

PRETRIAL SERVICES PROGRAM IMPLEMENTATION: A STARTER KIT



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INTRODUCTION

Pretrial services programs gather the information that the judge is required by statute to consider in making a pretrial release decision. Such information includes residence and employment status, community ties, length of time in the community, history of drug, alcohol or mental health problems, criminal history, current status on probation, parole, or pretrial release, and history of appearance in court. That information is then used to formulate an assessment of the risks each defendant poses of endangering the safety of the community or of any individual within the community, and of failing to appear in court as required. The information and risk assessment are presented to the court at the initial appearance, along with an appropriate option for best assuring the community's safety and the defendant's appearance. A number of options exist under most state statutes, including:

- release of the defendant on his or her own recognizance, which is their promise to appear in court;
- release on conditions that allow for monitoring the defendant in the community;
- setting a money bail that the defendant must post to be released; or
- ordering the defendant detained without bail.

Pretrial services programs also provide supervision of defendants who have been released with specific conditions, such as reporting in regularly, undergoing drug or alcohol testing or treatment, or electronic monitoring. These entities then report back to the court on the compliance, or lack of compliance, by the defendant on supervised pretrial release.

The need for pretrial services programs has been long recognized. The National Association of Counties (NACo) recommends that “all counties” establish procedures to screen all arrestees booked into county jails to assist judicial officers in making the pretrial release decision, and to provide the court with a range of pretrial release options (NACo 2009-2010 Justice & Public Safety Platform & Resolutions). The American Bar Association (ABA) calls on “every jurisdiction” in the country to establish a pretrial services program to gather information about all arrestees before their initial appearance in court, assess their risks of danger to the community and failure to appear in court, make recommendations to the court based on the risk assessment, and supervise release conditions imposed by the court (ABA Pretrial Release Standard 10-1.10). The National Association of Pretrial Services Agencies (NAPSA) does so as well (NAPSA Pretrial Release Standard 3).

Pretrial services programs benefit the court by allowing judges to make much more informed decisions that take into account the individual risks of each defendant and fashion an appropriate response. In jurisdictions where pretrial services programs exist, judges are given the information that they are required to consider in the pretrial release decision. In jurisdictions where there is no pretrial services program, judges typically must make the pretrial release decision with information only about the charge, and occasionally a partial criminal record. When such limited information is available, experience has shown, judges are much more reluctant to release defendants non-financially, instead setting a money bail that the defendant may or may not be able to post.

The community benefits when judges make more informed decisions. On one level, funding the operation of the local jail is a significant financial burden on the community, and those who decide which persons are going to be put in jail owe it to the community to assure that the only persons who are locked up are those who need to be there. Effective allocation of expensive jail bed space is something that the community should expect of its government. On another level, the safety of the community is enhanced when informed decisions are made.

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See Appendix A for relevant excerpts from the pretrial release standards of the ABA, NAPSA, and NACo.

This Starter Kit provides the bulk of information required here, or, if not, provides information on how to locate it. It is also beneficial for jurisdictions that have a program that provides minimal services, and are seeking to enhance the program.

The defendant also benefits when information drives pretrial release decisions. Every person arrested should be treated with fairness. Fairness is achieved when decisions about the person's pretrial liberty are made on the basis of complete information and a valid assessment of risks posed. Defendants who are granted pretrial release are able to continue to interact with family and friends and continue with their jobs or efforts to find jobs.

This Starter Kit provides information on implementing a pretrial services program in jurisdictions that do not have one, but are planning to implement one. It is also beneficial for jurisdictions that have a program that provides minimal services, and are seeking to enhance the program.

To implement or enhance a pretrial services program requires the following:

- Knowledge of your state statute and court rules governing pretrial release decision making in your jurisdiction, as well as national standards on pretrial release decision making;
- Knowledge of the core functions of a pretrial services program, and research findings on the most effective approaches to those functions;
- A list of all the steps necessary to implement a comprehensive pretrial services program; and
- Examples of program practices currently in place in other jurisdictions.

This Starter Kit either provides all of this information here or provides information on how to locate it. The first section describes the legal framework for pretrial release decision making, which is important to understand before thinking about how a pretrial services program in your jurisdiction should be designed. The second section describes the core functions of a pretrial services program. The third section lays out the steps that need to be completed to implement a pretrial services program that incorporates the core functions. The fourth section presents a check list for starting a pretrial services program. The appendix includes examples of interview forms, risk assessment tools, supervision forms, and other materials relating to the core functions that are used in jurisdictions with extensive experience in providing pretrial services.

SECTION I

THE LEGAL FRAMEWORK FOR PRETRIAL SERVICES PROGRAMMING

To better understand the role that a pretrial services program plays in a jurisdiction, it may be helpful to begin by reviewing the legal framework for the pretrial release decision, how that framework has evolved over the years, and how it impacts the work of pretrial services programs today. Historically, the sole purpose of the pretrial release decision was to assure the appearance of the accused in court to face the charges, and money bail was the statutory preference for determining who was released during the pretrial period and who would remain in jail.

In 1961, a program was established in New York City to interview defendants who were unable to post the money bail that was set, do an assessment of the risks that these defendants posed to fail to appear (FTA) in court, identify those who were at low FTA risk, and recommend to the judge that those defendants be released on their own recognizance. Results from this program found that indigent defendants who were released on their own recognizance through the intervention of this program were just as likely to come back to court as those who paid a money bail.¹ Based on the success of this program, similar entities – which came to be known as pretrial services programs – were started in dozens of jurisdictions around the country.²

The success of these programs, in turn, led Congress to pass a major overhaul of the federal bail statute. The Bail Reform Act of 1966, for the first time in any statutory scheme, listed all the factors that the court is to consider in making a pretrial release decision. These factors included, in addition to the nature of the offense and weight of the evidence against the accused, the defendant's time in the area, living situation, employment status, ties to the community, drug, alcohol, or mental health status, and prior criminal record. The act, also for the first time, established a presumption for the release of defendants on the least restrictive conditions reasonably calculated to assure their appearance in court. The act listed a range of options that would be available to the judicial officer when making a pretrial release decision, and established a clear preference for release on non-financial conditions, stating that financial conditions could only be used if non-financial release could not reasonably assure appearance. Over the next several years, most states re-wrote their pretrial release statutes modeled after the federal Bail Reform Act.

In short, these statutory changes meant that risk, not money, should dictate who should be released during the pretrial period and how. These statutory changes put new demands on the still young pretrial services field. Pretrial services programs, which had been established as a means to help indigent defendants get out of jail pending trial, were given a new mission. They were the entities that were going to implement these new laws. Rather than focusing just on indigent defendants, pretrial programs were tasked with interviewing and investigating all defendants so that the court would have information on all the factors it was required to consider on every defendant.

In the 1970s and 1980s, another major change was made to federal and most state pretrial release statutes. In addition to the risks of failure to appear in court, judicial officers were also required to consider the risk that each defendant posed to be a danger to the community or to any individual member of the community. Many of these statutory revisions did more than simply add community safety as a co-equal consideration in the bail decision, establishing instead the safety of the community as the primary consideration.³

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¹ Charles A. Ares, Anne Rankin, Herb Sturz, "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," 38 *New York University Review* 67, 1963.

² Wayne H. Thomas, Jr., *Bail Reform in America*, Berkley, University of California Press, 1976.

³ John S. Goldkamp, "Danger and Detention: A Second Generation of Bail Reform." *The* ³³ *Journal of Criminal Law and Criminology*, Northwestern University School of Law, Volume 76, Number 1, 1985.

As a result, pretrial services programs completed their transformation from being entities that sought only to release low FTA risk indigent defendants to becoming vital assistants to the court to help judges sort out which defendants could be safely released and which needed to be held.

These changes required pretrial services programs to revise their risk assessment procedures and supervision strategies to address public safety. Many of these danger statutes also authorized courts to hold defendants without bail in certain circumstances if it was determined that no release conditions or combination of conditions could reasonably assure public safety. As a result, pretrial services programs completed their transformation from being entities that sought only to release low FTA risk indigent defendants to becoming vital assistants to the court to help judges sort out which defendants could be safely released and which needed to be held.

It has now been nearly 50 years since the first pretrial services program was started, and over 30 years since these programs began playing their current role in the legal framework of the pretrial release decision making process – providing judicial officers with the information and options they need to make good pretrial release/detention decisions.

Some state statutes have provisions specifically addressing pretrial services programs. For example, the Illinois Pretrial Services Act states that “[e]ach circuit court shall establish a pretrial services agency to provide the court with accurate background data regarding the pretrial release of persons charged with felonies and effective supervision of compliance with the terms and conditions imposed on release” (725 ILCS 185/). The statute sets forth in specific terms the duties of a pretrial services program. These include:

“(a) Interview and assemble verified information and data concerning the community ties, employment, residency, criminal record, and social background of arrested persons who are to be, or have been, presented in court for first appearance on felony charges, to assist the court in determining the appropriate terms and conditions of pretrial release;

(b) Submit written reports of those investigations to the court along with such findings and recommendations, if any, as may be necessary to assess:

(1) the need for financial security to assure the defendant’s appearance at later proceedings; and

(2) appropriate conditions which shall be imposed to protect against the risks of nonappearance and commission of new offenses or other interference with the orderly administration of justice before trial;

(c) Supervise compliance with pretrial release conditions, and promptly report violations of those conditions to the court and prosecutor to assure effective enforcement;

(d) Cooperate with the court and all other criminal justice agencies in the development of programs to minimize unnecessary pretrial detention and protect the public against breaches of pretrial release conditions; and

(e) Monitor the local operations of the pretrial release system and maintain accurate and comprehensive records of program activities” (725 ILCS 185/7).

SECTION II

THE CORE FUNCTIONS OF A PRETRIAL SERVICES PROGRAM

There are six core functions of a pretrial services program, as derived from national standards:

- Impartial universal screening of all defendants, regardless of charge;
- Verification of interview information and criminal history checks;
- Assessment of risk of pretrial misconduct through objective means and presentation of recommendations to the court based upon the risk level;
- Follow up reviews of defendants unable to meet the conditions of release; and
- Accountable and appropriate supervision of those released, to include proactive court date reminders.
- Reporting on process and outcome measures to stakeholders.

Each of these core functions is described in this section in terms of the “optimal” practice for the function, support for the function in national standards, a discussion of the more practical issues faced by jurisdictions in implementing these functions, and examples of how these functions are being conducted by pretrial services programs.

Core Function Number 1: Impartial universal screening of all defendants, regardless of the charge, prior to the initial appearance in court.

Optimal Practice: The pretrial services program should interview prior to the initial appearance before a judicial officer everyone arrested or charged with an offense over which the court it serves has jurisdiction, with the following possible exceptions:

- Those arrested solely on a probation or parole violation;
- Those arrested for charges that are statutorily excluded from consideration by the pretrial services program;
- Where the defendant is released by other means before the initial court appearance; and
- System factors preclude interviews of certain defendants, such as
- imminent release by virtue of disposition at the initial court appearance.

Support as a Core Function: NAPSA standards state: “In all cases in which a defendant is in custody and charged with a criminal offense, an investigation about the defendant’s background and current circumstances should be conducted by the pretrial services agency or program prior to a defendant’s first appearance in order to provide information relevant to decisions concerning pretrial release that will be made by the judicial officer presiding at the first appearance” (NAPSA Pretrial Release Standard 3.3). The ABA also calls for pretrial services programs to conduct their investigations “in all cases in which the defendant is in custody and charged with a criminal offense,...” and that the investigation should occur “prior to or contemporaneous with a defendant’s first appearance” (ABA Pretrial Release Standard 10.4-2). NACo likewise says that the investigation should include “all arrestees booked into county correctional facilities” (NACo 2009-2010 Justice & Public Safety Platform & Resolutions).

The ABA standards state that “the pretrial services interview is intended solely to assist in determining an appropriate pretrial release option for the defendant” (ABA Pretrial Release Standard 10-4.2 (b) (ii)). The NAPSA Standards state that the interview “should seek to develop information about the defendant’s background and current living and employment situation, including the identity of persons who could verify information provided by the defendant. It should focus on questions relevant to the judicial officer’s decision concerning release or detention....The interview should not include questions relating to the details of the current charge or the arrest” (NAPSA Pretrial Release Standard 3.3 (c)).

There are six core functions of a pretrial services program, as derived from national standards.

Pretrial programs that are just starting may find that securing the resources to target all defendants for an interview to be difficult. When this occurs, it is better to take the approach that targeting some defendants now and planning for the incremental expansion of the target population is better than targeting no defendants until such time that all necessary resources are available.

Discussion: As noted, the optimal pretrial program conducts a full investigation in all cases where a bail decision can be made. Pretrial programs that are just starting may find that securing the resources for such an inclusive target population to be difficult. When this occurs, it is better to take the approach that targeting some defendants now and planning for the incremental expansion of the target population is better than targeting no defendants until such time that all necessary resources are available. The mistake that is often made in jurisdictions that take this approach, however, is that the incremental expansion never occurs.

The difficulty that arises when starting with a limited target population is selecting the population that will be included. There are a few different options, but none that are entirely satisfactory. One is to simply have the pretrial services program reach as many defendants as it can. Defendants who were not interviewed by the pretrial program before the initial appearance because program staff were too busy or were not on duty at the time or location that these defendants came through would go to initial appearance with no report from the program. For those who were interviewed, the judicial officer at initial appearance would receive a report. This “catch-as-catch can” approach could lead to high risk defendants slipping through and being released without adequate safeguards, and low risk defendants unnecessarily sitting in jail.

Another option is to exclude those charged with certain serious offenses (beyond those statutorily excluded.) This is based on the premise that these defendants are unlikely to be released by the judge on non-financial conditions anyway, so why waste resources on this population. There are two problems with this approach. First, it assumes that pretrial services programs exist only to facilitate release. As was noted in the Introduction, pretrial programs have evolved, in response to changes in the law, to play a much different role – to help the courts sort out the high risk defendants from the low risks. Research has consistently shown that pretrial misconduct is not directly correlated to the seriousness of the offense. Moreover, the original charges may be reduced when reviewed by a prosecutor. In addition, it is precisely in the serious cases that the judicial officer most needs complete information about the defendant to make a decision that is going to best protect the safety of the community and best assure appearance in court.

