PRETRIAL SERVICES AND PRACTICES IN THE 1990s

FINDINGS FROM THE ENHANCED PRETRIAL SERVICES PROJECT

National Association
of
Pretrial Services Agencies

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Final Report

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PREFACE

Since the Manhattan Bail Project was launched in New York City in 1961 as the first institutionalized public alternative to money bail, pretrial programs have grown to over 300 strong nationwide. Many changes have transpired in those 30 years in pretrial services, the criminal justice system, and society generally. Pretrial programs have become well-entrenched members of the criminal justice system providing pivotal services at key stages of the criminal process.

Pretrial programs can potentially affect the entire adjudication system by providing: 1) screening services for individuals coming into the system; 2) comprehensive verified information to the court for release/detention determination; and 3) release alternatives to jail crowding and pretrial detention.

This monograph is intended to document the nature and extent of pretrial services offered at the local, state, and federal levels. It presents the most current findings on pretrial program activities based on the results of a nationwide survey conducted in 1989. The last comprehensive survey of pretrial programs was undertaken in 1979. Extensive information was collected from a cross section of criminal justice actors on pretrial program administration, funding, staffing, and service delivery. The findings from the 1989 survey were compared with those of earlier surveys.

An Executive Summary of Findings is provided as a concise and convenient synopsis of the monograph's main points. The monograph alone, however, offers a complete and thorough examination of the many manifestations of pretrial services in the United States.

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Most of all, I am indebted to John C. Hendricks, General Manager of the Kentucky Pretrial Services Agency and President of NAPSA during the life of the project. In addition to managing a statewide pretrial services agency and providing leadership to this Association, he always made time to discuss the project and its activities with me. As a pretrial program administrator, he provided insights only those in the field are capable of doing; as President of NAPSA, he spoke for programs nationwide. I am grateful for his guidance and support.

Kristen L. Segebarth
Project Director

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EXECUTIVE SUMMARY

Administrative Location/Governing Body

- Pretrial programs continue to start-up and operate within diverse administrative environments. Court-administered programs comprise the greatest percentage of pretrial programs (38%) and probation-administered programs constitute the next largest segment (24.5%). In the past ten years, a 500% growth in sheriff office-based programs has taken place and such programs now constitute 10% of pretrial programs nationwide.

- With the proportion of state court- and probation-administered programs increasing from 8.3% in 1979 to 26.9% in 1989, data suggest that the emphasis on statewide coordination of pretrial services delivery will continue and intensify. However, the means by which programs and states will foster statewide uniformity and efficacy will remain diverse.

- One-quarter of the programs have a formal governing body or advisory board responsible for the development of organizational goals and policies. Eighty-five percent (85%) of the boards represent a mixture of private and public interests--one-half of the boards expressly include private citizens and all but two seat judicial officers.

Program Scope and Size

- Eighty-four percent (84%) of the programs serve local jurisdictions (city, town, or county) and 11% serve multiple counties. There are three statewide programs. Most of the programs serve mixed geographic areas, i.e., a combination of rural, urban, and suburban populations.

- There has been a dramatic proliferation of programs in less populated areas in the last decade. Over 25% of the programs now operate in areas with a population of 100,000 or less, including 13.6% in areas of 50,000 or less, compared to 6.4% and 1.8% respectively in 1979.

Program Funding

- In 1979, 40% of the programs received some funding from the federal government; in 1989, 0.5% of the programs did. Faced with the diminution of federal monies, programs have successfully identified alternative funding sources and secured support from state and local governments.

- Currently, 65% of the programs receive 100% funding from either the state or local government. Since 1979, the proportion of programs that receive 100% state has increased from 6.5% to 17% nationwide, although the proportion of programs that receive 100% county funding has remained steady (however, county funding has almost doubled during the past 15 years). Sixty-nine percent (69%) of all programs now receive funding from a single funding source and 31% from multiple sources.

- Two-thirds of the programs operate on a budget of $300,000 or less and one-fifth of the programs operate on a budget of $50,000 or less. Eighteen programs (14%) have budgets of over $1,000,000. The median program budget is $200,000. In general, there is a correlation between size of budget and size of population.

- Although programs are being funded at levels greater than ever before, there are indications that resources are spread thinner due to the increased costs associated with additional screening activities, new programs, provision of supplemental services, and inflation.

Program Staffing

- Current staffing patterns reflect the expansion of pretrial programs to more rural areas nationwide. Overall, programs continue to be small operations--over 55% of the programs operate with five or fewer full-time professional staff members. Over 35% operate with two or fewer full-time professionals. Six percent (6%) have staffs of 50 or more.

- Although there is a correlation between rural population area served and staff size, i.e., 60% of the programs that serve a population of 50,000 or less have one full-time staff member or less, larger population sizes do not presumptively relate to larger program staffs.

- While the reason for the increase in small program staffs over the past ten years is the proliferation of new rural programs, the staff increase noted in larger programs is, for the most part, attributable to the increased number of arrestees interviewed and the expansion of services.

- Part-time, volunteer, and student staff continue to supplement full-time program staff. Over the past ten years, programs using part-time staff have increased from 39% to 55% (including seven programs that would not be operational but for part-time staff). Programs using volunteers and students have decreased from 30% in 1979 to 11% in 1989.

Program Hours

- Less than one-quarter of the programs (24%), mostly in urban areas with high defendant caseloads, operate on a 24 hours basis, 365 days a year. The majority of programs (75.5%) have fixed program hours and operate from five to seven days a week. Within this group, 47.5% have their hours coincide with court operations on a Monday through Friday schedule. Operating hours of the programs with fixed schedules reflect administrative location, caseloads, and other local needs. Hours range from "as needed" to just under 24 hours a day.

Defendants Interviewed

- Almost one-half of the reporting programs (46%) interview less than 2500 defendants annually, including 18% that interview less than 500 defendants. Nineteen percent (19%) interview 15,000 or more defendants each year.

- Data suggest that more arrestees are being interviewed than at any previous time. One example is the 300% increase in the number of programs that interview 10,000 or more defendants annually (38 programs in 1989 compared to 13 programs in 1979).

- For the most part, a correlation exists between the number of defendants interviewed, program size, budget, and population area served. Data suggest that the budget and manpower increases found in larger programs have been necessitated by program costs associated with higher interview totals.

- Controlling for programs' interview exclusion policies, an average of 60.5% of the arrestee population is interviewed by the programs. The interview average for programs with no blanket exclusions is slightly higher, i.e., 64% of the arrestee population is interviewed.

Program Age

- One-quarter of the programs came into existence within the past five years and 45% within the last decade. Generally, newer programs have replicated the characteristics of older programs with regard to funding sources, administrative location, staffing patterns, and other structural traits.

- The longevity of many older programs suggests the increasing stability of pretrial programs within the criminal justice system.

Jail Population

- The 58.4% average daily proportion of pretrial jail inmates reported by the programs does not significantly deviate from the Bureau of Justice Statistics' daily average of 52%.

- Over one-third of the programs operate in a jurisdiction with a jail cap or consent decree and 10% of the programs have litigation pending.

- Jurisdictional or program responses to jail crowding take one of five forms: 1) a pretrial program has been started by the jurisdiction; 2) changes have been made in program release practices; 3) changes have been made in program operations, e.g., hours of operation, establishment of a supervised release section; 4) changes have been made by other criminal justice actors; and 5) no changes have been made.

Program Interview Exclusions

- Program policies with regard to interview exclusions continued to shift from those of 'no automatic exclusions' to those of 'charge-based exclusions' in the past decade. Sixty-three percent (63%) of the programs exclude certain classes of arrestees from being interviewed on the basis of charge alone, compared to 50% in 1979.

- Almost 15% of the programs exclude an arrestee from an interview solely on a non-charge-related basis (compared to 20% in 1979).

- Twenty-two percent (22%) of the programs have a 'no automatic interview exclusion' policy (compared to 30% in 1979).

Interview Timing

- Almost 85% of the programs first contact an arrestee prior to the initial court appearance.

- Less than 10% of the programs do not have contact with or interview the defendant until after the initial court appearance. Factors that influence this time frame include small defendant caseload, lack of dedicated pretrial staff, and jurisdictional demographics.

- The primary basis for interview time frames continues to be program policies, although state statutes and/or state or local court rules have guided development of many of these policies.

Advisement of Rights

- Over three-quarters of the programs (78%) inform defendants prior to the interview that it is voluntary. Almost as many programs (74.6%) notify defendants as to how the information will be used, what limitations will be placed on its use, and who will have access to it.

- Few programs (28.4%) have a policy of obtaining documentation of a defendant's consent to an interview.

Background Information

- Criteria used to assess defendants' eligibility for release have not changed significantly in ten years. Primary emphasis continues to be placed on investigating defendants' community ties and prior criminal justice involvement--over 90% of the programs investigate both the level and longevity of these ties.

- The consistency of practices between newer and older programs suggests that newer programs have adopted and implemented older programs' instruments without independently examining the relevancy of some criteria to their own particular program and jurisdictional needs.

Verification

- Neither manpower resources nor the timing of the interview significantly hamper a program's ability to verify and make recommendations to court; 98% of the programs attempt to verify information given by a defendant, although 13.5% report exceptions to the effort.

- Although almost all of the programs (98%) attempt to obtain a defendant's adult criminal history, 46% make no attempt to obtain a defendant's juvenile criminal history, due primarily to state confidentiality statutes prohibiting access.

Assessment Scheme and Recommendation Policies

- Forty percent (40%) of the programs have the power to release a defendant on their own authority. Although almost all these programs (over 90%) have the authority to release all defendants charged with misdemeanors; the extent of their authority to release felons varies considerably.

- Approximately three-quarters (73%) of the programs make recommendations to the court concerning release of the defendant in all cases and another 20% do so when requested.

- Fifty percent (50%) exclude defendants from personal recognizance (PR) consideration on the basis of specific charges and 66% exclude defendants who are being held on warrants or detainers issued by other jurisdictions. Coupled with the programs with automatic interview exclusions, 80% of the programs have procedures in place that preclude a defendant charged with a specific offense from being considered for PR release.

- The use by programs of different types of assessment schemes to assess a defendant's eligibility for release has not changed substantially in the past ten years---more than 60% use some form of an objective scheme, although 24% use it exclusively; 27% use a subjective scheme only; and 8% provide background information only to the judicial officer.

- Slightly more than one-fifth of the programs that use an objective or combination scheme have validated their schemes.

