers, and experienced researchers in the pretrial field.

Learning From Experience and Policy-Focused Research: The Background to Philadelphia's Adoption of Bail Guidelines and Supervised Release

In response to concerns about inconsistencies among judges in release/detention decisionmaking, Philadelphia began exploring the concept of pretrial release guidelines in 1978. Despite the existence of an active and well-established pretrial services agency, money bail remained an important and widely used option at that time, and the practices of individual judges in using nonfinancial conditions and in setting bail amounts varied widely. Working with researcher John Goldkamp and his colleagues, the Philadelphia Municipal Court arranged a study of judges' actual bail decisionmaking practices. Data were collected on 4,800 bail decisions made during the 1977–79 period, including information on charges against the defendant, past criminal history, prior performance on pretrial release, employment, community and family ties, demographics, and subsequent performance on pretrial release.

Analysis of the data allowed researchers to identify factors that judges commonly used in deciding to release defendants on their own recognizance and to set money bail at different amounts, and indicated that the significant disparities in bail release/detention decisions existed because different judges weighted the factors in different ways. The second stage of the research involved extensive discussion of these findings, in addition to collaborative development and testing of a set of "voluntary" bail guidelines that judges could use in making bail decisions.[a] The guidelines incorporated a grid or matrix that categorized defendants on the seriousness of the current charges and a risk classification that ranked defendants according to likelihood of flight or rearrest. When the current charge and risk assessment data were put together, a defendant would fall into one of 60 (later reduced to 40) possible categories. For each category, there would be a suggested option or range of options that could include release on recognizance (ROR) for low-risk defendants or the setting of money bail in amounts that increased to correspond with the severity of the charge and the severity of the risk. At that time (early 1980s), the guidelines included no provision for supervised nonfinancial release of medium- to high-risk defendants.

Findings from the second-stage research were promising—particularly the evidence that the guidelines approach produced significantly more consistent decisionmaking (thus reducing the inequities associated with the bail function and the use of pretrial detention) and that it could be used to generate feedback to judges about the consequences of their decisions for individual cases and for the system as a whole (including impacts on jail population). On the basis of these findings, the Philadelphia Municipal Court judges decided to adopt bail guidelines for use by the entire court beginning in 1982. Before full implementation and evaluation of the guidelines approach, however, a dramatic upsurge in arrests during the 1980s produced a jail overcrowding crisis that had an enormous impact on pretrial release practices.

In 1987, litigation brought in Federal court on behalf of inmates of the Philadelphia jails resulted in a consent decree that contained or generated a number of provisions designed to reduce the jail population and maintain it at or below a "maximum allowable population." One such provision placed a moratorium on admission to the

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Learning From Experience and Policy-Focused Research: The Background to Philadelphia's Adoption of Bail Guidelines and Supervised Release, continued

Philadelphia jails for all but those individuals charged with very serious crimes against the person. In practice, this meant that whenever the jail population exceeded the allowable maximum, defendants would have to be released from detention if they did not meet the strict criteria for admission. The result was the release from pretrial detention of a large number of defendants with drug or alcohol problems, with lengthy criminal records, or with histories of willful failure to appear. Not surprisingly, these defendants—who made up approximately 40 percent of the incoming caseload in Philadelphia—had very high rates of failure to appear.

The combination of a jail population cap and procedures severely limiting admissions to jail meant that pretrial release/detention decisions made in Municipal Court at the defendant's first appearance were rendered virtually meaningless. Furthermore, the limited pretrial services program resources were significantly diverted away from facilitating release at initial appearance to activities supporting reviews of the detention population in efforts to find candidates for conditional release. The bail guidelines system was completely eviscerated by the emergency procedures put in place as a result of the consent decree.

Developing a viable plan to overcome the effects of the jail population limit and other provisions of the consent decree and to restore credibility to the criminal justice process in Philadelphia took several years. In 1992, the city adopted an Alternatives to Incarceration Plan designed to minimize the unnecessary use of confinement and to provide accountability and supervision for persons released to the community both before trial and after conviction. The cornerstone of the plan was an updated version of the bail guidelines system initially developed a decade earlier, augmented by an enhanced capacity for supervision of released defendants.[b]

A key feature of the new approach was the establishment of an option for release to structured pretrial supervision of medium- to high-risk defendants charged with relatively serious crimes. These were defendants who under former practices (i.e., before the consent decree) would probably have remained in jail because judges believed that they were not good risks for ROR, and they were unable to post money bail, even when set at a relatively low amount. The earlier bail guidelines approach in Philadelphia had included no provision for supervised release of these categories of defendants; this time, the provision of support services through the pretrial services program (either directly or by referral) was a key component. The pretrial services program also continued to have responsibility for obtaining the information relevant to risk categorization and presenting the information to the judicial officer at first appearance.

a. Goldkamp, J.S., and M.R. Gottfredson, *Judicial Guidelines for Bail: The Philadelphia Experiment*, Washington, DC: U.S. Department of Justice, National Institute of Justice, 1984.

b. Goldkamp, J.S., and M.K. Harris, *An Alternatives-to-Incarceration Plan for Philadelphia: Findings and Proposed Strategies*, Philadelphia: Crime and Justice Research Institute, 1992.

The remainder of this report describes and analyzes the operations of pretrial services programs and outlines key challenges facing these programs as they look to the future:

- The techniques pretrial services programs use to gather and present information in making release/detention decisions are examined in chapter 2.
- The risk management role of pretrial services agencies in supervising defendants subject to court-ordered release conditions is explored in chapter 3.
- The viability of sharing information gathered by pretrial services agencies in other stages of the criminal justice process is assessed in chapter 4.
- Critical issues concerning pretrial release that policy-makers and practitioners will need to address in the near future are discussed in chapter 5.
- Information about available resources is provided in chapter 6.
- Sample forms and documents are presented in appendixes A through F.

Notes

1. See, for example, Foote, C., "Compelling Appearance in Court—Administration of Bail in Philadelphia," *University of Pennsylvania Law Review* 102 (1954): 1031–1079; Rankin, A., "The Effect of Pretrial Detention," *New York University Law Review* 39 (1964): 641–655; Clarke, S.H., and S.T. Kurtz, "The Importance of Interim Decisions to Felony Trial Court Dispositions," *Journal of Criminal Law and Criminology* 74 (1983); Gottfredson, M.R., and D.M. Gottfredson, *Decision Making in Criminal Justice: Toward a Rational Exercise of Discretion*, New York: Plenum Press, 1988.

2. Freed, D., and P. Wald, *Bail in the United States: 1964*, Washington, DC: U.S. Department of Justice and Vera Foundation, 1964: 45–46; President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society*, Washington, DC: U.S. Government Printing Office, 1967: 31.

3. Goldkamp, J.S., "Judicial Responsibility for Pretrial Release Decision Making and the Information Role of Pretrial Services," *Federal Probation* 57 (1) (March 1993): 31.

4. Clark, J., and D.A. Henry, "The Pretrial Decision," *Judicature* 81 (1997): 76–77. Clark and Henry note that in the Federal system, where the same statute governs pretrial release decisionmaking in all districts, release rates ranged between 18 percent and 68 percent. In large jurisdictions participating in the National Pretrial Reporting Project sponsored by the Bureau of Justice Statistics of the U.S. Department of Justice, the range was between 30 percent and 88 percent.

5. Ibid. The failure to appear (FTA) rates of the 40 jurisdictions studied in the National Pretrial Reporting Project ranged between 2 percent and 56 percent, averaging 25 percent. By contrast, in 1961 the average FTA rate in large jurisdictions was 6 percent; in 1971 it was 9 percent. Also see Thomas, W., *Bail Reform in America*, Berkeley: University of California Press, 1976.

6. Juszkiewicz, J., "Processing of Felony Defendants, 1992: A Profile in Disparity?" Paper presented at the Annual Meeting of the American Society of Criminology, 1994.

7. Ares, C.E., A. Rankin, and H. Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," *New York University Law Review* 38 (1963): 67; Rankin, A., "The Effect of Pretrial Detention."

Chapter 2
Techniques Pretrial Services Agencies Use to Inform the Release/Detention Decision

Key Points

- By providing reliable information to the courts, pretrial services programs can enhance the ability of judicial officers to make fair, equitable, and effective pretrial release/detention decisions.
- Pretrial services programs should collect and provide to the court at least the following information about newly arrested defendants:
  - — Identity, including date of birth and gender.
  - — Community ties, including residence, employment, and family status.
  - — Physical and mental condition, including information concerning abuse of alcohol or drugs.
  - — Criminal record, including history of adjudications of delinquency.
  - — Prior record of compliance with conditions of release, including record of appearing for scheduled court dates.
- Cases involving charges of domestic violence pose particular challenges for courts and for pretrial services programs. Pretrial services programs can help judicial officers make release/detention decisions in these cases by obtaining and presenting the following information:
  - — The defendant's relationship with the alleged victim, including living situation and whether they have children in common.
  - — The possible existence of any court orders (past or current) restraining the defendant from contacting the victim.
  - — Substance abuse problems of the defendant.
  - — Possible living arrangements, separate from the alleged victim, that may be available for the defendant if released.
  - — Mechanisms that can be used to prevent contact between the defendant and the alleged victim during the pretrial period and to monitor the defendant's conditions of release.
- In addition to information about defendants, pretrial services programs should also obtain and provide to the court information about available supervisory options.

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Key Points, continued

- Defendants are primary sources of information about themselves. They should be interviewed very shortly after arrest to begin the process of gathering and verifying essential information prior to the defendant's first court appearance.
- When interviewing defendants, pretrial services program staff should advise them about the purposes of the interview, the neutral role of the pretrial services agency, the types of information to be collected, how the information will be used, and the fact that their participation in the interview is voluntary.
- Other sources—including the pretrial services program's own records of prior cases involving the same defendant, other criminal justice agencies, motor vehicle departments, the defendant's family members, and the defendant's employer—can provide information about the defendant and can verify information provided in interviews with defendants. If information cannot be verified, it should be clearly labeled as unverified in the program's report to the court.
- The pretrial services program should analyze the information it collects to assess the risks of nonappearance and dangerousness. The risk assessment provides a basis for formulating recommendations concerning conditions of release and the use of available supervisory mechanisms.

Overview

The heart of pretrial services program operations is the collection, verification, and analysis of information about defendants and available supervisory options. This chapter focuses on a set of interrelated questions about how pretrial services programs obtain and convey information relevant to the release/detention decision:

- What information is needed for the decision? In particular, what types of information should a pretrial services program be expected to provide to a judicial officer?
- From what sources should pretrial services program staff seek to obtain information? What practical techniques can be used to help obtain the information?
- What information should be verified and how can this be done?
- How should information about the defendant and possible release options be presented to the court? To what extent should pretrial services programs make recommendations to the court?
- How is risk assessment conducted?

Information Needed

While the judicial officer needs different types of information to make decisions concerning custody status and to set conditions for released defendants, not all of the information must be provided by a pretrial services program. Information about the nature and circumstances of the charged offense, for example, should ordinarily be provided by law enforcement agencies and prosecutors, with an opportunity for defense lawyers to present their positions when the facts are in dispute. Similarly, although statutes often mandate that judicial officers consider the weight of the evidence and likelihood of conviction in resolving the release/detention issue, these are matters that involve legal judgments about facts or allegations. Presentation of information about these matters is appropriately left to prosecution and defense attorneys.

Information about a defendant's identity, prior criminal record, and any pending charges (including probation or parole violations) is often gathered by law enforcement and the prosecutor. However, this is an area in which pretrial services programs frequently play a valuable role. Often, a pretrial services program's own records will contain relevant information that supplements what the police and prosecutor can provide. In some jurisdictions, the pretrial services program has primary responsibility

for conducting criminal history record checks and may also review court records to see whether there are other pending cases involving the same defendant. It is common for the program's contacts with other agencies to turn up highly relevant items of information.

Most of the other information needed for sound release/detention decisionmaking—information about the defendant and about possible options for release that will minimize risks of nonappearance and pretrial crime—is best gathered by pretrial services program personnel. Standards adopted by the National Association of Pretrial Services Agencies (NAPSA) suggest that an independent investigating agency collect the following information about defendants:

- Length of residence at past and present address.
- Family ties and relationships in the community.
- Employment status and history.
- Financial conditions and means of support.
- Physical and mental condition, including abuse of drugs or alcohol.
- Identity of references who will verify information and assist the defendant in complying with conditions of release.
- Prior criminal record and history of delinquency.
- Prior record of failure to appear in court and compliance with conditions of release.[1]

Some pretrial services programs collect supplementary information in certain kinds of cases to help judges set conditions that are appropriate for the circumstances of the case. In Kentucky, for example, in every case in which the defendant is charged with an offense involving violence or threats of violence in a domestic relationship, staff of the Kentucky Pretrial Services Agency complete an addendum to the usual defendant interview form. The addendum presents available information about the defendant's relationship with the alleged victim, the existence of any current or past restraining order, and where the defendant would live if released. In Monroe County, Florida, staff of the pretrial release program routinely contact persons identified as victims of an arrested person to learn their views about releasing the defendant. For female defendants, some pretrial services programs ask questions that address woman-specific issues such as pregnancy, child care, and domestic violence to learn about services needed and to help shape conditions of release (see "Obtaining Information for Release/Detention Decisionmaking in Domestic Violence Cases").

In addition to having information about the defendant, judicial officers often want to know what supervisory options are available if they decide that the defendant does not need to be held in jail. The issue commonly arises in situations involving defendants who are homeless, defendants who have medical needs, and defendants who need treatment for alcohol, drug abuse, or mental health problems. The issue also arises in cases involving charges of domestic violence or other assault when the judicial officer wants to be confident that no contact between the defendant and the complainant will occur (see "Contacting Verification Sources Who Also May Be Victims").

Some pretrial services programs have the capacity to supervise some or all of these categories of defendants directly. If the program cannot provide direct or primary supervision itself, however, program staff are often aware of other organizations or agencies that can do so. For example, the report to a judge on a recently arrested person who is a drug addict could note that fact (and provide information on drug test results, if available), but also let the judge know of a drug treatment program that has an available slot.

Conducting Defendant Interviews

Interviewing defendants is a basic function of every pretrial services program. The defendants themselves are, at least in the first instance, the primary sources of information about themselves that can be relevant to the release/detention decision. However, a number of issues—and, with respect to some of the issues, sharply conflicting views among practitioners—exist with respect to when interviews should take place, who should be interviewed, and where and how the interview should be conducted.

Obtaining Information for Release/Detention Decisionmaking in Domestic Violence Cases

Cases involving charges of assault or battery committed by a person who lives with or is closely related to the victim pose particular challenges for the courts and for pretrial services programs. As understanding of the pervasiveness and seriousness of domestic violence has increased in recent years, some pretrial services programs have developed special procedures to obtain relevant information for judicial officers who must make decisions about pretrial release or detention in these cases. The Kentucky Pretrial Services Agency, for example, has developed a special addendum to its standard defendant interview form for use only in cases in which charges involve violence or threats of violence. The addendum includes questions designed to provide information to the judicial officer about—

- Whether the defendant lives with (or has lived with) the alleged victim and, if so, for how long.
- The defendant's relationship with the alleged victim, as described by the defendant.
- Whether the defendant believes the relationship will continue.
- Whether the defendant or the alleged victim has filed for divorce and, if so, when.
- Whether the defendant and the alleged victim have children in common.
- Whether the defendant drinks alcohol and, if so, how often.
- Whether the defendant thinks he or she has a substance abuse problem.
- Whether the defendant is currently going to counseling and, if so, what type of counseling, where, and how frequently.
- Whether the defendant is currently subject to a court order prohibiting contact with the alleged victim.
- Whether the defendant has previously had a restraining order filed against him or her.
- Whether the defendant has been charged with violating a restraining order any time in the past 2 years.
- If the defendant lives with the alleged victim, what alternative residence the defendant can use while the case is pending.[a]

In addition to interviewing the defendants in cases involving domestic violence, pretrial services programs can use other sources to find information directly relevant to the judicial officer's release/detention decision and the framing of conditions governing release. State criminal history repositories and the National Crime Information Center (NCIC) are especially important sources of information about defendants in cases involving domestic violence. Besides maintaining criminal history information, NCIC also maintains a Protection Order File that can be accessed to provide information about the existence and nature of any orders of protection or injunctions against harassment that previously have been issued against the defendant. In a case involving charges of domestic violence, the existence of previous or current protection orders against the defendant is highly relevant to the judicial officer's release/detention decision and the establishment of conditions of release.

a. Kentucky Administrative Office of the Courts, *Kentucky Pretrial Services Manual*, Lexington, KY: Kentucky Administrative Office of the Courts, 1998: 10–12.

Contacting Verification Sources Who Also May Be Victims

A difficult issue facing pretrial services programs in domestic violence cases is whether program staff members should have any contact with the alleged victim and, if so, for what purposes and with what limitations. When the defendant and the alleged victim live together, the latter often will be the most logical person to verify information elicited in the defendant interview. Additionally, a domestic violence victim's views about releasing the defendant and about possible conditions of release (including the defendant's living situation and the inclusion of orders of protection) are highly relevant to the judicial officer's decision. However, some pretrial practitioners feel that a policy of contacting the alleged victim may undermine the program's capacity to work effectively with defendants, both in obtaining information in initial interviews and in subsequently monitoring compliance with conditions of release. In jurisdictions that have a separate victim assistance program, that program can interview the alleged victim and provide information directly to the court without the pretrial services program having to be in contact with both parties.

Timing of the interview

Optimally, defendants will be interviewed very shortly after arrest to begin gathering data relevant to the release/detention decision as quickly as possible. This approach, which is followed by most pretrial services programs, increases the likelihood that the court will have essential background information at the time of the defendant's first court appearance when the initial release/detention decision is made.

Some programs, generally those with very limited staff resources, do not conduct interviews until after the first court appearance. This approach reduces the pool of defendants to be interviewed because some arrestees (for example, those who are able to post money bail and those who are released on nonfinancial conditions by a judicial officer acting without information provided by the program) already will have been released by the time program staff begin interviewing. One consequence of this approach is that the early releases, whether made on money bail or on nonfinancial conditions, are likely to have been made without the judicial officer having adequate information relevant to risk of flight or danger to the community and without providing for the defendants' supervision.

Who should be interviewed?

Programs do not need to interview every newly arrested person. Some individuals, for example, will have been arrested on warrants issued by other jurisdictions or arrested for violations of parole or violation of Federal immigration matters. If the local court does not have jurisdiction over the offense that gives rise to the arrest, then an interview is not appropriate unless the court or executive branch agency that has jurisdiction over the case specifically requests one.

Also, some pretrial services programs exclude selected defendants from the interview pool, based on the charge against the defendant or knowledge that the defendant has an extensive criminal record (see "Exclusionary Policies"). Programs that follow this approach assume there is little likelihood these defendants will be granted nonfinancial release, regardless of the strength of their community ties, and that it would be an inefficient use of limited project resources to interview them.

Other programs, following recommendations of the NAPSA Standards, seek to interview all defendants over which the court has jurisdiction. This approach has the benefit of enabling the program to provide the court with relevant information in all cases, including ones in which—even though the charge may be serious or the defendant may have a lengthy record—there may be some viable release options, such as supervised drug treatment, required urine testing, or electronically monitored home confinement. Another benefit is that relevant information on the defendant's background, community and family ties, and mental and physical condition can be gathered at an early stage. Depending on how it is disseminated, some of this information can be extremely useful for a variety of purposes, such as jail classification, assessment of the need for medical assistance or mental competency exams, preparation of presentence

Exclusionary Policies

The 1989 national survey of pretrial release programs found that a high percentage of programs excluded some defendants from the interview process. Overall, 63 percent of the State and local programs automatically excluded certain categories of defendants from being interviewed, solely on the basis of the charges against them. Charge-related exclusions were mostly for charges of violent offenses, distribution or sale of drugs, and probation and parole violations. Additionally, many programs automatically excluded defendants charged with drunk driving or with a record of prior failures to appear. The reasons given for the exclusionary policies include State statutes, policies established by the local court, and program staff limitations.[a]

Commentary to the National Association of Pretrial Services Agencies Standards cautions that "the offense charged may have no effect on the likelihood of appearance in court or committing pretrial crime," taking the position that "no person should be excluded from release consideration solely on the basis of the offense charged." As this commentary suggests, the effect of broad exclusionary policies is likely to mean the unnecessary detention of persons who are unable to make even a low money bail but who do not pose serious risks of flight or dangerousness.

a. Segebarth, K.L., *Pretrial Services and Practices in the 1990s: Findings From the Enhanced Pretrial Service Project*, Washington, DC: National Association of Pretrial Services Agencies (NAPSA), 1991: 44–51. The survey, conducted in 1989, obtained responses from 201 State and local pretrial services programs and 64 Federal programs. The report of survey findings is hereafter cited as *NAPSA Survey Report*.

investigation reports, and formulation of nonincarcerative dispositions involving treatment and supervision. (See chapter 4, "Sharing Pretrial Services Information for Use Beyond the Release/Detention Decision.")

Location of the interview

Interviews will be most productive and useful if conducted in an atmosphere that encourages defendants to cooperate with the interviewer. Whenever possible, interviews should be conducted under circumstances in which custodial officers, police officers, prosecutors, and other defendants cannot hear or observe them. This is not always possible and, indeed, it is not uncommon for interviews to be conducted in crowded jail facilities. Sometimes it may be necessary (or desirable) to conduct interviews by telephone or by video teleconference (see "Using Videoconferencing for Defendant Interviews and Reports to the Court"). Security for the interviewer is an important consideration for inperson interviews. The interview should be conducted where there is no chance that the interviewer can be taken hostage or otherwise placed in physical danger.

Interview formats and protocols

The extent to which information provided in a pretrial services interview is treated as confidential—an issue discussed in chapter 4—is important. An assurance that information will be treated as confidential or can be used only for purposes of the release/detention decision is likely to increase the defendant's cooperation, but agency staff can offer such assurances only if they are certain that the confidentiality or limited-use policy can be maintained (see "Cautions to Defendants Being Interviewed—and to Interviewers"). Whether or not a jurisdiction provides confidentiality, advisement should, at a minimum—

- Establish the agency as a neutral third party.
- Clarify the role of the agency as an information gatherer, provider of information to the court, and potential monitor of postrelease behavior.
- Explain the purpose of the interview.
- Inform the defendant that the interview will include questions on living situation, family, employment, other community ties, and prior criminal history, but will *not* ask about the current charge.
- Explain the voluntary nature of the interview and inform the defendant that he or she has a right to speak with an attorney before answering any questions and can refuse to answer any questions.

Using Videoconferencing for Defendant Interviews and Reports to the Court

The rapid development of video technology makes it possible to conduct interviews of newly arrested defendants very shortly after arrest, even though the arrestee may be in a distant location. This is a particular advantage in rural areas, where low case volume may make it difficult to maintain full-time staff to conduct interviews and provide other pretrial services. The technology can also be used in large urban areas, however, where newly arrested persons are held in separate police lockups.

In the Sixth Judicial District of Virginia, videoconferencing is used to conduct interviews of newly arrested defendants in a three-county area that covers approximately 1,400 square miles. The video equipment is located in each of the three jails in the district and in the office of Southside Community Corrections and Pretrial Services, located in the town of Emporia. A single pretrial services officer conducts interviews with defendants in each jail beginning at 6 a.m. After the information is verified (usually by phone), the officer faxes a report and recommendations to the clerk of each court in which there will be an initial appearance calendar. The courtrooms in each county are also part of the videoconferencing network, so the pretrial officer can also be available by video to answer questions or to provide additional information the judicial officer requests.

A similar approach is used in Monroe County, Florida, for persons arrested over the weekend in the Middle and Upper Keys. Interviews and initial arraignments are conducted by video; the pretrial services officer is based in the program's office in Key West.

The use of videoconferences as a mechanism for conducting interviews is not limited to rural areas. As noted in chapter 1, Philadelphia's pretrial services program now conducts about 60 percent of its interviews by video. Program administrators expect to be doing all or virtually all of the interviews via video in the near future.

Whether video interviewing is done in a rural or urban area, the ground rules for conducting the interview are basically the same as for conducting inperson interviews. It should be made clear to the defendant that the interview is voluntary and that the results will be used to help the judicial officer make decisions concerning pretrial detention or release. Furthermore, the interview should be conducted in a secure, private setting.

- Explain how the interview information will be used.
- Inform the defendant of the potential negative consequences of giving false information.

A number of agencies provide defendants with a written copy of the advisement, ask them to sign it, and file the signed copy (see appendix F for examples of advisement forms used in the U.S. District Court for the Southern District of New York).

In conducting the interview, program personnel typically use standardized interview forms that enable them to collect essential information quickly. Sample interview forms and related materials are provided in appendixes A (Kentucky), B (District of Columbia), and C (Harris County, Texas). In some jurisdictions, interviewers use computers to record interview information. The information then can be easily added to preprinted report forms for presentation to the court and also can be easily stored for future use.

Interviewing recently arrested defendants is not an appropriate assignment for someone who is untrained in interviewing techniques or who is easily provoked or distracted. Working conditions are seldom ideal, and many defendants can be difficult to interview. Program administrators need to train staff to deal with defendants who may be drunk or "high" on drugs, mentally or physically impaired, or simply uncooperative. Some may not speak English, and a bilingual staff member or an interpreter may be needed. Program staff may use a number of techniques to conduct productive interviews (see "Conducting Defendant Interviews: Practical Suggestions for Pretrial Interviewers").

Obtaining Information From Other Sources

Often, a pretrial services program will have information about a defendant in its own records because of prior arrests, interviews, and supervised release in the same jurisdiction. Additionally, depending on the time and resources available for the investigation, pretrial services staff may use the following resources either as primary sources of information about defendants or as a means to verify defendant-supplied information.

Arresting agents or officers have information regarding the charge, circumstances of the arrest, and the defendant's criminal record. Many law enforcement agencies record limited personal information about the defendant, such as date of birth, address, employment, and substance abuse history.

Criminal record retrieval systems include the FBI's National Criminal Information Center (NCIC), the National Law Enforcement Telecommunications System, and State criminal history repositories. The State repositories, generally organized as a branch of the State police or State bureau of investigation, are primary sources of criminal records. These systems may also provide prior addresses, aliases, names of probation or parole officers, and motor vehicle information. To access these systems, agencies must secure appropriate authorization.

Probation, community corrections, and parole agencies can provide personal information, criminal history, and record of compliance with supervision (including court appearances, violations, and pending charges) if a defendant has been on probation or parole. To facilitate access to this information, pretrial services program administrators need to develop ongoing information-exchange relationships with these agencies.

Correctional institutions have information such as dates of incarceration and the existence of detainers filed against defendants. Pretrial agencies need to advise the court promptly of any detainers because this status may preclude releasing a defendant.

Motor vehicle departments can supply information about driving violations and records of traffic court appearances. Their records also often contain descriptions of defendants and addresses for verifying information provided by the defendant.