A third approach is to focus only on the more serious cases. Some pretrial services programs target only felony cases and the more serious misdemeanors, such as domestic violence, on the assumption that most defendants with minor misdemeanors are likely to be released anyway, without the intervention of the program. While this may be the least problematic of the three approaches, it still may result in some low risk defendants being needlessly detained and some high risk defendants released with inadequate safeguards.⁴

Pretrial programs conduct structured interviews with defendants. The interview should elicit information concerning the defendant’s community ties, criminal history, and mental health or substance abuse problems. Interviews should cover the following areas:

- Demographics
 - * Date of birth
 - * Age
 - * Sex
 - * Race
- Address
 - * Current address
 - * Length of time at current address
 - * Who lives with
- Employment
 - * Employed or unemployed
 - * How long

⁴ A national survey of pretrial services programs conducted by the Pretrial Justice Institute in 2009 found that nine percent of pretrial programs exclude defendants charged with misdemeanors. Twenty-seven percent exclude defendants charged with certain offenses. *2009 Survey of Pretrial Services Programs*, Washington, D.C.; Pretrial Justice Institute, 2009.

- * Nature of employment
- * Full time or part time
- * Source of income if unemployed
- Drug/alcohol/mental health status
 - * Current or prior problems
 - * Current or prior treatment
- Current criminal justice status
 - * On probation
 - * On parole
 - * On pretrial release.

As to the timing of the interview, some pretrial services programs make the policy decision to conduct their interview and investigations on defendants after the initial bail-setting hearing. This decision is usually driven by the availability of resources. The rationale is that the program would still be available for those not released at or immediately after the bail setting hearing. This approach is not encouraged since judges would then have to make the initial decision without the benefit of the information provided by pretrial services. As a result, some defendants may be released with insufficient conditions, and others will spend needless time in jail. Most pretrial programs are able to follow national standards on this and conduct their investigations before the initial appearance.⁵

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The more efficient the interview process, the more defendants pretrial program staff can interview. Many pretrial services programs conduct interviews with pen and paper. This gives interviewers a portable tool that they can use to go to wherever the defendants they need to interview are being held. The disadvantage of this approach, though, is that it is a very inefficient way to collect and report information. The interview information is first recorded on a paper form and then entered into a computer so that a report can be generated for the court at the initial appearance hearing.

More and more pretrial services programs have been moving to cut the time needed to prepare the report by entering interview information directly into a computer. In Allegheny County, PA, for example, the pretrial program was able to get the jail to modify space within the booking area so that pretrial interviewers were located in an office next to the holding cell. Windows were placed in the wall between the holding cell and the pretrial office, which allows pretrial officers to sit at computers in their offices while interviewing defendants.

In other jurisdictions, Spokane County, WA, for example, pretrial program staff take laptop computers into the jail to conduct interviews. Upon returning from the jail with interview information, staff simply download the information into the program's network.

Core Function Number 2: Verification of interview information and criminal history checks.

Optimal Practice: Verification consists of confirming the information provided by the defendant by contacting references, and when discrepancies arise, re-interviewing defendants. Programs should attempt to verify as much information as possible prior to the initial appearance. If the defendant is not released because of unverified information, the program should continue verification efforts until the pertinent information is verified. The court should be immediately notified when such verification occurs. Pretrial programs should check local, state and national criminal records, to include arrests and dispositions. Programs should also check the defendant's present criminal justice status (e.g., whether or not the arrestee has a pending charge or hold) and history of failure to appear.

Support As a Core Function: NAPSA lists as an essential function of pretrial services programs to "collect, verify, and document information about the defendant's background

See Appendix B for an example of a pretrial services interview form.

⁵ The national survey of pretrial services programs found that 69 percent of programs conduct their initial investigation prior to the first appearance in court. Supra note 4.

When initial verification efforts fail and the defendant is held as a result, the defendant's continued detention may have nothing to do with the risks he or she poses, but be the result of the chance of the timing of a telephone call. As a result, verification efforts should continue past the initial appearance when the defendant remains in custody, and when it was the lack of verification that played a large part in the bond that was set by the court.

and current circumstances that are pertinent to the court's decision concerning release or detention of the defendant;..." (NAPSA Pretrial Release Standard 3.2 (a)).

The ABA states that the pretrial services investigation should include information on the defendant's "criminal history, and record concerning appearance at court proceedings" (ABA Pretrial Release Standard 10-4.2 (g) (ii)), as well as "whether at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of a sentence for an offense" (ABA Pretrial Release Standard 10-4.2 (g); see also NAPSA Pretrial Release Standard 3.4 (a)).

Discussion: Much of the information used to assess risk of pretrial misconduct and to contact defendants after release relies upon the accuracy of the information provided by the defendant during the interview. If the information provided by the defendant is inaccurate, the risk assessment may be invalid and it may be difficult to locate the defendant after release. As a result, a key function of pretrial services programs is to seek to verify the information obtained in the interview.⁶

Many pretrial services programs will give up on verification efforts if references cannot be contacted before the initial appearance. The consequences of failing to verify can be significant – an otherwise eligible defendant may sit in jail solely due to the fact that the references were unavailable at the time that the pretrial officer placed a call. In other words, the defendant's continued detention may have nothing to do with the risks that defendant poses, but be the result of the chance of the timing of a telephone call. As a result, verification efforts should continue past the initial appearance when the defendant remains in custody, and when it was the lack of verification that played a large part in the bond that was set by the court.

Risk assessment validation studies consistently have shown that prior criminal history and prior history of failure to appear are related to higher risk of pretrial misconduct. Many defendants have records in multiple jurisdictions. Assuring that the bail-setting judicial officer receives a complete criminal record, including dispositions, is one of the most important functions of a pretrial services program. Pretrial programs should make every effort to track down the dispositions of all arrests when they are missing from criminal record sources. This can require calling the jurisdiction where the arrest took place.

Core Function Number 3: Assessment of risk of pretrial misconduct through objective means and presentation of recommendation to the court based upon the risk level

Optimal Practice: The pretrial services program should use a risk assessment scheme that in a consistent and equitable fashion assesses the defendant's risks of failing to appear at future court hearings and posing a risk to community safety, where statutorily prescribed. The assessment scheme should be the product of local research and validated through a methodologically rigorous study every five to seven years.

The assessment should place the defendant in a risk level and should identify any condition or combination of conditions designed to address the identified risks. A range of options should be available, such as release on recognizance, restrictive non-financial conditions, and as the last resort, financial conditions (financial conditions are only recommended to assure appearance). Conditions should be recommended on a graduated basis from least to most restrictive. Where applicable (i.e., in states with preventive detention legislation), recommendations should indicate if preventive detention is appropriate.

The program should submit a report to the court that contains the results of its investigation and assessment of risks and provides the prosecutor and defense counsel access to the report. Pretrial staff should be either present in court or readily available to the court during the pretrial release hearing.

⁶ The 2009 survey of pretrial services programs found that 93 percent verify the information obtained from the defendant in interviews. *Supra* note 4.

Support As a Core Function: According to NAPSA, “[t]he assessment and recommendations should be based on an explicit, objective, and consistent policy for evaluating risks and identifying appropriate release options. The information gathered in the pretrial services investigation should be demonstrably related to the purposes of the pretrial release decision and should include factors shown to be related to the risk of nonappearance or of threat to the safety of any person or the community and to selection of appropriate release conditions” (NAPSA Pretrial Release Standard 3.4 (a)). The ABA states that “suggested release options should be supported by objective, consistently applied criteria” (ABA Pretrial Release Standard 10-4.2 (h)).

Substantial research has been done to demonstrate that the question of how factors should be considered can be answered with empirical evidence.

According to the ABA, “[t]he results of the pretrial services investigation and recommendations of release options should be promptly transmitted to relevant first-appearance participants before the hearing, including information relevant to alternative release options, conditional release treatment and supervision programs, or eligibility for pretrial detention, so that appropriate actions may be taken in a timely fashion” (ABA Pretrial Release Standard 10-4.2 (h)). NAPSA Standards contain the same language (NAPSA Pretrial Release Standard 3.4 (a)). NAPSA Standards also state that pretrial services programs should “provide staff representatives in court to answer questions concerning the pretrial services investigation report, to explain conditions of release and sanctions for non-compliance to the defendant, and to facilitate the speedy release of defendants whose release has been ordered by the court” (NAPSA Pretrial Release Standard 3.2 (d)).

Discussion: Statutes and court rules tell judges what factors to consider in assessing a defendant’s risk of danger to the community and failure to appear in court when making a pretrial release decision, but provide no guidance on how those factors are to be considered. Yet substantial research has been done to demonstrate that the question of how factors should be considered can be answered with empirical evidence.

The dilemma for a pretrial program that is just starting up is how to know what risk factors are valid in that jurisdiction since there is no pretrial risk assessment instrument in place to test for validity. There are two options for addressing this dilemma.

While pretrial risk assessment does not predict individual behavior, research has repeatedly demonstrated that it is possible to group defendants into categories of risk in such a way as to predict the probability that persons assigned to each group will either be rearrested on a new charge or fail to appear in court.

The dilemma for a pretrial program that is just starting up is how to know what risk factors are valid in that jurisdiction since there is no pretrial risk assessment instrument in place to test for validity. There are two options for addressing this dilemma. The first is to defer the implementation of any objective risk assessment instrument until data are collected on a wide range of factors that the jurisdiction selects to test. The factors should be identified by key stakeholders with extensive experience in the pretrial release decision and outcomes, including judges and magistrates, and prosecutors and defenders. Two samples would be drawn – a construction sample, which would be used to build a risk assessment instrument, and a cross-validation sample, which would be used to assess the validity of the constructed instrument. The results of the analysis of the construction sample would be used to build a research-based risk assessment instrument. The cross-validation sample would then be used to test the validity of that instrument.

This approach has the advantage of examining a broad range of factors intuitively believed by experienced stakeholders to be associated with risks of danger to the community and appearance in court. The validation study could test those beliefs. The disadvantage of this approach is that no risk assessment instrument would be in place until the validation study was completed, a process that could take a year or longer.

Another approach is to implement an interim risk assessment instrument as the pretrial program starts and then begin collecting the data necessary to validate that instrument in the future. Many jurisdictions have conducted rigorous validation studies of their risk assessment instruments. A jurisdiction taking this approach would select one of these instruments that have been validated elsewhere, adapt it to its own needs, and put it in place – with the intention of testing the tool for local validity after it has been in use for a period.

The advantage of this approach is that an interim instrument could be built using research findings from other jurisdictions and implemented relatively quickly. It would be based on factors shown in other jurisdictions to be related to risks of pretrial misconduct. The obvious disadvantage would be that the interim instrument would not be normed for the jurisdiction, meaning it may exclude factors that are relevant in the jurisdiction, and include others that are not.

Jurisdictions taking this approach must be fully committed to seeing that the validation is ultimately conducted. Unfortunately, there are many pretrial services programs in existence today that have borrowed validated instruments from other jurisdictions, but have never validated those instruments for their own jurisdiction

As to the availability of the report, the prosecutor and defense counsel need a copy so that they are better able to make informed representations regarding the pretrial release/detention status of the defendant. The judicial officer needs the report, along with the police arrest report, to make an informed decision.

As noted in Section I, the first pretrial services program in the country was established in New York City in the early 1960s. Staff of that new program developed an objective risk assessment instrument that was built upon simple intuition of the factors that they believed were likely to identify defendants at good risks of appearing in court if released. It assigned points to various factors relating to community ties, such as length of time in the area and having family in the area. Those who scored a certain number of points were considered by the program to be good risks and were recommended for release.

Fortunately, the pretrial services program in New York City has had a long history of continually testing its risk assessment criteria, and making adjustments based upon the findings. Many other pretrial programs that started up after New York demonstrated the value of such programs either adopted New York's original risk assessment criteria or made minor modifications to it for their own jurisdictions. And many of these jurisdictions went years, even decades, without testing their risk assessment instruments to see if they had any value. Some became so discouraged about the seeming lack of value of the instrument that they stopped using objective risk assessment altogether – either making assessments based upon subjective criteria or not making any assessments at all.

In recent years, as the need for Evidence-Based Practices has grown, more pretrial programs have been conducting methodologically rigorous validation studies. Among the jurisdictions that have recently concluded or are in the process of conducting risk assessment validation studies are:

- The Federal pretrial services system
- The Commonwealth of Kentucky
- The Commonwealth of Virginia
- The State of Ohio
- Allegheny County, PA
- Coconino County, AZ
- Harris County, TX
- Lee County, FL
- Maricopa County, AZ
- Montgomery County, MD
- Oakland County, MI
- Wayne County, MI

Several pretrial risk assessment validation studies done over the past two decades are summarized in Appendix C.

An example of a validated pretrial risk assessment instrument can be found in Appendix D.

Core Function Number 4: Follow up reviews of defendants unable to meet the conditions of release

Optimal Practice: The pretrial services program should review the case of each pretrial detainee on a periodic basis to determine if factors associated with the initial detention decision still apply and report new findings to the court.

Support As a Core Function: NAPSA states that pretrial services programs “should review the status of detained defendants on an ongoing basis to determine if there are any changes in eligibility for release options or other circumstances that might enable the conditional release of the defendants. The program or agency should take such actions as may be necessary to provide the court with needed information and to facilitate the release of defendants under appropriate conditions.” (NAPSA Pretrial Release Standard 3.6; see also ABA Pretrial Release Standard 10-1.10 (h).)

Discussion: The pressure to prepare the current day’s reports for the initial court appearance is common to all pretrial services programs. When the day ends, defendants who were not released because information was not available or not verified at the time their case was called are often forgotten – even though they might be good candidates for pretrial release. Likewise, defendants who were detained because they had no address to which to return but later secured a place to stay, may also be candidates for release. The optimal pretrial program regularly reviews the jail’s pretrial detainee population to identify defendants and, where appropriate, submit an amended recommendation to the court.

New programs starting up may see this as a challenge that would be difficult to meet as the program is struggling through a development stage. A way to start this practice, however, would be to conduct follow ups on all defendants who remained in custody after the pretrial program was unable to reach references to verify the information provided by the defendant in the interview.⁷

Core Function Number 5: Accountable and appropriate supervision of those released, to include proactive court date reminders.

Optimal Practice: Supervision includes contact supervision and referral to or provision of services. Compliance of defendants in supervision is monitored. Supervision should be individualized and based on a scheme of graduated contacts and level of supervision dependent on conditions imposed.

In accordance with national standards, conditions of release should be related to the risk identified in each individual case, and should be the least restrictive necessary to reasonably assure the defendant’s appearance and community safety.