- Almost all of the programs (88%) formally consider danger to the community when they assess a defendant's release or detention eligibility; a few programs continue to do so on an informal basis.

Release Options

- Over three-quarters of the programs report to have conditional and/or supervised release as an option and 40% have third party custody release in addition to personal recognizance. Financial release options remain viable alternatives in many jurisdictions.

- Eighty percent (80%) of the programs recommend forms of conditional release and over 50% recommend third party custody release in addition to determining or recommending PR eligibility.

- Availability of conditional and/or supervised release has not led programs to abandon the practice of recommending financial release. At least 45% of the programs recommend financial conditions of release other than 10% deposit bail (in addition to other types of release recommendations that may be made).

Pretrial Report and Dissemination

- Programs generally provide some form of written documentation to the judicial officer at the bail-setting stage, although no one practice is favored: over one-half of the programs submit a written summary of the interview and verification, a record check, and release recommendations.

- Seventy percent (70%) of the programs take some affirmative steps to provide reports to the prosecutor or defense counsel, either on a routine basis (43%) or upon request (27%).

- Although 60% of both large and small programs indicated that a pretrial representative is present at the defendant's initial court hearing, almost one-half of these programs report exceptions to this practice.

Interagency Compacts

- Three-quarters of the programs are willing to supervise, monitor, or work with defendants with charges pending in other jurisdictions, although one-half of these programs claim that resource constraints limit this activity to certain circumstances.

Supervision Activities

- Eighty percent (80%) of the programs provide supervision for defendants released with one or more conditions, although 43% do so only if specifically ordered by the court.

- Problem oriented conditions are most frequently recommended by programs. Over 70% of the programs recommend physical and mental health referral, treatment, and counseling on a routine basis.

- The average length of supervision is 112 days for programs that interview both felony and misdemeanor charged defendants; the average length of supervision is 75 days for programs that interview felony charged defendants only.

Notification

- Over 80% of the programs have some form of notification mechanism in place, although procedures vary and programs may coordinate their notification efforts with other criminal justice system personnel who retain primary responsibility for notification.

- Most programs use pre-existing contact points (initial court appearance or regular supervisory contact) to remind defendants of future court dates. More active steps to ensure defendants appearances, including telephone contact or written notification, are taken by approximately 40% of the programs.

Failure-to-Appear (FTA) Resolution

- Most programs take at least one step to try to contact defendants who fail to appear in court (usually telephone contact).

- Circumstances that prompt programs to report violation of release conditions to the court vary considerably: 15% report any failure of court-ordered conditions; 20% report failures of specific court-ordered conditions; 20% report any failure to comply (regardless of conditions); and 21% do not report violations to the court unless they are deemed to be persistent or significant.

Bail Review

- Although over 62% of the programs have implemented bail review procedures, less than one-fifth (18%) conduct bail review on a routine basis. Most programs conduct bail review only at the request of the court, counsel, or both.

Management Information Systems (MIS) and Program Data

- Almost 70% of the programs use a combined automated and manual MIS. Twenty-five percent (25%) continue to collect and maintain data manually.

- A significant percentage of programs do not track variables critical to the measurement of program operations, including FTA rates (32%), detention rates (71%), and release rates (53%), despite the fact that most programs either collect or have access to the data. Few programs routinely analyze specific data on an ongoing basis.

- The FTA rates reported by programs are consistent with the 15% average FTA rate reported nationwide.

- Pretrial crime rates reported by programs also are consistent with research figures nationwide: program rates ranged from 0 - 35% and one-half of the programs reported rates of 5% or less.

Determination of Illicit Drug Use

- Programs continue to rely on indirect indicators to detect illicit drug use by defendants: over 50% of the programs rely on a combination of self-reporting, physical indicia observed by the pretrial interviewers, previous enrollment in a treatment program, and prior criminal arrests and/or convictions for drug possession and distribution.

- Forty percent (40%) use urine testing to detect drug use by defendants, primarily as a court-ordered condition of release following a defendant's initial court appearance; 13 programs use urine testing at both pre- and post-initial court appearance stages.

- Almost one-third of the programs that conduct urine testing (23 of 72 programs) use in-house facilities; the remainder rely on pre-existing resources within their jurisdiction such as a TASC program or community corrections department.

- Sixty percent (60%) of the programs rely on the EMIT technology to test defendants' urine; confirmation testing is done with GC/MS in some cases.

- Fourteen percent (14%) of the programs have conducted research during the past three years to determine the nature and/or extent of drug use among their arrestee or pretrial detainee population.

- Almost three-quarters of all drug use research and evaluation is currently being underwritten by the federal government.

Program Evaluation

- Programs are conducting significantly less research than ten years ago--66% of the programs have performed no research or evaluation studies in the past five years.

- The types of evaluation studies conducted by programs have changed in the past ten years. More programs are now conducting cost-effectiveness studies and more emphasis is being placed on conducting impact studies of how well a program's screening techniques predict FTA or pretrial crime rates.

Supplemental Services

- Programs are increasingly assuming greater responsibility for providing other types of services to the defendant and the entire criminal justice system.

- Over 70% of the programs maintain a list of referral agencies to facilitate the placement of defendants in need of social services and two-thirds of the programs routinely refer defendants who have been identified to have a drug, alcohol, and/or mental health problem to the appropriate service or program.

- Almost three-quarters of the programs provide non-confidential background information and information on defendants, compliance with release conditions during the pretrial stage to authorized individuals for use in presentence reports.

- Less than 13% of the programs are involved in jail classification activities.

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CHAPTER ONE: INTRODUCTION

As this nation enters the third decade of the bail reform movement, it is clear that the pretrial services field has changed and continues to change. Many of the early pretrial programs have significantly expanded the scope of their services to the criminal justice system; others, for one reason or another, have left the scene. As the survey findings will later substantiate, many newer programs have started up--some as a direct or indirect result of jail crowding--that bear little resemblance to the prototype programs of the 1960s and 1970s. System actors not affiliated with pretrial programs per se, including deputy sheriffs, probation officers, community corrections staff, and bail commissioners now perform pretrial release functions in many communities.

Many new challenges and problems confront pretrial providers--jail crowding by pretrial detainees and federally imposed jail caps, high levels of illicit drug use by pretrial defendants, and crime-on-bail. For these reasons, the National Association of Pretrial Services Agencies (NAPSA), the Pretrial Services Resource Center (PSRC), and the Bureau of Justice Assistance (BJA) believed it was a fitting time to survey the state-of-the-art of pretrial services across the country.

This monograph is designed to systematically update information about pretrial program practices reported by earlier surveys and to analyze how, if at all, pretrial practices have changed and whetherthey are more or less responsive to the challenges of the 1990s.

Historical Background

During the 1970s, several surveys were conducted of pretrial release programs, their operations, and practices.[1] Each sought to provide a general assessment of the state of

[1] The major surveys conducted during the 1970s were as follows: Hank Goldman, Devra Bloom, and Carolyn Worrell, The Pretrial Release Program (Washington, D.C.: Office of Planning, Research, and Evaluation, U.S. Office of Economic Opportunity, July 1973). Less than two years later, descriptive information on 55 release programs was published by Robert Stover and John Martin in "Results of a Questionnaire Survey Regarding Pretrial Release and Diversion Programs," in Policymakers' Views Regarding Issues in the Operation and Evaluation of Pretrial Release and Diversion Programs: Findings from a Questionnaire Survey (Denver: National Center for State Courts, April 1975). The two most comprehensive surveys were conducted in 1975 by the National

existing pretrial release efforts and services at a certain point in time. The dearth of information on pretrial programs inspired the first survey to be conducted. Impetus for later surveys was derived from the continuing need of criminal justice officials to assess pretrial program effectiveness and to examine the changes in services and practices in light of numerous developments. These included:

- passage of federal and state bail reform legislation
- development of national pretrial release standards by criminal justice associations
- increase in drug-related crime and crime-on-bail
- jail caps and/or consent decrees.

Through the survey mechanism, researchers and officials attempted to document both the obvious and the more subtle program changes, e.g., changes in judicial perceptions of pretrial services and acceptance of pretrial functions by other criminal justice system actors.

The Data Base

The overall purpose of this survey was to learn in detail how diverse system actors across the country manage, administer, fund, staff, and deliver pretrial services in their respective jurisdictions--who delivers what pretrial services to whom, and how they are delivered. In seeking to develop a comprehensive profile of pretrial services programs, the objectives were threefold: 1) to identify the universe of pretrial programs as thoroughly as possible; 2) to develop baseline information of program practices and procedures; and 3) to compare the current findings to previous surveys. Although the specific tasks undertaken to achieve these objectives are detailed in Appendix A, a summary follows herewith.

The NAPSA Board of Directors and BJA personnel envisioned the survey identifying and documenting the full range of pretrial services programs and criminal justice professionals who provide information, among other services, to judicial officers in the release/detention determination. The NAPSA Board was of the opinion that the survey should be: broad, yet comprehensive; applicable to programs that were performing pretrial functions without the benefit of title; and thorough enough to allow for the development of baseline information.

Center for State Courts and in 1979 by the Pretrial Services Resource Center; findings from these surveys were presented in Wayne Thomas, et al., Pretrial Release Programs: National Evaluation Program Phase I Summary Report (Washington, D.C.: National Center for State Courts, April 1977) and Donald E. Pryor, Practices of Pretrial Release Programs: Review and Analysis of the Data (Washington, D.C.: Pretrial Services Resource Center, February 1982).

The target audience fell into two primary groups: known pretrial programs and those not yet identified. The first group was identified easily; the second group, however, eluded ready identification. Pursuant to the Board's directives, advice with regard to the issue of identification was solicited from knowledgeable representatives of criminal justice associations. It was the consensus of the individuals contacted that local probation officers and sheriffs nationwide were the two groups best situated within the criminal justice system to identify those agencies and/or individuals within their jurisdictions who provide pretrial services. Letters were sent to both groups requesting the identity of local pretrial services provider(s). Surveys were subsequently sent to pretrial providers identified by the chief probation officers or sheriffs.

It was the opinion of the NAPSA Board of Directors that federal districts should be surveyed as distinct entities in the belief that local release practices and procedures would impact each federal pretrial program differently. With few exceptions, which will be discussed later, this belief was not supported by the survey responses. Federal legislation (the Pretrial Services Act of 1982, the Bail Reform Act of 1984) and centralized administrative authority (the Administrative Office of the U.S. Courts) have fostered a nationwide uniformity of federal practices and procedures in most districts.