County court records relating to marital status, child support, and property ownership may prove useful in assessing family and community ties.

Credit bureaus, for a fee, will provide employment, residential, and financial data about individual defendants. However, since a defendant must sign a release form before these records are requested, credit bureau records cannot usually be accessed in time for the initial appearance.

Family members can often provide documents—including lease agreements, pay stubs, utility bills, or passports—that are evidence of a defendant's community ties and employment status.

Employers are the most reliable source of information regarding a defendant's current work status. However, some defendants may be reluctant to have their employer contacted because they fear that information about their arrest will get them fired. Most pretrial services programs respect this concern and seek to verify a defendant's

Cautions to Defendants Being Interviewed—and to Interviewers

District of Columbia pretrial officers are trained to tell defendants that a judicial officer will use the information they provide to decide whether to release them. Officers also inform defendants that the interview is voluntary and that the information will not be used later to prove the defendant guilty. Interviewers are cautioned—

- Not to discuss the charge.
- Not to develop any kind of relationship with the defendant beyond the interview's purpose.
- To complete a disclosure form if the interviewer knows the defendant.

Conducting Defendant Interviews: Practical Suggestions for Pretrial Interviewers

A number of pretrial services programs have prepared manuals or guidelines designed to help staff members conduct effective interviews. Suggested interview techniques include the following:

- **Maintain control of the interview, but do not intimidate or bully the defendant.** More information is obtained at this stage by a friendly interviewer, especially in jurisdictions where defendants can opt out of the pretrial services interview. If the defendant is truly uncooperative, come back after he or she has cooled down.
- **Be prepared to clarify standard interview questions by rephrasing.** Even where an interpreter is not required, many defendants have had less education than the average person. Many are unfamiliar with the stylized language of the criminal justice process. Interviewers need to adapt standard questions to get through to defendants.
- **Do not permit the defendant to sidetrack the interview by providing irrelevant information.** Experienced interviewers can help new staff hone their skills in directing the conversation toward obtaining needed information. Remind defendants that the purpose of the interview is to provide the court with information that may support their release.
- **Do not provide legal advice.** Even if defendants are aware that the interviewer is not a lawyer, they may assume that, since the interviewer works in the justice system, he or she is a good source of either legal advice or inside information on how the system actually works. For example, a defendant might ask whether the judge is a lenient or harsh sentencer or whether the interviewer thinks a plea to a lesser charge would result in a specific sentence. Interviewers need to say that these are questions they cannot answer and instruct defendants to discuss these matters with their lawyers.
- **Do not recommend an attorney or comment on the qualifications of specific attorneys.** Recommending an attorney compromises the professional stature and independence of the agency. Furthermore, commenting on attorney qualifications is unprofessional and is likely to lead to severe criticism of the interviewer.
- **Do not discuss information about the offense charged.** This is a subject for discussion between the defendant and counsel, or for the police or prosecutor to address.
- **Do not argue with the defendant.** If a defendant appears to be providing contradictory answers or to be omitting essential details, the interviewer can confront the defendant about the discrepancies or omissions but should do so professionally.
- **Do not complete answers for defendants who hesitate on specific questions.** Suggesting responses diminishes the likelihood of obtaining reliable information in a situation that already may motivate some defendants to fabricate.

reported employment status without disclosing the arrest to the employer. Telephone directories and professional licensing agencies can corroborate a defendant's claim of self-employment.

Given the time constraints associated with preparing pretrial services reports and recommendations, it may not be possible to secure a defendant's written release for obtaining information from third parties. However, pretrial services agencies that participate in detention reviews and postrelease supervision of defendants should consider developing a release-of-information form to facilitate information gathering from hospitals, clinics, past employers, or other entities.

Verification

Verification of information provided by defendants is an integral part of pretrial services program operations. Indeed, many pretrial services practitioners believe that verifying defendant information is the most important function their programs perform.

The extent of verification may vary depending on the seriousness of the charge and the nature of the information (see "Verification Strategies and Techniques"). As a top priority, agencies need to verify information about the defendant's identity and about places where he or she can be contacted if released (e.g., addresses and phone numbers). Information that cannot be verified by the time it is presented to a judicial officer should be labeled as unverified.

Most verification is provided by family members or personal references. However, defendants may request that employers and other specific individuals not be contacted. Because defendants are presumed innocent and contacting specific individuals may cause them harm (e.g., loss of a job), pretrial services personnel need to exercise caution in deciding which individuals should be contacted and how they should be approached.

In selecting the individuals to be contacted, agency personnel should consider the relative importance of the verification source, the potential damage to the defendant's livelihood or personal relationships if the person learns about the defendant's arrest, and possible danger to third parties. Staff should use the least intrusive methods necessary to obtain and corroborate relevant information.

Most programs seek to verify information provided by the defendant from at least one independent source, and some require two sources. The most common method of verification is telephone contact with an employer, friend, spouse, or other relative. Sometimes, however, a defendant cannot supply phone numbers for any references, and often it is impossible to contact a reference even when a phone number is given. Programs sometimes use field investigators to contact references who cannot be reached by phone.

Because the defendant's first court appearance ordinarily takes place within 48 hours after arrest (and sometimes considerably sooner), obtaining verification before this first appearance can be difficult. Some programs will not present unverified information. Others will present the information, noting that it has not been verified. The latter approach enables judicial officers to consider possible options and, if appropriate, to order release subject to verification of information provided by the defendant.

No matter what action is taken with respect to release or detention at the defendant's first appearance before a judicial officer, there are often good reasons to initiate or continue the verification process. For example, if a defendant has substance abuse or mental health problems, pretrial services program personnel may need to talk with previous treatment providers to design (or refine) an appropriate supervision plan. Followup verification can lead to release of some defendants who would otherwise remain in jail throughout the pretrial period. It can also strengthen a program's supervision capability and add to its credibility with the court and other organizations involved in the criminal justice process.

Verification of information can be particularly important in the case of defendants who are not released at the initial appearance. A number of jurisdictions have assigned pretrial services programs responsibility for reviewing the status of defendants after they are detained or unable to make bail at the initial hearing. Courts will often review the cases of defendants in this situation, but judicial officers typically want to be able to consider verified information about the defendant's background and community and family ties before reducing the defendant's bail, altering the conditions of release, or rescinding an initial detention order.

Analyzing the Information: Approaches to Risk Assessment

Once information has been collected, it must be analyzed for use in the release/detention decision. Some pretrial services programs simply convey information about defendants to the judicial officer responsible for the decision, but most analyze the data and use it as a basis for recommendations. The analysis process—*risk assessment* or *risk classification*—is a key step in both the court's release/detention decisionmaking process and, if the decision is to release the defendant, the management of the risks of nonappearance and pretrial crime.

Risk assessments seek to take account of factors identified through the defendant interview, the verification process, and information acquired from other sources. Subjective risk assessments are based on program staff members' consideration of the relative weight to be given to different factors. Objective risk assessments use instruments such as point scales or pretrial release guidelines

Verification Strategies and Techniques

In a 1996 *Program Training Supplement*, the Pretrial Services Resource Center (PSRC) provides useful guidance for pretrial services program staff involved in interviewing defendants and verifying information.[a] PSRC emphasizes that pretrial services agencies should attempt to verify at least the following information:

- Address.
- Length of residence in a particular county or city.
- Means of support and education.
- Drug or alcohol use and substance abuse treatment history.

PSRC has a number of useful suggestions for verifying this information:

- After completing the interview, pretrial staff should obtain from the defendant the names of potential references, each reference's relationship to the defendant, and a telephone number where each reference can be reached.
- At a minimum, pretrial staff should try to obtain at least three reference sources, each with a different phone number.
- Staff should be particularly mindful to verify information that is directly related to a recommendation for release. For example, if the program is considering recommending release contingent on the defendant living at a certain residence, staff must determine whether the placement is acceptable to the owner of the residence.
- The verifying source should be advised of the identity of the agency, the identity of the staff member placing the call, and the identity of the defendant who has provided the source's name to verify information that may affect the court's decision concerning release.
- The verifying source should be told that participation is voluntary.
- Every effort should be made to avoid leading the verifying source and thus to ensure independent responses. Verbatim quotes may be appropriate.

a. Kennedy, S., D.A. Henry, J. Clark, and J. Juszkiewicz, *Pretrial Issues: Pretrial Release and Supervision Program Training Supplement*, Washington, DC: Pretrial Services Resource Center, 1996: 23–26.

that assign weights to variables such as nature and seriousness of the current charge, seriousness of prior record, employment status, housing situation, family ties, and the existence and nature of mental health or substance abuse problems. (The point scale used in Monroe County, New York, is provided in appendix D, and the Pretrial Release Guidelines Matrix and the Risk Classification Worksheet used in Philadelphia are provided in appendix E.)

All three principal sets of national standards in the pretrial release field favor the use of objective criteria, principally on the grounds that they are fairer and more consistent. Thus, for example, the commentary to the NAPSA Standard on evaluating the nature and degree of risk posed by release of a defendant maintains that use of objective criteria is "the only way to remove arbitrariness and approach equal treatment for all defendants."[2]

In practice, pretrial services programs approach the risk assessment process in several different ways. The most recent available data, from the 1989 survey conducted by the National Association of Pretrial Services Agencies, indicate that among State and local programs—

- About 25 percent use an objective system (point scale, risk matrix, or pretrial release guidelines).
- Another 25 percent use a subjective system only.
- About 40 percent use some combination of an objective system plus subjective input from program staff members.
- Fewer than 10 percent of the programs provide background information only, with no attempt to assess risk.[3]

In the Federal system, all pretrial services programs make some kind of risk assessment, but almost 69 percent of the Federal programs surveyed in 1989 relied exclusively on subjective risk assessments.

Risk assessments are designed to give judicial officers information—and, in most instances, recommendations or options—that they can use in making the release/detention decision and setting appropriate conditions. Using the available information, pretrial services programs assess the risk that a defendant will fail to appear for scheduled court dates and consider what release conditions could minimize that risk. In many jurisdictions, programs also seek to assess dangerousness and consider what conditions could be imposed that would minimize the risk to public safety.

The pretrial release guidelines approach, now most fully developed in Philadelphia, goes an important step beyond simply providing information to the judicial officer responsible for the release/detention decision. It provides essential information, but it does so in a format that structures the judicial officer's exercise of discretion, suggesting a specific option (or range of options) thought to be appropriate for defendants who fall within a particular category on the guidelines matrix. The guidelines matrix used in the new Philadelphia program (see appendix E) has two primary dimensions: charge severity, divided into 10 categories from least to most serious; and predicted risk of misconduct—that is, failure to appear (FTA) or rearrest—derived from empirical analysis of factors that include community and family ties, employment, education, prior record, and treatment needs. The predicted risk dimension is divided into 4 levels, and the matrix thus has a total of 40 cells or categories of defendants. Each category has a distinct combination of charge severity and predicted risk of misconduct, and each has a presumptive option (or range of options) concerning release conditions.

The presumptive options for each category are set by a court policy group based on two types of inputs: (1) analysis of data showing what actually was done, and with what outcomes in terms of variables such as FTA and rearrest, in prior court cases that involved defendants with similar charges and risk factors; and (2) the considered judgments of members of the court policy group concerning what should be done in each category of cases, taking account of both the results of past practices and any goals with respect to the systemic impacts of the totality of release/detention decisions in the jurisdiction (see "Implementing Pretrial Release Guidelines: Philadelphia's Experience").

Providing Information and Recommendations to the Court

All pretrial services programs provide background information to the court on defendants they have interviewed, and most also make recommendations concerning conditions that could be imposed to help minimize risks of flight and dangerousness.

Reports to the court vary widely in format and mode of presentation. In some jurisdictions, a very detailed written narrative is prepared, but in most courts a fairly simple short form report is used. Typically, the report will include a summary or outline of the basic information the program has obtained from the defendant and other sources, with brief notes about factors that program staff want to bring to the court's attention. The recommendations section of the report, if there is one, may also suggest conditions of release that will help minimize the risks that have been identified. For example, if the defendant has a history of drug or alcohol abuse, the program might recommend periodic drug testing plus participation in a substance abuse treatment program. If the offense charged involves domestic violence, the program might recommend that release be conditioned on the defendant's having no contact with the complainant while the case is pending.

Implementing Pretrial Release Guidelines: Philadelphia's Experience

The pretrial release guidelines used in Philadelphia are not meant to be straitjackets. Bail commissioners and judges are free to depart from them in making release/detention decisions in specific cases, but they are expected to follow the guidelines in the great majority of cases. This has, in fact, happened in Philadelphia, where the guidelines approach implemented in 1995 was designed primarily to maintain a level of release at least as high as the level required by the emergency procedures put in place by a Federal court in 1987, while greatly reducing the high FTA and rearrest rates that had been associated with the emergency procedures. The commissioners charged with release/detention decisionmaking in the Philadelphia Municipal Court followed the presumptive option in more than 60 percent of the cases during the first year of implementation. One result of the new approach was a sharp reduction in the FTA rate, from nearly 50 percent under the federally imposed emergency procedures to approximately 25 percent during the first year of the new program. At the same time, the system was able to maintain the jail population at a stable level.[a]

A major advantage of the guidelines approach is that it enables analysis of pretrial release outcomes by category of defendant, so that policymakers and practitioners can learn the results of specific approaches for handling defendants with particular charge and risk characteristics. The resulting feedback enables the policy group to adjust the guidelines if necessary, focusing on how to address issues posed by defendants in one or a few of the 40 categories. The feedback may also suggest changes in operational policies, such as the timing or nature of specific supervisory activities. In Philadelphia, for example, researchers found that defendants who appeared at a pretrial services orientation meeting scheduled a few days after release date were far more likely to appear for scheduled court dates than those who did not. The finding suggests the importance of the orientation meeting and also points to a possible need to revise operating procedures for identifiable categories of defendants who tend to skip this meeting.[b]

A key feature of the guidelines approach in Philadelphia has been the close collaboration between researchers and criminal justice policymakers. The court policy group has applied research findings in developing the guidelines matrix and in shaping the release and supervision options available for defendants who fall into each category on the matrix. Because the recommendations for each defendant reflect the considered judgments of experienced judges and other practitioners as to how to deal with similar cases, they have a high degree of acceptance by judicial officers responsible for the release/detention decision.

a. Goldkamp, J.S., M.K. Harris, and M. White, *Pretrial Release and Detention During the First Year of Pretrial Release Guidelines in Philadelphia—Review and Recommendations*, Philadelphia: Crime and Justice Research Institute, 1997: 7–18.

b. Ibid., 25–27.

In both examples, the pretrial services program also may be able to suggest specific options. Drug court may be a possibility for the substance abuser, or there may be an outpatient or residential substance abuse treatment program with an available slot. For the defendant charged with domestic violence, program staff can verify the existence of an alternative residence and perhaps arrange for use of an electronic surveillance device that will help ensure that the "stay away" condition is met.

Although the NAPSA Standards call for a representative of the pretrial services program to be available at the time the initial release/detention decision is made by a judicial officer, data from NAPSA's 1989 survey indicate that this occurs in only about 60 percent of the State and local jurisdictions that have pretrial programs.[4] Those who advocate the presence of an agency representative in court point to three functions that the staff member can perform:

- Present the information and recommendation(s) to the court.
- Respond to any recommendations or questions about the information asked by the court, prosecutor, or defense counsel.
- Once the release/detention decision is made, explain any conditions of release and sanctions for noncompliance to the defendant and ensure that the defendant knows of the next court date and other requirements.

When a program representative is not present in court, the reason is generally lack of staff or scheduling conflicts, but sometimes this is a conscious policy choice on the part of the program. Programs that use an objective risk assessment scheme (e.g., a point scale or pretrial release guidelines) often feel that the objective data are sufficient, and these programs are less likely to have a representative in court than programs that rely on subjective risk assessments or some combination of objective and subjective approaches.

Supporters of pretrial services programs disagree on the advisability of making specific recommendations to the court. The NAPSA Standards support recommendations, and, in fact, in the 1989 NAPSA survey more than 70 percent of the State and local programs and 95 percent of the Federal programs routinely made recommendations concerning defendants they had interviewed.[5] Another 20 percent of the State and local programs and 5 percent of the Federal programs made recommendations when asked to do so by the court in specific cases.

Critics of the practice argue that making recommendations amounts to advocacy concerning release or detention, and that advocacy should be left to the prosecutor and defense counsel. Critics also note that some types of information that are relevant to the release/detention decision—including information about the circumstances of the offense, the weight of the evidence, and the likelihood of conviction—are generally not available to pretrial services program personnel, resulting in recommendations based on incomplete information. The more appropriate role for the program, they maintain, is simply to provide information about the defendant and about possible release options, organized in a fashion that will help the judicial officer make a sound decision. This approach would not preclude pretrial services programs from analyzing the available information, but it would more clearly separate the program's information-gathering and analysis functions from the judicial decisionmaking process that provides for input from prosecution and defense.

Proponents of recommendations maintain that they are a logical extension of the risk assessment process. Presenting recommendations, they note, simply informs the court of how the risks of flight and pretrial crime can be minimized if the defendant is released and indicates whether—on the basis of information known to the program—the risks are manageable. Proponents recognize that there may be other information, not available to the pretrial services program, that can affect the decision. It is also possible to develop recommendations that are based on analysis of both the types of information typically collected by pretrial services agencies and the information ordinarily presented by prosecutors. That is the approach taken in the pretrial release guidelines system used in Philadelphia, where the guidelines matrix score reflects both the seriousness of the offense and the predicted risk of flight or pretrial crime.

Notes

1. National Association of Pretrial Services Agencies (NAPSA), *Performance Standards and Goals for Pretrial Release*, Standard III, Washington, DC: NAPSA, 1978.

2. Ibid., commentary to Standard XI.

3. *NAPSA Survey Report*, 72–76.

4. Ibid., 88–89.

5. Ibid., 67–68.

Chapter 3
Pretrial Supervision Strategies: Risk Management for Released Defendants

Key Points

- Defendants on pretrial release pose two main types of risks: nonappearance for scheduled court dates and commission of pretrial crime. Pretrial services programs, working with the courts and other justice system agencies, can help manage and minimize these risks.
- The reasons for nonappearance vary widely, but the majority of defendants who fail to appear will return to court once contacted.
- Pretrial services programs use three main approaches to manage the risk that some defendants may fail to appear for scheduled court events:
  - — Gathering information relevant to assessing the risk of nonappearance and initiating followup action if a court date is missed.
  - — Using monitoring and reminder techniques to try to anticipate and avoid nonappearance.
  - — Immediately contacting a defendant who misses a court appearance to resolve the problem and minimize disruption of the court process.
- Pretrial services programs manage the risks to public safety by doing the following:
  - — Monitoring released defendants' compliance with conditions designed to minimize the risk of pretrial crime.
  - — Providing direct "intensive" supervision of some categories of defendants.
  - — Responding promptly to information indicating a defendant has violated conditions imposed by the court.
- Conditions of release should be related to the type of risk posed by the released defendant. Examples of types of conditions used include the following:
  - — Requirements for phone or inperson check-ins with the pretrial services program.
  - — Restrictions on a defendant's movements, including curfews, "stay away" orders, and electronic monitoring and house arrest.
  - — Testing and treatment for drug and alcohol abuse.

(continued)

KEY POINTS, CONTINUED

- Defendants with substance abuse and mental health problems make up a significant proportion of court caseloads and jail population. The key roles that pretrial services programs can play in developing innovative programs to deal effectively with these persons include the following:
  - — Obtaining essential information about their substance abuse and mental health problems.
  - — Assessing the nature and extent of the risks of flight and dangerousness posed by these defendants, taking into account the defendants' substance abuse and mental health needs and the clinical and programmatic resources that can be used to help address the needs if the defendant is released.
  - — Monitoring the defendants' compliance with any conditions of release.
  - — Coordinating the provision of treatment and other services to these defendants.

This chapter focuses on ways in which pretrial services programs, working closely with the courts they serve and with other justice system agencies, can help to manage and minimize the two key risks—nonappearance and dangerousness—that are of greatest concern to policymakers in developing pretrial release policies and practices.

The risks that defendants will fail to appear in court, intimidate victims or other witnesses, or commit crimes while on release vary across a broad spectrum of probability. Most defendants fall somewhere in the middle of the risk spectrum: While they are not appropriate candidates for completely unrestricted release, neither are they so dangerous (or so likely to flee the jurisdiction) that they need to be jailed prior to trial. The challenge for pretrial services—indeed, for the entire criminal justice community, especially the judges and other judicial officers who are ultimately responsible for the release/detention decision—is to find risk management strategies and techniques that will be effective for these middle-ground defendants and thereby minimize the use of pretrial incarceration.

Managing the Risk of Nonappearance

Pretrial services programs manage the risk that some defendants will fail to appear for scheduled court events in three main ways:

- Gathering and periodically updating information relevant to assessing the risk of nonappearance and initiating followup action if necessary.
- Using a variety of monitoring and reminder techniques to try to anticipate and avoid possible nonappearance problems.
- Immediately contacting a defendant who misses an appearance to resolve the problem and minimize disruption of the court process.

Information: The foundation for managing risk of flight

When released defendants miss a court appearance, it is often not because they are fleeing from prosecution but, rather, for other reasons ranging from genuine lack of knowledge about the scheduled date to forgetfulness (see "And Then the Dog Ate My Subpoena"). Nevertheless, the missed appearance disrupts the court's schedule, delays the case, inconveniences victims and other witnesses, and wastes valuable time. Many of the problems caused by defendants failing to appear can be minimized by improving communication between the court and the defendant, with pretrial services playing a key role in the process (see "Minimizing Failures to Appear").

The foundation for good communication is the information the pretrial services program staff gathers—especially information about the names, addresses, and phone numbers of the defendant, the defendant's spouse and other family members, and the defendant's employer. Once a defendant is placed on pretrial release, this basic information is supplemented by information related to the following:

- The defendant's compliance with requirements for phone and inperson check-ins with the pretrial services program.

"And Then the Dog Ate My Subpoena"

In 1995, the *Milwaukee Journal Sentinel* chronicled excuses defendants offered for not appearing for scheduled court events:

> The hard-working staff in Milwaukee County's intake court has heard nearly every possible excuse [to explain] why people missed court dates and had to be dragged in on a warrant. Last month they decided to start keeping track of them. The no. 1 reason: 33 people said illness prevented them from coming to court. That was followed by "I was in jail" (22 people); "I forgot" (20); "I did not know when to come back" (20); "I was here" (18); "I don't know" (17); "I had a death in the family" (16); and "I was working" (14). Five people were afraid to go to jail; three were in drug treatment; two said a family member had been kidnapped; two said they were drinking or on drugs; two had a fire in their house. And one, believe it or not, gave this refreshing answer: "I accept full responsibility for not showing and have no excuse."

- The defendant's compliance with other conditions of release, such as providing urine samples for drug tests, participating in a drug or alcohol treatment program, and obeying a curfew.
- Upcoming court dates for the defendant.
- The defendant's appearance record for scheduled court dates.

Monitoring and reminder strategies

The check-in procedures used by many pretrial services programs provide opportunities for program staff to remind

Minimizing Failures to Appear

Rob Schwab, assistant administrator of the Pretrial Services Program in San Mateo, California, has examined failure-to-appear (FTA) rates and ways to reduce them:

> [D]efendants fail to appear in court for many reasons. While some defendants willfully fail to appear, for most people the reasons are more complicated. A defendant may have lost the paperwork on the current case and have either forgotten s/he must appear or not know whom to contact to find out where and when to appear. Many defendants do not understand what they are supposed to do or fully comprehend the seriousness of the charges against them and the penalties for missing court. Many defendants are afraid of the criminal justice system and are too fearful to ask simple questions. Many wrongfully equate a citation to appear on a misdemeanor as the functional equivalent of a parking citation. Other defendants think they have a valid excuse because they must work or have child care or transportation difficulties.

When the San Mateo program realized that it had several categories of defendants with unacceptably high FTA rates, it initiated some simple notification and reminder procedures. The procedures led to immediate and dramatic improvements. According to program director Roman Duranczyk:

> Our research, and research in other jurisdictions, shows that many failures to appear can be averted by reminding the defendants of their upcoming court appointments. Under the O.R. [Own Recognizance] Program court notification system, defendants receive reminders by phone and letter before every court appearance. The result has been a significant decrease in the failure to appear rate and subsequent incarceration of defendants on bench warrants. We have had a positive effect on both defendants and the criminal justice system by explaining to these individuals how the system works, answering their questions, and explaining the importance of coming to court.

defendants of upcoming court dates and tell them where to go at the courthouse. During a check-in call or visit to the program's office, program staff can inquire about changes in address or employment and obtain updated information regarding where and how to contact the defendant. The check-ins also help defendants realize that the court is serious about expecting them to appear when scheduled. Practitioners note that defendants are quick to perceive how a system really operates—whether a system is too overworked to care if certain "nonserious" defendants show up or, conversely, whether it has the determination to stay in contact with defendants, enforce its orders, and maintain its schedules.

Comprehensive pretrial services programs take advantage of each and every contact with defendants to remind them of their obligations and update the program's own information base. In the District of Columbia, for example, defendants reporting for drug testing are also reminded of their upcoming court dates and other release conditions. Their current addresses are routinely double-checked to ensure accuracy or to discover changes. Defendants responding to telephone curfew checks are also reminded of their court dates and asked the same questions regarding the addresses and phone numbers where they can be contacted. If the defendant does abscond, the documented evidence of multiple reminders can be used in subsequent "bail jumping" prosecutions, further reinforcing the accountability the public expects.

Followup on no-shows

As any dental office receptionist can attest, some people do not appear for appointments regardless of reminders. Pretrial services programs that have established specialized failure-to-appear units universally report that most wayward defendants are not "on the lam" but, rather, can be quickly reached at home or at work.

Once contacted, defendants—even those with outstanding bench warrants—often can be persuaded that their best option is to turn themselves in before they are arrested. Of course, judges whose calendars have been disrupted because a defendant fails to show up are entitled to an explanation. Pretrial services agencies, in their role as neutral gatherers of information, can be helpful in investigating the circumstances of the no-show and verifying any explanation of the behavior. Sometimes staff can corroborate an excuse directly from the agency's existing records—for example, finding out whether a data entry mistake was made while recording the next court date. Regardless of whether an excuse is valid, program staff personnel can also provide information regarding the defendant's willingness to come to court once contacted about a failure to appear.

Managing Risks to Public Safety

The possibility that a released defendant will commit a crime—especially a violent offense—is undoubtedly the risk of greatest concern to the judicial officer who must make the release/detention decision, to other justice system practitioners, and to the general public. Since the accuracy of no risk assessment instrument or approach is even close to 100 percent, any jurisdiction that releases a significant number of defendants during the pretrial period must seek to manage the risk that such release poses to public safety (see "Using Research to Help Develop Knowledge and Shape Pretrial Release Supervision Policy and Practice").