If adjudicated guilty, a final report on the defendant’s compliance with release conditions should be prepared to assist in the compilation of pre-sentence report information. The effectiveness and reliability of services provided by any agency to which defendants are referred should be regularly monitored by the program.

The program should carry out or supplement court date reminders to all defendants released on personal recognizance or non-financial conditions. The reminder should specify the date, location, and time of appearance and be provided a day or two before each scheduled court appearance.

Support As a Core Function: NAPSA Standards state that pretrial services programs “should establish appropriate policies and procedures to enable the effective supervision of defendants who are released prior to trial under conditions set by the court. The agency or program should: (i) monitor the compliance of released defendants with assigned release conditions; (ii) promptly inform the court of facts concerning compliance or noncompliance that may warrant modification of release conditions and of any arrest of a person released pending trial; (iii) recommend modifications of release conditions, consistent with court policy, when appropriate; (iv) maintain a record of the defendant’s compliance with conditions of release; (v) assist defendants released prior to trial in securing employment and in obtaining any necessary medical services, drug or mental health treatment, legal services, or other social services that would increase the chances

An optimal pretrial services program will have a range of credible options, or conditions of pretrial release, available to match the range of risks posed by defendants. For conditions to be credible, they must be supervised in a meaningful way.

A summary of research findings on pretrial release conditions and supervision can be found in Appendix E.

An example of language to use during a court date reminder call can be found in Appendix F.

⁷ According to the 2009 survey of pretrial services programs, 39 percent of programs conduct bail reviews on a regular basis, and 16 percent do so in certain circumstances. Supra note 4.

of successful compliance with conditions of pretrial release (NAPSA Pretrial Release Standard 3.5; see also ABA Pretrial Release Standard 10-1.10 (e), (f), and (g)).

The ABA Standards state that it is the responsibility of pretrial services programs to “re-
mind persons released before trial of their court dates...” (ABA Pretrial Release Standard
10-1.10 (k); see also NAPSA Pretrial Release Standard 3.5 (a) (vi)).

Conditions of non-financial release fall into four categories:

- Status quo conditions require that the defendants maintain their residence, school, or employment status.
- Restrictive conditions limit defendants’ associations or movements. These include conditions to remain in the jurisdiction, avoid contact with the complainant, curfews, and stay away orders from certain areas, such as those where drug sales are common.
- Contact conditions require defendants to report by telephone or in person regularly to Pretrial Services or other entity.
- Problem-oriented conditions address specific defendant problems that affect future court appearance or rearrest. Release is conditioned on a defendant enrolling in substance abuse monitoring or treatment, vocational or educational training, counseling, or social services program.

Discussion: As noted in the discussion of risk assessment, in accordance with statutes and standards, conditions of release should be related to the risk identified in each individual case, and should be the least restrictive necessary to reasonably assure the defendant’s appearance and community safety. Aside from legal requirements, use of least restrictive conditions also assures more efficient use of limited resources. Moreover, research has shown that adding unnecessary conditions just leads to more non-compliance, not less failure.

An optimal pretrial services program will have a range of credible options, or conditions of pretrial release, available to match the range of risks posed by defendants. For conditions to be credible, they must be supervised in a meaningful way. That supervision could come from either the pretrial program staff or from an agency or treatment center to which a defendant was referred, depending on the condition. For release conditions to be meaningful there must also be a system to address violations. Such a system will include administrative sanctions (i.e., increasing contact levels) for minor or first time violations, and notification to the court for more serious or ongoing violations.⁸

Many defendants fail to appear in court not out of willfulness, but because they simply forget their court dates or are confused about the date. One of the most important ways that pretrial programs can minimize instances of failure to appear is by establishing court date reminder procedures. In most jurisdictions, this involves pretrial program staff calling the defendant a day or two in advance of the scheduled hearing.

Core Function Number Six: Reporting of process and outcome measures.

Optimal Practice: To assess the impact that a new pretrial services program is having in a jurisdiction, it is first important to have data from the period right before the program started, to serve as a baseline. It is important that data be available for the following:

- pretrial release rate/by type of release (i.e., ROR, non-financial conditions, ten percent deposit bail, full cash bail, commercial surety bail)
- time to pretrial release/by type of release
- rearrest rate
- breakdown of type of rearrests when they occur
- number of rearrests
- failure to appear rate
- size and composition (i.e., percent pretrial, percent sentenced) of the jail population.

⁸ According to the 2009 survey of pretrial services programs, 97 percent of pretrial services programs provide supervision services.

Support As a Core Function: NAPSA Standards state that pretrial services programs should “establish procedures for regularly measuring the performance of the jurisdiction and of the pretrial services agency or program in relation to the goals that have been set.” (NAPSA Pretrial Release Standard 3.7 (c) (vi).) In the current environment of tight budgets, all government-funded programs must be able to show the impact that they are having, and pretrial services programs are no exception.

Discussion: It may require significant effort to gather the information needed, but it will be difficult, if not impossible, ultimately to gauge the impact of the pretrial program without it.

A common mistake that is made when trying to assess a pretrial services program is to focus on just one or two of the listed data elements to the exclusion of the others. For example, concluding that the program is not performing well if the failure to appear rate rose after the program’s implementation would not tell the whole story if release rates were up and time to release was down, or rearrest rates and the size of the jail population were down. Likewise, concluding that the program is functioning well because failure to appear and rearrest rates were down would also be incorrect if pretrial release rates were way down and the size of the jail population soared.

One approach to address performance measurement is that taken by Florida. The Association of Pretrial Professionals of Florida worked with the Florida Corrections Accreditation Commission to develop a process for accrediting Florida pretrial services programs. The Commission developed standards for the operation of pretrial programs that were based upon Florida statutes and court rules, as well as the standards of the American Bar Association and the National Association of Pretrial Services Agencies. To see the accreditation criteria, go to www.flaccreditation.org/Pretrial%20Web/index_pretrial.html.

Achieving the right balance between maximizing release on the one hand and maximizing court appearance and good conduct on the other hand is complex, but it can be achieved. Appendix G presents the performance measurement scheme developed by the District of Columbia Pretrial Services Agency.

SECTION III

STEPS IN IMPLEMENTING THE CORE FUNCTIONS OF A PRETRIAL SERVICES PROGRAM

The steps that are provided here for starting a pretrial services program will vary from jurisdiction to jurisdiction, depending on local circumstances..

The previous section described what needs to be in place to have a fully functioning pretrial services program. This section describes how to bring such a program to reality.

The steps that are provided here for starting a pretrial services program will vary from jurisdiction to jurisdiction, depending on local circumstances. They are listed in a general order, but the specific order may vary as well.

Establish a Pretrial Services Committee

One of the first steps is to establish a Pretrial Services Committee that would be responsible for overseeing the development and implementation of plans for the pretrial services program. The committee should be comprised, at minimum, of representatives from the criminal court trial bench, bail-setting judicial officers, the prosecutor's office, defense bar for indigent defendants, and the jail.

The committee should review the materials presented in this Starter Kit and any other information on the web sites of the Pretrial Justice Institute (www.pretrial.org) or the National Association of Pretrial Services Agencies (www.napso.org) that might be helpful so that it has a good sense of what a pretrial services program should look like – on paper at least. The committee should also seek to visit pretrial services programs in nearby jurisdictions to get a first hand look at how pretrial services programs can be constructed to inform judicial decision making on bail and provide meaningful options for pretrial release. If a visit by the entire committee is not practical, individual members should, at minimum, contact their counterparts in other jurisdictions that have pretrial services programs to discuss their counterparts' experiences with pretrial services.

Also, the committee should check with the Pretrial Justice Institute (www.pretrial.org) and the National Association of Pretrial Services Agencies (www.napso.org) to see what technical assistance may be available to help in getting a pretrial services program started.

Review the Legal Framework for Pretrial Services in Your Jurisdiction

The Pretrial Services Committee should review what the statute and court rules say about the pretrial release decision.

- Is there a presumption of release on the least restrictive conditions?
- Is danger to the community a consideration, in addition to appearance in court? Is danger the primary consideration?
- What factors do the statute or court rules require the judicial officer to consider in making the pretrial release decision?
- What release options are available?
- Do the statutes or court rules address any role for a pretrial services program?
- If so, what do they say about that role?

Map the Current Pretrial Release Decision Making Process

Each jurisdiction is unique in the process that takes place relative to the pretrial release decision after an individual is arrested. To understand how a pretrial services program can best fit into the existing pretrial release decision making process, it is important to first understand how that process currently works in the jurisdiction. The Pretrial Services Committee should map the process to identify key decision points and other events.

Where are arrestees held in the period between arrest and the initial court appearance?

At some point after the arrest and before the initial appearance in court, the pretrial services program would need to conduct an interview with the defendant. To conduct that interview, pretrial staff would need access to the defendant with enough time in advance of the initial court appearance to complete their interview and investigation and prepare reports for the court.

In many jurisdictions, all persons who are arrested are taken to one central location, usually the booking facility of the county jail. When this is the case, it is clear that pretrial staff would need to arrange to have access to the defendant within that booking facility. In other jurisdictions, arrestees may be taken from police lock-ups directly to the court. Where this occurs, where would it make the most sense to interview defendants – at the police lock ups or the court? In yet other jurisdictions, especially those that are large geographically, there may be several locations where arrestees are taken. There may be municipal court judges, magistrates or other bail-setting judicial officers assigned to these sub-stations or outposts. Where this is the case, how many of these locations exist?

When is initial appearance held?

Related to the location of the initial appearance is its timing. The timing of the initial appearance is important because pretrial staff would need to fit their interview and investigations within the time period between arrest and the appearance.

It is also important to look at the frequency with which initial appearances occur. In some jurisdictions, initial appearance hearings are held once a day, beginning either in the morning or the afternoon, and continuing until all the cases are heard. Others have a night court, where initial appearances are held well into the evening. Still others have courts that can convene on an as-needed basis on a 24-hour basis, or that have set times around the clock that court begins, i.e., 8 a.m., 4 p.m., 8 p.m., and 4 a.m.⁹

When hearings are held just once a day, pretrial staff can usually plan on working one shift, although some programs prefer to have some staff work an overnight shift to get a head start on interviewing, especially when court starts early in the morning. When the initial appearance court operates around the clock, plans should be made for the pretrial program to do so as well.

What parties besides the judicial officer and the defendant, (i.e., prosecution, defense) are present at the initial appearance and what has traditionally been their role?

In most larger jurisdictions, both the prosecution and defense are present at the initial appearance.¹⁰ The defense representation may be a public defender who has been assigned to handle all cases where indigency has been established, or when indigency screening has not yet taken place. In other jurisdictions, indigent defendants have been assigned specific counsel before the initial appearance and are represented by that attorney at the hearing.

When present, the role of these officials can vary – especially where there has been no pretrial services program to gather information about defendants and present it to the court. In some such jurisdictions, where bail decisions are typically heavily influenced by bail schedules, there may be little input from either the prosecutor or defense unless the judicial officer departs from the scheduled bail. In others, the defense will come to court

To understand how a pretrial services program can best fit into the existing pretrial release decision making process, it is important to first understand how that process currently works in the jurisdiction.

The introduction of a pretrial services report at the initial appearance will change the dynamics of the interactions between and among the parties who are present. Thinking beforehand of how that might be so should lead to a smoother transition.

Go to www.pretrial.org/Resources/StateBailLaws/Pages/default.aspx for a list of all the state pretrial release statutes.

⁹ A survey of pretrial release decision making practices in 112 large counties in the U.S. found that in 47 percent of the jurisdictions, initial appearance hearings are held 24 hours a day, seven days a week. At the other extreme, in 15 percent of jurisdictions, these hearings are held only during business hours Monday through Friday. The remaining jurisdictions hold hearings over an extended day or extended week – but short of 24/7. Supra note 4.

¹⁰ According to a national survey of pretrial release decision making practices, prosecutors are present at the initial appearance in 66 percent of the jurisdictions, and defense attorneys in 63 percent. *Pretrial Justice in America: A Survey of County Pretrial Release Policies, Practices and Outcomes*, Washington, D.C.; Pretrial Justice Institute, 2009.

Examples of Administrative Placements of Pretrial Services Programs

Under the Court

*Pima County, AZ
Lee County, FL
Merrimack County, NH
Washoe County, NV*

Under the Jail

*Dade County, FL
Montgomery County, MD
Bay County, MI
Alexandria, VA*

Under Probation

*Seventh Judicial District, IA
Winnebago County, IL
Stearns County, MN
Cuyahoga County, OH*

Independent Agency

*Santa Clara County, CA
El Paso County, CO
Washington, D.C.
Alexander County, NC*

Private, Non-Profit

*Cumberland County, ME
Missoula, MT
New York City, NY
Dauphin County, PA*

armed with information that is favorable to the defendant's release, and the prosecutor with information to argue against release.

The introduction of a pretrial services report at the initial appearance will change the dynamics of the interactions between and among the parties who are present. Thinking beforehand of how that might be so should lead to a smoother transition.

Where is the initial appearance held?

When the initial appearance is held at multiple locations, the pretrial program would need to deliver its reports to more than one court. Logistically, this should not present much of a problem when reports can be sent electronically or by fax. It can require greater staffing requirements when the pretrial program staffs each court session, as many do.¹¹

Where the appearance occurs is also relevant when it is at a split location. Many jurisdictions use video technology that allows the defendant to remain in the jail or other custodial location and the judicial officer to remain in the courthouse. This reduces the time and resources required to transport defendants and it also reduces security concerns. Where video is used for initial appearances, the Pretrial Services Committee should agree on the procedures to follow when a defense attorney, who is in the courtroom, wishes to have a private conversation regarding information in the pretrial report with the defendant who is in the jail.

Is there a follow up bail-setting hearing?

In some jurisdictions, a person arrested at night might appear before a magistrate or commissioner in the middle of the night to have bail set, with another hearing before a judge automatically set for the next business day. The purpose of the first hearing may be simply to have some bail in place until the defendant can appear before a judge for a more formal hearing the next day. Most pretrial services programs that operate in such jurisdictions wait to present their information at the formal hearing, although there is nothing to preclude a program from doing so at the informal hearing.

What information is currently available for the pretrial release decision?

The report presented by a pretrial services program should provide a great deal of information that would otherwise not be available. To assess the impact that this information will have on decisions, it is helpful to know what information is currently available, and how that information is being used to inform decisions.

What options are currently available to the judicial officer?

As with additional information, a pretrial services program will provide the court with more options – specifically for non-financial release conditions. How might the current use of options change with the introduction of a pretrial services program? How might the parties present at initial appearance, particularly the judicial officers, respond to those new options?