Approximately one-half of the surveys disseminated during the summer of 1989 were returned (355 of 730). However, this number included programs that provide pretrial services other than release- or detention-related services, e.g., diversion; monitoring and/or supervision of pretrial releasees; victim-witness, etc., as well as programs with no pretrial functions.

Since the NAPSA Board of Directors, BJA, and PSRC placed initial project emphasis on canvassing those pretrial programs involved in release or detention screening activities (alone or in conjunction with other activities), programs that fell within this category were separated from programs that did not perform screening activities. The final respondent universe totalled 265 (201 local programs and 64 federal programs).[2] Comprehensive information was obtained from 50 states, three territories, and the District of Columbia. Program locations are noted in Appendix B.

Overall, the survey sought to document to what extent pretrial services providers interview arrestees; verify arrestee background information; recommend conditions of pretrial release to the releasing authority; monitor and supervise compliance with release conditions; provide support services or referrals for defendants in need; report condition violations to the court; use different procedures and criteria to assess risk of failure-to-appear for court and/or risk of rearrest if the defendant is released; and how, if at all, they identify drug-using defendants

[2] This represents over twice the number of programs that were surveyed in 1979 (119 programs including ten federal districts).

at the pretrial stage and address their special problems and needs. Some survey questions intentionally paralleled questions asked in earlier surveys to provide a basis for comparison over the years. Appendix C contains the survey instrument disseminated to the programs.

As with earlier surveys, limitations must be noted. First, pretrial activities are extremely diverse nationwide and terminology used to describe specific activities varies considerably. To foster continuity, terms used in the pretrial vernacular were defined very broadly while still trying to convey their generally accepted technical meaning in the field (see Appendix C for a glossary of terms that accompanied the survey). However, responses frequently could not be compartmentalized and many qualifiers accompanied responses. To facilitate the data analysis, NAPSA staff categorized responses while still seeking to retain the respondent's meaning within the context of his or her own program. Extensive efforts through follow-up activities were taken to minimize any misinterpretation.

Second, the responses were taken at face value and not independently verified by NAPSA staff. Follow-up telephone interviews were conducted where information was incomplete or subject to misinterpretation. In those cases, responses were reviewed with the appropriate program administrator(s).

Third, throughout the monograph, data are compared to earlier survey findings. Although insightful, trends, comparisons, and other commentary are for suggestive purposes only and the reader is cautioned against attaching too great a significance to the data. Each of the surveys polled a different pretrial universe. For instance, 62.4% of the programs (68 of 109 non-federal programs) interviewed by PSRC staff in 1979 were surveyed in 1989. Each study contains omissions because operating programs were inadvertently overlooked or a response was not received or was received late despite follow-up efforts.

And lastly, the pretrial field is not static; rather, it operates in a milieu of continuous pressures and challenges, and thus, many programs are frequently changing their procedures and practices to be more responsive to the criminal justice system. Jurisdictions have been forced to develop innovative pretrial practices to address local concerns. The analyses below are based upon the practices and procedures of the respondent organizations as they were reported to exist in the summer of 1989.

Despite these limitations, the survey responses provide important and timely insights into program operations and practices that should have implications for program administrators and policy makers in the future. Never before has such a systematic effort been so successful in documenting pretrial practices nationwide. The information obtained provides valuable insight into what programs are doing to provide timely, relevant information on pretrial arrestees to judicial officers, and what, if anything, they are doing about crime-on-bail and failure-to-appear.

The Purposes of the Monograph

The primary purposes of the monograph are: to document current program practices and procedures; to highlight the types of changes that have occurred in the last decade; and to revisit old questions as well as raise new ones that will continue to face pretrial program administrators and policy planners in the next decade.

This monograph is being published at a time when such challenges and problems as jail crowding, drug-related crime, and illicit drug use by defendants are most pressing on the criminal justice system and pretrial programs. Many of the issues that once generated concern and controversy in the 1960s and 1970s have been resolved and become integral parts of pretrial program practices.[3] However, one mission of the pretrial program provider remains the same: to provide verified information on an arrestee to a judicial officer in a timely manner so that an informed release or detention decision can be made.

It remains critical that program administrators and policy makers re-examine their current pretrial practices and assess whether policies and/or procedures need to be modified in light of these new problems and challenges and scarce resources. Some questions, first raised in earlier monographs, are still relevant and timely. Program administrators are urged to revisit these questions and review and/or re-evaluate the need to look at their own practices in light of the continuing relevancy of the questions. Other questions relate to a more efficient use of program resources and development of new program practices. Although state statutes and local practices may limit or preclude some options (e.g., exclusionary policies and bailable offenses, type of assessment scheme used, and the consideration of danger), most jurisdictions can still develop new programs and practices within their existing statutory and structural frameworks.

Monograph Format

The monograph format generally corresponds to the normal sequence of steps taken by pretrial programs:

- The Executive Summary summarizes the findings and conclusions. Its location at the beginning of the document is not intended to substitute for review of the entire document; too many inconsistencies and qualifiers exist among pretrial programs and generalizations oversimplify pretrial practices.

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[3] For instance, legislation allowing judicial officers to consider dangerousness in setting bail has been enacted in 36 states, the District of Columbia, and by the federal government in the Bail Reform Act of 1984.

- Following this introductory chapter (Chapter One), Chapter Two provides a descriptive profile of the 201 local and state pretrial programs and 64 federal programs.

- Chapter Three discusses specific pretrial practices and policies as they correspond to procedures used before and during defendants' initial court appearances.

- Chapter Four addresses procedures used following initial court appearances to monitor defendants and aid them in making their court appearances and examines program management and data collection procedures.

- Chapter Five summarizes pretrial issues and practices that should be debated and/or addressed by program administrators and criminal justice officials in the 1990s. Practices continue nationwide that unnecessarily limit the number of defendants released pretrial or otherwise are inconsistent with the overall goals of pretrial release and efforts should be made to re-examine them.

The monograph highlights the diversity of the 201 state and local pretrial programs. Due to the overall uniformity of federal pretrial practices and procedures, data from federal programs were analyzed separately and are reported separately. Unless otherwise indicated, discussion of program procedures and practices reflect local, state, and regional programs.

Wherever possible, data from the 1989 survey are compared to findings reported by earlier surveys. Although this monograph is not a trend-analysis study, interesting observations are noted. In addition, findings are related to the national standards promulgated in the 1970s by this Association (NAPSA Release Standards, 1978), the American Bar Association (ABA Standards for Criminal Justice, Chapter 10, revised 1985), and the National District Attorneys Association (NDAA National Prosecution Standards, Chapter 10, 1977).

CHAPTER TWO: DESCRIPTIVE PROFILE OF PRETRIAL PROGRAMS

This chapter provides a descriptive profile of federal, state, and local programs including administrative location, scope and size of program (staffing, budget, hours of operation, number of defendants interviewed), program age, levels and sources of funding, operational environment, and jail population characteristics.

ADMINISTRATIVE LOCATION

Consistent with earlier survey findings and literature on the subject,[4] pretrial programs continue to operate under a wide variety of administrative arrangements. In the 1970s, both NAPSA and the ABA acknowledged that pretrial services could be rendered by programs and/or providers operating within diverse environments. Both, however, were aware of and cautioned against providers with "vested interests" or "bias."[5] The advantages and

[4] See Commentary following Standard IX of the NAPSA Release Standards, pp. 53-54; see also Andy Hall, Elizabeth Gaynes, D. Alan Henry, and Walter F. Smith, Pretrial Release Program Options (Washington, D.C.: National Institute of Justice, 1984), pp. 25-27.

[5] In the Commentary which follows Standard IX of the NAPSA Release Standards, the Association states that "pretrial services agencies should operate as neutral components of the criminal justice system and should strive to avoid any bias toward the defense or the prosecution." The Standards continue to state:

> the two most significant factors affecting placement of the pretrial services agency appear to be jurisdictional practices and funding [emphasis added]. Position and structure are generally determined by the characteristics of the jurisdiction; therefore, no specific recommendations have been made on these subjects (pp. 53-54).

Unlike NAPSA, which cautions against pretrial services being rendered by providers who could have a "vested interest," the ABA standards emphasize organizational specificity and function, stating:

> These standards do not preclude an administrative combination of the pretrial functions with other functions if such a combination is pragmatically feasible...the important objective is that a designated agency provide and coordinate pretrial services (p. 26).

disadvantages of any specific administrative location have been identified and discussed by researchers and commentators over the years.[6] Suffice it to say, the administrative placement will directly or indirectly affect program practices.

In Title II of the 1974 Speedy Trial Act, Congress directed the Administrative Office of the U.S. Courts (AO) to establish ten experimental pretrial services programs.[7] In five districts, program authority was vested in the Probation Division of the AO; in the other five districts, program authority was vested in independent boards of trustees with each program operating under a chief pretrial services officer. Although pretrial services rendered by independent offices received more favorable performance reports in the evaluations that were conducted,[8] Congress did not require independent offices when enacting the Pretrial Services Act of 1982[9] which mandated delivery of pretrial services on a federal level. Although the number of independent pretrial offices continues to increase as resources become available and defendant caseloads increase, federal pretrial services continue to be provided by both probation and independent pretrial services offices.

Federal pretrial programs located within probation offices constituted over 60% of the federal respondents. Of the 64 federal programs surveyed, 39 programs (61%) are located within districts' probation offices and 25 programs (39%) function as independent pretrial services offices.

With regard to state and local programs, Table 1 contrasts the data obtained from the 1989 survey with those of earlier surveys conducted by the U.S. Office of Economic Opportunity (OEO), the National Center for State Courts (NCSC), and PSRC. As the data show, the greatest percentage of pretrial programs (37.8% or 76 programs) are operated by state or local court systems. Local or state probation departments have responsibility for almost one-quarter of pretrial program operations (24.5% or 49 programs).

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[6] Hall et al., supra, pp. 25-27.

[7] Pub. L. No. 93-619, §§ 3152-3156, 88 Stat. 2086, 2088 (1975), amended by 18 U.S.C. §§ 3152-3155 (Supp. III 1985).

[8] Administrative Office of the United States Courts, Implementation of Title II of the Speedy Trial Act of 1974, pp. 28-42.