A pretrial services program's capacity for direct supervision of released defendants is often limited by both lack of law enforcement powers and lack of resources. Nevertheless, the program can play an important role in managing the risk to public safety by—

- Monitoring released defendants' compliance with court-imposed conditions that are designed to minimize the risk of pretrial crime.
- Providing direct "intensive" supervision of some categories of defendants.
- Responding promptly to violations of conditions of release.

Monitoring conditions of release

Judicial officers can establish a wide variety of conditions of release, only some of which are within the capacity of a pretrial services program to monitor. Examples of release conditions that pretrial programs have been asked to monitor include restrictions on movement, "stay away" conditions, curfews, and house arrest and electronic monitoring.

Using Research to Help Develop Knowledge and Shape Pretrial Release Supervision Policy and Practice

As Philadelphia has undertaken major reforms in its pretrial release practices, including initiation of new pretrial release guidelines, researchers at the Crime and Justice Research Institute have worked with policymakers to mount a series of experiments designed to learn more about how to minimize failure to appear and pretrial crime on the part of released defendants. In a 1998 report analyzing the results of four control-group experiments that focused on alternative notification and supervision practices, the researchers drew two main conclusions: (1) it is critically important for supervisory staff to have an effective means of reaching defendants directly to notify them of upcoming court dates and to respond to noncompliance with conditions of release; and (2) it is essential to have a system that employs meaningful consequences, imposed quickly when violations occur or when defendants fail to comply with conditions. Most of the needed responses, they noted, do not have to include confinement, but there probably does need to be some capacity to use confinement selectively.[a]

Reflecting on the lessons learned through these experiments, plus their understanding of the context in which pretrial release takes place in Philadelphia, the researchers suggested that the following combination of elements is likely to be most effective in reducing misconduct on the part of released defendants:

- Effective risk assessment to identify defendants who, on the basis of analysis of previous cases, appear to be at greatest risk of misconduct. (In Philadelphia, the risk assessment is an integral part of the pretrial release guidelines process.)
- Implementation of a comparatively simple supervision regimen, with achievable conditions, very accurate information (including reliable information on how to contact the defendant directly), and vigilant monitoring by staff.
- Procedures to ensure that defendants attend the first stage of the pretrial release orientation process (at which conditions and expectations are explained by program staff and contact information is confirmed), using transportation provided by the police if necessary.
- Rapid followup on instances of noncompliance, including use of a range of different types of consequences.
- Use of drug treatment as an integral part of pretrial release for defendants with substance abuse problems.
- Development of partnerships with other entities involved in initiatives focused on community crime problems—including the police, probation, and community organizations—to enhance the prospects for effective community-based supervision.[b]

a. Goldkamp, J.S., and M.D. White, *Restoring Accountability in Pretrial Release: The Philadelphia Pretrial Release Supervision Experiments*, Philadelphia: Crime and Justice Research Institute, 1998: 154–157.

b. Ibid., 159–160.

Using Drug Testing as a Tool for Risk Assessment and Risk Management

In 1984, with initial funding from the National Institute of Justice (NIJ), the District of Columbia Pretrial Services Agency started a pilot program to conduct drug testing of defendants. The program had two purposes:

- To provide better risk assessment information to judicial decisionmakers by incorporating information about drug test results for newly arrested defendants into the agency's report presented at the defendant's first appearance.
- To enhance available release options by permitting judges to require periodic drug testing as a condition of release.

The D.C. pilot program had several significant results. First, it demonstrated that it was feasible to administer drug tests to all newly arrested defendants using an onsite facility (with the requisite lab equipment) at the courthouse. Second, researchers found that arrestees who tested positive were significantly more likely to be rearrested for a new crime if released. This association was strongest when other risk factors (such as prior criminal record and unemployment) were not present. For example, employed persons who tested positive for drug use were twice as likely to be rearrested as employed persons who tested negative.

Third, the pilot program provided the foundation for an "intensive supervision" program designed to enable pretrial release of defendants who would remain in detention if there was no method to monitor closely their compliance with release conditions, which included remaining drug free. The target group for the intensive supervision program consisted of defendants not released at first appearance. The program components included residence for at least 2 weeks in a halfway house at the onset of the release period, twice-weekly drug testing, and immediate action to return to the halfway house defendants who violated the conditions.

The intensive supervision program succeeded in meeting three key objectives:

- The jail population was reduced, saving jail space.
- Drug use among the released defendants was low (only 3.5 percent tested positive for the presence of illegal drugs).

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Restrictions on movement usually require a defendant to live in a designated area and to stay away from certain neighborhoods or high-crime areas. For example, the U.S. Pretrial Services Agency for the District of Oregon supervises a number of defendants charged with gang-related crimes who, as a condition of release, are barred from the neighborhoods of rival gangs.

Stay-away conditions are typically imposed in domestic violence cases or cases in which the defendant is ordered to avoid the alleged victim of the crime and any witnesses. In Tucson, Arizona, the Pima County Pretrial Services Agency not only monitors defendants' compliance with such conditions but also helps find alternative housing for defendants who must vacate their own homes as a condition of release. In Cincinnati, Ohio, the Hamilton County Department of Pretrial Services uses a monitoring device that is placed within an electronic bracelet. If the defendant approaches a residence that he or she is supposed to stay away from, an electronic receiver in the home warns the alleged victim and signals a monitoring station that alerts the local police.

Using Drug Testing as a Tool for Risk Assessment and Risk Management, continued

- Although the released defendants were clearly at high risk for pretrial crime, they had very low rearrest rates—7.8 percent on any charge and only 3.5 percent on felony charges.

Program administrators in the District of Columbia believe the results provide two important reasons for pretrial services agencies to conduct drug testing. First, the results indicate that knowledge about a defendant's drug use is potentially useful for judges in setting conditions of pretrial release. Second, the results suggest that drug testing, especially when coupled with rapid response to violations, can help improve pretrial monitoring and reduce the risk of criminal behavior by released defendants.[a]

Other research has produced less clear-cut results, however. A later NIJ-sponsored study examined the effectiveness of drug testing with newly arrested persons as a means of predicting pretrial misconduct at eight sites, including the District of Columbia. Researchers found that, although some evidence indicated that drug test results could predict failure to appear or rearrest for some circumstances and in some of the sites, the evidence was inconsistent. For some sites, the tests did not predict either type of misconduct. For others, the test results could predict either rearrest or failure to appear (FTA), but rarely both. Some evidence indicated that a positive test for opiates (heroin, for example) would help predict rearrest and that a positive test for cocaine would help predict FTA.[b]

While the later NIJ study is inconclusive with respect to the predictive power of drug testing with new arrestees, proponents of drug testing note that other key purposes of testing were not addressed in the research. These purposes include identifying needs for drug treatment at an early stage of the pretrial process (and thus facilitating the delivery of needed services, possibly including participation in a drug court program) and helping to supervise released defendants. The D.C. program continues to make extensive use of drug testing, both to help set conditions of release and to monitor compliance with release conditions.

a. Toborg, M., J. Bellassai, A. Yezer, and R. Trost, *Assessment of Pretrial Urine Testing in the District of Columbia,* Washington, DC: U.S. Department of Justice, National Institute of Justice, 1989; Visher, C., "Using Drug Testing to Identify High-Risk Defendants on Release: A Study in the District of Columbia," *Journal of Criminal Justice* 18(4) (1990); Carver, J., "Pretrial Drug Testing: An Essential Step in Bail Reform," *Brigham Young University Journal of Public Law* 5 (1991).

b. Rhodes, W., R. Hyatt, and P. Scheiman, "Predicting Pretrial Misconduct With Drug Tests of Arrestees: Evidence From Eight Settings," *Journal of Quantitative Criminology* 12 (3) (September 1996): 315–346.

Curfews seek to reduce the potential risk that defendants will engage in criminal behavior by limiting the amount of time they spend in the community. To be effective, curfews must be monitored, and pretrial services programs do this in a variety of ways. In Santa Clara County, California, the Office of Pretrial Services relies on correctional officers at the local jail to make telephone calls to defendants with curfew conditions. In the same State, the San Mateo County Bar Association Release on Own Recognizance Program, which operates 24 hours a day, uses its own staff to contact defendants and to ensure that curfews are observed.

House arrest and electronic monitoring prevent defendants from leaving home unless the court or the supervising pretrial services agency gives permission. In the U.S. District Court for Oregon, if a defendant who is under house arrest or on electronic monitoring leaves home without permission, a private-sector monitoring company under contract to the court notifies the pretrial services agency on a 24-hour basis. The duty officer then attempts to resolve the issue by telephone. If it appears that the defendant has left the residence, the officer immediately goes to the home, accompanied by a U.S. marshal, to determine the defendant's status.

Direct supervision

No pretrial services program has the capacity to directly supervise released defendants around the clock. However, some programs have developed a supervision capacity that, for certain categories of cases, goes well beyond simply monitoring defendants' compliance with conditions imposed by the court. The District of Columbia Pretrial Services Agency, for example, uses drug testing and a halfway house to help supervise relatively high-risk defendants (see "Using Drug Testing as a Tool for Risk Assessment and Risk Management"). Effective supervision often involves collaboration with other agencies.

To some extent, direct supervision is simply a more intensive form of monitoring of release conditions—for example, frequent check-ins and drug tests at the pretrial services agency, requirements for participation in drug treatment sessions that occur several times a week with attendance reported promptly to the pretrial services program, required residency in a halfway house, or curfew checks by program staff. Often, effective supervision involves monitoring by the pretrial services agency supplemented by operational collaboration with other agencies, such as the police (residential curfew checks) or jail officials (correctional officers telephoning defendants who have curfew requirements, as in Santa Clara County).

Responding to violation of release conditions

Some released defendants will fail to comply with their conditions of release. The pretrial services program's credibility and effectiveness within the criminal justice community depends to a significant extent on how it responds to such failures because violations of release conditions are often a precursor to FTA or criminal conduct. Responding quickly demonstrates that the defendant's activities are being monitored and that noncompliance will result in swift action (see "Learning From Drug Court's Immediacy").

Not every violation of a condition of release must be reported to the court. Indeed, judges generally are not interested in holding hearings on reports of minor infractions of release conditions. For example, if a released defendant misses a telephone check-in appointment, the pretrial services program staff should promptly contact the defendant but probably need not inform the court. A clear explanation to the defendant of the need for compliance with the check-in requirement, perhaps coupled with a requirement for more frequent check-ins, may be more effective than a report to the court that could set in motion a revocation of release.

The National Association of Pretrial Services Agencies (NAPSA) Standards recommend that the pretrial services agency exercise some discretion in evaluating the seriousness of any noncompliance, taking into account the nature of the condition, the reason for noncompliance, and the seriousness of the violation.[1] Thus, while a single missed telephone check-in might not require a report to the court, repeated failure to check in would indicate a need for court action.

The Pretrial Services Resource Center recommends that, consistent with the NAPSA Standards, programs should collaborate with the courts to develop standard procedures for responding to violations, including procedures for—

- Handling minor violations without reporting them to court.
- Submitting written reports to the court on more serious violations.
- Sending written notice of the alleged violation to the defendant, the defendant's attorney, and the prosecutor.
- Conducting court hearings on more serious violations, with notice of the hearing dates and the alleged violations sent to the defendant, the defendant's attorney, and the prosecutor.[2]

In considering how to respond to a violation, both the pretrial services program and the court have a range of options that the NAPSA Standards divide into three general categories:

- *Remedial actions* designed to address a problem that poses a risk of nonappearance or pretrial crime—for example, if the program learns that a defendant has been using drugs or alcohol, remedial action could include imposition of requirements for drug testing, participation in a drug or alcohol abuse treatment program, or mental health counseling.

LEARNING FROM DRUG COURT'S IMMEDIACY

During their short history, drug courts have relied on incremental sanctions to respond to a program participant's relapse into drug use. When urine testing shows that a defendant has used drugs in violation of program conditions, the drug court judge will typically impose a sanction—for example, require more frequent court appearances, require more frequent drug testing, order the defendant to spend a day in the jury box observing drug court proceedings, or order the defendant to spend one or more nights in jail. The sanction is not necessarily severe, but it is imposed rapidly (often within a day or two of the positive test result), and repeated relapses result in progressively more severe sanctions. (Conversely, when drug court participants show progress by consistently participating in treatment program activities and testing negative, the restrictions are relaxed.)

Drug court judges and other practitioners believe that a critical element of program effectiveness is the immediacy of the court's response. Action is taken quickly, while the relapse is still fresh in the participant's mind and the consequences are closely linked to the violation of program conditions.

Many drug courts use a "pre-plea" model, in which drug court participants are in a pretrial release status and participation in the drug court program (including compliance with program requirements) is a condition of release. However, the policy of immediate response to noncompliance and the use of escalating sanctions need not be limited to participants in a drug court program. These can be used to help strengthen the credibility of the regular court and the pretrial services program with respect to use of a wide range of release conditions.

- *Restrictive sanctions* that limit a defendant's freedom of movement and associations and may require electronic monitoring or adherence to a curfew.
- *Punitive sanctions* that punish the defendant for noncompliance and may include imposition of a fine or jail sentence.[3]

As a practical matter, determining effective punitive sanctions can sometimes be difficult because many jails are overcrowded and many defendants are indigent. Supervised community service is another possible sanction for violation of release conditions.

Supervision of Defendants With Special Needs

Many persons arrested by the police have problems of drug abuse, alcohol abuse, or mental illness. Arrests for possession of illegal drugs, public intoxication, and driving while intoxicated (DWI) make up a large proportion of the total arrests in many jurisdictions, and drug and alcohol abuse are contributing factors in the commission of many other types of crimes. A number of jurisdictions report having significant numbers of mentally disabled persons (some of whom also abuse drugs or alcohol) in their justice systems. Many of these individuals could be released from jail before trial if judicial officers responsible for the release/detention decision had reliable information about the nature and extent of their problems, and if adequate mechanisms were available to supervise defendants in the community and provide them with needed services.

For pretrial services programs and the courts they serve, these defendants pose special challenges. Four sets of operational questions are especially important in relation to defendants with special needs.

How can program staff learn about the existence of special needs?

In some instances, the problems and needs of a newly arrested defendant will be glaringly obvious from physical signs such as slurred or incoherent speech, glazed eyes, or the odor of alcohol on the defendant's breath. Sometimes, the nature of the charge—for example, possession of a controlled substance or DWI—will indicate the existence of a substance abuse problem and need for treatment. In the District of Columbia and other jurisdictions that routinely administer drug tests to newly arrested defendants,

positive urine test results will indicate at least the likelihood of a drug problem. And, as noted in chapter 2, most pretrial services programs routinely ask defendants during the initial interview about their physical and mental health, including alcohol and drug abuse.

Some problems or needs may not be readily apparent and will require further inquiry. Some programs ask followup questions to develop more detailed information about substance abuse and physical and mental health issues and to gain a better sense of the nature and extent of the defendant's needs. Often, asking a few additional questions of defendants who appear to have substance abuse or mental health problems can provide valuable information in making a referral for clinical assessment or in taking other action.[4] Other special needs are sometimes suggested by defendants' responses to questions about employment, living situations, and medical needs.

How should program staff use information about defendants' substance abuse and mental health needs in making risk assessments and presenting information or recommendations to the court?

The preliminary screening that can be done in a postarrest interview before a defendant's initial court appearance is, of course, necessarily limited in scope and depth. It is far short of a clinical assessment, but—if conducted by a trained interviewer—the screening can help identify problems that can be addressed through appropriate education or treatment. The screening can also be an important tool in assessing the nature and extent of the risks of flight and dangerousness posed by the defendant and in framing suggestions or recommendations concerning conditions of pretrial release. Information about a defendant's special needs is only one of many factors that go into a risk assessment, but knowledge of these needs (and of the clinical and programmatic resources in the community that could be applied to help address the needs) will enable the pretrial services program to suggest realistic options to the courts.

What types of resources can be used to meet the special needs of released defendants?

The types of programmatic and clinical resources that can be used to help provide supervision and meet special needs of released defendants will vary from one community to another. Courts and pretrial services programs use several types of programs, and the defendant's participation in the program generally is one of the conditions of release.

Halfway houses provide shelter and food for defendants who are homeless or have no stable community ties. Halfway houses also may provide counseling and treatment services and may limit the risk of pretrial crime by reducing the amount of time the defendant spends in an unstructured setting. The U.S. Pretrial Services Office in the Western District of Texas makes extensive use of a halfway house in San Antonio under a contract arrangement. The halfway house provides job placement services; drug counseling; Narcotics Anonymous and Alcoholics Anonymous groups; and, in conjunction with Pretrial Services and the Bureau of Prisons, counseling to defendants who are awaiting sentencing. In addition, the facility has instituted a day reporting program for some defendants.

Testing and treatment for drug and alcohol use are conditions that courts can impose in cases involving defendants who are known to abuse drugs or alcohol. Pretrial services programs often play a key role in arranging different treatment modalities, including detoxification programs, residential and outpatient facilities, 12-step programs, day-treatment programs, mentally ill chemically addicted (MICA) programs, methadone maintenance, and acupuncture. These services are paid for by a variety of means, including grants, contracts, private health insurance, Medicaid, veterans' benefits, and occasionally, the defendants themselves. Some pretrial services agencies use their own personnel to provide limited treatment, such as group counseling, directly to defendants.

Mental health treatment is available in many communities, and it is common for pretrial programs to recommend that defendants with mental disabilities be released on the conditions that they participate in a mental health treatment program and take prescribed medication. Followup supervision can help ensure these conditions are met.

Behavior modification programs are rarely used by the courts as a condition of pretrial release because participation may be seen as an admission that the defendant has committed the behavior of which he or she has been accused. Nevertheless, some pretrial services agencies provide such programs directly or make referrals, normally on a voluntary basis. For example, the Salt Lake City

Pretrial Services Agency provides an anger management class once a week for defendants charged with domestic violence. The San Mateo County Bar Association Release on Own Recognizance Program refers defendants to a private treatment program contracted by the county to provide anger management treatment to pretrial defendants. Most defendants referred have been charged with domestic violence, and they attend until their cases are closed.

Employment training and placement services are another resource that can be used for defendants on conditional release. Unemployment is often associated with criminal behavior, and provision of job training—whether in house or on a referral basis—can help meet the needs of jobless defendants. For example, the U.S. Pretrial Services Agency for the Southern District of New York has been developing its own in-house employment placement program. Program elements include a comprehensive directory of job placement services, access to the New York State Department of Labor's computerized job bank, and an employment referral service. An employment readiness group assists defendants in writing resumes, preparing for interviews, and assessing career potential.

What role should program staff play in monitoring and supervising special needs defendants who are released conditionally?

A few pretrial services programs provide a broad range of services for defendants with special needs. The District of Columbia Pretrial Services Agency routinely administers drug tests for defendants who are released on the condition that they participate in a program that includes periodic reporting and urine testing. In Milwaukee, the pretrial services program (Wisconsin Correctional Services) conducts an intensive supervision and treatment program for defendants charged with a second offense of DWI that includes outpatient therapy, participation in self-help groups, attendance at victim-impact panels, random alcohol and drug testing, and telephone and inperson contacts with program staff.

The Milwaukee program also provides in-house clinical mental health treatment for some categories of defendants, using staff psychiatrists and nurses, dispensing medicine from its own pharmacy, and providing housing for program participants. The scope of the Milwaukee program's services is exceptional, however. In most jurisdictions, the role of a pretrial services program simply involves maintaining contact with the defendant (and sometimes with a treatment provider) to ensure that the defendant is complying with required participation in the program and reporting to the court on an "as needed" basis.

During the past decade, many jurisdictions have developed drug and other innovative programs designed to deal with some categories of defendants who have substance abuse and mental health problems. Where pretrial services programs have existed in the jurisdiction, they have generally played key roles in the design and implementation of these innovations—primarily because of their capacity to obtain, analyze, and transmit information rapidly about newly arrested defendants to judicial decisionmakers. As the scope of these programmatic innovations expands in future years, the potential role of pretrial services programs—helping to identify eligible defendants, monitoring compliance with program conditions, and providing direct supervision and other services in some instances—is likely to become even more important. Effective performance of these functions will help achieve five broadly shared policy objectives:

- Reduce unnecessary detention.
- Increase public safety.
- Reduce jail crowding.
- Reduce substance abuse by program participants.
- Improve participants' mental and physical health.

Interjurisdictional and "Courtesy" Supervision

Supervision of defendants released by another jurisdiction and permitted to live outside the jurisdiction of arrest has become an increasingly significant part of the risk management work of some pretrial services programs. Federal pretrial services agencies provide such courtesy supervision for each other as a matter of national policy, and the NAPSA Standards recommend that all pretrial services agencies make arrangements to call on each other for assistance in both factual investigations and supervision of released defendants when necessary.

Interjurisdictional supervision is especially important when a defendant lives in a county or State other than the one in which the arrest took place. As noted in commentary

to the NAPSA Standards, judicial officers are much more likely to release transients on nonfinancial conditions if a background check has been done and agreement for supervision of the transient defendant has been reached with the pretrial services program in the defendant's home jurisdiction.[5]

Notes

1. National Association of Pretrial Services Agencies (NAPSA), *Performance Standards and Goals for Pretrial Release*, commentary to Standard X, Washington, DC: NAPSA, 1978.

2. Kennedy, S., D.A. Henry, J. Clark, and J. Juszkiewicz, *Pretrial Issues: Pretrial Release and Supervision Program Training Supplement*, Washington, DC: Pretrial Services Resource Center, 1996: 49.

3. NAPSA, *Performance Standards and Goals for Pretrial Release*, commentary to Standard VI.

4. For examples of tools that programs can use to help identify some special needs, see Center for Substance Abuse Treatment, *Simple Screening Instruments for Outreach for Alcohol and Other Drug Abuse and Infectious Diseases—Treatment Improvement Protocol* (TIP) no. 11, Rockville, MD: U.S. Department of Health and Human Services, 1994.

5. NAPSA, *Performance Standards and Goals for Pretrial Release*, commentary to Standard IX.

Chapter 4
Sharing Pretrial Services Information for Use Beyond the Release/Detention Decision

Key Points

- Information collected by pretrial services programs can be valuable in the work of other justice system agencies and institutions, including—
  - — Police departments and other law enforcement agencies in serving warrants and helping to supervise defendants on conditional release.
  - — Local corrections agencies in classifying defendants to meet their medical needs and to allocate space and personnel.
  - — Courts in imposing sentences and managing special dockets.
  - — Diversion programs and social service providers in making decisions about program eligibility and delivery of specific types of services.
- While information sharing can be helpful in achieving many justice system objectives, the personal information collected by pretrial services programs is of a very sensitive nature. Pretrial services programs, and the jurisdictions in which they operate, need to establish policies to ensure that the information is not misused.

Integrated justice information systems—computer-based systems that enable instantaneous exchange of information about persons and events across the boundaries of different agencies and institutions—are now operational in a few jurisdictions and are being developed in many others. It is important for pretrial services program administrators to be involved in developing policies and plans for an integrated system to take advantage of information-sharing opportunities and to help establish appropriate safeguards for information that should remain confidential.

The primary function of pretrial services programs is the collection of information that is mainly used in the pretrial release/detention decisionmaking process and to monitor compliance with conditions of release. However, this information often can be valuable to other justice system agencies. By sharing some types of information while ensuring appropriate protection for information that should be treated confidentially, pretrial services programs can significantly contribute to the administration of justice in ways that extend beyond their core functions. This chapter describes how information can be shared productively with other justice system agencies and discusses important limitations on the dissemination and use of information gathered by program staff.

Sharing Information With Other Agencies

Pretrial services programs need to know the following to fashion an effective policy for information sharing:

- What types of information other agencies may need.
- How to exchange the information easily.
- Under what circumstances information collected by the pretrial services program should be released to others.

Sharing information with law enforcement agencies

Because pretrial services programs contact many agencies and individuals in the community to track defendants' whereabouts and activities, law enforcement agencies may find their information very useful—for example, for serving warrants on defendants who fail to appear for scheduled court dates, for locating defendants wanted on other warrants, and for assisting in the supervision of defendants on conditional release.

Sharing information with law enforcement also can help achieve the goals of a pretrial services program. Rapid execution of bench warrants issued when a defendant fails to appear for a scheduled court date—through an arrest if necessary—contributes to the perception among defendants and the general public that the system is serious about obligations to return to court and will act quickly if necessary. This perception can help reduce failure-to-appear rates. Police officers can also assist programs in verifying information obtained through interviews with defendants and in supervising conditions of release. In Kentucky, the statewide pretrial services agency calls on local police to locate individuals needed for verification purposes.

Sharing information with jail officials

At some point, generally early in the process, the corrections department or the sheriff's office will perform its own risk assessment or classification of defendants who remain in jail pending trials. This process typically involves examining the defendant's prior criminal record, demographic information, and need for medical or substance abuse treatment services. Often, the process duplicates much of the information gathering already performed by pretrial services interviewers.

By sharing its information with jail classification staff, the pretrial services program can save time and avoid duplication of effort. Sharing this information can be especially valuable when an arrestee needs detoxification or other medical services. In Cincinnati, the intake information gathered by the Hamilton County Department of Pretrial Services is the primary source of information for jail classification. In San Mateo County, California, the Bar Association's Release on Own Recognizance Program collects the initial intake data and performs the classification assessment for the sheriff's office. In Philadelphia, the pretrial services program identifies individuals who seem to exhibit mental disorders during the initial interview and informs jail officials so that these persons can receive prompt attention from the jail's psychiatric unit.

Sharing information for sentencing purposes

In addition to using information provided by pretrial services programs for initial release/detention decision-making and for reviewing compliance with conditions of pretrial release, judicial officers in some courts find the information can be valuable at the time of sentencing

First, much of the information collected by pretrial services programs before the initial release/detention decision—including information on residence, family ties, employment, physical and mental condition, use or abuse of alcohol or other drugs, and prior criminal record—is identical to information ordinarily collected by probation staff in preparing presentence investigation reports. In jurisdictions where information collected at the pretrial stage is routinely shared with the probation staff, major cost savings can be achieved by avoiding duplicated work. While probation staff responsible for presentence reports may need to update the information and tap some additional resources, the pretrial services program collects basic information that can serve as a foundation for the presentence report. Furthermore, in cases where there is no presentence investigation report (true of a high proportion of misdemeanor convictions), the pretrial services report can provide valuable information to the sentencing judge that may not be available from any other source.

Second, when pretrial services programs are responsible for supervising defendants released on nonfinancial conditions, they routinely collect monitoring information that can be helpful at sentencing. In Harris County, Texas, the Pretrial Services Agency prepares almost all of its information reports in automated format. Staff continue to update the interview information throughout the pretrial period and include updated information in the county's Justice Information Management System. The information is then available to probation staff, the court, and other criminal justice agencies in the county.