What other options exist in the community that could be tapped to accept referrals from the pretrial services program?

Pretrial programs look to mental health, substance abuse, and other service providers in the community to expand the options available to the court in pretrial release decision making. The degree to which these services exist, and the quality of the services, varies among jurisdictions. The committee should make an assessment of what is available in the jurisdiction.

¹¹ Sixty-three percent of pretrial services programs have staff available in the courtroom during the initial appearance to present their reports and respond to any questions. Supra note 4.

What opportunities exist to review the bail set at initial appearance?

Sometimes when the court sets a money bail, it may be with the full expectation that the defendant will be able to post it. Often, it turns out that the defendant cannot. In other instances, a defendant may end up spending more time in jail on a bail than he or she would serve as a sentence after conviction. How are such matters currently brought to the attention of the court?

What data are available on the initial appearance hearing?

Data that would be helpful in planning the pretrial services program include:

- Number of cases coming into the system in the past year, broken down by felony and misdemeanor.
- Number of defendants who were released non-financially at initial appearance, and number who had a money bail set.
- Average bail amount that was set.
- Time to pretrial release for those released financially and those released non-financially.
- Average time to disposition (for felony cases, misdemeanor cases, detained vs. released).

These data should help the committee estimate the volume of cases that the pretrial services program may be faced with. This, in turn, will be helpful in calculating budget and staffing needs.

Determine Administrative Locus of the Pretrial Services Program

Finding the best administrative home for the pretrial program need not be a difficult process. The administrative location of programs varies across the country. Many are located under the court, others under the jail, and others in the probation department. Some, especially in large urban jurisdictions, are independent agencies. In other jurisdictions, the county contracts with a private non-profit organization to provide pretrial services. Experience has shown that pretrial services can work effectively in any of these settings.¹²

Decisions about the placement of pretrial programs hinge on local circumstances, such as whether there are any existing entities in the jurisdiction that could take on the duties of a pretrial services program.

Determine the Budget for the Pretrial Services Program

Most local pretrial services programs are funded in whole or in large part by the local government where the program operates. Local pretrial services programs in some states, such as Virginia and North Carolina, are funded in large part by the state government. In one state, Kentucky, the pretrial program is run statewide and is funded entirely by the state.

There are many different variables that come into play in formulating a budget for a pretrial services program that can only be addressed at the individual jurisdiction level. At what grade level will the positions be classified? What is the cost of the fringe benefits package? Is uncompensated labor, such as from student interns or volunteers, available to fill some staffing needs? Will office space need to be rented? How are furniture, computer, internet, telephone, and other office space needs addressed in the jurisdiction? Will government cars or mileage reimbursement need to be provided for staff to travel large distances between facilities? Are there any mandatory training requirements that must be budgeted for? Are any other funds, such as from the federal government, to be applied to the budget?

There are many different variables that come into play in formulating a budget for a pretrial services program that can only be addressed at the individual jurisdiction level.

¹² According to survey results, 38 percent of pretrial programs were administratively located under probation departments, 23 percent were under the courts, 15 percent were under the jail, 14 percent were independent agencies, and 8 percent were private, non-profit organizations. Supra note 4.

The table below presents a very rough guide for the relationship of three factors: the number of interviews a pretrial services program does per year, the number of staff deployed to the program, and a budget range for the program. These data were derived from the 2009 survey of pretrial services programs.

Annual Interviews Done	Staff Size	Annual Budget
324	1	Less Than \$200,000
1,498	4	Less Than \$200,000
6,228	8	\$200,000 to \$500,000
10,316	15	\$500,000 to \$800,000
20,400	30	\$1,500,00 to \$10,000,000
38,197	58	\$1,500,00 to \$10,000,000
51,125	78	\$1,500,00 to \$10,000,000
86,485	110	\$1,500,00 to \$10,000,000

These figures should be interpreted with caution, since, as noted above, there are many local variables that determine program budgets. It is also important to remember that the supervision caseload of a pretrial services program is dictated by how many defendants are ordered by the court to be supervised and the level of supervision that is provided. Thus, a program where 50 percent of defendants interviewed are ordered by the court into supervision will, all else being equal, have greater staffing needs than a program where 25 percent get supervision.

Hire Pretrial Administrator/Supervisor

In looking for a supervisor for the pretrial services program it is not necessary for the candidate to have experience in pretrial services. There are many training opportunities available, including through the annual conferences and training institutes of NAPSA (www.napsa.org) and through an intense week-long program offered by the National Institute of Corrections (www.nicic.gov) for administrators of pretrial services programs. In addition, significant amounts of materials that can be obtained through either the Pretrial Justice Institute or NAPSA. A good candidate should have a background in criminal justice and proven management skills.

Once hired, the new pretrial services program administrator/supervisor should take over the day-to-day project management duties from the Pretrial Services Committee. The committee should remain intact to provide support and direction to the new administrator.

Develop a Vision, Goals, and Mission for the Program

A pretrial program, like any other program, should have a vision of what it seeks to accomplish and a well-articulated mission. In a pretrial program like many other programs, with the day-to-day challenges it is easy to lose focus on what the program is designed to accomplish. Having vision, value and mission statements can help the program keep its focus. These statements should reflect national standards on pretrial program practices as well as statutory and court rule language.

Job descriptions of pretrial supervisors from other jurisdictions can be found in Appendix H.

See Appendix I for examples of value and mission statements of pretrial services programs.

See Appendix J for a good example of a Release of Information policy and procedure for a pretrial services program.

Develop Written Policies and Procedures of the Pretrial Services Program

Once it has been determined what role the new program will perform and its vision and mission has been established, it is time to design the specific procedures. The new supervisor, with the assistance of the Pretrial Services Committee, should begin developing the procedures of the new pretrial services program, including the following:

- Target population
- Interviews
- Timing of interviews
- Verification and record checks procedures
- Risk assessment and recommendation procedures
- Submission of reports to the court
- Bail review procedures
- Supervision strategies and procedures
- Responding to violations of pretrial release conditions
- Court date reminder procedures
- Release of information procedures

Develop Pretrial Services Program's Information System

Ideally, the information system of a pretrial services program should be capable of capturing the following data:

- Defendant characteristics:
 - * age
 - * sex
 - * race/ethnicity
 - * marital status
 - * length of residence in county
 - * current residence information
 - * current employment information
 - * current or past drug/alcohol/mental health problems
- Prior record information:
 - * number of previous arrests and convictions for felonies and misdemeanors
 - * number of previous failures to appear
 - * number of prior probation/parole revocations
 - * number of previous pretrial release revocations
 - * number of previous jail and prison admissions
- Defendant case information:
 - * arrest date
 - * arrest charge(s)
 - * initial appearance date
 - * pretrial release date
 - * type of pretrial release
 - * any changes in pretrial release status
 - * date(s) when defendant failed to appear, if applicable
 - * date defendant returned to court after failure to appear, if applicable
 - * date of adjudication
 - * type of adjudication
 - * sentencing date
 - * sentence

In addition, the information system should be able to generate regular reports presenting aggregate program data on the following:

- number of persons interviewed
- number of persons recommended for pretrial release, by type of conditions
- reasons for not recommending release
- number of persons released to the supervision of the program
- number of persons currently under the supervision of the program
- number of revocations due to non-compliance with release conditions

Developing an information system capable of capturing these data elements can be complex and time consuming. Progress toward implementation of the program can be greatly stalled if access to skilled IT staff is delayed. The Pretrial Services Committee should assist the new administrator in getting the commitment from the jurisdiction's IT department to provide the necessary services to design and implement a well-functioning pretrial services information system.

- number of defendants under program supervision that failed to appear
- number of defendants under program supervision that were rearrested on a new offense.

Many jurisdictions have in house or contracted IT staff that could be enlisted to help design a system for the pretrial services program that would capture these data elements.

Hire and Train Pretrial Officers

The primary responsibilities of staff would be interviewing defendants before initial appearance, getting reports to the court, and supervising defendants released by the court with specific conditions. When starting a pretrial services program in a jurisdiction that has never had one before, it will be difficult to find persons with this experience. Such experience is not necessary, as long as the staff who are hired have a proven ability to learn new skills and are provided with good training.

Some pretrial services programs have had great success in hiring law and graduate students as interviewers. In programs that operate beyond normal business hours, students can work around their class schedules to provide coverage for evenings, overnights, and weekends.

The National Association of Pretrial Services Agencies offers an excellent training opportunity for line pretrial program staff. Staff can become Certified Pretrial Services Professionals by studying for and passing a written examination, which requires a firm understanding of the historical and legal foundations of pretrial services and knowledge of national pretrial standards. For more information on the certification program, go to: <http://www.napsa.org/certification/certificationoverview.pdf>.

Commence Operations

The time it takes to implement the preceding steps will determine the timing for the implementation of the program. Some of the tasks listed in the schedule below, such as passing a budget for the program or classifying positions, will be beyond the control of the program's planners. Barring delays caused by these issues, the program could be ready to begin operations in nine months.

Sample job descriptions of pretrial services officers can be found in Appendix K.

Month					
Tasks	1	2	3	4	5
Establish a Pretrial Services Committee					
Review the legal framework for pretrial services					
Map the current pretrial release decision making process					
Determine the administrative locus of the pretrial services program					
Determine the budget for the program					
Hire the pretrial services program administrator					
Develop vision, goal, and mission statements for the program					
Develop written policies and procedures of the program					
Develop the program's information system					
Hire and train pretrial services officers					
Develop performance measures					
Commence operations					

SECTION IV

PRETRIAL PROGRAM PLANNING AND IMPLEMENTATION CHECKLIST

As noted earlier, the steps in the planning and implementation of a pretrial services program are not likely to follow the same order in all jurisdictions. Moreover, the steps are not likely to flow in a linear fashion – setbacks will be encountered and it will be necessary to make readjustments along the way.

- Establish a Pretrial Services Committee
- Review the legal framework for pretrial services
- Map the current pretrial release decision making process
- Determine administrative locus of the pretrial services program
- Determine the budget for the pretrial services program
- Hire the pretrial services program administrator/supervisor
- Develop vision, goal, and mission statements for the program
- Develop written policies and procedures for the core functions of the pretrial services program

Core Function Number 1: Impartial universal screening of all defendants, regardless of charge, prior to the initial appearance in court

- Determine target population for interviews
- Establish timing of the interviews
- Develop interview questions

Core Function Number 2: Verification of interview information and criminal history checks

- Develop verification procedures
- Develop criminal record check procedures

Core Function Number 3: Assessment of risk of pretrial misconduct through objective means and presentation of recommendation to the court based upon the risk level.

- Establish approach to risk assessment
- Develop policies and procedures for making recommendations

Core Function Number 4: Follow up reviews of defendants unable to meet the conditions of release.

- Establish bail review procedures

Core Function Number 5: Accountable and appropriate supervision of those released, to include proactive court date reminder procedures.

- Develop supervision strategies and procedures
- Develop policies for responding to violations of pretrial release conditions
- Develop court date reminder procedures
- Develop release of information policies and procedures
- Develop pretrial services program's information system
- Hire and train pretrial services officers
- Develop performance measures
- Commence operations

APPENDIX A

RELEVANT EXCERPTS FROM NATIONAL STANDARDS

AMERICAN BAR ASSOCIATION PRETRIAL RELEASE STANDARD 10-1.10.

The role of the pretrial services agency

Every jurisdiction should establish a pretrial services agency or program to collect and present the necessary information, present risk assessments, and, consistent with court policy, make release recommendations required by the judicial officer in making release decisions, including the defendant's eligibility for diversion, treatment, or other alternative adjudication programs, such as drug or other treatment courts. Pretrial services should also monitor, supervise and assist defendants released prior to trial, and to review the status and release eligibility of detained defendants for the court on an ongoing basis.

The pretrial services agency should:

- (a) conduct pre-first appearance inquiries;
- (b) present accurate information to the judicial officer relating to the risks defendants may pose of failing to appear in court or of threatening the safety of the community or any other person and, consistent with court policy, develop release recommendations responding to risk;
- (c) develop and provide appropriate and effective supervision for all persons released pending adjudication who are assigned supervision as a condition of release;
- (d) develop clear policy for operating or contracting for the operation of appropriate facilities for the custody, care or supervision of persons released and manage a range of release options, including but not limited to, residential half-way houses, addict and alcoholic treatment centers, and counseling services, sufficient to respond to the risks and problems associated with released defendants in coordination with existing court, corrections and community resources;
- (e) monitor the compliance of released defendants with the requirements of assigned release conditions and develop relationships with alternative programs such as drug and domestic violence courts or mental health support systems;
- (f) promptly inform the court of all apparent violations of pretrial release conditions or arrests of persons released pending trial, including those directly supervised by pretrial services as well as those released under other forms of conditional release, and recommend appropriate modifications of release conditions according to approved court policy. The pretrial services agency should avoid supervising defendants who are government informants, when activities of these defendants may place them in conflict with conditions of release or compromise the safety and integrity of the pretrial services professional;
- (g) supervise and coordinate the services of other agencies, individuals or organizations that serve as custodians for released defendants, and advise the court as to their appropriateness, availability, reliability and capacity according to approved court policy relating to pretrial release conditions;
- (h) review the status of detained defendants on an ongoing basis for any changes in eligibility for release options and facilitate their release as soon as feasible and appropriate;
- (i) develop and operate an accurate information management system to support prompt identification, information collection and presentation, risk assessment, release condi-

tions selection, compliance monitoring and detention review functions essential to an effective pretrial services agency;

(j) assist persons released prior to trial in securing any necessary employment, medical, drug, mental or other health treatment, legal or other needed social services that would increase the chances of successful compliance with conditions of pretrial release;

(k) remind persons released before trial of their court dates and assist them in attending court; and

(l) have the means to assist persons who cannot communicate in written or spoken English.

ABA PRETRIAL RELEASE STANDARD 10-4.2

Investigation prior to first appearance: development of background information to support release or detention determination

(a) In all cases in which the defendant is in custody and charged with a criminal offense, an investigation to provide information relating to pretrial release should be conducted by pretrial services or the judicial officer prior to or contemporaneous with a defendant's first appearance.

(b) Pretrial services should advise the defendant that:

(i) the pretrial services interview is voluntary;

(ii) the pretrial services interview is intended solely to assist in determining an appropriate pretrial release option for the defendant;

(iii) any responsive information provided by the defendant during the pretrial services interview will not be used in the current or a substantially-related case either to adjudicate guilt or to arrive at a sentencing decision;

(iv) the voluntary information provided by the defendant during the pretrial services interview may be used in prosecution for perjury or for purposes of impeachment.