[9] 18 U.S.C. §§ 3152-3156 (1982). For a more detailed discussion of this, see Betsy Kushlan Wanger, "Limiting Preventive Detention Through Conditional Release: The Unfulfilled Promise of the 1981 Pretrial Services Act," The Yale Law Journal, Vol. 97, No.2 (December 1987), pp. 326-335.

Table 1. Administrative Locations: 1972, 1975, 1979, 1989

Administrative Location	1972 #	1972 %	1975 #	1975 %	1979 #	1979 %	1989 #	1989 %
	# and % in each Survey							
Courts 1/	26	29.5	32	29.1	42	35.3	76	37.8
Probation	29	33.0	36	32.7	33	27.7	49	24.4
Other public agency (corrections, public defender, prosecutor)	14	15.9	22	20.0	25	21.0	31	15.4
Private non-profit	19	21.6	15	13.6	15	12.6	20	10.0
Miscellaneous/unknown	0	0.0	5	4.5	4	3.4	25	12.4
Total	88	100.0	110	99.9*	119	100.0	201	100.0

* Rounding error
1/ Includes 10 federal programs surveyed in 1979.

At first blush, the surveys appear similar in that no pattern emerges of program administrative location. However, Table 2, which breaks down administrative locations of pretrial programs in 1979 and 1989 in greater detail, provides additional insight.

Table 2. Administrative Locations: 1979 & 1989

Administrative Location	# and % in each Survey 1979 #	1979 %	1989 #	1989 %
Probation department - state	4	3.7	14	7.0
Probation department - local 1/	13	11.9	35	17.4
Courts - state	5	4.6	40	19.9
Courts - local	32	29.4	36	17.9
Local probation & county assignment judges	11	10.1	0	N.A.
Prosecutor	2	1.8	5	2.5
Public defender	0	0.0	0	N.A.
Law enforcement 2/	4	3.7	20	10.0
Other public agency 3/	19	17.4	28	13.9
Bar association	2	1.8	1	0.5
Other private non-profit	13	11.9	16	8.0
Miscellaneous	4	3.7	6	3.0
Total 4/	109	100.0	201	100.1 *

* Rounding error
1/ Includes county probation.
2/ All law enforcement programs operate from sheriffs' offices in the 1989 survey. The 11 correction-based programs are included under 'other public agency'.
3/ Includes separate state and or county executive branch and corrections.
4/ Excludes 10 federal programs surveyed in 1979.

As the figures show, the proportion of programs run by local court systems has decreased from 29.4% in 1979 to 17.9% in 1989, while the proportion of state court-administered programs has increased from 4.6% to 19.9% during those years. Although this increase appears to be striking, it must be noted that there are 40 programs in 20 different states. In some states, these court-administered programs co-exist with other programs that are administered by different agencies (e.g., county probation, law enforcement, private non-profit, etc.). The proportion of state-administered programs that are either court-based or probation-based has increased from 8.3% (nine programs) in 1979 to 26.9% (54 programs) in 1989.

During the past decade, many states have taken steps to coordinate the delivery of pretrial services on a statewide basis and a state-based administrative location has facilitated this

movement.[10] Kentucky, the first state to formally establish a state funded and administered pretrial delivery system, has been one model studied by many jurisdictions. However, funding and staffing considerations have influenced other jurisdictions to develop alternative models of coordinating statewide pretrial delivery (e.g., Illinois, Iowa). During recent years informal steps have been taken by pretrial program administrators to foster statewide continuity and communication. Oregon practitioners are currently considering developing statewide pretrial release standards and statewide associations have been formed, or are in the process of doing so, in Florida, Colorado, Ohio, California, and New York.

Although the advantages and disadvantages of coordinating pretrial services delivery on a statewide basis have been discussed for years,[11] it appears that a number of factors in the past decade have reinforced the need for and emphasis on statewide delivery of pretrial services (e.g., the increased role of the state in funding, jail crowding pressures, and supervision needs). In addition to fostering uniformity and efficiency, the advantages of coordinating services are clear: programs can establish means to supervise defendants across county lines, build a statewide data base that is responsive to program demands, and speak in a more uniform manner to judges at the initial court appearance and to policy makers during the funding cycle.

Although the proportion of programs administered by probation departments appears to be declining (see Table 1), the more detailed breakdown in Table 2 shows that the contrary is true. The proportion of probation-administered programs in 1979 (27.7%) included 11 New Jersey programs that had a combination probation/county assignment system, i.e., they were administered by the probation department, yet under the overall authority of a county assignment judge. If these programs had been excluded (thereby making the two surveys more compatible), there would have been an overall proportion of 17.3% probation-administered programs in the 1979 survey. Using this percentage, the proportion of probation-based programs appears to have increased at both the local and statewide levels in the last decade. Another change of note is the increase in law enforcement-based pretrial programs. Whereas four programs (3.7%) reported to be law enforcement-based in 1979, 20 programs (10.0%), all located in sheriffs offices, reported to be in 1989.

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[10] As used in this monograph, coordination of services on a statewide basis denotes a variety of both informal and formal structures and associations. For example, in Kentucky a statewide pretrial system is authorized by statute, is fully state funded, and operates under the Administrative Office of the Court with a small centralized staff; in Iowa, a state system is established by statute in the Department of Corrections, but services are locally administered; and in Illinois, services are locally administered and monitored by the Administrative Office of the Court.

[11] "Pretrial Services--Are Statewide Systems the Answer?", a summary of a panel presentation, published in Proceedings of the National Symposium on Pretrial Services 1980 (Washington, D.C.: Pretrial Services Resource Center, 1980), pp. 45-50.

Table 3 displays the administrative location of the post-1979 programs, i.e., the programs that came into existence after the last survey was conducted. The figures show that there is no preference emerging with regard to type of administrative location. Although the numerical preponderance of programs have been court-based, a greater proportion of programs have been housed in probation departments or law enforcement agencies. Further, it appears that the increase in the number of court, probation, and law enforcement-administered programs has not been at the expense of the private non-profit sector; rather, non-profit-based programs proportionately have kept pace with other types of pretrial programs, with seven new private non-profit programs starting or having started in the last decade.

Table 3. Administrative Locations: Post-1979 Programs

Administrative Location	Total #	Post-1979 start-up #	Post-1979 start-up %
Courts			
- state	40	15	37.5
- local	36	17	47.2
- total	76	32	42.1
Probation	49	23	46.9
Law enforcement	20	10	50.0
Corrections	11	2	18.2
Private non-profit	20	7	35.0

The implications of the current data are unclear. Although research has not been conducted to date to determine whether one administrative location is more conducive to program efficiency and effectiveness than another, the need to perform such research may be tenuous. In spite of varying degrees of dissimilarity in practices and policies by each type of program, program practices and interviews with pretrial administrators suggest that fidelity to fundamental pretrial principles and procedures is more important than the base of operation and may offset any bias inherent to a specific location.

GOVERNING BODY

A governing body or advisory board can potentially play two critical roles in the life of a pretrial program: not only can a board offset structural biases that may be inherent to an administrative location, it also can serve as a catalyst to educate the judiciary and improve local community relations. In addressing this issue in a 1983 study of pretrial release services in New York State, researchers stated "the issue of departmental placement for

administrative purposes becomes less important if the principal of an independent oversight agency is accepted."[12]

In the pretrial setting a governing body or advisory board typically is composed of judges, court officials, attorneys, and other pretrial community representatives. Empowered with oversight responsibilities, the purposes for which a governing body may be established are: to support the pretrial program through consultation and annual operation reviews; to further the establishment of broad-based community support; to evaluate the overall effectiveness of program policies and goals; and to develop and promote alternative release options.

Although silent on the specific topic of whether pretrial programs should have governing bodies, the NAPSA Release Standards emphasize the need for cooperation and community support. Discussing this need, the Release Standards state:

> Community support is vital to the life of the agency. Although community approval of every agency position is certainly not necessary, without community support the agency will not continue to exist.[13]

One-fourth of the programs surveyed (51 programs) indicated that they have formal governing bodies, advisory boards, or committees that are responsible for the development of program goals and policies.

Upon examination of the data, it was found that a correlation does exist between the existence of a governing body and administrative location. As Table 4 indicates, private non-profits were more likely to have governing boards.[14] Eighty-five percent (85%) of the private non-profit programs have governing boards, while at the other end of the spectrum, only 5% of the law enforcement-based programs (one program) reported to have them. The remaining 33 boards are spread evenly among court, probation, and state or local government-administered operations.

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[12] Center for Government Research Inc., An Empirical and Policy Examination of the Future of Pretrial Release Services in New York State, Vol. II: Final Report (Rochester, New York: March 1983), p. 297.

[13] Commentary following NAPSA Release Standard IX, p. 55.

[14] This high percentage was to be expected since by law non-profit agencies are statutorily required to have a governing board in many states.

Table 4. Governing Body and Administrative Locations

Administrative Location	# of Programs	% of Programs
Private non-profit	17	85.0
State or local executive government	9	52.9
Corrections	4	36.4
Probation	9	18.4
Courts (state & local)	10	13.2
Law enforcement	1	5.0
Other	1	20.0

Diverse interests are represented on these governing bodies that appear to reflect both the organizational structure and community involvement. Not surprisingly, judicial officers (judges or magistrates) are represented on all but two of the 51 boards. On over 85% of the boards (44), multiple representatives sit from both the public and private sectors. Private citizens are represented on almost one-half of the boards (22 programs, primarily on non-profit boards). Other interests represented include the League of Women Voters, ex-offenders, and industry.

Although each federal program does not have a governing body per se, oversight is provided routinely by the Judicial Conference of the United States and its Committee on Criminal Law and Probation and the Administrative Office.

Information was not collected with regard to whether programs participate in, or are members of, a jail crowding or jail issues committee within their jurisdiction. These committees often provide forums for debate, discussion, and coordination of policies and procedures, and the involvement of a pretrial program on such a committee could serve as one means to promote community support and program goals. In addition, information was not gathered on whether pretrial program administrators perceived an oversight body to be superfluous or too labor intensive an activity.

The advantages of a Board of Directors are numerous. Since the pretrial stage is cross-disciplinary and involves a range of criminal justice actors (e.g., judges, prosecutors, police, and pretrial practitioners), an efficient pretrial process demands close cooperation among the actors. A Board of Directors can provide guidance and assistance to staff in resolving problems, especially where cooperation is at issue. Further, since many personal recognizance (PR) and conditional release decisions are within the discretion of the court and the success of many pretrial programs is contingent upon the policies of the judiciary in granting or denying releases, it is important that there be substantial judicial participation in setting program policies. A Board of Directors can be one mechanism to involve the judiciary in policy making. Lastly, since the pretrial field is not static, a Board of Directors

may be able to review and evaluate policies and basic organizational goals in a more detached manner than senior program staff.