Third, as jurisdictions begin experimenting with "fast tracking" some types of cases (including felony charge cases), there is growing interest in using information gathered by pretrial services programs to help shape an early disposition in lieu of conducting a separate presentence investigation. Since much of this information is often obtained from defendants who have not had an opportunity to consult with counsel, this is an area in which particular attention must be paid to issues of confidentiality and protection of defendants' due process rights (see "Potential Uses of Information Collected by Pretrial Services Programs").

As one predictor of postadjudication compliance with conditions of probation, the defendant's record of compliance with court-ordered conditions of pretrial release can be of use to judges at sentencing. While the sentencing judge should take into account factors beyond a defendant's pretrial "track record," information on compliance with conditions of pretrial release can add a significant new dimension to the court's final decision. For example, a defendant who cannot comply with pretrial conditions—such as observing a curfew or remaining drug free—probably needs a more structured setting following conviction. Conversely, a defendant who has adhered to all of the requirements imposed during the pretrial period has already demonstrated a capacity to comply with possible probation conditions.

In some instances, information may suggest the need to continue specific kinds of social service programs. For example, if a defendant has already participated in three different drug programs and one program has proved to be particularly suited to his or her specific treatment needs, this information can permit a judge to tailor probation conditions to the individual in a way that otherwise would not be possible. The Maricopa County (Phoenix), Arizona, Pretrial Services Agency is one of a number of programs that provide memorandums to the court reporting on the compliance record of supervised defendants.

Sharing information for use in differentiated case management and in conducting special dockets

A number of courts have developed forms of differentiated case management that involve using special dockets to handle particular categories of cases. Drug courts, in operation in more than 400 jurisdictions as of 1999, are perhaps the best known example. Other special dockets have been developed for domestic violence cases and for driving while intoxicated (DWI) and driving under the influence (DUI) cases.

Typically, these special courts involve a close link between court case processing and a community-based treatment or other intervention program. Defendants who meet a set of eligibility criteria can participate in the special court program, often with an incentive such as dismissal or reduction of the charge (if it is a pretrial program) or sentence reduction (if it is a postadjudication program). Pretrial services programs can serve as frontline screeners for program eligibility for two main reasons: (1) they have already collected much of the information needed to determine program eligibility during the initial interview, and (2) they can collect additional relevant information while interviewing defendants whose criminal charges make them likely candidates for these programs. Examples of differentiated case management include the following:

- The District of Columbia Pretrial Services Agency uses information from defendant interviews and drug tests, plus prior record checks, as the foundation for reports that help judges set conditions of release—including participation in the Superior Court's drug court program—for substance-abusing defendants.
- The Berkeley (California) Own Recognizance Project provides the local drug court with information about defendants' criminal records, drug use history, alcohol use, mental health history, and living arrangements to help the court decide on the eligibility and suitability of potential drug court participants.

Potential Uses of Information Collected by Pretrial Services Programs

Justice system practitioners can use information gathered by pretrial services programs in many ways, including the following:

- Jail officials can use the information to—
  - — Identify defendants in need of detoxification or other medical services.
  - — Provide a foundation for the jail's own risk assessment and classification.
- Judicial officers and court staff can use the information to—
  - — Help set conditions of release.
  - — Enforce compliance with conditions of nonfinancial release.
  - — Help identify defendants eligible for diversion programs and for special dockets (e.g., drug court, driving under the influence (DUI) court, domestic violence court).
  - — Link defendants with needed medical and social services.
  - — Help shape early case dispositions (especially when no separate presentence investigation report will be prepared).
- Probation departments can use the information to—
  - — Avoid duplication of work in obtaining basic background information needed for preparation of presentence investigation reports.
  - — Learn about performance on pretrial release to help shape recommendations for presentence investigation reports.
- Police departments can use the information to—
  - — Locate defendants wanted on warrants issued for failure to appear and other offenses.
  - — Monitor the activities of medium- to high-risk defendants on pretrial release, using information about their residence and the conditions imposed by the courts.
- Researchers can use the information to—
  - — Learn about pretrial release/detention practices in the jurisdiction and about the performance of different categories of defendants released on nonfinancial conditions.
  - — Provide feedback to program administrators and other justice system policymakers.

- In New York City, the innovative Midtown Community Court, which handles misdemeanor and ordinance violation cases stemming from arrests in midtown Manhattan, uses information provided by the Criminal Justice Agency (the city's pretrial services agency) at first appearance to help link defendants with appropriate social services, including drug, alcohol, and mental health treatment. In addition to information routinely collected in the pretrial interview, the agency provides the court with information about the defendant's current and prior substance abuse and treatment and about other social service needs.

Sharing information with diversion programs and social service providers

In their initial interview and verification process, pretrial services programs can gather information about the defendant's appearance, memory, capacity to respond to questions, emotional state, psychiatric history, and past or current medications. Although this type of information should not be used as the basis for diagnosis, it can be helpful to jail officials, the court, prosecution and defense lawyers, and mental health treatment providers regardless of whether the defendant is released or kept in detention. For example, the information may suggest the need for a forensic examination to determine the defendant's capacity to stand trial or for medication or counseling to enable the defendant to function if released from custody.

Pretrial diversion programs provide an option of deferred prosecution for certain categories of defendants who are willing to participate in some type of treatment or perform community service. Information gathered and verified by the pretrial services program can assist the court and diversion program in determining defendants' eligibility and in preparing case management plans.

Sharing information with researchers

Pretrial services program records can be an extraordinarily valuable source of data for researchers and, of course, for evaluation of the program itself. The National Association of Pretrial Services Agencies (NAPSA) Standards encourage the use of information about defendants for research, provided that no defendant can be identified by any label (such as name or docket number) in the researchers' report.[1]

Limitations on Information Sharing

Information sharing of the type described at the start of this chapter can be helpful in achieving many justice system objectives, but it is important to remember that information about the defendant's employment, living situation, substance abuse history, physical and mental health problems, and prior criminal history is personal and of a highly sensitive nature. Furthermore, much of the information is collected initially from defendants who are emotionally distraught and generally have had no contact with a defense lawyer prior to the interview.

While the information obtained through the interview and from other sources can be valuable for making the release/detention decision and for setting conditions of release, the pretrial services program and other justice system policymakers must ensure that the information is not misused (see "Confidentiality Issues: Setting Limits on the Sharing of Information Collected by Pretrial Services Programs"). A number of relevant questions can arise, including the following:

- What if the defendant makes self-incriminating statements during the interview?
- What if the defendant admits to a condition, such as drug or alcohol abuse, that could affect the sentence that would be imposed if there were a conviction?
- Should the names of persons who have verified information about the defendant be included in a document that will be part of a public record if (1) the defendant does not consent, or (2) the verifier does not consent?
- To what extent should information about the defendant's physical and mental health be available to persons or agencies not directly involved in the release/detention decision?

Given the sensitive nature of the information, coupled with the need to obtain information from defendants who likely would be uncooperative if they knew that what they said could be made available to others, it is important for pretrial services programs—and the justice systems within which they operate—to develop realistic policies that will ensure appropriate confidentiality and establish limits on information sharing.

Confidentiality Issues: Setting Limits on the Sharing of Information Collected by Pretrial Services Programs

Information collected by pretrial services programs has many uses unrelated to the release/detention decision or to pretrial supervision of released defendants:

- In investigating other crimes, police officials may want to use information regarding the defendant's residence and the names and phone numbers of the defendant's associates.
- In administrative proceedings or civil lawsuits, welfare agencies and estranged domestic partners may want to use information about a defendant's residence, employment, and associates.
- Prosecutors may be interested in a defendant's statements to a program interviewer, in the results of drug tests for use in prosecuting the defendant, or in persuading the defendant to become an informer or cooperating witness in the prosecution of other persons.

Pretrial services programs have generally taken the position—as set forth in Standard XII of the NAPSA Standards on Pretrial Release—that information obtained in the course of the program's investigation and during postrelease supervision should remain confidential with certain limited exceptions. A primary concern is that defendants would not cooperate in the pretrial interview if they knew that information they provided could be used against them or could be used to investigate their references. The commentary to NAPSA Standard XII sets forth some principles that may be used as the basis for developing a workable policy on information sharing:

- Information obtained during the agency's investigation or during monitoring of conditions of release should not be admissible on the issue of innocence or guilt.
- Extraneous prejudicial information (for example, defendants' statements about arrests that did not result in convictions) should not be included in reports submitted to the court.
- Information should be given to police to execute warrants for failure to appear but should be limited to information necessary to execute the warrant.
- Information about the defendant's behavior and compliance with release conditions should be available for use in presentence investigation reports.
- Information that is not already public should not be released to any individual organization outside the criminal justice system without the expressed permission of the defendant at or near the time the information is to be released.

The pretrial services program should have a written policy on the extent to which defendants and criminal justice personnel can have access to defendants' files:

- Information in defendants' files may be used for research, information management reports, and evaluation, but only if no individual defendant can be identified in the report of the research.
- Access to agency files for research purposes should be denied except under close supervision and pursuant to a written agreement setting forth the purposes of the research and the conditions under which access has been granted.
- Pretrial services staff and records should not be subject to subpoena, except for purposes of prosecuting a defendant for noncompliance with conditions of release.

A few jurisdictions have done this by court rule. Kentucky's Criminal Rule 4.08, for example, requires that all information collected by the statewide pretrial services agency be kept confidential except for use by—

- The court in imposing conditions of release.
- Law enforcement officials if the defendant fails to appear.
- The court in reviewing compliance with conditions in connection with modification of the conditions or sentencing or probation.
- The court in imposing a sentence.
- The probation officer preparing the presentence report or the defense attorney, at the court's discretion.
- Evaluators of the pretrial release program, when authorized by order of the Supreme Court.

State legislators have historically been reluctant to expand the scope of privileged communications beyond those that exist under common law (such as husband-wife, patient-doctor, parishioner-clergy). However, it is possible for pretrial services programs to establish their own confidentiality policies and to work out agreements with courts and prosecutors to protect information they have collected from being subject to subpoena.

The Pretrial Services Resource Center recommends that the information collected by pretrial services programs generally be treated as confidential, subject to limited exceptions. In addition to use by courts to make release/detention decisions and to respond to violations of release conditions, the Resource Center recommends allowing pretrial information to be used—if relevant—in perjury proceedings and in situations where it can be applied to impeach the testimony of a witness, but not for purposes of determining a defendant's guilt.[2]

Finally, as noted in chapter 2, many pretrial services programs routinely advise defendants about the extent to which the information they provide will be treated as confidential, who can have access to it, and how it can be used.

The Role of Pretrial Services in Integrated Justice Information Systems

There is growing interest in many jurisdictions in the development of *integrated justice information systems*—automated systems that enable the instantaneous exchange of information about persons and events across the "boundaries" of the different agencies and institutions that make up the criminal justice system.[3] These systems can eliminate duplicative information collection and data entry, minimize personnel costs, and provide decisionmakers with comprehensive and rapid access to information (see "Pretrial Services Programs as a Central Point of Data Collection in an Integrated Justice Information Management System: The Harris County Approach"). With advances in computer technology, the technological barriers to integration—such as the use of different computer hardware and software systems by agencies and institutions involved in the justice system—have become less formidable. Future obstacles to integration are likely to be more serious at the policy level—for example, concerns about which agencies should be part of the integrated system, which agencies have "ownership" of what data, what information should be shared with other organizations, and what information should be kept within a single agency—than at the technical level. New technology will make it feasible both to share information broadly and to protect the confidentiality of information that should not be disseminated.

Because pretrial services programs collect a great deal of information that can be useful for both decisionmaking and investigative purposes, it is important to consider what role these programs should play—and how the information they gather should be both used and protected from inappropriate use—in an integrated system. Pretrial services program administrators have a responsibility to establish clear policies with respect to the sharing of information they collect. They must also be prepared to consider how information that should remain confidential can be protected when the program functions in an integrated system. Other justice system administrators and policymakers need to ensure that pretrial services programs are involved in the discussions and negotiations as policies governing information sharing in an integrated system are developed.

Pretrial Services Programs as a Central Point of Data Collection in an Integrated Justice Information Management System: The Harris County Approach

Interviewers in pretrial services agencies in some large jurisdictions—including Harris County (Houston), Texas, Maricopa County (Phoenix), Arizona, Philadelphia, Pennsylvania, and the District of Columbia—now enter the data online during the interview.

The Harris County automated, integrated Justice Information Management System illustrates what can be accomplished through use of technology when the pretrial services agency is the principal entry point for information into the system. An operations manual for the Harris County Pretrial Services Agency outlines some key features of the report the program prepares:

> The report is integral to many criminal justice system processes. It is the most comprehensive assessment of a defendant's background available at the probable cause hearing as well as subsequent hearings such as the preliminary assigned court appearance. To insure the report's availability at the latter hearing, the Justice Information Management System's computer is programmed to print two extra copies of the report every morning at four o'clock. One copy is forwarded to the District Clerk's office and one to the District Attorney's office. The report becomes part of the permanent file and is available for review and use at subsequent proceedings. The report's automated format allows those with clearance to review updates to the information initially compiled.

The Harris County information management system meets all of the following expectations for such a system when the pretrial services agency is the principal group providing the information:

- **Speed.** Pretrial services interviewers enter the information into the computer at the same time that they conduct the initial factfinding interview—ordinarily within 12 hours following arrest and prior to the defendant's initial appearance before a magistrate.
- **Nonduplication.** The integrated approach avoids both duplicative gathering of the information and reentry of the same data by other agencies.
- **Instant access.** Immediate, systemwide online availability of the report speeds decisionmaking throughout the justice system and should improve the quality of decisions.
- **Data integration.** Advances in electronic data interchange technology make full integration of the entire justice system technologically feasible.
- **Confidentiality not compromised.** Security protections can be built into the integrated automated system to preserve confidentiality by limiting access to system users approved for access to particular types of information.

Notes

1. National Association of Pretrial Services Agencies, *Performance Standards and Goals for Pretrial Release, Standard XII*, Washington, DC, 1978: NAPSA.

2. Kennedy, S., D.A. Henry, J. Clark, and J. Juszkiewicz, *Pretrial Issues: Pretrial Release and Supervision Program Training Supplement*, Washington, DC: Pretrial Services Resource Center, 1996: 69–71.

3. *Justice and Technology in the 21st Century: Findings and Recommendations from the Report of the National Task Force on Court Automation and Integration*, Sacramento, CA: SEARCH, the National Consortium for Justice Information and Statistics, 1998.

Chapter 5
Looking Toward the Future: Key Issues for Policymakers and Practitioners

Key Points

- As of 1999, pretrial services programs were operating in more than 300 State and local jurisdictions and in the Federal system, but many courts still lacked (1) the essential information typically collected by pretrial services programs and (2) access to the monitoring and supervision that pretrial programs provide. Even where pretrial services programs are well established, many challenges remain.
- Key operational and development issues in the pretrial services field include the following:
  - — How to provide effective pretrial services for the increasing number of juveniles being prosecuted as adults.
  - — How to use new technology to enhance the quality and effectiveness of pretrial decisionmaking, supervision, and the provision of needed services.
  - — How to develop systems for effectively using delegated release authority (including field citations, station-house release, and release by jail officials), through linkages between the releasing authorities and pretrial services programs to minimize failure-to-appear (FTA) rates.
  - — How to bring effective pretrial services programs to jurisdictions that do not yet have them.
- With the development of pretrial services programs, increased use of citation release, and enactment in many States of statutes establishing a presumption of release on nonfinancial conditions, courts today rely far less on commercial surety bail than in earlier years. However, commercial bail remains a frequently used option in most jurisdictions. Issues related to the continued use of commercial surety bail are likely to be at the fore-front of policy development in the pretrial services field in the years ahead, with advocates for the commercial bail industry clashing with proponents of pretrial services programs on a number of issues. The policy area in which there is perhaps the sharpest disagreement involves the concept of equal justice. Proponents of the surety bail system take the position that arrested persons should be responsible for the costs of their release. Critics, including proponents of pretrial services programs, note that under a surety bail system:
  - — Innocent persons who are arrested must pay the cost of bond despite their innocence.
  - — Poor defendants often remain in jail, while affluent defendants facing similar charges (and with similar prior records) are able to gain their freedom by posting bond.

(continued)

KEY POINTS, CONTINUED

— Responsibility for the actual release decision is moved away from a judicial officer who is accountable to the public to a private entrepreneur (the bondsman) who is accountable to no one.

- The exercise of judicial discretion has long been at the heart of pretrial release/detention decisionmaking, but the effects of judicial officers' unfettered exercise of discretion in this area has begun to be questioned. One challenge for the future is how to more effectively structure judicial decisionmaking in the pretrial process without making the process a mechanical one that eliminates judges' discretion in setting conditions of release.
- There is a striking lack of recent research on pretrial services programs and on pretrial release/detention decisionmaking in local jurisdictions. Although some difficult methodological problems must be overcome, it is important to begin building a base of current knowledge about key issues, including the relative effectiveness of different release/detention strategies and program options. At the national level, pretrial services program leaders can work with justice system policymakers, practitioners, and funding agencies to shape a national agenda that includes focused research in single jurisdictions and multijurisdictional comparative research.
- Demonstration programs can provide the opportunity to test the viability of combining new technology with programmatic innovations to achieve system improvements. Developing and evaluating demonstration programs that incorporate new technology and the best current practices used by pretrial services programs naturally complement a comprehensive research strategy and will provide useful input for education and training programs.
- If pretrial services programs are to reach their full potential, it will be important to develop a full range of education and training programs at every level—national, State, and local. The newly established Pretrial Justice Institute can serve as a focal point for educational leadership in the pretrial services field, but the challenge of developing a full range of programs is one that warrants response from justice system agencies, professional associations, and funding agencies at every level of government.

Although pretrial services programs were in operation in more than 300 State and local jurisdictions and in all of the Federal districts in 1999, most American courts are still making critically important pretrial release/detention decisions without having either the information that pretrial services programs typically collect or access to the monitoring and supervision that these programs can provide. How to bring effective pretrial services programs to jurisdictions that do not yet have them is one of the key issues for the future. But, even in jurisdictions where pretrial services programs are well established, many issues are unresolved and new challenges continue to arise. This chapter focuses on eight key policy and operational areas that policymakers and practitioners need to address to develop the field and implement a full range of effective pretrial release and supervision policies:

- Juvenile defendants in adult courts.
- Use of new technology.
- Delegated release authority.
- The role of commercial surety bail.
- Judicial discretion and effective management of release/detention decisionmaking.
- Research needs.
- Demonstration programs.
- Education and training.

In several of these areas, some pioneering work has already been done, but there are a great many unanswered questions and much remains to be learned if pretrial services programs are to reach their full potential.

Juvenile Defendants in Adult Courts

All States provide for juveniles to be prosecuted as adults under some circumstances, and in most States the circumstances under which charges against juveniles can be prosecuted in adult criminal courts have broadened considerably in recent years. Data from the U.S. Department of Justice, Bureau of Justice Statistics, indicate that during the 1990–94 period approximately 1 percent of all felony defendants in criminal courts in the Nation's 75 largest counties were juveniles,[1] and practitioners report that the proportion is increasing. The growing practice of prosecuting juveniles as adults poses significant problems for local justice systems and for decisions about detention and release:

- Federal laws and the laws of most States require that juveniles held in the same detention facility as adults be kept separate in "sight and sound" from adult inmates. While juveniles charged as adults are still housed in juvenile detention facilities in some jurisdictions, in many places they are held in the adult jail. Most adult jails are ill equipped to house juveniles, and they seldom have the types of educational programs and other activities found in juvenile detention facilities. Often, renovations and additional staff are needed to help manage the juvenile jail population.

- Cases involving juveniles prosecuted as adults are likely to take considerably more time to reach disposition in adult criminal courts than in juvenile court. Slow case processing exacerbates the problem of pretrial detention of juveniles, especially when they are held in adult jails.

- Although juveniles prosecuted in adult court are generally charged with serious crimes, a significant percentage are charged with nonviolent offenses. Furthermore, according to Bureau of Justice Statistics data, about a quarter of these juveniles ultimately will not be convicted of any charge, and more than 30 percent of those convicted will not be sentenced to jail or prison.[2] It is likely that some of these juveniles will not pose significant risks of flight or dangerousness and could be safely released prior to trial if judicial officers could feel confident that they would be adequately supervised.

- Procedures and criteria used by pretrial services programs and courts in collecting information and making release/detention decisions in cases involving adults are often inappropriate for juveniles. Juvenile defendants often lack stable housing, employment, and other ties to the community, and they are likely to have needs for education, counseling, and adult supervision that are significantly different from the needs of adult defendants. If released prior to trial, they need supervision by persons experienced in working with youths.

A few pretrial programs have begun developing ways of providing needed services to juveniles and to the adult courts that must handle these cases. In Tucson, Arizona, the pretrial services program in the Pima County Superior Court is working with researchers at the University of Arizona to develop and test an effective locally validated risk needs assessment instrument that can be used for pretrial decisionmaking in cases involving juveniles. The assessment instrument is expected to take account of the juveniles' living situations and prior records but will also focus on substance abuse treatment needs, mental health issues, education, housing, and other areas identified in field tests. By using this type of instrument, it should be possible to identify juveniles who do not pose a serious risk of flight or of danger to the community and to develop a structured supervision plan that will make it possible to release them before trial. In implementing the project, the Pima County Pretrial Services Program will work with the juvenile court, adult probation department, and adult detention center to establish a juvenile treatment team that coordinates delivery of needed services. The team will work with local resource agencies and will take advantage of an integrated information system now under development.

As States continue to expand the categories of cases in which juveniles can be charged as adults, developing programs like the one in Pima County will become increasingly important. Their development should be based on longstanding principles of effective pretrial services, modified to consider the unique needs of juveniles and coupled with careful research and the type of innovative use of modern technology that the Pima County program is modeling. Noteworthy features of the Pima County program include the following:

- The program is using careful research to develop criteria and instruments that focus on a key objective of effective pretrial service programs—maximizing the number of defendants who can be released from detention without posing unacceptable risks of flight or danger to the community.
- The program uses the concept of differentiated case management (see chapter 4), recognizing that making detention/release decisions in cases involving juveniles requires different information than is required for decisions about adults and that different approaches to monitoring and supervision will be needed for juveniles who are released.
- The information-sharing approach, using modern computer technology that includes shared software, will provide for rapid exchange of information among organizations with no history of such exchange. The approach will enable decisions about release—and about actions to be taken in response to noncompliance with conditions of release—to be made rapidly and on the basis of far more comprehensive information than has previously been available.
- In providing for an early needs assessment and delivery of services designed to meet the needs of individual juvenile defendants, the program draws on strategies commonly used in juvenile courts and, more recently, in some adult drug courts. The early assessment, coupled with the pretrial services program's capacity to monitor and supervise juveniles who are released, should minimize the risks of flight and dangerousness. The program's approach also should reduce jail crowding, provide needed services to this group of defendants, and offer an opportunity for juveniles in trouble with the law to begin to turn their lives around.

As of mid-1999, the Pima County program was gathering data to develop the juvenile risk needs assessment.

Use of New Technology

The development of new technologies—and their introduction into the workplace—continues to accelerate in virtually all sectors of society, including the criminal justice system. In the pretrial services field, practical applications of new technology include the following:

- The Automated Fingerprint Identification System (AFIS) to identify newly arrested defendants and rapidly retrieve criminal history information.
- Laptop and handheld computers to enter data from defendant interviews into the pretrial services program's automated database for use in conducting risk assessments, preparing reports for the court, and subsequently tracking defendants.
- Videoconferencing to interview defendants who are in detention in remote locations.
- Urinalysis and barcoding technology to record, store, and transmit information on drug test results.
- Computer systems to analyze raw data on charge severity and defendants' prior record, community ties, and social service needs and to produce objective risk assessments and release/supervision recommendations.
- Automated telephone call-in systems (sometimes using new voice recognition technology) to facilitate defendants' check-ins and to notify or remind defendants of upcoming court dates or other activities.
- Electronic monitoring of defendants released from detention but required to stay at home or remain within a limited area.
- Case tracking software to help monitor program caseloads and individual defendants' compliance with conditions of release.
- Satellite tracking and global positioning systems to enable close monitoring of the whereabouts of high-risk defendants on pretrial release.
- Electronic mail to facilitate the exchange of information about defendants with other agencies and with the courts.

While many pretrial services programs are using some of these innovations, there remains considerable scope for broader and more effective use of technology by jurisdictions interested in reducing unnecessary detention (see "Using Technology to Improve Pretrial Services and Reduce Jail Crowing in Rural Areas").

New technologies can be used to provide more comprehensive and reliable information to judicial officers responsible for release/detention decisions than has

Using Technology to Improve Pretrial Services and Reduce Jail Crowding in Rural Areas

Perhaps the most obvious area for using new technology is the provision of pretrial services in rural justice systems. All too often, limitations of staff and resources mean that judicial officers in rural areas have little information about the defendant or about available release options, especially for defendants who have substance abuse problems or other special needs. New technologies make it possible for rural justice systems to put needed information into the hands of judicial officers very quickly and to develop effective means for monitoring and supervising defendants released on nonfinancial conditions, including the following:

- Electronic mail to transmit information about the charges and the defendant from the police to the prosecutor, the court, and a centrally located pretrial services program very shortly after arrest.
- Automated Fingerprint Identification System technology to identify the defendant and, combined with automated searches of State and national databases, to obtain information rapidly about prior criminal history and any court orders intended to protect the alleged victim.
- Videoconferencing by centrally located pretrial services program staff to conduct interviews of defendants held in a police station or local jail at a distant location and to present reports to a judicial officer at first appearance (already being done in the Sixth Judicial District of Virginia).
- Automated databases to identify resources—including social services organizations and participation in treatment sessions—into an automated database for electronic transmission to the pretrial services program and the court.
- Electronic monitoring and telephone contact, when necessary, to ensure that the defendant remains in a specified location, with support and followup provided by the pretrial services program or staff from other agencies.

previously been available, and can do so more rapidly than in the past. New technologies can also facilitate more effective monitoring, supervision, and provision of needed services and thus permit possible significant reductions in jail populations.

Delegated Release Authority

One of the principal tools used to minimize unnecessary detention in many jurisdictions is the delegation—to law enforcement agencies or, in some places, to a pretrial services program—of authority to release arrested persons before their first court appearance. Because delegated release not only holds the potential for very significant savings but also involves risks to system credibility if not well implemented, this is an area that warrants close attention for the future.

There are four main types of delegated release authority:

- *Field release*, or *field citation*, typically takes place at or near the location where the arrest is made and is commonly used in traffic cases and cases involving relatively minor misdemeanors and ordinance violations. The arresting public officer issues a citation directing the individual to appear in court on a specific date to answer the charge(s) specified on the citation.
- *Station house release* takes place, as the name implies, at the police station. Like field release, it is generally used in nonfelony cases. At the station house, the arrestee is issued a citation or summons directing him or her to appear in court on a specified date. Station house release is a more costly and time-consuming process for the police officers than field citation because they must transport the person to the station, but it has the advantage of allowing time to ascertain or verify the arrestee's

identity through a check of computerized criminal history records and contacts with the arrested person's family, friends, or employer. In a very real sense, police officers developing this information act as pretrial services program personnel. Alternatively, the police can work with an established pretrial services program, communicating via telephone or electronic mail to obtain information needed for a station house release decision. Particularly if the individual is not released at the station house, information developed during the identification and verification process conducted at this stage can be valuable for subsequent pretrial information collection.