(c) Release may not be denied solely because the defendant has refused the pretrial services interview.

(d) The pretrial services interview should include advising the defendant that penalties may be imposed for providing false information.

(e) The pretrial services interview of the defendant should carefully exclude questions relating to the events or the details of the current charge.

(f) The pretrial services investigation should include factors related to assessing the defendant's risk of flight or of threat to the safety of the community or any person, or to the integrity of the judicial process. Information relating to these factors and the defendant's suitability for release under conditions should be gathered systematically and considered by the judicial officer in making the pretrial release decision at first appearance and at subsequent stages when pretrial release is considered.

(g) The pretrial services investigation should focus on assembling reliable and objective information relevant to determining pretrial release and should be organized according to an explicit, objective and consistent policy for evaluating risk and identifying appropriate release options. The information gathered in the first appearance investigation should be demonstrably related to the purpose of the pretrial release decision and should include factors shown to be related to the risk of flight or of threat to the safety of any person or the community and to selection of appropriate release conditions, and may include such factors as:

(i) the nature and circumstances of the charge when relevant to determining release conditions, consistent with subsection (e) above;

- (ii) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;
 - (iii) whether at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of a sentence for an offense;
 - (iv) the availability of persons who agree to assist the defendant in attending court at the proper time and other information relevant to successful supervision in the community;
 - (v) any facts justifying a concern that a defendant will fail to attend court or pose a threat to the safety of any person or the community; or
 - (vi) factors that may make the defendant eligible and an appropriate subject for conditional release and supervision options, including participation in medical, drug, mental health or other treatment, diversion or alternative adjudication release options.
- (h) The presentation of the pretrial services information to the judicial officer should link assessments of risk of flight and of public safety threat during pretrial release to appropriate release options designed to respond to the specific risk and supervision needs identified. The identification of release options by pretrial services for the consideration of the judicial officer should be based on detailed agency guidelines developed in consultation with the judiciary to assist in pretrial release decisions. Suggested release options should be supported by objective, consistently applied criteria contained in the guidelines. The results of the pretrial services investigation and recommendations of release options should be promptly transmitted to relevant first-appearance participants before the hearing, including information relevant to alternative release options, conditional release treatment and supervision programs, or eligibility for pretrial detention, so that appropriate actions may be taken in a timely fashion.

NATIONAL ASSOCIATION OF PRETRIAL SERVICES AGENCIES PRETRIAL RELEASE STANDARDS

Standard 3.1 Purposes of pretrial services agencies and programs

Pretrial services agencies and programs perform functions that are critical to the effective operation of local criminal justice systems by assisting the court in making prompt, fair, and effective release/detention decisions, and by monitoring and supervising released defendants to minimize risks of nonappearance at court proceedings and risks to the safety of the community and to individual persons. In doing so, the agency or program also contributes to the fair and efficient use of detention facilities. In pursuit of these purposes, the agency or program collects and presents information needed for the court's release/detention decision prior to first appearance, makes assessments of the risks posed by the defendant, develops strategies that can be used for supervision of released defendants, makes recommendations to the court concerning release options and/or conditions in individual cases, and provides monitoring and supervision of released defendants in accordance with conditions set by the court. When defendants are held in detention after first appearance, the agency or program periodically reviews their status to determine possible eligibility for conditional release and provides relevant information to the court. When released defendants fail to comply with conditions set by the court, the pretrial services agency or program takes prompt action to respond, including notifying the court of the nature of the noncompliance.

Standard 3.2 Essential functions to be performed in connection with the defendant's first court appearance

Prior to the first appearance in court of persons who have been arrested and charged with a crime, the pretrial services agency or program should:

- (a) collect, verify, and document information about the defendant's background and cur-

rent circumstances that are pertinent to the court's decision concerning release or detention of the defendant;

(b) present written, accurate information to the judicial officer relating to the risk a defendant may pose of failing to appear in court or of threatening the safety of the community or any other person, and recommend conditions that could be imposed to respond to the risk;

(c) identify members of special populations that may be in need of additional screening and specialized services;

(d) provide staff representatives in court to answer questions concerning the pretrial services investigation report, to explain conditions of release and sanctions for non-compliance to the defendant, and to facilitate the speedy release of defendants whose release has been ordered by the court; and

(e) develop supervision strategies that respond appropriately to the risks and needs posed by released defendants.

Standard 3.3 Interview of the defendant prior to first appearance

(a) In all cases in which a defendant is in custody and charged with a criminal offense, an investigation about the defendant's background and current circumstances should be conducted by the pretrial services agency or program prior to a defendant's first appearance in order to provide information relevant to decisions concerning pretrial release that will be made by the judicial officer presiding at the first appearance.

(b) The representative of the pretrial services agency or program who conducts the interview of the defendant should inform the defendant of his or her name and affiliation with the agency or program, and should advise the defendant:

- (i) that the interview is voluntary;
- (ii) that the pretrial services interview is intended to assist in determining an appropriate pretrial release decision for the defendant, and
- (iii) of any other purposes for which the information may be used.

(c) The pretrial services interview should seek to develop information about the defendant's background and current living and employment situation, including the identity of persons who could verify information provided by the defendant. It should focus on questions relevant to the judicial officer's decision concerning release or detention as set forth in Standards 2.3, 2.8 and 3.4. The interview should not include questions relating to the details of the current charge or the arrest.

(d) Following the interview of the defendant, the pretrial services agency or program should seek to verify essential information provided by the defendant.

Standard 3.4 Presentation of information and recommendations to the judicial officer concerning the release/detention decision

(a) The pretrial services agency or program should assemble reliable and objective information relevant to the court's determination concerning pretrial release or detention, drawing on information obtained through its investigation. It should prepare a written report that organizes the information, presents an assessment of risks posed by the defendant and recommends ways of responding to the risks through use of appropriate conditions of release. The assessment and recommendations should be based on an explicit, objective, and consistent policy for evaluating risks and identifying appropriate release options. The information gathered in the pretrial services investigation should be demonstrably related to the purposes of the pretrial release decision and should include factors shown to be related to the risk of nonappearance or of threat to the safety of any person or the community and to selection of appropriate release conditions. The report may include information on factors such as:

- (i) the defendant's age, physical and mental condition, family ties, employment status and history, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;
- (ii) whether at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of a sentence for an offense;
- (iii) availability of persons who could verify information and who agree to assist the defendant in attending court at the proper time;
- (iv) other information relevant to successful supervision in the community;
- (v) facts justifying a concern that the defendant will violate the law if released without restrictions;
- (vi) the nature and circumstances of the offense when relevant to determining release conditions; and
- (vii) whether there are specific factors that may make the defendant an appropriate subject for conditional release and supervision options, including participation in available medical, drug, mental health or other treatment, diversion or alternative adjudication release options.

(b) The presentation of the pretrial services information and the recommendations made to the judicial officer should link assessments of risk of flight and of public safety to appropriate release options designed to respond to the specific risk and supervision needs identified. The identification of release options and the recommendations made by pretrial services for the consideration of the judicial officer should be based on detailed agency or program policies developed in consultation with the judiciary. Suggested release options or conditions should be supported by objective, consistently applied criteria set forth in these policies, and should be the least restrictive conditions necessary to assure the defendant's appearance for scheduled court events and protect the safety of the community and individual persons. The results of the pretrial services investigation, including information relevant to alternative release options, conditional release treatment and supervision programs, or eligibility for pretrial detention, should be presented to relevant first appearance participants before the hearing so that appropriate actions may be taken in a timely fashion.

Standard 3.5 Monitoring and supervision of released defendants

(a) Pretrial services agencies or programs should establish appropriate policies and procedures to enable the effective supervision of defendants who are released prior to trial under conditions set by the court. The agency or program should:

- (i) monitor the compliance of released defendants with assigned release conditions;
- (ii) promptly inform the court of facts concerning compliance or noncompliance that may warrant modification of release conditions and of any arrest of a person released pending trial;
- (iii) recommend modifications of release conditions, consistent with court policy, when appropriate;
- (iv) maintain a record of the defendant's compliance with conditions of release;
- (v) assist defendants released prior to trial in securing employment and in obtaining any necessary medical services, drug or mental health treatment, legal services, or other social services that would increase the chances of successful compliance with conditions of pretrial release;
- (vi) notify released defendants of their court dates and when necessary assist them in attending court; and
- (vii) facilitate the return to court of defendants who fail to appear for their scheduled court date.

(b) In cases in which the court's release order has authorized the pretrial services agency or program to modify conditions initially set by the judicial officer pursuant to Standard 2.6, the agency or program may modify conditions within the range set by the court order and in accordance with the jurisdiction's laws and rules governing the exer-

cise of judicial authority. The court, the prosecutor, and the defendant's attorney should be notified promptly of any such modifications and of the reason(s) for them. The pretrial services agency or program should keep a record of any such modifications.

(c) The pretrial services agency or program should coordinate the services of other agencies, organizations, or individuals that serve as third party custodians for released defendants, and advise the court as to their appropriateness, availability, reliability, and capacity according to approved court policy relating to pretrial release conditions.

(d) The pretrial services agency or program should assist other jurisdictions by providing courtesy supervision for released defendants who reside in its jurisdiction.

Standard 3.6 Responsibility for ongoing review of the status of detained defendants

The pretrial services agency or program should review the status of detained defendants on an ongoing basis to determine if there are any changes in eligibility for release options or other circumstances that might enable the conditional release of the defendants. The program or agency should take such actions as may be necessary to provide the court with needed information and to facilitate the release of defendants under appropriate conditions.

Standard 3.7 Organization and management of the pretrial services agency or program

(a) The pretrial services agency or program should have a governance structure that provides for appropriate guidance and oversight of the agency's staff in the development of operational policies and procedures and for effective internal administration of the agency or program. The governance structure should enable effective interaction of the program with the court and with other criminal justice agencies, and with representatives of the community served by the program. To enable the performance of its functions in a neutral fashion, the agency should be structured to ensure substantial independence in the performance of its core functions.

(b) The pretrial services agency or program should develop and implement appropriate policies and procedures for the recruitment and selection of staff, and for the compensation, management, training, and career advancement of staff members.

(c) The pretrial services program should have policies and procedures that enable it to function as an effective institution in its jurisdiction's criminal justice system. In particular, the program or agency should:

(i) establish goals for effectively assisting in pretrial release decision-making and supervision of defendants on pretrial release in the jurisdiction and for the operations of the pretrial services agency or program;

(ii) develop and regularly update strategic plans designed to enable accomplishment of the goals that are established;

(iii) develop and regularly update written policies and procedures describing the performance of key functions;

(iv) develop and maintain financial management systems that enable the program to account for all receipts and expenditures, prepare and monitor its operating budget, and provide the financial information needed to support its operations and requests for funding to support future operations;

(v) develop and operate an accurate management information system to support the prompt identification of defendants, and the information collection and presentation, risk assessment, identification of appropriate release conditions, compliance monitoring, and detention review functions essential to an effective pretrial release agency or program;

(vi) establish procedures for regularly measuring the performance of the jurisdiction and of the pretrial services agency or program in relation to the goals that have been set;

(vii) have the means to assist persons with disabilities and persons who have difficulty communicating in written or spoken English;

- (viii) meet regularly with community representatives to ensure that program practices meet the needs of the community served; and
- (ix) develop, in collaboration with the court, other justice system entities, and community groups, appropriate policies for the delivery and management of services needed to respond to the risks posed by released defendants, including strategies for use of substance abuse treatment programs, health and mental health services, employment services, other social services, and half-way houses.

NATIONAL ASSOCIATION OF COUNTIES 2009-2010 JUSTICE & PUBLIC SAFETY PLATFORM & RESOLUTIONS

Pertaining to Courts

Pretrial Release

Counties should establish written policies that ensure:

- The interview and assessment of all arrestees booked into county jails;
- The investigation of information provided in order to provide a report to the judiciary for use during the pretrial release or detention decision;
- The use of release methods that are in compliance with state bail statutes which call for the least restrictive conditions during the pretrial stage that can protect the community and assure the appearance of the arrestee at all court events. These include release on recognizance, non-financial supervised release, and preventive detention.

Pertaining to Corrections

Bail Practices and Release Options

NACo recommends that all counties establish a written set of policies and procedures aligned with state statute, national professional standards, and best practices on the pretrial release decision. This includes: screening of all arrestees booked into county correctional facilities; the investigation of arrestees background information in order to provide a complete and accurate report to the judiciary for use during the pretrial release decision; and the option for the court of placing arrestees on supervised release to be monitored until disposition of the case. (Pages 7-8.)

APPENDIX B

GENERIC EXAMPLE OF A PRETRIAL INTERVIEW FORM

“GENERIC” COUNTY PRETRIAL SERVICES INTERVIEW FORM ADVISEMENT PRIOR TO INTERVIEW

My name is _____ and I am from the “Generic” County Pretrial Services Agency. I am here to ask you for information that will be used by the court to determine your pretrial release status. I will not ask you anything about your charge. Please do not tell me anything about your charge; if you do it can be used against you in court. The information that you give me will be verified. Please understand that any false information that you give can delay final decisions about your release status. Do you wish to proceed with this interview?