SCOPE AND SIZES OF PROGRAMS

Almost all of the programs surveyed indicated that they serve local jurisdictions, i.e., a city, town, or county. One hundred sixty-nine programs (169 or 84%) described themselves as such. Twenty-two programs (22 or 11%) encompass more than one county within their jurisdiction and three programs provide services statewide.[15]

Based on the population statistics reported by the programs, there has been a dramatic proliferation of pretrial programs in less populated jurisdictions during the last decade. As Table 5 indicates, 53 of the pretrial programs (26.7%) are now situated in areas with 100,000 inhabitants or less, including 27 programs (13.6%) in areas with populations of 50,000 or less. These figures show a dramatic increase in numbers and percentages compared to a decade ago--in 1979, seven programs (6.4%) were operating in areas with 100,000 or less and only two programs (1.8%) were operating in areas of 50,000 or less.

Table 5. Estimated Population of Jurisdictions: 1979 & 1989

	# and % in each Survey			
	1979 1/		1989	
Population	#	%	#	%
less than 50,000	2	1.8	27	13.6
50,001 - 100,000	5	4.6	26	13.1
100,001 - 500,000	48	44.0	82	41.2
500,001 - 1,000,000	30	27.5	38	19.1
more than 1,000,000	24	44.0	26	13.1
Total	109	99.9*	199	100.1*

* Rounding error

1/ Numbers adjusted to exclude 10 federal pretrial demonstration sites included in the original calculation (sites located primarily in areas of 1,000,000 or more: Dallas, Philadelphia, Kansas City, Baltimore, Los Angeles, Atlanta, Chicago, Detroit, and two in the New York City area)

Two-thirds of the programs surveyed (133 programs or 66%) operate in areas described as a mixture of suburban, urban, and rural areas. Although 25 programs (12.4%) serve

[15] Connecticut, Kentucky, and Rhode Island.

primarily urban areas, a greater number of programs (32 or 15.9%) indicated that they operate in a primarily rural area. The remaining ten programs (5%) serve suburban areas only.

Federal programs, operating in 93 districts nationwide, serve larger populations and more populous areas. No federal program serves a population area of less than 100,000 inhabitants and most serve large population areas: 44 programs (68.8%) serve populations of at least 1,000,000; 11 programs (17.2%) serve populations between 500,000 and 1,000,000; and nine programs (14.0%) serve populations between 100,000 and 500,000. Reflecting the size of federal districts, almost all of the federal programs (60 programs or 93.8%) serve areas that are a mixture of suburban, urban, and rural areas. The remaining four programs are evenly split between urban and rural areas.

PROGRAM FUNDING

During the past decade, it appears that two different, yet complementary, forces have affected pretrial program funding. First, alternative sources have had to be identified with the cessation of Law Enforcement Assistance Administration (LEAA) funding. During this time period some researchers predicted that foundations could become the "lifeblood" of pretrial programs.[16] Second, however, has been the realization that pretrial programs could play a major role in reducing the jail population crisis that has been exacerbated during the 1980s.

Together, both forces, in addition to others, have affected how programs have been funded and by whom. Alternative financing is now firmly in place, and pretrial programs are being funded by local, state, and private sources at levels greater than ever before. Some funding has been spurred directly or indirectly by jail crowding. This subsection reviews the levels of funding as well as the sources of funding.

Levels of Funding

Table 6 displays the funding for the 116 programs for which budget information was available.[17] Many pretrial programs appear to be operating on meager budgets, i.e., almost one-fifth (22) of the programs nationwide have a budget of $50,000 or less. However, this

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[16] Chris W. Eskridge, Pretrial Release Programming: Issues and Trends (New York: Clark Boardman Company, Ltd., 1983), pp. 37-39.

[17] Ten programs that reported salary information only were excluded from the calculations reported below.

proportion is consistent with staffing patterns nationwide, i.e., the number of one and two-person offices. Almost two-thirds (76) of the pretrial programs operate on budgets of $300,000 or less.

At the other end of the spectrum, 18 programs (15.5%) operate with budgets of $1,000,000 or more.[18] As one might expect, there is a correlation between the size of budget and size of population served: of the programs in the 18 largest geographical areas that reported budgets, 50% (nine programs) have budgets over $1,000,000.

Although the average program budget is $563,508, this figure reflects the skewing effect of programs with very large budgets. The median program budget nationwide is $200,000.

Table 6. Program Budgets

Budget Amounts	# of Programs	% of Programs
$50,000 or less	22	19.0
50,001 - 100,000	14	12.0
100,001 - 200,000	23	19.8
200,001 - 300,000	15	12.9
300,001 - 400,000	6	5.2
400,001 - 500,000	5	4.3
500,001 - 1,000,000	13	11.2
1,000,001 - 3,000,000	14	12.1
more than 3,000,000	4	3.4
Total	116	99.9*

* Rounding error

Table 7 presents a comparison of 1979 and 1989 budgets. Extrapolating the data, it would seem that programs are being funded at levels greater than ever before.[19] However, it is unknown how much the increases in program budgets are attributable to inflation, additional staff, or new program activities. There are indications that resources may be spread thinner than a decade ago. Programs are screening more defendants, monitoring large numbers of

[18] This number includes two of the statewide pretrial systems--Connecticut and Kentucky. Rhode Island's budget is part of the State Supreme Court's budget.

[19] This statement is further strengthened by the recognition that approximately the same number of programs in the largest geographic areas were polled in both surveys (24 and 26 programs in jurisdictions with populations of 1,000,000 or more in 1979 and 1989 respectively).

defendants released on non-financial conditions, spending resources on urine testing of defendants at the pre-initial appearance stage, and providing supplemental services.

Table 7. Program Budgets: 1979 & 1989

	# and % in each Survey			
	1979		1989	
Budget Amount	#	%	#	%
$25,000 or less	9	9.9	8	6.9
25,001 - 50,000	11	12.1	14	12.1
50,001 - 75,000	12	13.2	8	6.9
75,001 - 100,000	16	17.6	6	5.2
100,001 - 150,000	10	11.0	10	8.6
150,001 - 200,000	10	11.0	13	11.2
200,001 - 300,000	8	8.8	15	12.9
300,001 - 400,000	5	5.5	6	5.2
400,001 - 500,000	2	2.2	5	4.3
500,001 - 1,000,000	4	4.4	13	11.2
more than 1,000,000	4	4.4	18	15.5
Total	91	100.1*	116	99.9*

* Rounding error

With regard to federal programs, no reliable budget data were available. Since budget and manpower allocations and decisions are the AO's responsibility, most chief pretrial services officers were not aware of or could only estimate their district's pretrial budget. Fifty (50) chief pretrial services officers did not report budget information; budgets reported by the other 14 chief pretrial services officers ranged from $92,000 to $1,300,000 (with the average budget $503,592).

Twenty-five (25 or 16.6%) programs reported no distinct pretrial budget, i.e., since pretrial functions are a part of other budgets, program administrators are unable to report cost information. Pretrial costs are subsumed into other budgets as follows: court (four programs), probation (five programs), corrections or sheriff's department (seven programs), prosecutor's office (one program), and a statewide system (three programs).

It can be more difficult to calculate pretrial costs and determine program cost-effectiveness when staff perform multiple functions and/or no distinct budget exists. In addition, the true costs of a pretrial program may not be reflected in the program budget: frequently, the costs associated with occupancy, telephone, duplicating, security, and other services may be paid by another criminal justice agency as part of their expenses. However, program

administrators who either function without a distinct budget or are not aware of their true program costs should be wary of two things: first, pretrial program effectiveness can become more difficult to measure without budget information; and second, administrators could be at the mercy of policy makers with differing interests. If budget cuts were made, pretrial functions might be more vulnerable than traditional agency activities. Efforts should be made to ensure that pretrial interests are not sacrificed.

Sources of Funding

Over the past decade researchers predicted that funding for pretrial programs would undergo a transitional period.[20] Questions were raised about the availability of and sources for start-up funding. It was uncertain whether state and local governments would foot the bill for local pretrial release programs with the cessation of federal monies.

Tables 8-10 highlight the shifts in funding that have taken place over the past 17 years. Table 8 shows overall funding levels over those years and Tables 9 and 10 detail primary and secondary funding.[21] As Table 9 indicates, over 40% of the local pretrial programs nationwide received their primary funding from the federal government as late as 1975. Four years later, in 1979, this percentage had decreased dramatically to just over 15%. To make up the shortfall, programs turned to local and state governments. From 1975 to 1980, county and state funding percentages rose from 34.9% to 57.1% and 9.2% to 12.6%, respectively. During this time period, secondary funding from these sources decreased (see Table 10).

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[20] For more discussion of this subject, see Wayne H. Thomas, Jr., Bail Reform in America (Berkeley, CA: University of California Press, 1976), pp. 121-127; Pryor, supra, pp. 19-23; and Eskridge, supra, pp. 38-39.

[21] As used in this section, primary funding means that a program receives more than 50% of its funding from a specified source. If a program receives less than 50% from a specified source, these funds are designated as secondary funding.

Table 8. Comparison of Funding Sources: 1972, 1975, 1979, 1989 1/

% of Programs in Each Survey Receiving Funding From Each Source 2/

Funding Source	1972	1975	1979	1989
LEAA grants 3/	47.7	44.9	12.7	n.a.
Other federal funds 4/	3.6	9.2	7.4	
County government	51.1	57.8	68.0	75.3
Municipal government	11.4	14.6	11.7	7.4
State government	28.4	19.3	17.6	37.4

1/ Based on the figures derived from the Office of Economic Opportunity (OEO) survey conducted in 1972; the National Center for State Courts (NCSC) survey conducted in 1975; the Pretrial Services Resource Center (PSRC) survey conducted in 1979; and the National Association of Pretrial Services Agencies (NAPSA) survey conducted in 1989.
2/ Percentages reported include both primary and secondary sources of funding.
3/ LEAA grants were phased out in the 1980s.
4/ Other federal funds were not separately listed in the 1972 OEO survey report.