- *Jail release,* usually by the sheriff or jail administrator, is a third possible point of release before the individual's initial court appearance. Typically, an arrested person is booked into the jail, a thorough identification and prior record check are conducted, and—if the charges and prior record information indicate that the individual meets established criteria—the arrestee is released on a citation to appear in court on a specified date. A number of local jails and corrections departments have their own pretrial services or "release on recognizance" units that conduct record checks and may also interview arrestees and verify interview information. If the individual is not released directly by the jail, the information will be made available to the judicial officer at first court appearance. Release from jail on nonfinancial conditions prior to initial court appearance commonly occurs in misdemeanor and ordinance violation cases in many jurisdictions. Some jurisdictions also authorize release of persons charged with nonviolent felonies.

- *Release by a court-linked pretrial services program* is operationally similar to jail release, and the program is often located at or in close proximity to the jail. In some States and localities, pretrial services programs have authority to release arrested persons before their first court appearance in certain categories of cases. Program staff interview the defendant, verify key items of information, conduct prior record checks, and sometimes consult with a duty judge before making a release/detention decision. Release policies followed by the program are set by the court, and the scope of authority is generally limited to relatively minor cases. Some programs, however, are authorized to release defendants charged with noncapital felonies.

Proponents of delegated release authority cite a number of significant advantages to these procedures, including cost savings, alleviation of pressure on already overcrowded jail facilities, and less reliance on money bail as a means of obtaining pretrial release. The cost savings are greatest when field citations are used, but there are some disadvantages to the field citation procedure. In particular, because it has often been difficult to identify the defendant reliably (and, therefore, difficult to obtain information on the defendant's prior record at the point of arrest), police officers cannot be confident that the individual is not wanted on a warrant and has no history of previous arrests that would suggest a need for further investigation. Taking the arrestee to the station house makes it easier to investigate the arrestee's identity and obtain information relevant to assessment of the risks of nonappearance and pretrial crime. Although release from the jail is a more time-consuming and staff-intensive process and adds costs, it provides the opportunity for more thorough identification and prior record checks.[3]

All of these types of release save public agencies money and intrude less in the lives of defendants than booking the individual into jail and bringing him or her before a judicial officer for a decision about release or detention. Citation release, however, has been criticized for resulting in unacceptably high rates of failure to appear (FTA) and a consequent loss of justice system credibility in the eyes of defendants and the general public.[4] FTA rates in cases where citations have been issued appear to vary widely across jurisdictions. One reason for high rates in many jurisdictions is the lack of systematic followup to remind defendants of court dates and to take prompt action when those who receive citations do not appear. The lack of followup is especially likely to be a problem in cases where the first court appearance date is more than a few days in the future and when there has been no initial verification of the arrestee's address, employment, and other ties to the community.

Because citation release is such a valuable mechanism for minimizing pretrial detention and enabling effective use of police officers' time, it is important for policymakers to address the flaws in existing systems that lead to unacceptably high FTA rates. Five components of a citation release system are especially important to improving the process:

- **The nature and quality of the information available to the decisionmaker.** To release an arrestee, the decisionmaker needs to be certain of the individual's identity and requires information about the charge, the defendant's prior record, the existence of any outstanding warrants, the defendant's living situation, risks posed by the defendant, and methods to address the risks. Effective utilization of modern information technology should greatly increase the reliability and completeness of the information available to citation release decisionmakers and should provide rapid access to essential information. Direct linkages between the citation release decisionmaker and a pretrial services program can help provide essential information quickly.

- **Criteria for release.** Most citation release programs limit eligibility to persons charged with nonfelony offenses who live in the jurisdiction, have no outstanding warrants, have no obvious medical or mental health problems making them unable to care for themselves, and have no prior record indicating they could be a danger to the community. Criteria for release by jail officials and pre-trial services programs may be broader because the decisionmakers have access to a broader range of information and the capacity to arrange for supervised release.

- **Qualified decisionmaker.** Even though the criteria for release may be clear, the release/detention decision should be made by a trained officer who is knowledgeable about the criteria; familiar with the statutory framework governing citation release; and able to use the information to decide whether the person should be released before the initial court appearance and, if so, under what conditions.

- **Prompt review by a judicial officer.** Under the citation release statutes of many States, persons released on citation must appear in court within a specified period so that a judicial officer can initiate formal advisement of the charges and consider any modification in conditions of release. Often, of course, charges that result in citation release are resolved at the defendant's first court appearance. Optimally, the first appearance will take place within a few days following issuance of the citation to maximize the likelihood that the defendant will appear, minimize case-processing delays, and ensure that the initial conditions of release set by use of the citation are subject to judicial review. Particularly if the first appearance is not scheduled within a few days, it will be helpful to have a notification or reminder process in place. This is a logical responsibility for the pretrial services program but requires good communication links between the citation release decisionmaker and the program.

- **Capacity for rapid followup in event of nonappearance.** If a citation release system is to have credibility with practitioners (including law enforcement officers) and with defendants, it is important to be able to take action promptly if a defendant fails to appear. When a pretrial services program is in place in the jurisdiction, it should be able to initiate immediate contact with the nonappearing defendant. Often, this will result in the defendant coming voluntarily to court; if not, the law enforcement agency that released the defendant should quickly execute a warrant. Implementing followup requires information exchange capability and knowledgeable staff members who are trained to act promptly when a defendant fails to appear.

As policymakers and practitioners increasingly focus on the "front end" of criminal case processing, policies governing the exercise of delegated release authority should receive increased scrutiny. When well crafted and effectively implemented, delegated release can produce significant savings in public resources and reduce the unnecessary use of pretrial detention. When poorly designed and implemented, however, delegated release procedures contribute to delays and to loss of credibility and respect for the justice system.

The Role of Commercial Surety Bail

With the development of pretrial services programs, increased use of citation release, and, in many States, the enactment of statutes that establish a presumption of release on nonfinancial conditions, courts across the Nation can now rely less on commercial surety bail than in the past (see "Pretrial Services Programs and the Use of Financial Conditions of Release"). Nevertheless, release on commercial surety bail occurs in most jurisdictions, and the option is used in more than a million cases a year.

Pretrial Services Programs and the Use of Financial Conditions of Release

The NAPSA Standards oppose the traditional money bail system. Standard V states that "the use of financial conditions of release should be eliminated." Despite the strong position taken in the Standards and notwithstanding the history of the bail reform movement, almost half of the State and local programs surveyed by NAPSA in 1989 reported recommending the use of money bail as a condition of release in at least some cases. The survey did not explore the reasons why this practice has continued, nor did it ascertain the frequency with which the programs actually recommend the use of money bail. One possibility is that limited resources may restrict a program's capacity to monitor compliance with nonfinancial conditions of release and that money bail is recommended in these situations.

The fact that significant economic stakes are involved means that issues related to the use of commercial surety bail are likely to be at the forefront of policy development in the pretrial services field for years to come. Five issues are especially salient:

- Costs to taxpayers of alternative approaches.
- FTA rates.
- Rates of pretrial crime.
- Scope of program responsibilities.
- Consistency with basic justice system goals, including informed decisionmaking and even-handed justice.

Costs to taxpayers

Proponents of commercial surety bail maintain that a surety bondsman's services are free to the taxpayer, whereas the cost of pretrial services programs is borne by the taxpayer. Critics of surety bail respond that the surety bail system is not really "free" to taxpayers, since it increases the costs incurred by having to maintain larger jails to hold persons financially unable to post a surety bond. They note, too, that at least some defendants (including some who may not be guilty of any charges) are also taxpayers who will be unable to earn money—and may lose their jobs—if they are jailed. Critics also emphasize that reliance on a profit-oriented surety bond system results in a different kind of cost to the public—an unacceptable delegation, to a private entity, of the real authority to determine who obtains pretrial release and who remains in detention.

FTA rates

Advocates of commercial security bail maintain that defendants "released" by pretrial services agencies have higher FTA rates than defendants released on surety bail. They cite data from the National Pretrial Reporting Project (NPRP)[5] indicating that FTA rates for defendants on surety release are lower than the rate for defendants on conditional release. They add that, since bondsmen cannot afford to have a high FTA rate, they are careful in selecting defendants for release and in ensuring that they appear in court.

There are, however, serious methodological problems in using the NPRP data to make comparisons between the performance of defendants released on surety bail and those released under the supervision of pretrial services programs. Proponents of pretrial services programs note, first, that the great majority of defendants on nonfinancial conditional release have been released by the court, not by a pretrial release program. Second, they note that the NPRP data on FTA rates do not identify defendants who have been interviewed by a pretrial services program, have been the subject of a program recommendation, or have been under the supervision of a program. Many defendants on nonfinancial release may have been placed there by the court without any involvement of a pretrial services program and without any provision for supervision. Furthermore, NPRP data from some individual jurisdictions indicate that the FTA rates of defendants on pretrial release were lower than the rates of defendants on surety bail.[6]

The effectiveness of FTA rates of release on surety bail—in comparison with release pursuant to interviews, recommendations, and supervision by a pretrial services program—is a complicated subject that warrants further research. A related topic that also warrants research is the extent to which the financial incentives cited by advocates of commercial surety bail actually have the desired effects. Critics of commercial bail have noted that, although most States have statutes and regulations governing commercial bail and requiring forfeitures of bond when a defendant absconds, enforcement is often lax and forfeiture rates are low. They also note that most absconders are brought back to court by the police, not by bondsmen.

Pretrial crime rates

There are no definitive research findings on the relative effectiveness, in terms of minimizing pretrial crime, of release on commercial surety bail compared with release on the recommendation of a pretrial services program and under program supervision. The NPRP data show rearrest rates for defendants on surety bail that are slightly lower than the rearrest rates for defendants on conditional release. However, as with FTA rates, there are serious methodological problems with such comparisons because it is not possible to know, from the NPRP data, the extent to which pretrial services programs were involved in interviewing or supervising defendants on conditional release.

Scope of program responsibilities

Pretrial services programs vary in the scope of the services they provide to courts, but even small-scale programs provide a different and much broader range of services than commercial surety bondsmen. Surety bail bondsmen do not provide information needed for judicial decisionmaking and provide a more limited range of supervision services.

Equal justice

This is the dimension on which the philosophies and operations of commercial surety bail bondsmen and pretrial services programs are most diametrically opposed. Proponents of commercial surety bond take the position that arrested persons (or their families) should be responsible for bail bond fees and costs. As one wrote, "the person who got himself arrested and incarcerated has some personal accountability and is, therefore, responsible to participate in arranging for his own release and securing the assurances of his future court appearances." The same proponent notes that "the cost of this system is underwritten by the defendant and/or others working with him."[7]

However, this position ignores the fact that a significant number of defendants who post bail—and thus help underwrite the cost of a commercial surety bail system—are never found guilty of any charge. In addition, a commercial surety bond system enables defendants who can post bail to gain freedom before trial, while poor defendants facing similar charges (and with similar prior records) remain in jail. Perhaps the most serious problem with reliance on commercial security bail from a justice system perspective is that it moves responsibility for the actual release decision away from a publicly accountable judicial officer to a private entrepreneur whose main interest is profit and who is accountable to no one.[8]

Judicial Discretion and Effective Management of Release/Detention Decisionmaking

One of the principal challenges facing criminal justice policymakers and practitioners is how to structure the exercise of judicial discretion in the release/detention decisionmaking process. Statutes often list factors that judicial officers should take into consideration in establishing conditions of release, but the weight to be given to information concerning potentially relevant factors is within the judicial officer's discretion. Different judicial officers, faced with the same set of facts, often come to widely different decisions about release conditions, and the decisions have very different results in terms of detention rates, jail crowding, FTA rates, and rearrest rates.

In the view of some critics, the consequence of maintaining the long tradition of unstructured discretion is likely to be a continuation of the chronic jail crowding crises so prevalent in localities across the country, at least until fiscal realities demand an alteration of these practices. They note that, although the advent of pretrial services

programs has made more information available to judicial officers responsible for release/detention decisions, these officers rarely receive guidance on how to use the information either in individual case decisionmaking or in shaping policy to govern the overall systemic impact of their decisions. Ultimately, however, communities are going to have to consider the resource implications of release/detention decisions that are made without clear policy guidelines to structure the exercise of judicial discretion. In the words of one group of researchers who have focused on pretrial decisionmaking:

> [T]he day of judicial license in confinement decisionmaking without regard for impact on the justice system or on local resources may soon be over. Even with Federal assistance, local jurisdictions do not have the resources to construct sufficient jail capacity to keep up with poorly managed judicial processes and endless popular policies to increase the use of confinement. There are fiscal as well as rational limits to the privilege and responsibility attached to judicial discretion in justice processing. Discretion needs to be reasonably exercised and effectively managed, with clear goals, adequate information, and suitable alternatives.[9]

Developing viable policies in this area will require taking a *system* perspective, rather than focusing solely on decisionmaking in individual cases. One major challenge for the future is how to structure judicial discretion in a sensible fashion that takes account of the systemic impact of decisions on individual cases. For the trial court, and for other institutions and agencies in the community that are concerned about the related problems of jail crowding, community safety, and pretrial release practices, several sets of questions must be addressed with respect to the role of the judiciary in the management of release/detention decisionmaking:

- **Goals.** What should courts and communities seek to accomplish in this policy area? To what extent, if at all, should courts take into account jail crowding and related public resource issues (1) in individual case decisionmaking during the pretrial period, and (2) in considering the formulation of policies that could structure the exercise of judges' discretion in release/detention decisionmaking? Broadly stated, it is important to develop goals for an effective pretrial release/decisionmaking process in six main areas:

  — Maximizing personal liberty.

  — Providing for consistent decisionmaking in cases involving similarly situated defendants.

  — Ensuring community safety.

  — Ensuring that released defendants appear for scheduled court dates.

  — Avoiding jail crowding.

  — Avoiding new jail construction and related costs.

  Is it possible for courts to work collaboratively with others in establishing goals for pretrial decisionmaking that address all of these areas and that seek to achieve systemic objectives through the totality of release/detention decisions?

- **Mechanisms for accomplishing goals.** If unfettered judicial discretion is a major contributor to jail crowding and unnecessary use of pretrial detention, are there viable mechanisms for structuring discretion that will be acceptable to the courts and to individual judicial officers? Can the very promising pretrial release guidelines approach pioneered in Philadelphia (see the sidebar "Using Research To Help Develop Knowledge and Shape Pretrial Release Supervision Policy and Practice" in chapter 3) be replicated elsewhere? Are there other alternatives to structure the exercise of judicial discretion in a fashion that will achieve core policy goals? Are there other mechanisms, in addition to those focused on the exercise of discretion in the release/detention decision, that are essential components of a sound pretrial release/detention decisionmaking system?

- **Responsibilities of the court with respect to monitoring jail population levels and minimizing case processing delays.** Should courts pay attention to the population (and population makeup) of the jail? How, if at all, should courts and individual judicial officers adjust their release/detention policies to take account of jail population levels and the length of pretrial confinement? Should courts adopt case-processing standards and practices that will minimize delays in cases involving both released and detained defendants to help ensure community safety and return to court (for released defendants), and to help reduce jail crowding and shorten the period of pretrial incarceration for defendants detained in jail?

Measuring the Overall Effectiveness of Pretrial Release Systems

Researcher John Goldkamp has suggested that one possible way of measuring the effectiveness of a jurisdiction's pretrial release system is to look at the percentage of defendants who (1) are released, and (2) do not fail to appear for scheduled court dates or commit crimes during the pretrial period. Thus, if all of the defendants arrested in a jurisdiction could be released without a subsequent failure to appear or rearrest during the pretrial release period, pretrial release in the jurisdiction would be 100-percent effective. If 90 percent of all defendants were released and 80 percent did not fail to appear or get rearrested, the "effectiveness rating" would be measured as 90% x 80% = 72%. If only 50 percent were released, and 86 percent of those defendants did not fail to appear or get rearrested, the effectiveness rating would be 50% x 86% = 43%.[a]

One advantage of this approach is that it focuses attention on achieving high overall release rates as well as on minimizing the FTA and rearrest rates of defendants who are released. As Goldkamp has noted, ineffective release results from needless detention of defendants who, if released, would neither fail to appear nor commit pretrial crime, as well as from mistakenly releasing defendants who abscond or commit crimes.

a. Goldkamp, J.S., H.R. Gottfredson, P.R. Jones, and D. Weiland, *Personal Liberty and Community Safety,* New York and London: Plenum Press, 1995: 148–153, 272–273; Goldkamp, J.S., "Judicial Responsibility for Pretrial Release Decisionmaking and the Information Role of Pretrial Services," *Federal Probation* 57 (1) (March 1993): 31. See also Clarke, S.H., "Pretrial Release: Concepts, Issues, and Strategies for Improvement," *Research in Corrections* 1 (3) (October 1988): 21.

- **Responsibilities of the court with respect to development and use of options for supervising "high risk" defendants and defendants with special needs.** If judicial officers are to exercise discretion effectively, they need to have a far broader range of effective supervisory options than is available in most jurisdictions. What role can and should courts play in the development of an appropriate range of supervisory options for defendants released prior to trial? How can courts and judicial officers learn about the effectiveness of different supervisory options for different categories of defendants? (See "Measuring the Overall Effectiveness of Pretrial Release Systems.")

Research Needs

With the exception of the research on pretrial release guidelines, there has been very little empirically grounded research on pretrial release/detention decisionmaking practices and outcomes since the mid-1980s. There is not even an accessible base of current information on the operations of pretrial services programs or on pretrial release/detention decisionmaking in the jurisdictions within which these programs function. The last national survey of pretrial services programs was conducted by the National Association of Pretrial Services Agencies in 1989. In the decade that has passed since the survey was completed, little research has been done on the issues the survey identified, and the survey findings have not been updated.

Every 2 years, the Bureau of Justice Statistics sponsors research that tracks a sample of felony cases filed in urban trial courts. The resulting reports provide some interesting aggregate data on arrests, release rates, FTA rates, and rearrest rates and can be helpful in identifying national trends. However, the reports do not present data on individual jurisdictions, descriptions of how local systems actually operate, or cross-jurisdictional comparisons that would be helpful in identifying jurisdictions that have well-functioning systems.

Research is expensive, and in the pretrial release field there are difficult methodological problems that must be overcome—particularly to compare jurisdictions. Jurisdictions vary widely with regard to the types of release systems they have, the way they define similar phenomena, their operational procedures, the types of statistical information they gather, and many other factors that make it difficult to conduct cross-jurisdictional research. Even within a single jurisdiction, records

relevant to evaluating pretrial release program effectiveness are typically kept by several different agencies, and sometimes it can be difficult to gain access to them. Despite the methodological problems, however, it is important to begin building a base of current knowledge about issues of pretrial release and detention at all jurisdictional levels:

- At either the local or national level, the starting point for developing a viable research strategy is with descriptions of overall pretrial release/detention systems in single jurisdictions, coupled with quantitative data showing the number and proportion of cases, by case type category, that follow each major path. Without good descriptions of these systems—descriptions that show the full range of release processes and supervision options and that indicate which alternatives are employed under what circumstances—it is impossible to know how any single program or practice (for example, release on recognizance, various kinds of supervised release, surety bail, or the jail itself) fits into the overall system. Sound descriptions are an essential foundation for research on the relative effectiveness of different alternatives for specific categories of defendants.

- At the single-jurisdiction level, it is essential to know the extent to which each major pretrial option is used, and for what types of cases and defendants, to measure the comparative effectiveness of existing release/detention options. In addition to examining questions about comparative release rates, FTA rates, and rearrest rates, researchers should also study some of the operational variables that may bear upon effectiveness. For example, are there particular components of supervised release in a jurisdiction that contribute to sharply reduced rates of pretrial crime and nonappearance? If so, what are they? Could some defendants now in detention in other jurisdictions be safely released if these supervision techniques were used? Are there some types of supervisory options that could be used to meet the needs of defendants who have special needs and do not fit the conventional profile of "good risks"?

- At the national level, pretrial services program leaders can work with justice system policymakers and practitioners and with national funding agencies to shape and define a national agenda that could include both focused research in single jurisdictions and multijurisdictional comparative research. A national research strategy should include at least the following elements:

— Ascertaining the views of persons in the field regarding key issues and alternative program models, supplementing the information in this report.

— Developing baseline descriptive data on local systems, programs, and key issues through surveys, observation, and interviews.

— Refining the criteria for measuring detention/release effectiveness that have been used in prior research.

— Formulating workable definitions of key terms (for example, release rate, FTA rate, bench warrant) to enable cross-jurisdictional comparisons of local systems and individual pretrial services programs in terms of critical measures of effectiveness.

— Selecting specific local system models (or program models) to be studied.

— Formulating a detailed plan for measuring the relative effectiveness of the different models, taking into account the inevitable problems in comparative analysis that will be caused by variations in even basically similar models.

— Developing an organizational base (or set of bases) for the conduct of research by researchers who have proven methodological capabilities and are familiar with the subject matter.

— Providing for the research results to be published and widely disseminated in readable, nontechnical formats, including use of the Internet.

Demonstration Programs

Demonstration programs can provide an opportunity to test the viability of combining new technology with programmatic innovations to achieve ambitious system improvement goals focused on better "front-end" decisionmaking. It should be possible to design and evaluate demonstration programs that incorporate cutting-edge information technology, rapid charging by experienced prosecutors working from well-prepared police incident

reports, and the most modern practices of pretrial services programs. For example, a demonstration project could incorporate the following:

- Using the best current practices in gathering and verifying information about newly arrested defendants.
- Preparing risk assessments for consideration by judicial officers who work within a framework that structures the exercise of discretion in making release/detention decisions.
- Supervising defendants (including medium- to high-risk defendants) in the community.
- Using new technologies (e.g., drug testing, electronic monitoring) as appropriate.
- Providing or arranging for services for defendants with special needs (for example, substance abuse treatment, medical or psychiatric care, temporary shelter).
- Following up immediately on any failure to appear for a scheduled court appearance.
- Providing information to the court and the probation department that is relevant to sentencing and postadjudication supervision.

The evaluation component of a demonstration program or set of programs is critically important, not simply to learn whether a program is effective (and, in particular, whether it is more effective than alternative approaches), but to learn why. Developing and evaluating demonstration programs naturally complements a comprehensive research strategy and will also help strengthen education and training efforts at the national and local levels.

Education and Training

Although the initial stages of criminal case processing are crucially important, there are few vehicles for educating practitioners and policymakers about the policy issues involved in front-end decisionmaking, the legal and historical framework within which the policy issues arise, or the advantages and disadvantages of alternative policy choices.

Some training for pretrial services practitioners does take place at national conferences (for example, the annual conference of the National Association of Pretrial Services Agencies) and at meetings of State associations. Additionally, a number of pretrial services agencies conduct in-house training. However, cross-disciplinary training is rarely provided, and many key decisionmakers whose policy and individual case decisions have a major impact on system operations—including police officials, jail officials, judicial officers, court staff members, prosecutors, defense counsel, social services providers, and city and county executives—have never had a chance to (1) learn about the effects of their decisions on other system actors or on such systemic problems as jail crowding, (2) explore the range of pretrial release and supervision alternatives, or (3) consider the pros and cons of alternative approaches to organizing the front-end information gathering and decisionmaking process.

If pretrial services programs are to reach or approach their potential, it is important to develop a full range of education and training programs at every level—national, State, and individual local programs. At the national level, one promising development is the establishment of a new Pretrial Justice Institute organized under the auspices of the Pretrial Services Resource Center. Established with the assistance of startup grant funding from the Bureau of Justice Assistance of the U.S. Department of Justice, the institute develops and conducts training for pretrial ser-vices practitioners and for policymakers and practitioners whose decisions affect the quality of justice at the pretrial stages of criminal cases. (See chapter 6, “Where to Get Additional Help.”)

One of the challenges for policymakers and practitioners who are concerned about the future of pretrial services and improvement of front-end decisionmaking is to develop a broad range of education and training opportunities. The new Pretrial Justice Institute may serve as a focal point for innovation in the field, but the challenge is one that warrants response from justice system agencies, professional associations, and funding bodies at every level of government.

Notes

1. Bureau of Justice Statistics, *Juvenile Felony Defendants in Criminal Court*, Washington, DC: U.S. Department of Justice, 1998: 1.

2. Ibid., 4–5 (tables 8 and 10).

3. Whitcomb, D., B.P. Levin, and M.J. Levine, *Citation Release*, Washington, DC: U.S. Department of Justice, National Institute of Justice, 1984: 17–19.

4. Ibid., 20–21.

5. The name of this project has been changed. It is now the State Court Processing Statistics (SCPS) program of the U.S. Department of Justice, Bureau of Justice Statistics.

6. Kennedy, S., and D.A. Henry, *Commercial Surety Bail: Assessing Its Role in the Pretrial Release and Detention Decision*, Washington, DC: Pretrial Services Resources Center, 1996: 3–4.

7. See "Improvements in Pretrial Release," undated paper submitted to the Justice Management Institute by the National Association of Bail Insurance Companies (NABIC) with letter from Jerry Watson, Counsel for NABIC, to Bruce Beaudin, dated November 5, 1996.

8. Kennedy and Henry, *Commercial Surety Bail*, 5.

9. Goldkamp, J.S., M.R. Gottfredson, P.R. Jones, and D. Weiland, *Personal Liberty and Community Safety*, New York and London: Plenum Press, 1995: xiii.

Chapter 6
Where to Get Additional Help

Key Points

Sources of information or direct assistance for jurisdictions and individual practitioners interested in improving pretrial release/detention decisionmaking and related services include the following:

- Standards adopted by major national organizations.
- National nonprofit organizations that provide training and technical assistance.
- Federal agencies that provide assistance through grants and other mechanisms.
- National and State associations.
- Local and State pretrial programs.
- Books, monographs, and articles.

A number of resources are available to policymakers and justice system practitioners who want to learn more about pretrial services programs generally or about how to improve specific aspects of pretrial services program operations. This chapter provides information on the following:

- National standards addressing pretrial services issues.
- National nonprofit organizations that provide training and technical assistance on pretrial issues.
- Potential Federal funding sources for research and demonstration projects.
- National and State associations of pretrial services agencies and pretrial practitioners.
- Local and State pretrial services programs that can be contacted for information.
- Literature in the field.