DEFENDANT INFORMATION			
Name:		Date of Birth: / /	
Aliases:		SS #: - -	
Sex: Male Female	Race: White Black Hispanic Asian Other _____	Height:	Weight: Passport: Yes No
Marital Status: Single Married Separated Divorced Widowed			
Children: Yes No	If Yes, Number:	Live With Children Yes No	
Ages of Children _____		Primary Caregiver of Children: Yes No	
Verified by: _____		Unverified	
Comments:			
RESIDENCE INFORMATION			
Length of residence in the state: _____ years ___ months ___ days Not State Resident			
Present Address: (Street)		Apt. #	
(City)	(State)	(Zip)	
Who do you live with:		Relationship: Spouse Children Parent(s) Other Family Non-Family Live Alone	
Telephone:	Can return? Yes No	Own Rent	
How long at this address: ___ years ___ months ___ days			
Get mail at this address: Yes No		When last at this address:	
Stay at any other address: Yes No			

Any Other Present Addresses: (Street)		Apt. #
(City)	(State)	(Zip)
Who live with?	Relationship: Spouse Children Parent(s) Other Family Non-Family Live Alone	
Telephone:	Can return? Yes No	Own Rent
How long at this address: ___ years ___ months ___ days		
Get mail at this address: Yes No	When last at this address:	
Verified by: _____	Unverified	
Comments:		
EMPLOYMENT/SCHOOL STATUS/MILITARY HISTORY		
Unemployed? Yes No	If yes, how long?	
How supported:		
Current Employment: Full time Part time		
Where employed:	Occupation:	
How long? ___ years ___ months ___ days	Date last worked:	
Work address: (Street)	Room #	
(City)	(State)	(Zip)
Supervisor's name:	Phone:	
School Status: Last year of school completed:	Currently in school: Yes No	
If in school, name:	Type:	
Military Status: Currently in military: Yes No	If yes, unit:	
Ever in military: Yes No	Branch:	Discharge Type:
HEALTH INFORMATION		
Current problem with: Alcohol Drugs Mental Illness		
Currently in treatment for: Alcoholism Drug Abuse Mental Illness		
Name of treatment program: _____		

Ever in treatment for: Alcoholism Drug Abuse Mental Illness

Name of treatment program: _____

Verified by: _____

Unverified

Comments:

SELF-REPORTED CRIMINAL HISTORY

Number of prior arrests:

Number of prior convictions:

Are you currently on: pretrial release probation parole

Name, phone number and location of supervising officers:

REFERENCES

Name	Address	Telephone	Relationship

APPENDIX C

OVERVIEW OF RESEARCH FINDINGS ON PRETRIAL RISK ASSESSMENT

The first pretrial risk assessment instrument can be traced back to 1961, when an experiment was launched in New York City to test the hypothesis that defendants could be categorized by the degree of risk they posed to fail to appear in court, and that such categorizations could be used in recommending pretrial release. Under a program run by the Vera Institute of Justice, a “point scale” was developed that used strength of family and community ties as the criteria for identifying defendants who were good risks of appearing in court. Evaluations of that point scale showed that the use of such objective criteria could be effective in classifying risks of FTA.

In the aftermath of the Vera experiment, many jurisdictions established pretrial services programs and implemented point scales to assess FTA risks. Many of these jurisdictions simply adopted the “Vera Model,” using the same criteria and weights as used in the Vera point scale.

Studies of these early risk assessment instruments showed mixed results in terms of their effectiveness in identifying factors that help predict FTA. For example, a 1981 summary of studies that were done in the 1960s and 1970s in different jurisdictions (Eskridge, 1981) showed the following results.

Community Ties:

- Four studies showed strong community ties were significantly related to appearance in court.
- Ten studies showed that community ties were not significantly related to appearance in court.

Employment:

- Four studies showed being employed was significantly related to appearance in court.
- One study showed employment not related to appearance in court.

Having a Telephone:

- Two studies showed that defendants who had telephones in their names were more likely to appear in court.
- Two studies showed that this did not matter.

Prior Record:

- Five studies showed that having a prior record was a predictor of failure to appear in court.
- Four studies showed that the existence of a prior record was not related to appearance in court.

In the 1970s, states began changing their bail laws to make the risk of danger to the community, in addition to the risk of FTA, a consideration in the bail decision. As a result, pretrial risk assessment studies had to look at both danger to the community, as measured by rearrests, as well as FTA. A number of studies done in the 1990s and in this decade have looked at both FTA and rearrest, with each one identifying different factors relating to risks.

For example, a 1994 risk assessment study in Ramsey County, Minnesota identified two variables that were predictive of appearance in court: being charged with an offense against a person and having completed high school and some college. Four variables were found to be predictive of failing to appear: having prior convictions for felony weapons offenses; having prior felony arrests; being 18 or 19 years of age; and being at the current address for less than three months. Three variables — having prior felony

arrests; having prior misdemeanor convictions; and being 18 or 19 years of age — were predictive of being rearrested, while one variable, the current charge being for a drug offense, was predictive of not being rearrested (Dickinson, 1994).

A 1999 evaluation of the risk assessment instrument used in Maricopa County, Arizona identified five factors associated with higher risks of both FTA and rearrest:

- Prior FTA;
- Being charged with a property or drug offense;
- Being single or separated;
- Paying child support, and
- Having prior convictions.

Two factors – having family in the area and having a verified address – lessened the likelihood of FTA and rearrest (Henry, Clark, Austin and Naro, 1999).

Seven localities in Virginia participated in a 2003 study on pretrial risk assessment. Nine factors were identified as being predictive of pretrial misconduct:

- Having two or more prior FTAs;
- Being charged with a felony;
- Having one or more outstanding warrants from another jurisdiction for charges unrelated to the current arrest;
- Having one or more misdemeanor or felony convictions;
- Having two or more violent convictions;
- Living at the current address for less than one year;
- Not being employed continuously for the previous two years and not the primary caregiver for a child at the time of arrest; and
- Having a history of drug abuse (VanNostrand, 2003).

These findings were re-examined in 2009. Researchers found that eight of the nine factors were still valid – the factor relating to outstanding warrants was found to have no predictive ability and was dropped from the revised risk assessment tool (VanNostrand and Rose, 2009).

In 2006, researchers in New York City identified several community-tie factors that predict likelihood of pretrial failure. Having a New York City address, having a telephone in their residence, and being employed, in school, or in a training program full-time predicted lower likelihood of pretrial misconduct. Regarding criminal history factors, defendants with prior misdemeanor convictions, having pending cases, and having a history of FTA were more likely to either FTA or be rearrested (Siddiqi, 2006).

At least two jurisdictions – Harris County, Texas and Hennepin County, Minnesota – conducted comprehensive validation studies in the 1990s and then repeated the studies very recently. In both cases, the variables that were found to be valid in the 1990s were, in many cases, different than those found to be valid in the most recent studies.

Six factors were identified in a 1993 study of the Harris County, Texas pretrial risk assessment instrument (Cuvelier and Potts, 1993) as being predictive of pretrial misconduct:

- Having a Harris County address;
- Having a telephone;
- Being employed full time, a student, on disability, or a homemaker;
- Having a prior FTA;
- Having prior felony convictions;
- Having prior misdemeanor convictions.

A 2009 re-validation in Harris County (Austin and Murray, 2009) of the factors found to be valid in 1993 found some variables that were different and others that were refined:

- Current charge of burglary, theft, fraud, other property, or deliver controlled substance;
- On probation and/or parole;

- One prior misdemeanor conviction (worth 1 point) as opposed to two or more prior misdemeanor convictions (worth 2 points)
- One prior felony conviction (worth 1 point) as opposed to two or more prior felony convictions (worth 2 points);
- One or more FTAs;
- No high school diploma or GED;
- Lives with someone other than spouse, children, or self;
- Does not own automobile;
- Unemployed and not in school full time, not retired, disabled or a homemaker. (Austin and Murray, 2008.)

A 1992 study of risk assessment in Hennepin County, Minnesota identified two variables (defendant lived at least five years in the area, and defendant was charged with drug offense) that were predictive of appearance in court, and one variable (prior history of FTA) that was predictive of failure to appear in court. Regarding rearrest, one variable (the defendant was employed) was found to be predictive of having no rearrest, while five variables (prior felony convictions, prior misdemeanor convictions, current charge a property offense, current charge a drug offense, and the defendant was 21 years old or younger) were predictive of being rearrested (Goodman, 1992).

In 2006, researchers evaluated the risk assessment instrument that was put in place after the 1992 Hennepin County study. Three factors were identified as being significant in predicting both pretrial crime and FTA: having higher number of prior convictions; having a history of failure to appear; and being unemployed or employed less than 20 hours a week. One factor – being charged with a felony against a person – decreased the odds of a defendant committing pretrial crime and of failing to appear in court (Podkopacz, 2006).

A study of 565,178 defendants charged in federal courts between October 1, 2001 and September 30, 2007 identified the following nine factors as being statistically significant predictors of pretrial misconduct:

- Defendants with one or more misdemeanor or felony charge pending at the time of arrest were 20 percent more likely to fail than those with no pending charges
- Defendants with one prior misdemeanor arrest were 13 percent more likely to fail, those with two priors 32 percent more likely, with three priors 45 percent more likely, with four 59 percent more likely, and with five or more 69 percent more likely to fail.
- Defendants with one prior felony offense were 22 percent more likely to fail and those with two or more were 38 percent more likely
- Defendants with one prior failure to appear were 22 percent more likely to fail and those with two or more were 35 percent more likely
- Unemployed defendants were 21 percent more likely to fail than those who were employed
- Defendants who were renting rather than buying their own homes were 65 percent more likely to fail, those making no financial contribution to their residence 74 percent more likely, and those with no residence more than twice as likely
- Defendants who abused alcohol were 21 percent more likely to fail, those who abused cannabis 23 percent more likely, and those narcotics 40 percent more likely
- Defendants charged with a felony were 61 percent more likely to fail than those charged with a misdemeanor
- When compared to defendants charged with a theft of fraud related charge, those charged with a firearm offense were 51 percent more likely to fail, a drug offense 78 percent more likely, and an immigration law violation 78 percent more likely (VanNostrand and Keebler, 2009).

All of these studies looked at risk assessment instruments whose structure was based upon the model that was developed by the Vera Institute in 1961 – that is, a point scale that assigns certain points (either negative or positive) to factors believed – either intuitively or from research findings – to be related to risks of pretrial misconduct. The factors included and the weights assigned have varied, but the basic structure has been the same.

There are certainly some commonalities among the findings of studies that have looked at these instruments. For example, defendants with prior histories of FTA and prior convictions are more likely to FTA in the current case and be rearrested. Still, the studies disagree on the specifics of these variables. For example, some studies show that any prior FTA raises the risk of FTA, while others show that risk is not raised until a defendant reaches at least two prior FTAs. Likewise, some show that having any prior convictions raises risk, but in others only a certain number of convictions or convictions for certain types of offenses are relevant.

Even with these commonalities, however, study after study has failed to replicate the findings of previous studies. These findings raise caution about simply borrowing a pre-trial risk assessment from one jurisdiction and expecting it to work in another.

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APPENDIX D

EXAMPLE OF VALIDATED PRETRIAL RISK ASSESSMENT INSTRUMENT

Virginia Pretrial Risk Assessment Instrument

Risk Factor	Criteria	Assigned Points
Charge Type	If most serious charge for the current offense is a felony	1
Pending Charge(s)	If the defendant has one or more charges pending in court at the time of the arrest	1
Criminal History	If the defendant has one or more misdemeanor or felony convictions	1
Failure to Appear	If the defendant has two or more failure to appear convictions	2
Violent Convictions	If the defendant has two or more violent convictions	1
Current Residence	If the defendant has lived at the current residence for less than one year prior to the arrest	1
Employed/Child Caregiver	If the defendant has not been employed continuously for the previous two years and was not the primary caregiver for a child at the time of arrest	1
History of Drug Abuse	If the defendant has a history of drug abuse	1

Risk Level	Risk Score
Low	0,1 points
Below Average	2 points
Average	3 points
Above Average	4 points
High	5 – 9 points

APPENDIX E

OVERVIEW OF RESEARCH FINDINGS ON PRETRIAL SUPERVISION

Various research efforts have been undertaken over the years to show the impact of conditions of release and supervision in reducing pretrial misconduct, all with mixed results. Several studies have shown that it is not the mere imposition of conditions, but the supervision of conditions of pretrial release that is effective in reducing risks of pretrial misconduct in defendants (Venezia; Miller, McDonald, Rossman and Romero, 1975; Clarke, Freeman and Koch, 1976; Austin, Krisberg and Litsky, 1993). One study found that increasing levels of supervision of pretrial release conditions improves appearance rates, but has no impact on rearrests (Welsh, 1978). Other studies have focused on the impact of compliance on misconduct. One such study found that appearance rates were improved for defendants who complied with a condition to contact the pretrial services program on a regular basis, but it did not matter how frequently defendants were required to report (San Mateo County Bar Association). A study of three jurisdictions showed no significant differences in pretrial misconduct outcomes for defendants randomly assigned to supervision and control groups (Toborg, 1981).

In the early 1990s, several studies tested the effectiveness of particular conditions of non-financial release — in some cases drug testing and in others electronic monitoring — in reducing rates of pretrial misconduct. These too had mixed results. One study of drug testing found that defendants who reported for drug testing appointments during the pretrial supervision period, regardless of whether they tested positive or negative, had lower misconduct rates than defendants who failed to report for testing (Toborg, Bellasai, Yezer and Trost, 1989). Another study of the same jurisdiction, the District of Columbia, examined the impact of intensive supervision on misconduct. The study found that defendants who were placed in an intensive supervision program, in which twice-weekly drug testing was a major component, were rearrested at a rate of 7.8 percent, compared to a rearrest rate of 24 percent for those in normal supervision (Carver, 1993). Other studies of the effectiveness of drug testing as a condition of pretrial release showed different results — that it had no impact on reducing pretrial misconduct rates (Goldkamp, Jones, Weiland and Gottfredson, 1990; Jones and Goldkamp, 1993; Britt, Gottfredson and Goldkamp, 1992; Visher, 1992). However, each of these studies cited problems in implementing the drug testing programs, especially the scheme of sanctions for defendants who violated their drug testing conditions, as possible reasons for the lack of impact.

The research of electronic monitoring showed similarly disparate findings. One study on electronic monitoring, which compared outcomes — arrest on new charges, absconding, and technical violations — of pretrial defendants to convicted offenders, found that pretrial detainees fail at higher rates than convicted offenders — 27 percent versus 19 percent (Maxfield and Baumer, 1990). Another study found that “with the use of EMS [Electronic Monitoring Supervision] a riskier clientele could be released with the assurance that Pretrial Services could provide effective supervision and report noncompliance of bond conditions to the court” (Cooprider and Kerby, 1990).

Much of this research was conducted at a time when few options were available or used. The more recent research on drug testing and electronic monitoring looked at only the one condition — drug testing or electronic monitoring. Various reasons have been ascribed to the disparity in the results of all these studies. In some cases the supervision programs were poorly implemented; in some cases the studies themselves were poorly designed or executed.

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APPENDIX F

COURT DATE REMINDER SCRIPT

This is the script used by staff of the Jefferson County, CO pretrial services program when calling defendants to remind them of their court dates:

Hello, this call is for: Defendant First Name

I am _____ from the Jefferson County Sheriff's Office. I am calling to remind you that you have a Court Date on [day of week] & [date] at 1:15 p.m. You need to be in Courtroom 1A, which is on the first floor of the Jefferson County Courthouse, located in Golden at 100 Jefferson County Parkway. Please check in with the Court Clerk that sits in Courtroom 1A upon your arrival.