Table 9. Comparison of Primary Funding Sources: 1972, 1975, 1979, 1989 1/

% of Programs in Each Survey Receiving Primary Funding from each Source 2/

Funding Source	1972	1975	1979	1989
LEAA grants 3/	37.5	37.6	5.9	n.a.
Other federal funds 4/		2.7	9.2	.5
County government	32.9	34.9	57.1	62.1
Municipal government	9.1	11.9	7.5	3.2
State government	11.4	9.2	12.6	23.2

1/ For sources of percentages, see Table 8, note 1.
2/ Primary funding occurs in instances where programs receive majority (51%) funding from a specified source.
3/ LEAA grants were phased out in the 1980s.
4/ Other federal funds were not separately listed in the 1972 OEO survey report.

Table 10. Comparison of Secondary Funding Sources: 1972, 1975, 1979, & 1989 1/

Percentage of Programs in Each Survey Receiving Secondary Funding from Each Source 2/

Funding Source	1972	1975	1979	1989
LEAA grants	10.2	7.3	6.8	n.a.
Other federal funds 3/		.9	n.a.	6.8
County government	18.2	22.9	10.9	13.2
Municipal government	2.3	2.7	4.2	4.2
State government	17.0	10.1	5.0	14.2

1/ For sources of percentages, see Table 8, note 1.
2/ Secondary funding occurs in instances where programs receive partial funding from a specified source, but not a majority (51%).
3/ Other federal funds were not separately listed in the 1972 OEO survey.

During the past decade federal monies all but evaporated (except for federal programs) and by 1989 constituted a mere 0.5% of primary program funding. These monies were targeted primarily for drug-related research and included BJA's Drug Testing and Technology Transfer Program (DTTT) and the National Institute of Justice's (NIJ) Drug Use Forecasting (DUF) Program.

The figures confirm the dramatic shift that has taken place over the past 15 years. Whereas over one-third of the pretrial programs received primary funding from the federal government in 1975, by 1989 virtually no program did. Concurrently, however, primary county funding almost doubled and state funding increased from under 10% to almost 25%. The state funding increase takes on even greater significance in light of the fact that secondary funding by state and local governments also increased during this period (see Table 10). At the present time 16 states (or 41% of the 39 state jurisdictions that responded) fully fund at least one pretrial program.

Table 11 displays the proportion of program funding from various sources in 1989. In 1989, over 65% of all pretrial programs receive 100% funding from state or local governments. Although the percentage of 100% funding has remained constant at the county level since 1979, it has shown a dramatic increase at the state level. Total state sponsorship of pretrial programs has risen by almost 300%. Furthermore, 21 programs receive at least 50% funding from the state.[22]

[22] Matching funds usually come from county government.

Table 11.

PROPORTION OF PROGRAM FUNDING FROM VARIOUS SOURCES
 # and % of Programs Receiving Specified Amount of Funding from Each Source [1/]

Funding Source	None		1 - 25%		26 - 50%		51 - 75%		76 - 99%		100%	
	#	%	#	%	#	%	#	%	#	%	#	%
Federal Funds	176	92.6	10	5.3	3	1.6	1	.5	0	0.0	0	0.0
State Government	119	62.6	5	2.6	22	11.6	5	2.6	6	3.2	33	17.4
Municipal Government	176	92.6	6	3.2	2	1.1	0	0.0	2	1.1	4	2.1
County Government	47	24.7	9	4.7	16	8.4	18	9.5	8	4.2	92	48.4
Private Contributions	187	98.4	2	1.1	1	.5	0	0.0	0	0.0	0	0.0
United Way	188	98.9	2	1.1	0	0.0	0	0.0	0	0.0	0	0.0
Fees	173	91.0	6	3.2	6	3.2	0	0.0	3	1.6	2	1.1

1/ Table should be read across rows, each row totalling 190 programs and 100%. For example, 119 programs (62.6% of all programs) received no funding from State governments, five programs received 1%-25% of their funding from State governments, 22 programs received 26%-50%, five programs received 51%-75%, six programs received 76%-99% and 33 programs received 100%. In addition, 174 programs have one primary source of funding, i.e., a funding source that provides a majority of a program's funds.

One can safely conclude that since 1975 state and local governments nationwide have become more fiscally responsible for the establishment and operation of pretrial programs. The reasons for this involve multiple considerations. Federal demonstration projects and grants tend to be for start-up and initial program implementation and have a limited time span. The expectation is that if the programs are viable, state and local sponsors will take over the funding or incorporate the costs into an existing funding base. In addition, state and local governments may be assuming more responsibility in response to the increased jail crowding pressures.

Discussing the 1979 survey results, Pryor suggested that there was a correlation between multiple or single funding sources and the stability of program funding. Noting the sharp decline in the percentage of multiple funding sources in 1979 compared to the two earlier surveys, Pryor expressed concern about the stability of continued funding as well as the availability of start-up funding.[23]

With regard to single and multiple source funding, some of Pryor's concerns appear to be addressed by the figures reported by the 1989 respondents. In 1979, 26% of the programs reported multiple funding sources, a sharp decline from the 59% and 54% reported in earlier surveys.[24] In 1989, the proportion of programs with multiple source funding increased to 30.9%.[25] Sole source funding decreased from 75% in 1979 to 69.1% in 1989. The similarity of these proportions suggests that funding has stabilized during the past decade. Whereas the 1979 survey documented the fiscal shifts taking place while federal government support was being replaced by state and local support, the 1989 survey suggests that this shift has been accomplished and that programs have been successful in generating both start-up and continuation support from the non-federal sectors.

New programs have proliferated during the past decade and over one-third of the programs surveyed have begun their operations since 1979. Most of the growth in the pretrial field has occurred either in the more rural communities or on a statewide level.[26] Examination of funding sources reveals that state and local governments have been willing to assume the burden of start-up and maintenance costs.

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[23] Pryor, supra, pp. 21-23.

[24] Ibid., p. 22.

[25] The continuation of multiple funding sources may reflect a resourcefulness on the part of the pretrial program or a lack of commitment by the local or state government.

[26] Growth continues in selective urban areas of the country, e.g., the Cook County (Chicago, IL) Pretrial Services Program started operations in March 1990.

PROGRAM STAFFING PATTERNS

Given that many of the newer programs are located in more rural communities nationwide, it should come as no surprise that over one-half of the pretrial programs (112 programs or 55.7%) reported operating with five or fewer full-time professional staff members.

As Table 12 indicates, 70 state and local programs (35.7%) operate with two or fewer staff members. This number includes all categories of personnel--professional and support staff as well as students and volunteers. Twelve programs (16.1%) operate with staffs of 50 or more. Table 13 provides an overview of professional staffing patterns only.

With regard to federal programs, staff sizes were found to be comparable to medium sized local and state programs. As Table 14 shows, most programs (52.4%) operate with six to 15 staff members and only six programs (9.5%) operate with two or fewer staff. Table 15 provides an overview of professional staffing only.

Table 12. State/Local Program Staffing (Full and Part-time Staff) 1/

Staff Number	Full-time		Part-time	
	#	%	#	%
None	15	7.7	88	45.1
1	33	16.8	40	20.5
2	22	11.2	15	7.7
3	14	7.1	12	6.2
4	13	6.6	3	1.5
5	15	7.7	7	3.6
6-7	13	6.6	9	4.6
8-10	18	9.2	10	5.1
11-15	15	7.7	3	1.5
16-20	13	6.6	2	1.0
21-25	3	1.5	1	.5
26-50	10	5.1	3	1.5
more than 50	12	6.1	2	1.0
Total	196	99.9*	195	99.8*

* Rounding error

1/ Support staff, volunteers, and students are included in the tabulation.

Table 13. State/Local Program Staffing (Professional Staff)

Staff Number	Full-time #	Full-time %	Part-time #	Part-time %
1	37	20.9	26	39.4
2	22	12.4	11	16.7
3	20	11.3	6	9.1
4	17	9.6	4	6.1
5	8	4.5	3	4.5
6-7	15	8.5	7	10.6
8-10	14	7.9	5	7.6
11-15	16	9.0	3	4.5
16-20	7	4.0	0	0.0
21-25	4	2.3	0	0.0
26-50	8	4.5	1	1.5
more than 50	9	5.1	0	0.0
Total	177	100.0	66	100.0

Table 14. Federal Program Staffing (Full and Part-time Staff)

Staff Number	Full-time #	Full-time %	Part-time #	Part-time %
None	0	0.0	44	69.8
1	2	3.2	9	14.3
2	4	6.3	2	3.2
3	5	7.9	2	3.2
4	3	4.8	1	1.6
5	3	4.8	1	1.6
6-7	10	15.9	1	1.6
8-10	11	17.5	3	4.8
11-15	12	19.0	0	0.0
16-20	6	9.5	0	0.0
21-25	4	6.3	0	0.0
26-50	3	4.8	0	0.0
more than 50	0	0.0	0	0.0
Total	63	100.0	63	100.1*

* Rounding error

Table 15. Federal Program Staffing (Professional Staff)

Staff Number	Full-time #	Full-time %	Part-time #	Part-time %
None	0	0.0	60	95.2
1	6	9.5	1	1.6
2	7	11.1	0	0.0
3	4	6.3	1	1.6
4	7	11.1	0	0.0
5	7	11.1	0	0.0
6-7	10	15.6	1	1.6
8-10	8	12.5	0	0.0
11-15	11	17.5	0	0.0
16-20	3	4.8	0	0.0
21-25	0	0.0	0	0.0
26-50	0	0.0	0	0.0
more than 50	0	0.0	0	0.0
Total	63	99.5*	63	100.0

* Rounding error

With regard to local programs, it was hypothesized that a correlation would exist between size of staff and size of population; this assumption was not borne out entirely. It was found that larger population areas served do not presumptively relate to larger program staffs. Although seven of the programs that serve populations of one million or more inhabitants operate with staffs of 50 or more, almost 60% (15 of 26 programs) operate with staffs of 20 or less. On the other hand, there is a correlation between staff size and rural population areas served: of the 26 programs that service areas with a population of 50,000 or less, almost 60% (15) either have one or no full-time staff. In addition, part-time staff operate six programs and two part-time volunteers administer a seventh program.

Sixteen programs (16 or 8.2%) operating within diverse environments reported that no staff was exclusively assigned to pretrial activities; rather, they performed multiple functions including their pretrial duties. Court-based programs were as likely to have multi-functional staff as programs administratively situated in corrections, sheriffs offices, or probation.[27]

[27] In all likelihood, the number of programs without dedicated pretrial staff is under-reported. The information was volunteered by programs and not prompted by a direct question on the subject.