National Standards

Three national organizations have developed standards that address issues in the pretrial services field:

- **National Association of Pretrial Services Agencies (NAPSA) Standards.** *Performance Standards and Goals for Pretrial Release and Diversion*. Washington, DC: National Association of Pretrial Services Agencies, 1978; second edition, 1998. Considered the principal set of national standards in the field, the 13 standards cover policy, organizational, and operational issues.
- **American Bar Association (ABA) Standards.** *American Bar Association Standards for Criminal Justice*. Chapter 10, "Pretrial Release." Chicago: American Bar Association (revision approved in 1985; commentary added in 1988). In 1999, the Criminal Justice Section of the ABA established a committee to review and make recommendations for revision of the standards.
- **National District Attorneys Association (NDAA) Standards.** *National Prosecution Standards*, Alexandria, VA: National District Attorneys Association, 1991.

National Nonprofit Organizations That Provide Training and Technical Assistance

The principal national organization dedicated to improving pretrial release/detention decisionmaking processes is the nonprofit Pretrial Services Resource Center (PSRC). Established in 1977, PSRC maintains a clearinghouse on pretrial issues and practices, conducts research, publishes articles, distributes a newsletter (*The Pretrial Reporter*) six times a year, and provides a wide range of training and technical assistance services. In 1999, PSRC established a Pretrial Justice Institute with a separate board of regents. The institute's mission is to develop educational curriculums focused on key issues in the pretrial services field and to conduct training programs for pretrial services practitioners and others whose work affects the quality of pretrial justice. For more information, contact:

Pretrial Services Resource Center
D. Alan Henry, Director
1325 G Street N.W.
Washington, DC 20005
Phone: 202–638–3080
Web page: *www.pretrial.org*

Other nonprofit organizations working in the criminal justice field also provide technical assistance to jurisdictions that are interested in improving pretrial processes. For more information, contact:

Justice Programs Office, American University
Joseph A. Trotter, Director
Brandywine Building, Suite 660
4400 Massachusetts Avenue N.W.
Washington, DC 20016–8159
Phone: 202–885–2875

The Justice Management Institute
Barry Mahoney, President
1900 Grant Street
Denver, CO 80207
Phone: 303–831–7564

Potential Federal Funding Sources

Several U.S. Department of Justice agencies are potential sources of funding for research, technical assistance, training, or demonstration projects focused on pretrial services and related issues. For more information about potential funding opportunities, contact:

Bureau of Justice Assistance
Office of Justice Programs
U.S. Department of Justice
810 Seventh Street N.W.
Washington, DC 20531
Phone: 800–421–6770
Web page: *www.ojp.usdoj.gov/bja*

National Institute of Justice
Office of Justice Programs
U.S. Department of Justice
810 Seventh Street N.W.
Washington, DC 20531
Phone: 202–307–2942
Web page: *www.ojp.usdoj.gov/nij*

Community Corrections Division
National Institute of Corrections
320 First Street N.W.
Washington, DC 20534
Phone: 800–995–6423
Web page: *www.nicic.org*

The State Justice Institute (SJI), a nonprofit organization created by Federal statute, is a potential source for funding projects designed to improve pretrial processes. SJI makes grants to support innovative projects and provides technical assistance to help improve the administration of justice in State court systems. For more information, contact:

State Justice Institute
1650 King Street
Alexandria, VA 22314
Phone: 703–684–6100
Web page: *www.clark.net/pub/sji/home.htm*

National and State Associations

The principal professional association in the field is the National Association of Pretrial Services Agencies (NAPSA) with more than 500 members. NAPSA publishes a quarterly newsletter (*NAPSA News*) and membership directory and conducts an annual conference and training institute. For more information, contact:

Cindy Fraleigh, NAPSA Services Director
NAPSA Service Office
P.O. Box 280808
San Francisco, CA 94128–0808
Phone: 650–588–0212

or

John DuPree, President
NAPSA
c/o Seventh Judicial Circuit Court
251 North Ridgewood Avenue
Daytona Beach, FL 32114–4492
Phone: 904–239–7780
Web page: *www.napsa.org*

There are a number of State associations of pretrial services agencies or pretrial practitioners, including associations in California, Florida, Michigan, Minnesota, New York, Ohio, and Pennsylvania. The State associations sponsor conferences and training programs and provide opportunities for networking and exchange of information and ideas by pretrial services practitioners.

Local and State Pretrial Services Programs and Practitioners

The following agencies have generously provided information for this study and may be contacted for further information or assistance:

Maricopa County Pretrial Services Agency
Perry M. Mitchell, Administrator
Superior Court of Arizona
111 South Third Avenue
West Court Building, 2d Floor
Phoenix, AZ 85003
Phone: 602–506–1304
Fax: 602–506–2260

Pima County Pretrial Services
Kim Holloway, Director
110 West Congress Street, 8th Floor
Tucson, AZ 85701
Phone: 520–740–3310
Fax: 520–620–0536

Berkeley Own Recognizance Project
Susan Bookman, Director
2400 Bancroft Way
Berkeley, CA 94704
Phone: 510–548–2438
Fax: 510–841–0132

San Mateo Bar Association
Roman Duranczk, Administrator
303 Bradford Street, 2d Floor
Redwood City, CA 94063
Phone: 415–363–4181
Fax: 415–369–9643

Pretrial Services, 16th Judicial Circuit of Florida
Robin Rooks, Director
323 Fleming Street, 2d Floor
Key West, FL 33040
Phone: 305–292–3469
Fax: 305–292–3515

Kentucky Pretrial Services and Court Security
John Hendricks, General Manager
100 Millcreek Park
Frankfort, KY 40601–9230
Phone: 502–573–1419
Fax: 502–573–1669

Philadelphia Pretrial Services Agency
Nathaniel A. Johnson, Director
121 North Broad Street, 2d Floor
Philadelphia, PA 19138
Phone: 215–683–3700
Fax: 215–683–3703

Harris County Pretrial Services Agency
Carol Oeller, Director
1310 Prairie, Room 170
Houston, TX 77002
Phone: 713–755–5440
Fax: 713–755–2929

D.C. Pretrial Services Agency
Susan W. Shaffer, Director
400 F Street N.W., Room 310
Washington, DC 20001
Phone: 202–727–2911
Fax: 202–727–9852

Literature in the Field

There is an extensive body of literature on issues of bail, pretrial release, and provision of pretrial services. Because an understanding of the history of bail and the bail reform movement is important for addressing contemporary issues in the field, the books, monographs, and articles listed below include leading relevant works dating back to 1963.

Administrative Office of the United States Courts, Federal Corrections and Supervision Division. *Monograph on Pretrial Services Supervision*. Washington, DC: Administrative Office of the United States Courts, 1992.

American Bar Association. *Criminal Justice Standards, Chapter 10: Pretrial Release*. Washington, DC: American Bar Association, 1985.

Ares, C.E., A. Rankin, and H. Sturz. "The Manhattan Bail Project: An Interim Report on the Use of Pre-Trial Parole." *New York University Law Review* 38 (1963): 67.

Austin, J., B. Krisberg, and P. Litsky. "The Effectiveness of Supervised Pretrial Release." *Crime and Delinquency* 31 (1985): 519.

Beaudin, B.D. "Bail in the District—What It Was; Is; and Will Be." *American University Law Review* 20 (1971): 432.

Cadigan, T.P. "Technology and Pretrial Services." *Federal Probation* 57 (March 1993): 48–53.

Carver, J.A. "Pretrial Drug Testing: An Essential Step in Bail Reform." *Brigham Young University Journal of Public Law* 5 (1991).

Clarke, J., and D.A. Henry. *The Pretrial Release Decision-Making Process: Goals, Current Practices and Challenges*. Washington, DC: Pretrial Services Resource Center, 1996.

Clarke, S.H. "Pretrial Release: Concepts, Issues, and Strategies for Improvement." In *Research in Corrections*. Washington, DC: Robert J. Kutak Foundation and National Institute of Corrections, 1988.

Foote, C. "The Coming Constitutional Crisis in Bail." *University of Pennsylvania Law Review* 113 (May–June 1965): 959, 1125.

Freed, D.J., and P.M. Wald. *Bail in the United States: 1964*. Washington, DC: U.S. Department of Justice and Vera Foundation, Inc., 1964.

Goldkamp, J.S. "Judicial Responsibility for Pretrial Release Decisionmaking and the Information Role of Pretrial Services." *Federal Probation* (March 1993): 28–35.

Goldkamp, J.S. *Two Classes of Accused: A Study of Bail and Detention in American Justice*. Cambridge: Ballinger Publishing Co., 1979.

Goldkamp, J.S., and M.D. White. *Restoring Accountability in Pretrial Release: The Philadelphia Pretrial Release Supervision Experiments*. Philadelphia: Crime and Justice Research Institute, 1998.

Goldkamp, J.S., M.R. Gottfredson, and S. Mitchell-Herzfeld. *Bail Decisionmaking: A Study of Policy Guidelines*. Washington, DC: U.S. Department of Justice, National Institute of Corrections, 1981.

Goldkamp, J.S., M.K. Harris, and M. White. *Pretrial Release Guidelines and Detention During the First Year of Pretrial Release Guidelines in Philadelphia: Review and Recommendations*. Philadelphia: Crime and Justice Research Institute, 1997.

Goldkamp, J.S., P.R. Jones, and D. Weiland. *Personal Liberty and Community Safety: Pretrial Release in the Criminal Court*. New York and London: Plenum Press, 1995.

Hall, A., E. Gaynes, D.A. Henry, and W.F. Smith. *Pretrial Release Program Options*. Washington, DC: U.S. Department of Justice, National Institute of Justice, 1984.

Institute on the Operation of Pretrial Release Projects. *Bail and Summons*, 1965. New York: National Conference on Bail and Criminal Justice, 1966.

Kennedy, S., and D.A. Henry. *Commercial Surety Bail: Assessing Its Role in the Pretrial Release and Detention Decision*. Washington, DC: Pretrial Services Resource Center, 1996.

Kennedy, S., D.A. Henry, J. Clark, and J. Juszkiewicz. *Pretrial Release and Supervision Program Training Supplement*. Washington, DC: Pretrial Services Resource Center, 1996.

Lotze, E., J. Clark, D.A. Henry, and J. Juszkiewicz. *The Pretrial Services Reference Book*. Washington, DC: Pretrial Services Resource Center, 1999.

Mahoney, B., et al. *An Evaluation of Policy-Related Research on the Effectiveness of Pretrial Release Programs*. Denver, CO: National Center for State Courts, 1975.

Mullen, J., et al. *Pretrial Services: An Evaluation of Policy Related Research*. Cambridge: Abt Associates Inc., 1974.

National Advisory Commission on Criminal Justice Standards and Goals. *Task Force Report: Corrections*. Chapter 4, "Pretrial Release and Detention." Washington, DC: U.S. Government Printing Office, 1973.

National Association of Pretrial Services Agencies. *Performance Standards and Goals for Release and Diversion*. Washington, DC: National Association of Pretrial Services Agencies, 1978; second edition, 1998.

National Conference on Bail and Criminal Justice. *Proceedings and Interim Report of the National Conference on Bail and Criminal Justice*. Washington, DC: U.S. Department of Justice and Vera Foundation, Inc., April 1965.

National District Attorneys Association. *National Prosecution Standards*. Alexandria, VA: National District Attorneys Association, 1991.

Ryan, D.B. "The Federal Detention Crisis: Causes and Effects." *Federal Probation* 57 (March 1993): 54–63.

Segebarth, K. *Pretrial Services and Practices in the 1990s: Findings From the Enhanced Pretrial Services Project*. Washington, DC: National Association of Pretrial Services Agencies, 1991.

Singer, L.R. "The Bail Problem: Release or Detention Before Trial." In *Law and Order Reconsidered: Report of the Task Force on Law and Law Enforcement to the National Commission on the Causes and Prevention of Violence*. Washington, DC: U.S. Government Printing Office, 1970.

Thomas, W.H., Jr. *Bail Reform in America*. Berkeley: University of California Press, 1976.

Thomas, W.H., Jr., et al. *Pretrial Release Programs*. Washington, DC: National Institute of Law Enforcement and Criminal Justice, 1977.

Toborg, M.A. *Pretrial Release: A National Evaluation of Practices and Outcomes*. Washington, DC: U.S. Department of Justice, National Institute of Justice, 1981.

Toborg, M.A., et al. *Commercial Bail Bonding: How It Works*. Washington, DC: Toborg Associates, Inc., 1986.

U.S. Department of Justice, Bureau of Justice Assistance. *Pretrial Services Programs: Program Brief*. Washington, DC: Bureau of Justice Assistance, 1990.

Visher, C.A. "Using Drug Testing to Identify High-Risk Defendants on Release: A Study in the District of Columbia." *Journal of Criminal Justice* 18 (1990).

Wice, P.B. *Freedom for Sale: A National Study of Pretrial Release*. Lexington, MA: D.C. Heath and Co., 1974.

Appendix A

Kentucky Pretrial Services Agency—Forms, Instructions, and Court Rule

A.1 Defendant Interview Form

A.2 Warning and Points Scoring Form

A.3 Domestic Violence Addendum

A.4 Supreme Court Rule on Confidentiality of Pretrial Services Agency Records

A.1 Defendant Interview Form

AOC-PT-21
Rev. 9-94

AKA: _____ Social Security Number: _____

NAME: _____ DOB: ___ / ___ / ___ Age: ___ Sex: ___ Race: ___
Last *First* *Middle/Maiden*

DATE OF ARREST: _____ CHARGE: _____
COURT: _____ _____
COURT DATE: _____ _____

VERIFIED Yes No

PRESENT ADDRESS: _____
Street/Apt. No. *City* *State* *Zip Code*

LENGTH OF RESIDENCE: Present: Yrs. ___ Mos. ___ Area: Yrs. ___ Mos. ___ Phone: ( ) _____
☐ Own ☐ Rent ☐ Other _____

ALTERNATE/PRIOR RESIDENCE: _____
Street/Apt. No. *City* *State* *Zip Code*
With Whom: _____ Phone: ( ) _____ Lgth. Of Res.: Yrs. ___ Mos. ___

LIVES WITH: ☐ Alone ☐ Spouse ☐ Parents ☐ Grandparents ☐ Children ☐ Brother/Sister ☐ Other Relatives ☐ Other _____
MARITAL STATUS: ☐ Single ☐ Married ☐ Divorced ☐ Widowed ☐ Common Law ☐ Separated No. of Children: _____
SPOUSE'S NAME: _____ SPOUSE'S SOURCE OF INCOME: _____
FAMILY IN AREA: Name: _____ Relationship: _____
Address: _____ Phone: ( ) _____

☐ EMPLOYED ☐ UNEMPLOYED How Long Yrs. _____ Mos. _____
☐ Full-time ☐ Part-time ☐ Seasonal ☐ Welfare ☐ Unemployment ☐ Disability ☐ Retirement ☐ Other _____
EMPLOYER: _____ Job Position: _____
EMPLOYER'S ADDRESS: _____
Street *City* *State* *Zip Code*
Phone: ( ) _____ Can Contact: ☐ Yes ☐ No Who: _____
PRIOR/OTHER SOURCE OF INCOME: Source: _____ Job Position: _____
Address: _____
Phone: ( ) _____ Length of Employment: _____
ATTENDS SCHOOL: ☐ Yes ☐ No School: _____
Address: _____
GED or High School Degree: ☐ Yes ☐ No Can Contact: ☐ Yes ☐ No Phone: ( ) _____

PRIOR ARREST: ☐ Yes ☐ None If yes, Where: _____
PENDING CHARGES: ☐ Yes ☐ No How Released: _____ Next Court Date: _____
Where: _____ Charges: _____
ON PROBATION/PAROLE: ☐ Yes ☐ No Probation/Parole Officer's Name: _____
Charges: _____ Address: _____
_____ Phone: ( ) _____
DRIVER'S LICENSE NUMBER: _____ ☐ Kentucky ☐ None ☐ Other: _____

IN COURT		Name	Address	Relationship	Phone
		1.			
		2.			
		3.			
		4.			

AOI: Yes ☐ No ☐ Case Number: _____

Court Dates: 2. _____ 3. _____ 4. _____ 5. _____ 6. _____

Are the current charges domestic related? Yes ☐ No ☐ Addendum: Yes ☐ No ☐

ELIGIBLE INELIGIBLE	COURTS INITIAL DECISION/ JUDGE Date/Time	24 Hour Review: Yes No Courts Decision:	HOW RELEASED:
_____ Points			

A.2 Warning and Points Scoring Form

This interview form will used by the Judge or Trial Commissioner to set bail. It will also be used for personal identification, future bond reviews, service of warrants, and sentencing if found guilty. The judge may allow your attorney or probation/parole officer to review the information. Except for these situations, any information you provide will be confidential and not released without your written consent or court order. You do not have to say anything, and can stop answering questions at any time. Signing this form means you want to be interviewed.

DECLINED INTERVIEW OR REFUSED TO SIGN AFTER BEING WARNED: _____
S/Defendant

Witnessed By: _____
Date and Time: _____

Witnessed By: _____
Interviewer: _____
Date and Time: _____

Circle only one number for each category of criteria except Miscellaneous and Previous Criminal Record

RESIDENCE

+5	Has been a resident of the Commonwealth for more than one year.
+3	Has been a resident of the Commonwealth for less than one year but more than three months.

PERSONAL TIES

+4	Lives with spouse, grandparents, children, parents, and/or guardian.
+3	Lives with other relatives.
+2	Lives with non-related roommates.

ECONOMIC TIES (Double length of employment of part-time)

+5	Has held present job for more than one year OR is a full-time student.
+4	Has held present job for less than one year but more than three months.
+3	Is dependent on spouse, parents, other relatives, or legal guardian, unemployment, disability, retirement, or welfare compensation.
+2	Has held present job for less than three months.

MISCELLANEOUS

+3	Owns property in the Commonwealth.
+1	Has a telephone.
+1	Expects someone at arraignment.

PREVIOUS CRIMINAL RECORD (+)

+3	No convictions on record (excluding traffic violations) in last two years.

(A) _____ TOTAL POSITIVE POINTS

PREVIOUS CRIMINAL RECORD (-) (FTA must be verified by court records).

-3	AWOL on record (current military personnel only).
-5	Probated or paroled after felony conviction in last two years.
-5	FTA on traffic citation in last two years.
-10	FTA on misdemeanor charge in last five years.
-15	FTA on felony charge at any time.
-15	Violation Conditional Release while case is pending and active.

(B) _____ TOTAL NEGATIVE POINTS
(C) _____ TOTAL ADDENDUM POINTS

_____ TOTAL PRETRIAL RELEASE POINTS
("A" minus "B" minus "C")

COMMENTS:

RECORD: (Please check the appropriate box)

	CLEAR	ATTACHED
COURTNET		
DOT		
NCIC		
KSP Manual File		
LINK-DV		
OTHER		

A.3 Domestic Violence Addendum

INTERVIEW ADDENDUM

9/94

NAME: _____ Interviewer: _____

Date: _____ Time: _____

DOB: _____ SSN: _____

How long have you lived with the person/spouse? ____ yrs ____ mos
Do you have any children from this relationship? Yes ____ No _____ number _____
Do you have children by previous relationships? Yes ____ No _____ number _____

Are you presently separated? Yes ____ No ____ How long? ____
Which one of you arranged for a new residence? _____
List new address and phone number: _____
Do you believe this relationship will continue? Yes ____ No ____

Previous spouses/personal relationships: Yes _____ No _____ List: _____
_____ Do you pay child support on children from other relationships? Yes _____ No ____
What is your income per week? _____

Have you or your spouse filed for divorce? Yes _____ No _____ Date Filed _____
What are your current terms for support/visitation if they exist? _____

_____

Education Level: (Circle highest one completed.)

Grade School	High School/GED	College	Graduate
1 2 3 4 5 6 7 8	9 10 11 12	1 2 3 4	1 2 3 +

Military Experience: Yes ____ No ____ Branch: _____
Type/Date of Discharge: _____

Have you ever been arrested out of the state? Yes _____ No ____ List date, charge, and location

_____

Have you been or are you going to counseling? Yes _____ No _____
If so, what type, where and how often: _____

Was counseling court ordered? Yes ____ No ____
Was counseling for substance abuse? Yes ____ No ____

Did you observe domestic violence in your home while growing up? Yes ____ No ____
What type? _____

Were you subjected to abuse when growing up? Yes ____ No ____
What type? _____

A.3 Domestic Violence Addendum, continued

Verified: (For point calculation)

Y	N	
		Have you ever been arrested for Domestic Violence or Assault? Yes _____ No ____ Location, year and conviction:
		Are you currently under an EPO, DVO, CO or RO? Yes _____ No _____ Who is the affiant? _____ Where did it occur? _____ Relationship: _____ Have any of the above been filed against you in the past? Yes _____ No _____ When/Where: _____ Does a divorce decree keep you from being around someone involved? Yes _____ No _____
		Do you drink alcohol? Daily _____ Weekly _____ Monthly _____ Occasionally _____ Explain: _____ Are you currently taking prescription medication? Yes _____ No _____ What type and for what? _____ _____ Do you feel like you could use alcohol or drug treatment? Yes _____ No _____
		If released, where will you live? _____ With whom? _____ Address: _____ _____ Telephone: Yes _____ No _____ (___) _____

POINT TOTAL FOR INTERVIEW ADDENDUM

-5 Convicted of any crime of violence.
-5 Verified alcohol or drug dependency by agency policy.
-5 Had an EPO, DVO, CO, or RO filed against them in the last five years.
-10 Violated an EPO, DVO, CO, or RO within the last two years.
-15 Charged with, violating an EPO, DVO, CO, or RO while in effect.

___ TOTAL points carried forward to interview point total Category C

MISCELLANEOUS COMMENTS: _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

INSTRUCTIONS FOR INTERVIEW ADDENDUM

Rcr 4.08 makes the information obtained for the interview process, and subsequent contact, confidential. The interview addendum is an extension of the interview and is therefore protected under that same provision.

The Kentucky Pretrial Services Interview Form has been revised and expanded to incorporate information and criteria to assist the judiciary of this state make informed decisions pertaining to release of individuals charged with offenses involving domestic issues. The Interview Addendum concept has been researched with known experts in the field of domestic violence on a national basis. The questions and format are designed to extract critical data about relationships, current and past obligations, and the history of violence in those relationships.

Factors involving the most critical issues have been weighted and assigned numeric values consistent with our current objective point system. These issues are designed to be verified through personal interview techniques, contact with verifiers, and available record checks. This form will evolve over time as our current interview form and policies have in the last eighteen years. Your attention to the detail involved, the importance of the issue, and your professionalism will determine the success of this process.

The first issue is to identify the cases in which the addendum is needed. Any case that involves violence, or threats of violence, in a domestic relationship will require the completion of the addendum. This can be determined by the nature of the charges on the citation or warrant, the presence of the JC-3 in support of the citation, and the description of the offense. If these sources are not available a question has been added (which must have a response on every interview completed) asking "Are the current charges domestic related?". If the defendant admits the domestic nature of the offense then the addendum block will be checked and the form completed. YOU SHOULD NOT COMPLETE THIS FORM UNLESS MANDATED BY THIS POLICY.

> ***NOTE:*** *The offense charged could be limited to Disorderly Conduct but the offense description on the citation could explain a domestic call made to a public place resulting in an arrest. This type of situation will prompt the need for the addendum.*
>
> ***NOTE:*** *KRS 403.720 defines family member as "spouse, including a former spouse, a parent, a child, a stepchild, or any other person related by consanguinity or affinity within the second degree; and member of an unmarried couple who are living together or have formerly lived together."*

The addendum should begin with the name, date of birth, and social security number of the defendant. This will assist in the matching of the addendum to the proper interview in the event they are temporarily separated. The interviewer should also sign, date, and time the addendum.

HOW LONG HAVE YOU LIVED WITH THE PERSON/SPOUSE?

We are looking for the total length of time a common residence has been shared with the person in years and months.

DO YOU HAVE ANY CHILDREN FROM THIS RELATIONSHIP?

We are looking for significant ongoing bonds between the individuals and the number involved.

DO YOU HAVE ANY CHILDREN BY PREVIOUS RELATIONSHIPS?

We are looking for deeper obligations on the defendants part, the extent of the obligations, and a potential pattern of conduct that may be experienced should this relationship end.

ARE YOU PRESENTLY SEPARATED?

We are looking for the current status of the relationship. The time period involved may be an indication of significant changes over a very short time span that is resulting in conflict, or conversely a continuing pattern of conduct over an extended period.

WHICH ONE OF YOU ARRANGED FOR A NEW RESIDENCE?

We are looking for who has been forced to change their lifestyle through the process of separation. If the other individual has been forced to seek shelter it may be an indication of the extent of the violence they are attempting to escape. If the defendant has been forced to move it may have heightened their anger over the displacement.

LIST NEW ADDRESS AND PHONE NUMBER?

If the defendant has knowledge of the location of the other party's address this may indicate both the desire and ability to seek them out. Information on the citation may indicate the offense happened in close proximity of the new residence. If the defendant is aware of the phone number of the other party it increases access to contact, harass, and intimidate those involved. The lack of knowledge may indicate the secretive approach the other individual has undertaken to protect themselves from future violence.

If the defendant has relocated it may give an indication of their perspective on the separation. An address at a motel may indicate a very recent relocation, heightening the chance of confrontation, or the perception on the defendants part that the separation will be of short duration.

DO YOU THINK THIS RELATIONSHIP WILL CONTINUE?

We are looking for what the defendant believes the future of the relationship holds. Violence in domestic relationships is generally viewed as a mechanism of control over the other individual. If the defendant believes that this control is permanently lost, it is potentially the most dangerous time for the individual subjected to violence.

PREVIOUS PERSONS/SPOUSES: LIST

We are looking for the existence of previous relationships, and the names involved for potential court orders. This may be an indicator of past spouses seeking relief from violence or other noncompliance with court process.

DO YOU PAY CHILD SUPPORT ON CHILDREN FROM OTHER RELATIONSHIPS?

We are looking for the defendants willingness to comply with financial obligations ordered by the court.

WHAT IS YOUR INCOME PER WEEK?

We are looking for the defendants ability to meet these and potential future obligations. Inability to meet these requirements may induce significant stress to all of these relationships.

HAVE YOU OR YOUR SPOUSE FILED FOR DIVORCE?

We are looking for an indication of violence subsequent to the defendant's realization that the formal relationship is in the process of dissolution. This may indicate an attempt to regain control of the individual before final court action has occurred, or violence due to the permanent loss of control. Either of these possibilities should raise serious concerns about the escalating potential for violence.

DATE FILED?

We are looking for the proximity of the current act to the date of filing or notification. Short time frames may again be a sign of desperation and long periods of time an unrelenting attitude on the defendants part to return things to "normal". If the divorce involves the other person, and it is now final, the date filed should be used to indicate the date of the divorce decree is issued and final.

WHAT ARE YOUR CURRENT TERMS FOR SUPPORT, AND VISITATION, IF THEY EXIST?

We are looking for the level of obligation the defendant holds in this matter. Visitation also brings the two parties into ongoing contact, and potentially conflict, which may need to be addressed in any release decision.

EDUCATION LEVEL:

We are looking for the level of education of the defendant.

MILITARY EXPERIENCE:

We are looking for potential weapons training.