Also, please come prepared to pay all or part of the fees and/or fine that may be assessed by the Court; they are due on the day of sentencing with a variety of payment options available.

And don't forget to bring any documentation you may have to satisfy the court regarding the charges against you.

*However, if you choose **NOT** to show-up at Court, a warrant **will** be issued for your arrest and the Dept. of Motor Vehicle will be notified and may take action to suspend your license.*

*****Please remember that since you are under the age of 18, you will need to bring a parent or guardian with you to court, again that date is _____.***

If you think this message is an error, please contact me at (303) 271-6343.

Thank you. Good-bye.

APPENDIX G

PROCESS, OUTCOMES AND PERFORMANCE MEASURES

PRETRIAL MONTHLY PERFORMANCE MEASURES

Measure	Raw Number	Your Numbers
Percent of jail population that is in pretrial status	Average daily pretrial population of jail divided by the Average daily population of jail	Percentage
Interview Rates	Misdemeanors: Number interviewed divided by the Number arrested Felony, Non-Violent: Number interviewed divided by the Number arrested Felony, Violent: Number interviewed divided by the Number arrested Technical Violation: Number interviewed divided by the Number arrested	(Convert to percentages)
Rate of non-interview due to non-bailable offense	Number of individuals not interviewed because of non-bailable offenses divided by the Number arrested	(Convert to percentage)
Percent of Risk Assessments Complete	Number of risk assessments completed divided by the Number of interviews	Percentage
Recommendations by type	Number of recommendations to the court <ul style="list-style-type: none"> • ROR/Personal Bond divided by the number interviewed • Deposit bond to court divided by the number interviewed • Surety bond divided by the number interviewed • Property bond divided by the number interviewed • Full cash bond divided by the number interviewed • Supervision of non-financial conditions divided by the number interviewed • Supervision by pretrial and financial bond divided by the number interviewed 	(Convert to percentages)
Rate of Recommendation Acceptance	Number of recommendations accepted divided by number of recommendations made for each: <ul style="list-style-type: none"> • ROR/Personal Bond • Deposit bond to court • Surety bond • Property bond • Full cash bond • Supervision of non-financial conditions • Supervision by pretrial + financial bond 	(Convert to percentages)
Release Rates	Number released divided by number interviewed, for each: <ul style="list-style-type: none"> • ROR/Personal Bond • Deposit bond to court • Surety bond • Property bond • Full cash bond • Supervision of non-financial conditions • Supervision by pretrial + financial bond 	

Rate of Non-recommended Release	<p>Number released against program recommendation divided by number released overall for each:</p> <ul style="list-style-type: none"> • ROR/Personal Bond • Deposit bond to court • Surety bond • Property bond • Full cash bond • Supervision of non-financial conditions • Supervision by pretrial + financial bond 	
Case Processing Rates	<p>Average length of stay from arrest to release for each type:</p> <ul style="list-style-type: none"> • ROR/Personal Bond • Deposit bond to court • Surety bond • Property bond • Full cash bond • Supervision of non-financial conditions • Supervision by pretrial + financial bond 	
Bail Review Rates	Number released after second review divided by the Number of second review/bond reductions presented to the court	(Convert to percentage)
Caseloads	<p>Number of individuals interviewed divided by the number of pretrial interviews;</p> <p>Number of individuals supervised by program divided by the Number of pretrial supervision officers</p>	<p>1:___ for interviews;</p> <p>1:___ for supervision</p>
Appearance Rates	<p>Number of court events made divided by the Number of court events scheduled rates, for each:</p> <ul style="list-style-type: none"> • ROR/Personal Bond • Deposit bond to court • Surety bond • Property bond • Full cash bond • Supervision of non-financial conditions • Supervision by pretrial + financial bond 	(Convert to percentages)
Public Safety Rates	<p>Number of new arrests divided by Number released, for each:</p> <ul style="list-style-type: none"> • ROR/Personal Bond • Deposit bond to court • Surety bond • Property bond • Full cash bond • Supervision of non-financial conditions • Supervision by pretrial + financial bond 	

DISTRICT OF COLUMBIA PERFORMANCE MEASUREMENT SCHEME

FY 2009 Final Executive Performance Measure Report

Performance against FY 2009 Targets	
Outcome 1: Percentage of defendants rearrested for violent and drug crimes during the period of pretrial supervision	
<p>Targets:</p> <p>Overall rearrest rates for all defendants</p> <ul style="list-style-type: none"> • 12 % for all crimes • 3 % for violent crimes • 4 % for drug crimes <p>Drug-using defendants</p> <ul style="list-style-type: none"> • 18 % for all crimes • 4 % for violent crimes • 7 % for drug crimes <p>Nondrug-using defendants</p> <ul style="list-style-type: none"> • 5 % for all crimes • 1% for violent crimes • 1 % for drug crimes 	<p>Actual:</p> <p>Overall rearrest rates for all defendants</p> <ul style="list-style-type: none"> • 12% for all crimes • 3% for violent crimes • 4% for drug crimes <p>Drug-using defendants</p> <ul style="list-style-type: none"> • 17% for all crimes • 4% for violent crimes • 6% for drug crimes <p>Nondrug-using defendants</p> <ul style="list-style-type: none"> • 6% for all crimes • 1% for violent crimes • 1% for drug crimes
<p><i>Comments on Outcome 1:</i> Rearrests are counted only if the case is papered. Only the most severe charge is considered in determining the category of the crime. Drug-using defendants are defined as those who test positive at some point during the current supervision period (to include both the underlying case and the rearrest case) and/or in the year prior to the file date of the underlying case.</p>	
Outcome 2: Percentage of cases in which a defendant failed to appear for at least one court hearing	
<p>Target:</p> <p>Overall failure to appear rate 13 % Drug-using defendants 15% Nondrug-using defendants 9 %</p>	<p>Actual:</p> <p>Overall failure to appear rate 12% Drug-using defendants 15% Nondrug-using defendants 8%</p>
<p><i>Comments on Outcome 2:</i> This measure represents the percentage of cases in which there was at least one FTA. If a bench warrant is issued in a case, it is counted as an FTA. Only the first FTA for any given case is counted. Drug-using defendants are defined as those who test positive at some point during the current supervision period (to include both the underlying case and the rearrest case) and/or one year prior to the file date of the underlying case. As the year progresses and the "window of opportunity" for FTA increases, we expect these percentages to significantly increase.</p>	
Measure 1.1: Percentage of defendants who are assessed for risk of failure to appear and rearrest	
Target: 96 %	Actual: 98 %
<p><i>Comments on Measure 1.0:</i> This measure represents the number of PSRs that are submitted to the court prior to the case being called.</p>	

N/A	Measure 1.2: Percentage of defendants for whom PSA recommends the least restrictive conditions consistent with public safety	
	Target: 94 %	Actual: Not reported in FY 09
	Comments on Measure 1.1: Data for this measure is computed using an expert panel at the end of the fiscal year to review and evaluate whether or not the least restrictive conditions were recommended.	
	Measure 2.1: Percentage of defendants who are in compliance with release conditions at the end of the pretrial period	
	Target: 77 %	Actual: 78 %
	Comments on Measure 2.0: At the beginning of FY 2006, PSA changed the categorization for this measure from a final compliance rating to a level rating. Under the new system, a defendant is rated as a Level 1 if there was no pending request for removal from PSA supervision in that case that applied at the time of closeout, there was no rearrest on a papered U.S. or serious D.C. charge during the entire supervision period and there was no unexcused failure to appear in that case during the entire supervision period. A defendant is rated as Level 2 if there was a pending request for removal from PSA supervision in that case that still applied at the time of closeout, there was a papered rearrest for a U.S. or serious D.C. charge during the entire supervision period, there was an unexcused failure to appear in that case, or the defendant had been removed at the time of closeout from PSA supervision in that case due to noncompliance. The "Actual" percentage reflects the percentage of exiting defendants for whom a levels rating was recorded who were rated as Level 1.	
	Measure 2.2: Percentage of defendants whose noncompliance is addressed by PSA either through the use of an administrative sanction or through a recommendation for judicial action	
	Target: 80 % of drug testing 70 % of contact violations 80 % of sanction-based treatment program violations 92 % of electronic monitoring violations	Actual: 97% of drug testing violations 87 % of contact violations 77 % of treatment program violations 99 % of electronic monitoring/curfew violations
	Comments on Measure 2.1: The total number of responses (both administrative sanctions and requests for judicial action) is divided by the total number of violations in order to compute this measure.	
	Measure 3.1: Percentage of referred defendants who are assessed for substance abuse treatment	
	Target: 99 % of defendants referred will be evaluated	Actual: 99 % of defendants referred were evaluated
	Comments on Measure 3.0: This measure is computed by dividing the number of defendants who received an ASI by the number referred for an ASI.	

N/A	Measure 3.2: Percentage of eligible assessed defendants placed in substance abuse treatment programs	
	Target: 50 %	Actual: 52%
	Comments on Measure 3.1: This measure is calculated by dividing the number of unique defendants who are placed in some kind of treatment (either in-house, contractual, or community-based) by the number of defendants identified (by the ASI) as in need of treatment. This information was not yet available for the first quarter of FY 09.	
N/A	Measure 3.3: Percentage of defendants who have a reduction in drug use following placement in a sanction-based treatment program	
	Target: 74 %	Actual: 62%
	Comments on Measure 3.2: Reduction in drug use is computed by dividing the number of defendants who have a lower percentage of positive drug test results after treatment than before by the total number of defendants in treatment (either in-house or contractual). This information is not available on quarterly basis.	
	Measure 3.4: Percentage of defendants connected to educational or employment services following assessment by SSAC	
	Target: 92 %	Actual: 100%
	Comments on Measure 3.3: This data represents the percentage of defendants referred to the Social Services and Assessment Center for educational or employment services for whom an appointment was made with community service providers.	
	Measure 3.6: Percentage of eligible assessed defendants connected to mental health services	
	Target: 80 %	Actual: 98 %
	Comments on Measure 3.5: This data represents the percentage of defendants identified through mental health assessment as being in need of mental health services who were placed in the Specialized Supervision Unit or who were placed in other units but linked to other mental health services.	
	Measure 4.1: Number of agreements established and maintained with organizations and/or agencies to provide education or employment services or through which defendants can fulfill community service requirements	
	Target: 20 %	Actual: 20 %
	Comments on Measure 4.0: Agreements exist with ANC 7A06, Clean City Initiative, Community Harvest/Urban Oasis, Concerned Citizens for Alcohol and Drug Abuse, Downtown Business Partnership, Department of Public Works, Department of Recreation, East of the River Clergy Police Partnership, PECO/ Anacostia River Clean-up, Salvation Army (Feast of Sharing), Salvation Army (Toyland), Ward 8 Douglas Jr. High Clean-up, Ward 8 Farmers Market, Washington Parks and People, Woodland Cemetery, Capital Area Food Bank, DC Central Kitchen (First Helping), DC Rapid Response and Office of Councilmember Marion Barry.	

APPENDIX H

JOB DESCRIPTIONS FOR PRETRIAL PROGRAM SUPERVISORS

KENT COUNTY, MICHIGAN

JOB TITLE: PRETRIAL RELEASE PROGRAM SUPERVISOR

JOB SUMMARY:

Supervises the operations of the Pretrial Release Program. Develops and implements practices and procedures consistent with Circuit Court Services policies to ensure the delivery of quality pre-trial services to eligible defendants to reduce jail-bed usage by defendants awaiting trial.

FUNCTIONS:

- Administers policies and procedures for assigned pre-trial staff.
- Provides direct supervision for subordinate staff in accordance with established County policies and procedures, with current collective bargaining agreements and with all applicable statutes and regulations governing the employment relationship.
- Recommends hiring and terminations, provides training and work assignments for, administers policy and procedure for, reviews and evaluates the work performance of, and administers disciplinary actions for subordinate staff.
- Identifies goals and objectives for subordinate staff and recommends staff access to training and development opportunities to facilitate professional and personal growth.
- Establishes work schedules for subordinate staff so as to ensure that all eligible offenders receive appropriate pretrial services.
- Reviews Court dockets and Correctional Facility booking information to identify defendants eligible for pretrial release services.
- Collects, compiles and prepares reports of data required for quality assurance and performance measurement.
- Collaborates with the judiciary, Court Services, Community Corrections and other criminal justice agencies to develop and improve programs, policies and practices to ensure delivery of quality pretrial services to all eligible offenders.
- May perform any and all functions of subordinate positions as required to maintain the delivery of pretrial services.
- May perform other functions as assigned.

CONTACTS:

This position has frequent contact with:

- Judges and Correctional Facility administrators to review arraignment and arrest records to identify defendants eligible for pre-trial release program services.
- Members of the judiciary, court administrators, correctional administrators, Community Corrections staff and other criminal justice agents to collaborate in the design, development, implementation and evaluation of pre-trial release programs.
- Community groups to provide information and respond to questions and concerns regarding pre-trial release programs.
- Other Court Services staff to coordinate programs.

REQUIRED KNOWLEDGE AND SKILLS:

- Thorough working knowledge of the theory and practice of community-based correctional alternatives to incarceration.
- Working knowledge of Michigan Court Rules and Michigan Compiled Laws as they apply to pretrial release of misdemeanor and felony offenders.

- Thorough working knowledge of social case work principles and practices and applied case work techniques.
- Working knowledge of applied psychology and sociology including family and peer group dynamics.
- Statutes governing the accessibility and confidentiality of individual information and the legal parameters governing the collection and verification of client data.
- Working knowledge of federal, state and county resources which may be available to clients.
- Knowledge of community resources serving client populations.
- Working knowledge of the civil, criminal and/or juvenile justice systems and family law.
- Knowledge of supervisory principles and practices.
- Basic computer literacy, including working knowledge of word processing, spreadsheet and database management applications.
- Ability to interact positively with criminal justice administrators, judges, community leaders, clients and members of the general public from a wide range of cultural and socio-economic backgrounds and with widely divergent levels of educational attainment and social skills.

NOTE:

- 1. Incumbents in this position supervise staff at a number of work sites throughout the County and on all three shifts, including nights and weekends. Employees are required to be available and on-call 24 hours per day, seven days per week to respond to emergencies and are required to provide their own transportation.*
- 2. Employees must be able to obtain LEIN certification.*

REQUIRED EDUCATION, TRAINING AND EXPERIENCE:

Bachelor's degree from an accredited institution in sociology, psychology, criminal justice, behavioral sciences or a human services discipline combined with four years experience in the administration of community-based correctional programs.