Comparison of present program staffing patterns with those reported a decade ago are detailed in Tables 16 and 17. Table 16 provides a detailed staffing breakdown, while Table 17 displays overall staffing percentages.[28] As Table 17 reveals, very small staffs as well as large staffs increased about 10% over the last decade with a corresponding decrease in medium-staffed programs.

Table 16. Program Staffing: 1979 & 1989 1/

	Full-time				Part-time			
	1979		1989		1979		1989	
Staff Number	#	%	#	%	#	%	#	%
None	2	1.7	15	7.7	69	61.1	88	45.1
1	12	10.3	33	16.8	10	8.8	40	20.5
2	18	15.5	22	11.2	7	6.2	15	7.7
3	15	12.9	14	7.1	6	5.3	12	6.2
4	11	9.5	13	6.6	4	3.5	3	1.5
5	11	9.5	15	7.7	2	1.8	7	3.6
6-7	12	10.3	13	6.6	5	4.4	9	4.6
8-10	14	12.1	18	9.2	5	4.4	10	5.1
11-15	7	6.0	15	7.7	1	.9	3	1.5
16-20	3	2.6	13	6.6	2	1.8	2	1.0
21-25	3	2.6	3	1.5	0	0.0	1	.5
26-50	5	4.3	10	5.1	2	1.8	3	1.5
more than 50	3	2.6	12	6.1	0	0.0	2	1.0
Total	116	99.9*	196	99.9*	113	100.0	195	98.8*

* Rounding error

1/ Table for suggestive purposes only. 1979 survey tabulations exclude secretarial and clerical staff, while 1989 survey tabulations include secretarial and clerical staff.

[28] In the 1979 PSRC survey, secretarial and clerical staff were not counted, whereas the 1989 survey tabulations included support staff. Therefore, the changes in full-time professional staff between 1979 and 1989 may not as great as noted and are presented for suggestive purposes only.

Table 17. Program Staffing Patterns: 1979 & 1989

# and Type of Staff	Percentage of Programs 1979	1989
less than 3 full-time	27.6	35.7
3 - 4 full-time	22.4	13.8
5 - 10 full-time	31.9	23.5
more than 10 full-time	18.1	27.0
1 or more part-time	38.9	54.9
1 or more volunteer	30.4	11.3

As indicated earlier, there has been a dramatic increase in the number of pretrial offices in the more rural areas throughout the nation. Given this fact, it is no surprise that the overall percentage of one to three-person offices has increased during the past decade. In addition, it appears that the increase in offices with ten or more full-time staff corresponds to the influx of arrests, the increase in the number of defendants interviewed, or the expansion of conditional or supervisory release activities, all of which justify the addition of staff.

This survey did not investigate whether pretrial programs are spreading themselves too thinly attempting to provide too many pretrial-related services or conversely, whether fiscal or policy limitations have forced programs to concentrate on providing basic pretrial services only (e.g., interviewing, reporting, etc.) In this survey, small and large staffed programs alike indicated that numerous services could not be provided due to staffing limitations.[29]

The use of part-time staff as well as volunteers and students in a pretrial operation remains a potentially economical means to supplement full-time staff. In 1979, Pryor noted a substantial decrease in the numbers of part-time staff used over a five-year period--whereas 54% of the programs reportedly used part-time staff in 1975, this percentage had dropped to 39% by 1979.[30] However, current figures suggest that is no longer true. As Table 17 shows, almost 55% of the programs indicated that they use part-time staff. Although the proportion of part-time staff used in larger operations has remained relatively constant over the past decade (about 5%), it has increased substantially within smaller operations--28% of one or two person operations used part-time personnel in 1989 compared to 15% in 1979. Illustrative of the potential value of part-time personnel to smaller program is the fact that

[29] Frequently programs reported that staffing limitations prevent pretrial representatives from appearing at defendants' initial hearings and limit the ability of the agency and/or program to enter into inter-agency compacts with other jurisdictions.

[30] Pryor, supra, note 18, pp.16-17.

seven programs in jurisdictions with 50,000 or fewer inhabitants would not be operational but for part-time staff members.[31]

Although it appears that the number and proportion of part-time staff are once again increasing, the same cannot be said about the use of volunteers and students over the past decade. As Table 17 indicates, the proportion of programs employing one or more volunteers has decreased from 30% in 1979 to 11% in 1989. All but one of the 22 programs which use volunteers report doing so on a part-time basis. However, four programs make substantial use of volunteers--the size of volunteer staff among those programs ranges from 20 to 75 persons. Twice as many programs use students to complement the full-time force as they do volunteers. Of the 44 programs that use students, over 70% use them on a part-time basis. Although most of the programs routinely use only one or two students, one program reported using 120 students.

The decrease in the use of volunteers in the labor force may be attributable to the greater problems associated with recruiting, training, and retaining volunteers and students compared to part-time staff.[32] However, program administrators who have used both types of resources to supplement their existing full-time staffs maintain that volunteers remain a cost-effective way to provide or enhance the level of pretrial services rendered in a jurisdiction.[33] The beneficiaries of the pretrial program which operates solely on a volunteer-staffed basis would probably not disagree.

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[31] One of these programs is run by part-time volunteers.

[32] In the Commentary following Standard IX, the NAPSA Release Standards acknowledge that, although part-time staff "may pose a significant supervision problem...and may also require proportionately more training time per staff person than full-time personnel," it can, nevertheless, "allow [for] substantial flexibility in assignments and a larger pool of talent from which to select permanent staff" (p. 54).

In regard to volunteers the Release Standards, which again acknowledge the turnover and unreliability factors associated with a work-force of volunteers, state that "careful selection of volunteers can result in an inexpensive but highly effective work-force" (p. 55).

[33] For further discussion of the benefits of students and volunteers, see Giannina Rikoski and Debra Whitcomb, An Exemplary Project: The D.C. Pretrial Services Agency (Washington, D.C.: National Institute of Justice, May 1982).

HOURS OF PROGRAM OPERATION

Both the NAPSA and ABA Release Standards emphasize the need for a speedy release. Early in the standards NAPSA states that "release should be accomplished at the earliest time and by the least restrictive procedure available."[34] Later in the Commentary when discussing objectives a pretrial program should pursue, the drafters state that "maximum cost savings and minimum imposition on the arrestee or accused are achieved through release of the accused at the earliest possible time after arrest."[35]

Undoubtedly, a pretrial program operating continuously, i.e., 24 hours a day, 365 days a year, furthers the articulated objectives and goals of speedy release. However, other factors that influence the determination of operating hours include, but are not limited to: the existence of state or local statutes that specify timeframes with regard to defendants' interview and/or initial court appearances; the need to maximize staff and program resources; the demographic characteristics of a jurisdiction, including population served and defendant caseload size; administrative location; the existence of delegated release authority; and the availability of judicial officers.

For the most part federal procedures are uniform: over three-quarters (78.1% or 50 programs) of the federal programs adhere to Monday through Friday schedules with 14 of these programs on-call continuously. Nine programs (14%) operate 24 hours a day, 365 days a year and the remaining five programs (9.4%) operate regularly or at the request of court on the weekends.

With regard to state and local operating hours, Table 18 shows that 48 programs (24%) report to operate continuously, i.e., 24 hours a day, 365 days a year. Although over one-half of the 24-hour programs serve population areas of at least 500,000 (25 programs or 52%), seven programs serve population areas of 50,000 or less.[36]

Over three-quarters of the programs (75.5% or 151 programs) have fixed program hours five to seven days a week. While most programs (95 programs or 47.5%) adhere to a schedule that overlaps or coincides with court hours and operate on Monday through Friday

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[34] See Commentary following NAPSA Release Standard II, p. 9.

[35] See Commentary following NAPSA Release Standard VIII.C.2., p. 52.

[36] Five of the seven pretrial program in areas of 50,000 or less are located within the Sheriff's Office. Further, Sheriff's Offices are responsible for administering 60% of the pretrial programs that operate continuously in areas of 100,000 or less.

schedules,[37] others provide additional coverage on weekends and holidays. The range in operating hours of programs with set schedules is great and reflects administrative placement, defendant caseload, local jurisdictional practices, and needs; one program operates on an "as needed" basis while many operate just under 24 hours a day.

Table 18. State/Local Program Hours of Operation

Hours of Operation	# of Programs	% of Programs
7 days/week, 24 hours/day	48	24.0
7 days/week, set hours	42	21.0
6 days/week, set hours	14	7.0
5 days/week, court or business hours	95	47.5
Miscellaneous	1	.5
Total	200	100.0

DEFENDANTS INTERVIEWED

The growth of pretrial services in rural jurisdictions nationwide is clearly reflected in the numbers of defendants interviewed each year by programs.[38] As Table 19 illustrates, almost one-half of the programs with information available (141 programs or 46%) interview 2500 defendants or fewer each year (an average of seven defendants per day on a 24 hour schedule or ten per day on a Monday through Friday schedule). Eighteen percent (18% or 26 programs) interview fewer than 500 defendants a year. In light of the proliferation of programs with small budgets and staffs (35.7% of the programs operate with two or fewer

[37] Ten of the 95 programs provide "24-hour on-call" coverage. Overall, 14 of the 151 programs that have set operating schedules have this capability. If these programs are tallied with the number of programs that provide actual 24-hour coverage, the total increases to 62 programs (31%).

[38] The paucity of statistical information supplied by pretrial programs hindered the development of meaningful findings in certain areas, including the number of defendants interviewed. Frequently programs stated that the survey data requested were unavailable or could not be accessed by staff without considerable effort. Thus, many programs were able to supply the number of defendants interviewed by staff in the past year, but were unable to provide information on the number of arrests in their jurisdictions, the number of interview exclusions, etc. Because the universe of programs that provided statistical information is often significantly smaller, caution should be exercised when reading this and other data sections.

staff persons), these numbers are consistent. At the opposite end of the spectrum, over 19% (27 programs) are interviewing at least 15,000 defendants per year (from 41 to 57 defendants per day depending upon program hours).