BRANCH:

We are looking for the segment of the armed forces in which the defendant served. This will assist in confirmation of information if required.

TYPE/DATE OF DISCHARGE:

We are looking for the method of release from the military (honorable, dishonorable, general, medical etc.) and date of the discharge. A dishonorable discharge with a recent date could be further indication of instability. Any discharge occurring recently, coupled with violence, may be an indication of turmoil and instability on the defendants part.

HAVE YOU BEEN OR ARE YOU GOING TO COUNSELING?

We are looking for an indication that the defendant has recognized problems exist, and seeks assistance to resolve the situation. This may also relate to a potential type of release.

IF SO, WHAT TYPE, WHERE, AND HOW OFTEN:

We are looking to identify if the counseling is related to both parties in this matter seeking to resolve the problems, the success of these attempts (if joint), etc. If individual counseling is being sought this may be an indication of the defendant dealing individually with domestic problems, and the success of these attempts.

WAS COUNSELING COURT ORDERED?

We are looking for resistance to dealing with the problem. Court-ordered counseling would indicate the seriousness of the situation has resulted in formal court action.

WAS COUNSELING FOR SUBSTANCE ABUSE?

The presence of substance abuse, by the defendant, heightens the possibility of violence due to diminished personal control.

DID YOU OBSERVE DOMESTIC VIOLENCE IN YOUR HOME WHILE GROWING UP?

Most studies of violent behavior, and its origin, indicate the presence of violence during childhood years leads to similar behavior as an adult.

WERE YOU SUBJECTED TO ABUSE WHEN GROWING UP? WHAT TYPE?

Again, the presence and nature of abuse during this period may lead to that behavior as an adult.

The following questions are to be asked of the defendant and verified with the individuals listed on the primary interview. You may want to seek additional verifiers to verify this addendum.

HAVE YOU EVER BEEN ARRESTED FOR DOMESTIC VIOLENCE OR ASSAULT? LOCATION AND YEAR

We are looking for arrest information that will indicate the time, location, and nature of violence on the defendant's part (THIS IS NOT LIMITED TO VIOLENCE IN DOMESTIC SITUATIONS). If the defendant indicates conviction on any violent crime points can be deducted without court.

ARE YOU CURRENTLY UNDER AN EPO, DVO, CO, OR RO?

We are looking for their acknowledgment that a court order is in existence.

WHO IS THE AFFIANT?

We are looking for the name of the individual that brought the complaint against them. Does that information relate to the current charge?

WHERE DID IT OCCUR?

Where was the order issued?

RELATIONSHIP:

We are looking for the relationship to the party in the complaint.

HAVE ANY OF THE ABOVE BEEN FILED AGAINST YOU IN THE PAST? WHEN/WHERE:

We are looking for a history of court orders pertaining to violence, timeframe, and location.

DOES A DIVORCE DECREE KEEP YOU FROM BEING AROUND SOMEONE INVOLVED?

We are looking for formal dissolutions, by the court, affecting physical restrictions on the defendant.

DO YOU DRINK ALCOHOL? DAILY, WEEKLY, MONTHLY, OCCASIONALLY? EXPLAIN.

We are looking for alcohol use and its frequency.

ARE YOU CURRENTLY TAKING PRESCRIPTION MEDICATION? WHAT TYPE AND FOR WHAT?

We are looking for prescription drug usage, specifically mood altering medication, to cope with stress, depression etc. This may be an indication of an inability to cope with current circumstances and lead to confrontations while under the influence of prescribed medications. Medical conditions are secondary considerations.

DO YOU FEEL LIKE YOU COULD USE ALCOHOL OR DRUG TREATMENT?

We are looking for an acknowledgement of dependency from the defendant that will assist the court in release decisions. An affirmative answer may be a strong indicator that the individual will not have full control over themselves if released unsupervised.

IF RELEASED WHERE WILL YOU LIVE? WITH WHOM? ADDRESS? PHONE NUMBER?

We are looking for a specific and verifiable address that the defendant will live while the case remains active (or the order remains in effect). Who they will live with and how they can be contacted. NOTE: A RESIDENTIAL ADDRESS MUST BE VERIFIED WITH THE INDIVIDUAL WHERE THEY WILL BE STAYING. WITHOUT THIS VERIFICATION THE DEFENDANT CANNOT BE PROGRAM ELIGIBLE.

POINTS

-5 ***CONVICTED OF ANY CRIME OF VIOLENCE***
This may be deducted regardless of the victim's relationship to the defendant, has no time limit, and may be deducted for each conviction involving violence (even within a single case).

-5 ***VERIFIED ALCOHOL OR DRUG DEPENDENCY BY AGENCY POLICY***
This may result in deduction if the defendant indicates they feel they could use alcohol or drug treatment, a verifier indicates they may need treatment, or there are more than two convictions related to alcohol or drug involvement within the last five years.

-5 ***HAD AN EPO, DVO, CO, OR RO FILED AGAINST THEM IN THE LAST FIVE YEARS***
This will result in deductions regardless of the outcome of the hearing. If an EPO becomes a DVO after court ruling this will be treated as one occurrence. Multiple EPO's within the time frame will result in multiple deductions.

-10 ***VIOLATED AN EPO, DVO, CO, OR RO WITHIN THE LAST TWO YEARS***
Any indication of violation of court orders within the time frame will result in this deduction. Multiple occurrences will result in multiple deductions.

-15 ***CHARGED WITH VIOLATING AN EPO, DVO, CO, OR RO WHILE IN EFFECT***
If the defendant is charged with violating an order, while active, this category will be used.

TOTAL POINTS CARRIED FORWARD TO INTERVIEW POINT CATEGORY C
Tally points on addendum and list in point total "C", and determine final eligibility.

A.4 Supreme Court Rule on Confidentiality of Pretrial Services Agency Records

Rcr 4.08

Confidentiality of pretrial services agency records

Information supplied by a defendant to a representative of the pretrial services agency during his initial interview or subsequent contacts, or information obtained by the pretrial services agency as a result of the interview or subsequent contacts, shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the defendant except in the following circumstances:

(a) information relevant to the imposition of conditions of release shall be presented to the court on a standardized form when the court is considering what conditions of release to impose;

(b) information furnished by the defendant to the pretrial services agency and recorded on a completed interview form shall be furnished to law enforcement officials upon request if the defendant fails to appear in court when required;

(c) information concerning compliance with any conditions of release imposed by the court shall be furnished to the court upon its request for consideration of modification of conditions of release or of sentencing or of probation;

(d) information relevant to sentencing or probation shall be furnished to the court upon its request for consideration in imposing sentence or probation;

(e) at its discretion, the court may permit the probation officer, for the purpose of preparing the presentence investigation report, and the defense attorney to inspect the completed interview form;

(f) any person conducting an evaluation of the pretrial release program may have access to all completed interview forms upon order of the Supreme Court.

At the beginning of his initial interview with a representative of the pretrial services agency, the defendant shall be advised of the above uses of information supplied by him or obtained as a result of information supplied by him.

Amended by Order 84-2, eff. 1-1-85; prior amendments. eff. 11-1-78, 6-19-76: adopted eff. 1-1-63.

Appendix B

District of Columbia Pretrial Services Agency—Interview Forms, Reports to the Court, and Summary of Community Supervision and Drug Treatment Programs

B.1 Defendant Interview Jacket, With Warning

B.2 Report to the Court for Use in Determining Conditions of Release

B.3 Summary of Community Supervision and Drug Treatment Programs—Requirements, Sanctions, Eligibility Criteria, and Placement Procedures

B.4 Report to the Court on Released Defendant's Compliance With Curfew Conditions

B.5 Report to the Court on Drug Test Results of Released Defendant

B.1 Defendant Interview Jacket With Warning

Lockup #

Interviewer

Verifier

Case Entry

Reviewer

PRI

SS# _____ Date _____

CHARGE: _____ Race: B W O Sex: M F

NAME: _____
First Middle Last (Jr Sr)

PDID# _____ Arrest Location _____

Arrest# _____ Time _____ Date _____

Aliases: _____

DOB _____ POB _____ Hgt. _____ Wgt. _____ Education _____

Length in Area (100 mi) _____ Steadily _____ Total _____

Alien Y N Passport Y N _____ Foreign Language Spoken _____

___ Y N M S SE CL D Lives w/Spouse: Y N # of Children: _____ Lives w/Children Y N

Relatives in area (not residing w/Deft) 1 _____ 2 _____ 3 _____ 4 _____ 5 _____

ADDRESSES — (One year total)

C P M How Long _____ C P M How Long _____

1) St: _____ # _____ 3) St: _____

City _____ State ___ Zip _____ City _____ State ___ Zip _____

Lives W/ _____ Rel. ___ Lives W/ _____ Rel. ___

___ Y N Phone# _____ Last Stayed _____ Phone# _____ Last Stayed _____

B R N Mail _____ c/o _____ CW Y N B R N Mail _____ c/o _____ CW Y N

C P M How Long _____ C P M How Long _____

2) St: _____ 4) St: _____

City _____ State ___ Zip _____ City _____ State ___ Zip _____

Lives W/ _____ Rel. ___ Lives W/ _____ Rel. ___

___ Y N Phone# _____ Last Stayed _____ Phone# _____ Last Stayed _____

B R N Mail _____ c/o _____ CW Y N B R N Mail _____ c/o _____ CW Y N

MEANS OF SUPPORT — (One year total)

E U S (Circle) How Long _____ Emp/School _____

Address _____ Phone# _____ Income _____

___ Y N Occupation _____ Supervisor _____ Contact Y N

Date last worked _____ FT PT O/O If unemp. how supported _____

FORMER OR CONCURRENT MEANS OF SUPPORT:

___ Y N E U S (Circle) How Long _____ Emp/School _____

Address _____ Phone# _____ Income _____

Occupation _____ Supervisor _____ Contact Y N

Date last worked _____ FT PT O/O If unemp. how supported _____

Physical Problem C P _____ Psych Treatment C P _____

Where Treated _____ Where Treated _____

How long/Yr. _____ How long/Yr. _____

Medication _____

DRUG ABUSE

Now Prior Never LPR (Above)

Drug _____ When _____

Drug _____ When _____

Treatment _____

ALCOHOL ABUSE

Now Prior Never

Treatment _____

When _____

Remarks _____

PENDING CASES Y N Charge _____ Release _____ Dt Due _____ Where _____

Y N Charge _____ Release _____ Dt Due _____ Where _____

PROB/PAROLE Y N Charge _____ P.O. _____ Where _____ # _____

PROB/PAROLE Y N Charge _____ P.O. _____ Where _____ # _____

Wanted Anywhere: Y N Where _____ D.C. Arrests Y N Outside Arrests Y N (See Inside)

REFERENCES: Name Address Rel. Phone

1. _____
2. _____
3. _____
4. _____
5. _____

___Pr ___Cond. ___SURETY ___ ___10 ___PDH ___M.O. ___OTHER ___

Revised July 1988

DOWN ___
BANE ___
BARS P/C ___
TARN ___
TNUM.PDID ___
MCIC ___
USAO P/D ___
DNAM ___
DCDC/PDID ___
PARL ___
NLEM ___
INQU ___
PARS ___

BAID: ___
CASE #: ___
DOWN: ___

B.1 Defendant Interview Jacket With Warning, continued

OUT OF TOWN SUPERVISION CASES:

Name of Organization Providing Supervision: _____

Address: _____ _____ _____ _____
(street) (city) (state) (zip)

Name of contact person: _____ Telephone #: _____ _____ _____

Remarks: _____

_____

_____

_____

FOR BENCH WARRANT CASES:

Reason for FTA (Jail, Hospital etc.) _____

_____

Verifier:

Name: _____ Address: _____ Phone #: _____

_____

CRIMINAL RECORD AS STATED BY DEFENDANT

Date	Jurisdiction	Charge	Disposition

JUVENILE RECORD:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

B.1 Defendant Interview Jacket With Warning, continued

RECOMMENDATION SCHEME

APPEARANCE

N01	PR	N24	RVTDS
N02	PR/C	N25	Unable
N05	No cond	N26	TO7
N15	Warr out	N27	Cit Rel
N16	Forensic	N28	No Rec (Cit)
N17	Identity	N30	Contempt
N18	Any conds?	N31	Under sent
N20	No int	N36	Alien (Fed)
N21	No Paper	N38	Prob (Fed)
N22	Nolle	N39	Parole (Fed)
N23	Dism	N40	Prob & Par (Fed)
		N43	Detention (Fed)
		N44	Any conds? (Fed)

SAFETY & DETENTION

N03	No Cond	N43	Detention (Fed)
N04	PR/C	N45	Any Conds? (Fed)
N15	Warr out	N46	Any Conds? (Viol)
N16	Forensic	N50	(a)(1)(A) Pending Case
N27	Cit Release	N51	(a)(1)(B) Release
N28	No Rec (Cit)	N52	(a)(1)(C) Probation
N30	Contempt	N53	(a)(1)(C) Parole
N31	Under sent	N55	(b)(1) Dang/Viol, Obst. Just.
N34	Murder1, AW1K		
N37	On release (Fed)		
N38	Prob (Fed)		
N39	Parole (Fed)		
N40	Prob & Par (Fed)		
N41	Obst Justice (Fed)		

APPEARANCE

Problems			Solutions		
A1	AC	AO	S1	S9	SK
A2	AE	AP	S2	SA	SL
A3	AF	AS	S3	SB	SM
A4	AG	AU	S4	SD	SN
A5	AH	AV	S6	SG	SO
A6	AJ	AW	S7	SI	SQ
A7	AL	AX	S8	SJ	SV
A8	AM			SW	
AA	AN		Bond Review		
			AX-SE, SX		

SAFETY

Problems			Solutions		
C1	CE	CR	U1	UA	UK
C2	CF	CW	U2	UD	UL
C3	CI	CY	U3	UE	UM
C4	CJ		U6	UI	UQ
C5	CK		U9	UJ	UW
C7	CL		Bond Review		
C8	CM		CX-UB, UX		
CA	CN				
CB	CO				
CD	CQ				

REMARKS: _____

ITATIONS: MPD District: _____ Arr Off: _____ Ref Off: _____

Shift: _____ Arrest: # _____ Time of Interv: _____

S M T W T F S

REC. REL. YES/NO REL. BY MPD YES/NO COURT DATE: _____

REASON FOR NO RECOMMENDATION: _____

B.1 Defendant Interview Jacket With Warning, continued

CASE PENDING:

File Date	Docket #	BA Case #	Charge(s)	Due Back	Judge	Release

(1) Case Log:

(2) Case Log:

(3) Case Log:

PROB/PAROLE: Docket #_____ Judge:_____

Charges	Juris.	Dates on & off	PO/Ph #	Spoke w/	Adjustment/Rec.

Remarks:

Remarks:

CRIMINAL CONVICTIONS:

MPD Record Furnished Y N FBI #_____
Call made to MPD Y N SID #_____
Spoke with_____

MPD Record and Deft's Convictions: Source

WARNING

My name is _____ and I work at the D.C. Pretrial Services Agency. We will be gathering information from you about your family, residence, employment, health, criminal history, drug and alcohol use and other court cases. The information that you provide will be used by the court to determine your conditions of release, may be released to appropriate agencies to implement those conditions of release, and will become part of a public record.

You have the right to talk to a lawyer before answering any questions and one will be appointed to talk to you if you cannot afford to hire one.

Information which you provide may not be used against you on the issue of guilt in any judicial proceeding. However, If you lie or give misleading information, that fact can be used against you.

By signing this folder you indicate you understand this warning, and your rights, and you give us the right to inspect all court, drug, and alcohol records kept by any agency concerning your present and past history.

DISTRICT COURT ADDENDUM: In the event your case is transferred to U.S. District Court, and you are found guilty, the information you provide will be made available to a U.S. Probation Officer for the purpose of preparing a pre-sentence report and may affect your sentence.

Defendant's Signature_____ _____ Refused to Sign

Interviewer _____ _____ Warning Given for Citation Interview

B.2 Report to the Court for Use in Determining Conditions of Release

DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

THE FOLLOWING INFORMATION IS SUBMITTED FOR USE IN DETERMINING CONDITIONS OF RELEASE.

LOCKUP NO. 003 OCTOBER 21, 1999

UNITED STATES OF AMERICA VS

CHARGES: UCSA POSS. MARIJUANA DATE OF BIRTH: 09-01-76

ALSO KNOWN AS:

ADDRESS:

CURRENT ADDRESS:
WASHINGTON, DC 20009
LIVES WITH: GRANDMOTHER
LENGTH OF RESIDENCE: LIFE
VERIFIED BY GRANDMOTHER

EMPLOYMENT/SCHOOL/SUPPORT:

PRESENT STATUS: UNEMPLOYED
HOW LONG: 3 MONTHS
INCOME SOURCE: SIDE JOBS
VERIFIED BY GRANDMOTHER

PRIOR STATUS: EMPLOYED
WHERE: SECURITY STORAGE
HOW LONG: 1.5 MONTHS
TYPE OF WORK: CLERK
VERIFIED BY GRANDMOTHER

PRIOR STATUS: UNEMPLOYED
HOW LONG: 6 MONTHS
INCOME SOURCE: GIRLFRIEND
VERIFIED BY GRANDMOTHER

PRIOR STATUS: EMPLOYED
WHERE: SAVOY SWEETS
HOW LONG: 7-8 MONTHS
UNVERIFIED SEE REMARKS

COMMUNITY TIES/EDUCATION:

DC AREA RESIDENT FOR: LIFE STEADILY
YEARS EDUCATION: HSG
MARITAL STATUS: SINGLE
NUMBER CHILDREN: 02
LIVES WITH CHILDREN: YES
OTHER FAMILY IN AREA NOT LIVING WITH DEFENDANT:
GRANDMOTHER
UNCLE

PRETRIAL SERVICES CASE NO.: 99291974 BAID: 95033957 TIME: 12:19 PM

B.2 Report to the Court for Use in Determining Conditions of Release, continued

DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

LOCKUP NO. 003 (CONTINUED) OCTOBER 21, 1999
PAGE: 02

VERIFIED BY GRANDMOTHER

HEALTH HISTORY:

PRESENT STATUS: PHYSICAL PROBLEM
HOW LONG: 12 YEARS
WHERE TREATED: PRIVATE DOCTOR
REMARKS: DEFT. HAS SCOLIOSIS/NO MEDICATION INDICATED

SELF-REPORTED SUBSTANCE ABUSE:

DEFENDANT INDICATES DRUG USE WITHIN PAST WEEK

TEST RESULTS:

FROM: 10-18-99
NO INFORMATION AVAILABLE

PENDING CASES:

NO PENDING CASES IN DISTRICT OF COLUMBIA

PRIOR CONVICTIONS:

NO PRIOR CONVICTIONS IN THE DISTRICT OF COLUMBIA.

PRETRIAL SERVICES RECOMMENDATION:

APPEARANCE RECOMMENDATIONS

BASED UPON THE INFORMATION KNOWN TO PRETRIAL SERVICES, THE AGENCY RECOMMENDS:

THAT THE DEFENDANT BE RELEASED ON PERSONAL RECOGNIZANCE WITH THE FOLLOWING CONDITIONS DESIGNED TO MINIMIZE POTENTIAL FAILURE TO APPEAR.

THE DEFENDANT REPORT TO PRETRIAL SERVICES AGENCY FOR DRUG PROGRAM PLACEMENT.

SAFETY RECOMMENDATIONS

BASED UPON THE INFORMATION KNOWN TO PRETRIAL SERVICES, THE AGENCY RECOMMENDS:

NO CONDITIONS IN THE SAFETY CATEGORY.

REMARKS:

PRETRIAL SERVICES CASE NO.: 99291974 BAID: 95033957 TIME: 12:19 PM

B.3 Summary of Community Supervision and Drug Treatment Programs—Requirements, Sanctions, Eligibility Criteria, and Placement Procedures

The Pretrial Services Agency Community Supervision and Drug Treatment Programs

	Program Requirements	Program Sanctions (violations promptly reported to Court)	Felony Eligibility	Misdemeanor Eligibility	Other Eligibility Criteria	Placement Procedures	Court
Heightened Supervision *Eric Holder, Supervisor* PH: 220-5530 Fax: 220-5540	Drug Testing 1x week Report in person 1x week Nightly Curfew 8pm- 6am	Drug Violations Increase drug testing 2x week Drug Education Group 2x week (also placement in Detox. and/or drug treatment may be required) Contact Violations Increase in person reporting requirement 2x week	All Felonies except: Murder, AWIK/AWIM Manslaughter, Aggravated Assault, First Degree Sexual Abuse, First Degree Child Sexual Abuse	**Only** (1) Assault, Threats, weapons offenses; OR (2) defendant has 2 or more pending cases and is not in compliance with release conditions; OR (3) defendant on probation or parole	**Defendant not eligible if** the defendant has 2 convictions in last 5 years (or multiple pending cases) for BRA, escape, or prison breach; or an outstanding arrest warrant or detainer; or if the defendant has been removed from the HSP program in past 6 months; or if the defendant does not have a verified address with an operable telephone for curfew calls	(1) At initial court appearance **only if recommended by Pretrial staff**; (2) Referral by court at any time to evaluate the defendant for placement; (3) Defense attorney can complete the Heightened Supervision Referral Form and forward to program at least 5 days before court date	Superior Court and U.S. District Court
Intensive Supervision *Michelle Amos, Supervisor* PH: 220-5590 Fax: 220-5595	Halfway House Phase (1st 21 days) Drug Testing 2x week Drug Education Group 2x week Report in person 2x week Community Phase Drug Testing 2x week Report in person 2x week Report by telephone 2x week Violence Interruption Process Group 1x week Nightly Curfew 8pm-6am	Halfway House Phase 1st Violation 1 week in Halfway House Subsequent Violations 5 days in D.C. Jail (prior to moving to the community phase, defendants must have 14 consecutive days in the halfway house with no program violations) Community Phase All violations 14 days in Halfway House	All Felonies	No Misdemeanors unless the defendant has been referred for placement by the Heightened Supervision Program as a result of program violations	**Same as above** except the defendant is not eligible if he has **three** convictions in last 5 years for BRA, escape, or prison breach	(1) Referral by court at any time to evaluate the defendant for placement; or (2) Defense counsel can complete the ISP Referral form at least 5 days before the next court date. **No Placements at initial court appearance**	Superior Court and U.S. District Court
Drug Court **(Superior Court Drug Intervention Program)** *Suzette Brann, Program Manager* PH: 220-5505 Fax: 220-5513	Drug Testing 2x week Drug Treatment 2x week (participants may also be required to attend self-help groups, detox., in-patient drug treatment or more intensive out-patient drug treatment)	First Violation 2 days in courtroom Subsequent Violations 3 nights in D.C. Jail (Alternatively, the court may enhance defendant's level of treatment)	Pretrial: PWID and Distribution only❶ Post-Adjudication PWID, distribution, theft, UUV, forgery, uttering, receiving stolen property, BRA, fraud, escape, prison breach❶	All Misdemeanors except simple assault, threats, and weapons charges❶	**Defendant not eligible if:** Felony Cases: pending violent charges; violent felony convictions Misdemeanor Cases: pending violent charges; violent felony convictions; *on probation or parole for a violent misdemeanor or any felony (applies only in Pretrial Diversion cases)*	(1) Pretrial screening in C-10; or (2) Pursuant to Drug Court program certification procedures (pre-adjudication, the certification process must be initiated within 15 days of arraignment for misdemeanors, and within 30 days of arraignment or by the first status hearing (whichever is later) for felonies.	Superior Court only
HIDTA **Post-Release Unit❷** *Brenda Greene, Supervisor* PH: 220-5570 Fax: 220-5565	Drug Testing 2x week Drug Treatment 2x week (participants may also be required to attend detox., in-patient drug treatment or more intensive out-patient drug treatment)	First Violation 2 days in courtroom Subsequent Violations 3 nights in D.C. Jail (Alternatively, the court may enhance defendant's level of treatment)	ALL FELONIES (charges must stem from serious "hard core" drug addiction)	ALL MISDEMEANORS (charges must stem from serious "hard core" drug addiction)	(1) Must be a District of Columbia resident (2) Preference given to repeat offenders	(1) Referral by court for screening prior to program placement (2) Referral by defense counsel for screening prior to program placement HIDTA also available to participants in Drug Court, and in the Heightened and Intensive Supervision programs	Superior Court only
Operation Drug TEST *Brian Rybicki, Supervisor* PH: 727-2947	Drug Testing 2x week Drug Treatment 2x week (participants may also be required to attend detox., in-patient drug treatment or more intensive out-patient drug treatment)	First Violation 1 night in D.C. Jail Subsequent Violations 3 nights in D.C. Jail (Alternatively, the court may enhance defendant's level of treatment)	All Felonies	All Misdemeanors	Defendant must have a drug addiction	(1) Referral by Pretrial staff if defendant's drug testing shows continued drug usage; (2) Referral by court	U.S. District Court only

❶Also: (1) all co-defendants must be in Drug Court; (2) the defendant must have either a positive drug test at initial appearance, or 3 positive drug tests with Pretrial in the last 12 months, or a verified history of drug treatment in the last 12 months.
❷ **The Post-Release Unit** also makes drug treatment referrals through APRA, the District of Columbia's drug treatment program, as well as through other D.C. area community-based drug treatment programs.

B.4 Report to the Court on Released Defendant's Compliance With Curfew Conditions

* P R E T R I A L S E R V I C E S A G E N C Y *

500 INDIANA AVE. N.W. ROOM C-225
WASHINGTON, D.C. 20001

CURFEW VIOLATION REPORT

OCTOBER 21, 1999
TIME: 11:31 AM

TO: JUDGE MELVIN R. WRIGHT

PAGE: 1

FROM: MICHELLE ANN SIOLI

RE:

AKA:

DOCKET NUMBER:

PDID NUMBER:

NEXT APPEARANCE DATE: 10-25-99

THE ABOVE NAMED DEFENDANT WAS RELEASED BY THE COURT WITH THE CONDITION TO MAINTAIN A CURFEW BETWEEN 08:00 PM AND 06:00 AM THE FOLLOWING IS FOR YOUR INFORMATION AND CONSIDERATION.