PHYSICAL REQUIREMENTS:

Must be able to perform essential job functions with or without assistive devices, including, but not limited to, visual and/or audiological appliances; and devices to increase mobility.

WORKING CONDITIONS:

Work is normally performed primarily in an office environment and may require contact with offenders.

APPENDIX I

MISSION AND VALUE STATEMENTS

1. ALLEGHENY COUNTY, PA

The Allegheny County Pretrial Services (ACPTS) mission is to provide accurate and timely information to assist the Court in making informed decisions regarding bond, competency, and treatment. Also, to supervise and monitor defendants in a respectful manner, utilizing cost-effective measures for the community and to promote compliance with court orders, court appearances, and to support public safety.

The following organizational values and core beliefs guide ACPTS in carrying out its day-to-day activities in support of its mission:

- The fundamental belief in the presumption of innocence
- Our interaction with defendants is fair, flexible, and consistent
- Community accountability and integrity
- Enhancing public safety through conditional release options and supervision
- Proactive and innovative approach in administering services
- Services are performed with the highest professional and ethical standards
- The belief that people have the ability to become law-abiding citizens.

2. DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

The Mission of the D.C. Pretrial Services Agency

To assess, supervise, and provide services for defendants, and collaborate with the justice community, to assist the courts in making pretrial release decisions. We promote community safety and return to court while honoring the constitutional presumption of innocence.

The Vision of the D.C. Pretrial Services Agency

To thrive as a leader within the justice system by developing an empowered workforce that embodies integrity, excellence, accountability, and innovation in the delivery of the highest quality services.

The Guiding Principles of the D.C. Pretrial Services Agency

Guiding Principle One: The Constitutional Presumption of Innocence

The constitutional presumption of innocence of the pretrial defendant should lead to: the least restrictive release consistent with community safety and return to court; and preventive detention only as a last resort based on a judicial determination of the risk of non-appearance in court and/or danger to any person or to the community.

Guiding Principle Two: Non-Financial Conditions of Release

Non-financial conditional release, based on the history, characteristics, and reliability of the defendant, is more effective than financial release conditions. Reliance on money bail discriminates against indigent defendants and cannot effectively address the need for release conditions that protect the public.

Guiding Principle Three: Pro-Social Interventions

Pro-social interventions that address substance abuse, employment, housing, medical, educational, and mental health issues afford defendants the opportunity for personal improvement and decrease the likelihood of criminal behavior.

Guiding Principle Four: Innovation, Effective Use of Technology, and the Development of Human Capital Innovation, effective use of technology, and the development of human capital lead to organizational excellence, transparency, high professional and ethical standards, and accountability to the public.

PSA's Core Values

Customer Service

- Commitment to serve internal and external customers
- Commitment to effective communications at all levels

Initiative

- Commitment to continuous learning and improvement
- Proactive problem solving
- Self-starter

Integrity

- Commitment to standards of conduct for employees of a law enforcement agency
- Honesty; sincerity

Respect

- Commitment to diversity and an open workplace
- Appreciation of cultural differences
- Courtesy
- Professionalism

Teamwork

- Collaboration
- Cooperation
- Praise
- Positive interaction with colleagues

Work Ethic

- Reliability
- Productivity
- Efficient use of time and resources

3. JEFFERSON COUNTY, COLORADO JUSTICE SERVICES

Justice Services is a division within the Human Services Department of Jefferson County.

Our Mission

To support and improve the functions of our Justice System by:
Providing innovative and cost effective enhancements to those functions,
Fortifying public safety and quality of life of our citizens, and
Supplying opportunities for the individuals processed by the Justice System to demonstrate their potential as contributing, responsible members of society.

Our Vision

A fair and equitable system of justice that addresses the safety and public order needs of our community while providing creative, innovative, and cost effective opportunities for positive outcomes to those who enter it or seek the resolution of conflict from it.

Our Values

Respect and Civility - we will respond to all those we encounter in our work with courtesy that recognizes their individuality and value;

Commitment - we expect a passion for service from our staff and a demonstrated responsibility and investment in our work;

Courage - we will be bold in our vision, stand by our convictions and be ceaseless in our search for excellence;

Inclusiveness - we embrace behavior and actions that respect and honor the background, diversity and contributions of our staff and the community we serve;

Integrity - we will demonstrate the strength, moral courage, and ethics that warrant the trust of our community; and

Trustworthiness - we commit ourselves to the highest level of accountability as stewards of the authority public funding granted to us.

We seek to accomplish our mission and achieve our vision through the following programs:

4. KENTUCKY PRETRIAL SERVICES

Mission Statement

To assist the court in making informed pretrial release decisions, to effectively supervise defendants in order to support safe communities and to ensure that defendants meet court obligations while maintaining the constitutional presumption of innocence and the right to reasonable bail.

Core Values

Pretrial Services is committed to:

- achieving excellence through **professionalism, teamwork** and **accountability**
- promoting fairness and **impartiality** with **respect** for the rights of all
- providing **leadership** through **responsiveness** to the needs of the court and community

Professionalism

Responsiveness

Excellence

Teamwork

Respect

Impartiality

Accountability

Leadership

Vision Statement

Pretrial Services envisions a motivated team that will:

- provide effective services through the use of evidence based practices
- explore alternative solutions to existing and future challenges
- promote our agency through education and public outreach
- improve services to our court system and the community

Department Priorities

Providing Accurate Information to the Court

- Training and certification
- Daily quality assurance conducted by supervisors

Accountability, Transparency, Credibility

- Movement towards evidence based practices through quantitative and qualitative research
- Use of performance based measures
- Fiscal responsibility
- Effective use of resources
- Maintaining accurate data (training)

Meeting constitutional, statutory and court ordered responsibilities

- Training and education
- Time management/effective use of resources
- Customer service

APPENDIX J

EXCERPTS FROM THE RELEASE OF INFORMATION POLICY OAKLAND COUNTY, MICHIGAN COMMUNITY CORRECTIONS (PRETRIAL SERVICES)

Generally, all information an agency gathers during a background check of a defendant, supervision of a defendant, or verification of a defendant is to remain confidential. Information should only be disseminated to appropriate persons. This section will evaluate different types of information obtained, who has access to it, and who does not. If you have any specific questions about information not covered in this section, contact your supervisor for release authorization.

If a defendant confesses to a crime during the pretrial interview, you could become a witness in the case. If a defendant begins to express himself/herself about their guilt, advise them that their statements could be used against them, and you are only here to address matters pertaining to a bond recommendation. If a defendant confesses guilt of a crime during your investigation, you may be obligated to notify the police, so contact your supervisor immediately.

All data and records obtained through the L.E.I.N. (Law Enforcement Information Network) or N.C.I.C. (National Crime Information Center) shall not be disseminated to any individual or group who does not have legal authorization to access L.E.I.N. Information gained from these networks shall not be used for personal reasons. Violation of the L.E.I.N. security or confidentiality is cause for disciplinary action by the State of Michigan, as well as the department. Disciplinary action by the state may include loss of L.E.I.N. access for the individual and/or department. Disciplinary action by the department may include a verbal/written reprimand and invoke termination from employment.

There are certain people/agencies who are permitted access to pretrial services reports. There are times when access to reports should be denied. Below is a list of who has access, and some of the common circumstances our reports are requested. This list is not all-inclusive. If an investigator has concerns about releasing a report, forward the request to the supervisor.

Access to reports:

- Judicial officers.
- Prosecuting attorney.
- Defense attorney retained or assigned to the case.
- Probation Officer for the purpose of compiling a pre-sentence report, or who is actively supervising the defendant.
- Law enforcement personnel for the purpose of executing a search for a defendant who is on bench warrant status, or who is investigating a crime.
- Another pretrial services agency conducting a pretrial report on the same defendant.
- An outside court that is requesting the information on a defendant in a perjury or impeachment hearing.
- Researchers may have access to reports and databases for the purpose of research only at the approval of the department head.
- Welfare or social service agents may obtain data only if relevant to the performance of their official duties.

No access to reports:

- Attorneys seeking information who do not represent the defendant and are not prosecutors (Civil Attorneys).
- Any member of the public who requests information or reports to the court to review the court file. Court clerks, prior to allowing a member of the public to review the file, should remove the Pretrial Services Report.
- Employers may not receive a copy of the report.

APPENDIX K

SAMPLE JOB DESCRIPTIONS FOR PRETRIAL SERVICES OFFICERS

KENTUCKY

JOB TITLE: PRETRIAL OFFICER 1

Purpose:

Responsible for conducting interviews and assessments with defendants, making recommendations for pretrial release with supervision and diversion.

Required Qualifications:

Education: 4 Year College Degree

Education Substitute: Experience for Degree @ 1:1

Job Required Knowledge:

- Knowledge of court system, substance abuse or related community resources.
- Experience as follows may substitute for degree: experience with a social service agency, court agency, social work or treatment/case management with court programs, mental health or substance abuse fields.

Job Skills/Abilities

- Basic computer skills
- Effective communication skills – written and oral.

Job Duties:

- Interview defendants in jail within 12 hours of incarceration
- Complete required assessments
- Make recommendation to trial courts for pretrial release with supervision and diversion
- Monitor compliance for clients released with conditions or referred to diversion
- Monitor compliance with conditions of contract
- Submit detailed written reports to the appropriate entities
- Keep statistics for the preparation of monthly reports
- Broker community resources for diversion and conditional release
- Other duties as assigned
- May include nights, weekends, and holidays
- Some travel is required
- Appear in court as needed
- Prepare affidavits of indigency for the courts

KENT COUNTY, MICHIGAN

JOB TITLE: PRETRIAL RELEASE INTERVIEWER

Nature of Work:

This is a paraprofessional position responsible for providing information gathering, investigative and defendant supervision services to all the adult courts within Kent County. Persons in this classification report their findings to the court, in both written and oral form, to assist judges in setting appropriate bail, or in taking corrective action to revoke or amend a previously set bail bond.

This classification works under general supervision subject to outline of procedures by the Director of Court Services with reasonable latitude for independent judgment and action in the performance of duties.

Examples of Work:

Listed examples are illustrative and representative of the tasks required of this classification, but are not intended to be complete or exclusive of this position.

- Conducts interviews within restricted and confined areas of the various detention facilities within Kent County on all newly arrested and unsentenced inmates being held in lieu of bail.
- Verifies information obtained during interviews and further investigates all aspects of the defendant and charge which are relevant to the setting of bail.
- Submits “Bail Information Reports” to the courts which contain a summary of defendant based information, release options, and a bail recommendation.
- Assists in identifying defendants who might be eligible for some form of diversion from prosecution.
- Prepares follow-up reports containing updated information on all cases whenever the topic of bail is being considered at a formal court hearing or motion.
- Provides casework supervision services (including urinalysis drug testing) to the courts on all defendants released on a “Conditional Release” basis.
- Works closely with the courts, police, prosecutors and defense attorneys in an effort to maximize defendant release without increasing the risk to the community or flight to avoid prosecution.
- Performs related work as required.

Required Knowledge, Skills and Abilities:

- The equivalency of an associates degree in criminal justice or closely related field.
- The equivalent of two years of client supervision or casework related duties dealing with dysfunctional populations or six months prior work experience in a pretrial service program.
- Thorough knowledge of legal terminology and the various stages of criminal case processing.
- Knowledge of the criminal sentencing process and sanctions normally imposed for various crimes.
- Knowledge of, and ability to use, higher level interviewing and investigation techniques in the collection of bail related information.
- Knowledge of the various community based treatment facilities and programs which could address the needs of defendants and serve as an option to pretrial incarceration.
- Ability to review case information and make educated determinations on the probability of conviction on routine criminal matters.
- Ability to interview and communicate effectively with persons of diverse backgrounds.
- Ability to report to the courts both orally and in written form. Must be able to use a keyboard and software programs.
- Ability to react and move quickly and defensively within the secured areas of a detention facility should an emergency occur.
- May require possession and maintenance of a valid, unrestricted Michigan Driver’s License and access to transportation.

Standard Physical Requirements:

- Ability to sit for long periods of time verifying information over the phone, conducting interviews with clients and preparing bail information reports for court review.
- Ability to read and understand police reports, court files, and computer screens.
- Ability to articulate information clearly during oral investigations and during court presentations.
- Ability to stand for extended periods of time interviewing clients.
- Ability to lift 10 lb. files.

Desirable Knowledge, Skills and Abilities:

- Previous experience in a criminal justice environment.
- Knowledge and understanding of the goals and objectives of pretrial services and the court rules governing pretrial release.
- Bachelors degree in criminal justice or closely related field.

DALLAS COUNTY, TEXAS
JOB TITLE: PRETRIAL SERVICES OFFICER

Summary of Functions:

Conducts pretrial investigations to determine the release of individuals; conducts bail investigations and assess the risks of nonappearance and danger; supervises individuals to ensure adherence to the terms of their release and trial proceedings.

Management Scope:

None

Duties and Responsibilities:

Ascertains the defendant's background, to assess the probability of future criminal behavior and determine profit from the offense, restitution, and the defendant's ability to pay fines and costs of prosecution, incarceration and cost of supervision; conducts pre-trial defendant investigations, makes bond recommendations and testifies in court as needed; processes release documents.

40% of time. Essential.

Supervises defendants awaiting trial as needed, meeting weekly or as needed with each client, and performing all other client- and court-related duties; monitors status of monitoring devices; assesses and refers offender on release to appropriate support services.

40% of time. Essential.

Conducts regular case file reviews to ensure compliance with release conditions; tracks the supervision of cases transferred to or from other pretrial services programs; completes monthly data reports and other reports as assigned; and reviews and submit all correspondence and reports to management.

10% of time. Essential.

Serves as liaison with local law enforcement, the public, and other community agencies; responds to inquiries for information and assistance from the community-at-large, law enforcement, and other requesting parties and entities.

10% of time. Essential.

Performs related duties as assigned.

5% of time. Non-essential.

Minimum Qualifications:

Education, Experience and Training: Education and experience equivalent to a Bachelor's Degree from an accredited college or university in criminal justice, social services, public administration or related field. One (1) year work related experience.

Special Requirements/Knowledge, Skills & Abilities: Skilled in the use of standard software applications. Ability to effectively communicate, both verbally and in writing, and establish and maintain effective working relationships with employees, departments and the general public.

Physical/Environmental Requirements: Standard Office Environment.