CHRONOLOGICAL LISTING OF THE MOST RECENT CURFEW CALLS:

DATE CALL	TIME CALL	NUMBER DIALED	CALLER
10-20-99	09:23 PM	202 555-XXXX	WILLIAM WALLER THOMPSON
CALL DISP: DEFENDANT AT HOME			
10-20-99	12:35 AM	202 555-XXXX	WILLIAM WALLER THOMPSON
CALL DISP: DEFENDANT AT HOME			
10-19-99	10:12 PM	202 555-XXXX	WILLIAM WALLER THOMPSON
CALL DISP: NO ANSWER AFTER TEN RINGS			
10-19-99	09:12 PM	202 555-XXXX	WILLIAM WALLER THOMPSON
CALL DISP: LINE BUSY			
10-18-99	10:41 PM	202 555-XXXX	KENAN Z. BESS
CALL DISP: DEFENDANT AT HOME			
10-18-99	08:51 PM	202 555-XXXX	KENAN Z. BESS
CALL DISP: DEFENDANT AT HOME			
10-17-99	11:38 PM	202 555-XXXX	LAQUISHA YVETTE JONES
CALL DISP: DEFENDANT AT HOME			
10-17-99	09:24 PM	202 555-XXXX	LORI A. LYPSON
CALL DISP: DEFENDANT AT HOME			

B.5 Report to the Court on Drug Test Results of Released Defendant

HEIGHTENED SUPERVISION PROGRAM
Washington, DC 20004

DRUG STATUS REPORT

To: JUDGE MELVIN R. WRIGHT
From: MICHELLE A. SIOLI
Re:

October 20, 1999 4:03 pm

PDID:

Docket:

Next Court Date: October 25, 1999

The above named defendant was released by the Court with the condition to report to the Drug Detection Unit for evaluation and supervision, and to refrain from illegal drug use.

DATE	DESCRIPTION	AMP	COC	MTH	OPI	PCP	MAR	ALC
10-19-99	Surveillance test CREATININE LEVEL OF THIS SAMPLE WAS 11 MG/DL (NORMAL=172 MG/DL). VALUES LESS THAN 20 MG/DL MAY INDICATE WATER-LOADING.	--	Neg	--	Neg	Neg	--	--
10-12-99	Surveillance test	--	Neg	--	Neg	Neg	--	--
10-05-99	Surveillance test	--	Neg	--	Neg	--	Neg	--
09-28-99	Surveillance test	--	Neg	--	Neg	Neg	--	--
09-21-99	Surveillance test	--	Neg	--	Neg	Neg	Neg	--
09-14-99	Surveillance test	--	Neg	--	Neg	Neg	Neg	--
09-07-99	Placement DEFENDANT WAS PLACED IN HEIGHTENED SUPERVISION PROGRAM IN CASE F6228-99.	--	Neg	--	Neg	--	Neg	--

Defense Attorney: Lee A Christen

Phone Number: 301-916-1610

For further compliance information, please call (202) 220-5530

This information is intended for use only by the court and the attorneys, and not for inclusion in the court jacket.

Appendix C

Harris County (Houston), Texas, Pretrial Services Agency Forms

C.1 Defendant Interview Form

C.2 Special Needs Referral Form

C.1 Defendant Interview Form

HARRIS COUNTY PRETRIAL SERVICES AGENCY DEFENDANT INTERVIEW

DEFENDANT NAME: TEST SPN: 00482505

CHARGE INFORMATION 997

CHARGE AND BOND

COURT AND CASE NO. / / /

ADDITIONAL CHARGES: FELONY ___ MISDEMEANOR ___ CLASS C ___
HOLDS ___ HARRIS CO. WARRANTS ___ FUGITIVE ___

CRIMINAL HISTORY SUMMARY
FELONY CONVICTIONS ___ MISDEMEANOR CONVICTIONS ___
PRESENTLY ON PROBATION ___ PRESENTLY ON PAROLE ___ PREVIOUSLY FTA ___

DEFENDANT REPORTED CONVICTIONS / OPEN CASES

ARREST DT	LOCATION	CHARGE	NAME USED	DISPOSITION
1.				
2.				
3.				
4.				

PERSON IDENTIFICATION INFORMATION

TRUE NAME ___ ADDITIONAL SPN ___ POSSIBLE SPN ___

AKA / OTHER NAMES ___

AGE ___ SEX F RACE W MARTIAL STATUS ___ DOB 010101 DOB2 ___

CITIZENSHIP ___ POB ___ HGT ___ WGT ___ EYE ___ HAIR ___
SCARS / MARKS / TATOOS ___ DEFENDANT SPEAKS ___

SSN ___ DL NO. ___ DL STATE ___ SON ___
FBI ___ SID ___ HPD ___ INS NO. ___

RESIDENCE INFORMATION 997

CURRENT ADDRESS ___ APT NO ___ CITY ___ STATE ___

ZIP ___ COUNTY ___ APT NAME ___ HOME PHONE ___ RETURN ___

LENGTH HERE ___/___ LIVES WITH ___ RELATION ___ WK PHONE ___
CHILDREN ___/___ AGE RANGE FROM ___/___ TO ___/___

ALTERNATE ADDRESS ___ APT NO. ___ CITY ___ STATE ___

ZIP ___ HOME PHONE ___ LIVES WITH ___
RELATIONSHIP ___ WORK PHONE ___ CAN CONTACT ___

PREVIOUS ADDRESS ___ APT NO ___ CITY ___ STATE ___

ZIP ___ HOME PHONE ___ LIVED WITH ___ RELATION ___

STILL THERE ___ CAN CONTACT ___ LENGTH HERE ___/___

OCCUPATIONAL INFORMATION 997

EMP ___ UNEMP ___/___ SCH ___ TRN ___ DISABILITY ___ OTHER ___

CURRENT EMPLOYER / SCHOOL ___ POSITION / GRADE ___ DEPT ___ SHIFT ___
ADDRESS ___ CITY ___ STATE ___ ZIP ___

WORK PHONE ___ CONTACT AT WORK ___ CAN CONTACT ___ LENGTH EMP ___/___

INCOME ___/___ SOURCE OF INCOME IF NOT EMP ___ DEPENDANTS ___

SECOND JOB/SCHOOL ___ ADDRESS ___
PREVIOUS EMPLOYER ___ POSITION ___ LENGTH EMP ___/___ INCOME ___/___

PREV EMP ADDRESS ___ CITY ___ STATE ___ ZIP ___ WORK PHONE ___

VETERAN ___ BRANCH OF SERVICE ___ H.S. GRADUATE ___ OBTAINED GED ___ GRADE COMPLETED ___
HEALTH PROBLEM ___ TYPE OF HEALTH PROBLEM ___ ALCOHOL PROBLEM ___ DRUG PROBLEM ___

C.1 Defendant Interview Form, continued

HARRIS COUNTY PRETRIAL SERVICES AGENCY DEFENDANT INTERVIEW

DEFENDANT NAME: TEST SPN: 00482505

FINANCIAL INFORMATION 997

SPOUSES EMPLOYER _____ ADDRESS _____ CITY _____ STATE ___ ZIP ___

SPOUSES INCOME _____ CASH ON HAND _____ OTHER PROP OWNED _____

BANK NAME _____ AMT CHECKING _____ AMT SAVINGS _____
RESIDENCE STATUS ___ NAME ON LEASE _____

OTHER INCOME SOURCE _____ INCOME _____ SOURCE _____ INCOME _____
SOURCE _____ INCOME _____ SOURCE _____ INCOME _____

MOTOR VEHICLE 1 ___ MAKE/MODEL _____ VALUE _____ OWES _____
MOTOR VEHICLE 2 ___ MAKE/MODEL _____ VALUE _____ OWES _____

MONTHLY EXPENSES MORT/RENT ___ UTIL ___ FOOD ___ MEDICAL ___
CHILD CARE ___ INS ___ AUTO ___ CREDITORS ___
COURT ORDERED ___ OTHER ___

REFERENCES 997

CONTACTED ANYONE SINCE ARREST ___ WHO _____ PHONE NUMBER _____
ATTORNEY'S NAME _____ ATTORNEY'S PHONE NUMBER _____

NEXT OF KIN _____ RELATION ___ KNOWN DEF ___ ADDRESS _____
HOME PH _____ WK PH _____ CONTACT ___ VERIFIER _____ DATE/TIME _____

VERIFIED : ADDRESS __1__2__3__4__5__ COMMENTS _____

REFERENCE _____ RELATION ___ KNOWN DEF ___ ADDRESS _____
HOME PH _____ WK PH _____ CONTACT ___ VERIFIER _____ DATE/TIME _____

VERIFIED : ADDRESS __1__2__3__4__5__ COMMENTS _____

REFERENCE _____ RELATION ___ KNOWN DEF ___ ADDRESS _____

HOME PH _____ WK PH _____ CONTACT ___ VERIFIER _____ DATE/TIME _____

VERIFIED : ADDRESS __1__2__3__4__5__ COMMENTS _____ 997

COMMENTS 997

BAIL CLASSIFICATION SCALE

VARIABLE	SCORING	POINTS
1. AUTO	Add 1 point if the defendant has an automobile	(+) __
2. TELEPHONE	Add 1 point if the defendant has a phone in his / her residence	(+) __
3. FULL TIME EMPLOYMENT OR SCHOOL, OR HOMEMAKER	Add 1 point if defendant is either employed or attending school full time, or if defendant is a full time homemaker	(+) __
4. NUCLEAR FAMILY	Add 1 point if defendant lives alone or with his / her spouse and or children	(+) __
5. UNDER 21 YEARS OLD	Subtract 1 point if the defendant is under 21 years old	(-) __
6. PRIOR FAILURES TO APPEAR	Subtract 1 point if defendant has one or more verified fta's	(-) __
7. PRIOR MISDEMEANORS	Subtract 1 point if defendant has 2 or more prior misdemeanor convictions	(-) __
8. PRIOR FELONIES	Subtract 2 points if the defendant has 2 or more prior felony convictions	(-) __
TOTAL	RANGE +4 TO -5	00

INTERVIEW PARTICULARS 997

INTERVIEWER 01010101 TST SHIFT 1 DATE/TIME 010195/0101 LOCATION SEJ DATE OF ARREST _____
JIMS CHECKS _____ TCIC HIST ___ TCIC WANTS ___ NCIC HIST ___ NCIC WANTS ___
HPD RAP ___ SO ID ___ CRISS CROSS ___ OTHER ___

JUDICIAL DECISION

DENIED _____ APPROVED _____

DATE _____ DATE _____

C.2 Special Needs Referral Form

Harris County Special Needs Referral

Client's Name:_____ **S.S.#:**_____

SPN #:_____ Phone: _____

Address: _____

D.O.B. _____ SEX: M F SID NO._____ Offense: M F B

Disabled? _____ Disability Type: _____ Lang:_____

Physical Health Problem? _____ Problem Type: _____ PH Code: _____

Mental Impairment? _____ Impairment Type: _____ MI Code: _____

On Maintenance Medication? _____ Names(s) of Medication: _____ Med Type: _____

MHMRA Client Now? ____ MHMRA Past? _____ MH Hospitalizations? _____ Last year hospitalized: _____

Defendant wants substance abuse treatment? _____ Substance Abuse type: _____(Drug, Alcohol, Both)

Personal Contact/Guardian: _____ Phone: _____ Rel to Def: _____

Is Client receiving any of these services at the time of the interview:

Outpatient Substance Abuse Treatment? ___ Outpatient Psychiatric Treatment at MHMR? ___

Outpatient Psychiatric Treatment/Other? ___ Inpatient Psychiatric Treatment? ___

SSI ___ Food Stamps ___ AFDC ___ Medicare ___ Medicaid ___ VA Benefits ___

Social Security ___ TRC ___ Public Housing ___ Halfway House ___

Circle Applicable Observations (from the TCJS Jail Screening Instrument)

1. Does the individual talk or act in a strange manner?
2. Does the individual seem unusually confused or preoccupied?
3. Does the individual talk very rapidly or seem to be in an unusually good mood?
4. Does the individual claim to be someone else like a famous person or fictional figure?
5. Does the individual's vocabulary (in his/her native tongue) seem limited?
6. Does the individual have difficulty coming up with words to express him/herself?
7. Does the individual seem extremely sad, apathetic, helpless, or hopeless?

Comments/Other Observations:

_____

_____

ACTION REQUESTED	ARREST/COURT ACTIVITY
MI/MR Confirmation _____	PTSA Interview Date/Location _____
Assessment _____	PCH Date and Time _____
MI Conditional Release Options _____	Referral Date/time _____
MI Confirmation Only; Def Released _____	PCH Outcome _____
SN Conditional Release Options _____	Assigned Court Setting _____
SN Notification Only; Def Released _____	Assigned Court/Cause _____
Additional Infor (Ref Before) _____	Other _____
Other _____	Other _____

Appendix D

Monroe County (Rochester), New York, Pretrial Services Corporation—Point Scale Scoring Instructions

The Monroe County Pretrial Services corporation uses a point scale to provide a basis for recommendations to the court concerning release of defendants. A net score of five or more *verified* points qualifies a defendant for pretrial release under program supervision. Points are awarded or subtracted in accordance with the following instructions:

Residence:

Points are given for steady residence in Monroe County.
Score the following way:

3 points	If a person has resided steadily in Monroe County for at least 1 1/2 - 3 years
2 points	Steady residence in Monroe County for 12 months to 2 years 5 months
1 point	Steady resident for 6 months to 11 months
0 points	Residence is less than 6 months. Put slash through the points.

If a person has maintained a residence in Monroe County but has left to attend school, serve in the military, attend Job Corps, to be hospitalized, or go to prison, and has returned to Rochester, points should be scored as if he/she were a steady resident. However, if a person resided here steadily and left to travel around (other than a vacation), to work elsewhere, or to live, the number of points should be scored as if he/she were a steady resident. However, if a person resided here steadily and left to travel around (other than a vacation), to work elsewhere, or to live, the number of points given would depend on the amount of time that he/she has resumed residency here.

If a defendant lives in a county surrounding Monroe, he/she *may* still be eligible for Pretrial release recommendation. If a person works here, attends school *regularly* here, has immediate family here, and has a verifiable address to return to in the other county, then his/her ties would be strong enough to constitute points for a recommendation.

If a person lives, works (or receives another means of support), and has family or reliable contacts, in Orleans, Genesee, Livingston, Wayne or Ontario counties and is within 10 miles of the Monroe County line, then score the points as if he/she

lived in Monroe. It is extremely important, when making the recommendation to the courts, to tell the court that the defendant lives in an outlying county. A map is included to assist you in determining the 10-mile radius (see Appendix). It is important to ask the family/friends to assist with transportation to and from court.

Family Situation

3 points	If a person is living with immediate family. Immediate family is defined as follows: spouse, parent(s), grandparents, sibling(s), children, girlfriend or boyfriend (*for 2 years or longer*), foster family, group home (if it is other than transitional), or persons that have acted as the primary family unit for the defendant for most of his/her life.
2 points	If a person is living with a friend or alone and has regular contact (at least biweekly) with his/her immediate family.
	If a person is living with extended family that has not acted as the primary family unit for the defendant (e.g., aunt, cousin, in-law).
1 point	If a person lives alone or with friend(s) and has occasional contacts with family (once a month or less) or whose contact is unrelated but can verify information needed.
	If a defendant has lived with a girlfriend/boyfriend for less than 2 years, and has no other family contact.
0 points	No contacts in the community.

Employment

3 points	Defendant is currently employed, and has been steadily employed full-time for the past year. Employment does not have to be with the same employer, but must be continuous.
2 points	Defendant is currently employed and has had continuous full-time employment for the past 6 months to 1 year.
1 point	Defendant is currently employed full-time for less than 6 months, works temporary or part-time employment, is supported by an outside source (family, welfare, social security, workmen's compensation, unemployment insurance).
0 points	No visible means of support, or odd jobs.

School

3 points	Defendant is currently enrolled in an academic vocational, or alternative education program and attends regularly. If he/she is in a work-study program, score three points for school and score job points according to other situation (usually support of family, welfare, etc.).
2 points	If a defendant's last date of attendance at school was within 6 months of arrest date and the defendant is now employed or in a job-training program.
1 point	If a defendant's last date of attendance in school was within 3 months prior to the arrest and the defendant is not currently employed or in any training program.
0 points	No current school attendance or within recent past as defined on preceding page.

Prior Conviction

	Score only for felony arrests
-2 points	2 prior felony convictions
-1 point	1 prior felony conviction

Discretionary Points

ALWAYS CHECK WITH SUPERVISOR BEFORE FORGIVING A DISCRETIONARY POINT

The following are appropriate considerations:

- a severe medical condition that requires immediate attention
- the fact that the person has kept all court appearances while under Pretrial release

Appendix E

Philadelphia Municipal Court and Common Pleas Court—Pretrial Release Guidelines Form and Worksheet

E.1 Pretrial Release Guidelines Matrix and Release Order, With Standard Conditions

E.2 Pretrial Services Worksheet for Risk Classification

E.1 Pretrial Release Guidelines Matrix and Release Order, With Standard Conditions

Figure 1: Judicial Form

Date _____ Log # _____ Name of Defendant (Last, First, M.I.) _____ Police Photo # _____ Prepared by: _____

Key
HD = high dropout rate
V = high diversion rate

PRETRIAL RELEASE GUIDELINES

Philadelphia Municipal Court and Court of Common Pleas

☐ Bench warrant only
☐ New charges only
☐ BW and new charges
☐ If open case, conditions: _____

Charge Seriousness Level

Risk	Least Serious 1	2	3	4	5	6	7	8	9	Most Serious 10	HOMICIDE
Lower 1	ROR/ Standard Conditions V 1	ROR/ Standard Conditions V 5	ROR/ Standard Conditions V 9	ROR/ Standard Conditions V 13	ROR/ Standard Conditions 17 HD	ROR/ Standard Conditions 21	ROR/ Standard Conditions 25	$ 1,000 - $ 3,000 29 HD	$ 1,500 - $ 4,500 33	$ 2,000 - $ 8,000 37 HD	Held Without Bail
2	ROR/ Standard Conditions V 2	ROR/ Standard Conditions 6 HD	ROR/ Standard Conditions 10 HD	ROR/ Standard Conditions 14 HD	ROR/ Standard Conditions 18	Release on Special Conditions Type I 22	Release on Special Conditions Type I 26 HD	$ 2,000 - $ 4,500 30 HD	$ 2,500 - $ 5,500 34	$ 2,500 - $ 8,000 38	Held Without Bail
3	ROR/ Standard Conditions 3	Release on Special Conditions Type I 7	Release on Special Conditions Type I 11 HD	Release on Special Conditions Type I 15	Release on Special Conditions Type II 19	Release on Special Conditions Type II 23	Release on Special Conditions Type II 27	$ 2,500 - $ 5,000 31	$ 3,000 - $ 6,500 35	$ 4,500 - $15,000 39	Held Without Bail
Higher 4	Release on Special Conditions Type I 4	Release on Special Conditions Type I 8	Release on Special Conditions Type I 12	Release on Special Conditions Type II 16	Release on Special Conditions Type II 20	Release on Special Conditions Type II 24	$ 2,500 - $ 4,500 28	$ 3,000 - $ 5,000 32	$ 3,000 - $ 8,000 36 HD	$ 6,000 - $ 50,000 40 HD	Held Without Bail

UNUSUAL CIRCUMSTANCES (If Appropriate)	SPECIAL CONDITIONS OF PRETRIAL RELEASE		PTS USE ONLY
_____	Type I	Type II	

ELIGIBLE FOR: ☐ Early Disposition ☐ Special Drug Program ☐ RIP _____ ☐ Other _____

STANDARD CONDITIONS OF PRETRIAL RELEASE

The defendant shall conform to the following conditions of his/her release pending adjudication of criminal charges:

- The defendant shall attend all court proceedings as required when scheduled.
- The defendant shall submit to all orders and processes of the issuing authority or Court.
- The defendant shall provide Pretrial Services with the address at which he/she is residing and with a working telephone number at which he/she may be reached reliably.
- The defendant shall notify Pretrial Services of any change in address or telephone within 24 hours of the change.
- The defendant shall not engage in, cause, or encourage threats, intimidation or retaliation against complainants or witnesses.
- The defendant shall not possess any weapons.
- The defendant shall obey such other conditions as imposed by the Court or Pretrial Services Agency.

☐ Other *(specify)*: _____

DECISION INFORMATION

COMMISSIONER'S DECISION	GUIDELINES FOLLOWED:
☐ ROR/Standard Conditions ☐ Release on Special Conditions ☐ Type I _____ ☐ Type II _____ ☐ Ten Percent Financial Bail *(specify full amount)*: _____	☐ YES ☐ NO; ☐ Less Restrictive ☐ More Restrictive If no, provide reasons: _____

COMMISSIONER'S SIGNATURE	REVIEW REQUESTED BY:	APPEALS JUDGE'S DECISION:
_____ *(Date)*	☐ DA ☐ PD	_____ *(Signature)* _____ *(Decision)*

E.2 Pretrial Services Worksheet for Risk Classification

Figure 2: Pretrial Services Worksheet

(PTS Staff name)

PRETRIAL SERVICES WORKSHEET

Part I Classification of Criminal Charges

[Note: Refer to Pretrial Release Guidelines Charge Seriousness Classification]

- ☐ Bench warrant only
- ☐ New charges only
- ☐ BW and new charges
- ☐ If open case, conditions:

Date *Log #* *Name of Defendant (Last, First, M.I.)* *Police Photo #*

New Charges [List 10 most serious]

BIFF #	Offense Name	Misd./Fel. Grade	Seriousness Level	Charge Type

Total number of MC cases _____ Total number of charges _____

Bench Warrants [List 10 most serious]

BIFF #	Offense Name	Misd./Fel. Grade	Seriousness Level	Charge Type

Total number of MC bench warrant cases _____ Total number of CP bench warrant cases _____

MOST SERIOUS CHARGE LEVEL: L-1 L-2 L-3 L-4 L-5 L-6 L-7 L-8 L-9 L-10 [ENTER ON GUIDELINES MATRIX]

Part II Classifying Defendants According to Risk of Misconduct (Flight or Rearrest)

SELECT CHARGE TYPE (CIRCLE)

TYPE 1 [GO TO SECTION A] TYPE 2 [GO TO SECTION B] TYPE 3 [GO TO SECTION C]

For the selected charge type, check the appropriate responses below and continue or stop, as indicated.

SECTION A: CHARGE TYPE 1 DEFENDANTS

1. Does the defendant have any prior willfull FTAs?
   - ☐ Yes GO TO QUESTION 2
   - ☐ No GO TO QUESTION 3
2. If 'yes' to Question 1, is defendant now arrested on any new charge(s)?
   - ☐ Yes ⇒ **Risk Group = 4** STOP
   - ☐ No ⇒ **Risk Group = 3** STOP
3. If 'no' to Question 1, is defendant currently living with spouse and/or child?
   - ☐ Yes ⇒ **Risk Group = 2** STOP
   - ☐ No GO TO NEXT QUESTION
4. Did defendant complete high school/GED?
   - ☐ Yes ⇒ **Risk Group = 2** STOP
   - ☐ No GO TO NEXT QUESTION
5. Does defendant have telephone at residence?
   - ☐ Yes ⇒ **Risk Group = 3** STOP
   - ☐ No ⇒ **Risk Group = 4** STOP

SECTION B: CHARGE TYPE 2 DEFENDANTS

1. Was defendant arrested for both new charges and bench warrants?
   - ☐ Yes ⇒ **Risk Group = 4** STOP
   - ☐ No GO TO NEXT QUESTION
2. Does defendant have recent (past 3 years) prior arrests?
   - ☐ Yes ⇒ **Risk Group = 3** STOP
   - ☐ No GO TO NEXT QUESTION
3. Does defendant have telephone at residence?
   - ☐ Yes ⇒ **Risk Group = 2** STOP
   - ☐ No GO TO NEXT QUESTION
4. Is defendant now under arrest on a bench warrant or bench warrants only?
   - ☐ Yes ⇒ **Risk Group = 2** STOP
   - ☐ No ⇒ **Risk Group = 4** STOP

SECTION C: CHARGE TYPE 3 DEFENDANTS

1. Is defendant now charged with any serious crimes against the person?
   - ☐ Yes ⇒ **Risk Group = 1** STOP
   - ☐ No GO TO NEXT QUESTION
2. Does the defendant have any prior willfull FTAs?
   - ☐ Yes ⇒ **Risk Group = 3** STOP
   - ☐ No GO TO NEXT QUESTION
3. Is the defendant currently living with spouse and/or child?
   - ☐ Yes ⇒ **Risk Group = 1** STOP
   - ☐ No ⇒ **Risk Group = 2** STOP

Appendix F

U.S. District Court, Southern District of New York, Pretrial Services Agency—Advisement of Rights Form

F.1 Notice of Rights—English Language

F.2 Notice of Rights—Spanish Language

F.1 Notice of Rights—English Language

United States District Court
Southern District of New York

PRETRIAL SERVICES AGENCY

Notice to Persons Accused of Federal Crime

I,_____,
Print Name (First, Middle, Last)

understand that I am being requested to give information about myself to a U.S. Pretrial Services Officer.

I also understand the following:

I will not be questioned about the alleged offense(s) and I should avoid discussing the charges at this time.

I may speak to an attorney before answering any questions. If I am unable to afford the services of an attorney, I understand that I may request that the court appoint one on my behalf at no expense to me.

Information which I provide will be used by the court to determine whether I will be released or detained pending trial and under what conditions. The information contained in the pretrial services report will be made available in court to my attorney and the prosecuting attorney.

I understand that information which I provide may not be used against me on the issue of guilt or sentence in any judicial proceeding, except with respect to prosecution for perjury or false statements allegedly made in the course of obtaining my release or a prosecution for failure to appear for the criminal judicial proceeding with respect to which pretrial release is granted.

I have read the above form, or had it read to me, and I understand my rights.

_____DATE

_____
DEFENDANT'S SIGNATURE

_____AM
PM

_____
PRETRIAL SERVICES OFFICER

NOTES:_____

F.2 Notice of Rights—Spanish Language

Tribunal Federal De Los Estados Unidos
Distrito Sur De Nueva York

DEPARTAMENTO DE SERVICIOS PREVIOS AL JUICIO (PSA)

Notificacion de Derechos a Personas Acusadas de Delitos Federales

Yo,_____,
nombre y apellidos (letras de molde)

entiendo que un oficial del Departamento de Servicios Previos al Juicio me pide informacion sobre mi persona.

Ademas, entiendo que:

No me hara preguntas sobre el (los) supuesto(s) delito(s) y en esta entrevista no debo hablar de los cargos.

Puedo hablar con un abogado antes de contestar cualquiera de las preguntas. Si no puedo pagar los servicios de un abogado, entiendo que puedo solicitarle al juez que me nombre un defensor sin costo alguno para mi.

El tribunal usara la informacion que yo de para determinar si quedare en libertad o detenido en espera de juicio, y bajo que condiciones. El informe del Departamento de Servicos Previos al Juicio se pondra a la disposicion de mi abogado y del fiscal.

Entiendo que no se utilizara en mi contra esta informacion para determinar mi culpabilidad en ningun proceso judicial, salvo en caso de enjuiciamiento por perjurio o declaraciones falsas supuestamente hechas para obtener mi libertad, o de enjuiciamiento por no comparecer en la causa penal con respecto a la cual se me conceda la libertad previa al juicio.

He leido o se me ha leido el presente formulario, y entiendo mis derechos.

_____FECHA

_____
FIRMA DEL ACUSADO

_____HORA

_____
OFICIAL DEL DEPARTAMENTO DE SERVICIOS PREVIOS AL JUICIO

NOTAS:_____