Table 19. Number of Defendants Interviewed Annually by State/Local Programs

Number of Interviews	# of Programs	% of Programs
250 or less	14	9.9
251 - 500	12	8.5
501 - 750	7	5.0
751 - 1000	2	1.4
1001 - 1500	13	9.2
1501 - 2000	10	7.1
2001 - 2500	7	5.0
2501 - 5000	25	17.7
5001 - 10,000	13	9.2
10,001 - 15,000	11	7.8
15,001 - 25,000	15	10.6
25,001 - 50,000	8	5.7
more than 50,000	4	2.8
Total	141	99.9*

* Rounding error

Table 20 displays the number of defendants interviewed by federal programs. As the data show, the number of annual interviews is significantly less than for state and local programs. Unlike the state and local programs, over one-half of the federal programs interview 250 defendants or fewer each year and no program interviews more than 5000 defendants. One obvious reason for this lower interview caseload at the federal level relates to the types of defendants interviewed; whereas many state and local programs interview individuals charged with petty violations and misdemeanors, most federal programs exclude these individuals from interviews.

Table 20. Number of Defendants Interviewed Annually by Federal Programs

Number of Interviews	# of Programs	% of Programs
250 or less	28	51.9
251 - 500	9	16.7
501 - 750	7	13.0
751 - 1000	4	7.4
1001 - 1500	2	3.7
1501 - 2000	1	1.9
2001 - 2500	1	1.9
2501 - 5000	2	3.7
5001 - 10,000	0	0.0
10,001 - 15,000	0	0.0
15,001 - 25,000	0	0.0
25,001 - 50,000	0	0.0
more than 50,000	0	0.0
Total	54	100.2*

* Rounding error

All 46 federal programs with both arrest and interview information were examined. The interview percentages for the federal programs were significantly higher than for state and local programs. Without controlling for program exclusions, 86.3% of the arrestee population is being interviewed by federal programs; of 25,558 arrestees reported by the 46 programs, 22,787 interviews were conducted. This percentage further increases to 92.4% when controlling for programs exclusions. The high interview percentage within federal districts is attributable in part to the types of federal offenses; very few misdemeanor charges are filed in the districts and few program exclusions operate to preclude an interview.

A detailed examination was made of the 93 state and local programs able to supply both arrest and interview data. Ten of the 11 highest interview totals were found in programs that serve populations of one million or more and operate with higher than average budgets and staffs.[39] For the most part, a correlation exists between the number of defendants interviewed, program size and budget, and population served. However, eight programs that serve populations of over one million have comparatively low interview totals that range

[39] The number of interviews ranged from 16,000 to 211,525.

from 420 to 6269 defendants a year.[40] For some programs limited resources may be partially to blame--staff sizes range from one to five in three programs--but the reasons are less obvious in the others (three programs had staff sizes of 12, 16, and 17 respectively and budgets greater than the median budget, i.e., over $200,000). Without additional information on each program's release practices, the types of defendants interviewed (felony versus misdemeanor), and the level of services provided, it is difficult to ascertain how efficiently these programs are operating and whether they should be interviewing additional defendants.

Without controlling for the number of defendants excluded from interviews due to local statutes and/or program policies, 39.1% of the arrestee population was interviewed by the reporting programs--of 3,175,362 arrests reported by the 93 programs, 1,242,275 interviews were conducted. Over three-quarters of all arrests reported (77.3%) and just under three-quarters of all interviews conducted (74.4%) were done by 25 programs.[41]

The percentage of interviews increases dramatically to 60.5% when controlling for interview exclusions. This percentage comports with programs that have no automatic interview exclusions--22 of the 43 programs with no exclusions were found to interview from 12.6% to 100% of the arrestee population averaging 64% during the last reporting year.

Table 21, which compares 1979 with the 1989 data, suggests that programs currently are interviewing more defendants than at any time previously surveyed. In the past decade the most dramatic increase has taken place in the number of programs that interview over 10,000 defendants--whereas 13 programs interviewed over 10,000 defendants in 1979, the number has almost tripled now (38 programs). Clearly the influx of arrests in recent years has contributed to the higher funding levels and the ten percent increase in staff in larger programs noted elsewhere in this report.

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[40] To put these numbers into perspective, the remaining programs that serve similar jurisdictions interview the numbers reported in footnote 39.

[41] By comparison, the 25 jurisdictions with the smallest numbers constituted 1.9% of all arrests and 1.7% of all interviews.

Table 21. Number of State/Local Defendants Interviewed Annually: 1979 & 1989

Number of Interviews	% of Programs 1979	1989
500 or less	11.2	18.4
501 - 1000	19.4	6.4
1001 - 2000	18.4	16.3
2001 - 2500	7.1	5.0
2501 - 5000	17.3	17.7
5001 - 10,000	13.3	9.2
10,001 - 25,000	9.2	18.4
more then 25,000	4.1	8.5
Total	100.0	99.9*

* Rounding error

AGE OF PROGRAMS

Pretrial program attrition and lack of stability prompted the author of the 1979 PSRC survey monograph to articulate concerns about the field's viability during the 1980s and beyond.[42] Based on the figures that he was reporting and in light of the funding situation as of 1979, this concern was understandable. Emphasizing this point, Pryor noted that only 14% of the programs included in the survey had started operations during the prior four years between 1976 and 1980. The most recent findings, however, should dispel many of the apprehensions held by Pryor.

In response to the Congressional mandate articulated in the Pretrial Services Act of 1982, most federal pretrial services programs have been established in the past decade. Although 12 districts (18.8%) reported to have been established between 1975 and 1979, including the ten demonstration projects referred to earlier, most federal programs have come into existence in the past decade--32 programs (50%) were established between 1980 and 1984 and 20 programs (31.2%) were established since 1985.[43]

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[42] Pryor, supra, note 17, pp. 19-20.

[43] In some instances, federal programs provided two starting dates, i.e., the year their district began to provide pretrial services under the auspices of the Probation Office and the year a separate pretrial services office was established. In these cases, the year the district began to provide pretrial services was recorded as the operational year.

A stability appears to have emerged in the pretrial field, as evidenced by the continuity in the number of older programs. A detailed comparison of program birthdates from both surveys is presented in Table 22. Examining the figures, one observes that an almost equal number of programs came into existence prior to 1970.[44] However, as Table 23 shows, over one-quarter of the state and local programs (50 programs) came into existence in the last five years and over 45% (85 programs) in the last decade.

Table 22. Age of State/Local Programs: 1979 & 1989

Year Program Began	Number of Programs 1979	1989
prior to 1963	1	1
1963-1964	5	4
1965-1966	2	1
1967-1968	4	4
1969-1970	10	10
1971-1972	23	16
1973-1974	25	26
1975-1976	28	21
1977-1978	15	16
1979-1980	1	10
Total	114	109

[44] Without access to the raw data used in the 1979 survey, it is impossible to determine whether the same respondents answered both surveys or whether (and to what extent) attrition has played a role.

Table 23. Age of State/Local Programs

Year Program Began	# of Programs	% of Programs
prior to 1964	2	1.0
1964 - 1969	13	7.0
1970 - 1974	45	24.2
1975 - 1979	41	22.0
1980 - 1984	35	18.8
1985 - 1990	50	26.9
Total	186	99.9*

* Rounding error

One objective of this survey was to determine how newer programs (post-1979) mirror the characteristics of older traditional programs. In terms of administrative location, funding sources, staffing patterns, and other structural characteristics, the newer programs have, for the most part, replicated the structural characteristics of older, more established programs. However, as the next chapter will discuss in greater detail, the practices and procedures used by newer programs have been responsive to varying degrees to statutory changes, political pressures, and a different type of defendant profile. One example of the changes by newer programs involves the type of assessment schemes used. Newer programs are less likely to use purely subjective schemes to assess the release eligibility of arrestees. Rather, newer programs are opting to use either objective schemes (e.g., point scale, community tie index, etc.) or a combination of the two (i.e., an objective scheme with provision for subjective input) at a rate greater than before.

JAIL POPULATION

One impetus for the renewed interest in and growth of pretrial programs, as well as a reason for the re-examination of and changes in practices and procedures, is undoubtedly jail crowding that reached crisis proportions during the past decade. Figures recently published by the Bureau of Justice Statistics (BJS) showed a 30% increase in the number of drug law violations nationwide between 1980 and 1986 and a 32% increase in the nation's jail population between 1983 and 1987. Fifty-two percent (52%) of the jail inmates were pretrial

arrestees.[45] The figures reported by the pretrial programs do not deviate significantly from the nationwide findings.

Although a number of factors have contributed to jail crowding, including an increase in drug-related crime, mandatory jail sentences, and increased lengths of sentences, the criminal justice system remains charged with the responsibility of determining which defendants can be safely released and which should be detained in the scarce jail space that remains.

Jail Design Capacity and Pretrial Inmates

Survey figures showed that pretrial programs serve jurisdictions with a wide range in jail capacity. The design capacities of jails in the reporting jurisdictions range from five inmates in the smallest jurisdiction to 17,178 inmates in the largest. As Table 24 shows, over one-third of the jail capacities fall between 301 and 1000 inmates and almost one-quarter of the capacities range from 101 to 300 inmates. As one might have anticipated, a correlation exists between the size of jurisdiction and jail capacity.

Table 24. Jail Capacity: Design Capacity

Design Capacity of Jail	# of Programs	% of Programs
5 - 30	10	5.9
31 - 50	12	7.1
51 - 100	15	8.9
101 - 150	14	8.3
151 - 200	15	8.9
201 - 300	12	7.1
301 - 400	19	11.2
401 - 600	20	11.8
601 - 1000	20	11.8
1001 - 2000	19	11.2
2001 - 7000	10	5.9
> 7000	3	1.8
Total	169	99.9*

* Rounding error

[45] Bureau of Justice Statistics, BJS Bulletin: Jail Inmates, 1989 (Washington, D.C.: U.S. Government Printing Office, June 1990).

The reported average daily percentage of in-custody pretrial defendants ranges from 12% to 100%. Only one program indicated that its average daily pretrial inmate percentage is less than 20%.[46] However, most of the reporting programs (66 programs) reported a daily pretrial population averaging 50% or higher. Overall, an average of 58.4% was reported, a figure slightly higher than the published BJS figure.

As Table 25 reveals, the greatest overall daily proportion of pretrial inmates is found in a jurisdiction with 500,000 to 1,000,000 inhabitants while the least populous jurisdictions (100,000 or fewer inhabitants) have the lowest daily pretrial inmate averages. However, two points must be noted: first, the ranges within each population size are similar;[47] and second, the overall daily percentage of pretrial inmates does not increase continuously as the population size of the jurisdiction increases.

Table 25. Average Daily Percentage of Pretrial Inmates by Size of Jurisdiction

Size of Jurisdiction	Average Daily Pretrial Percentage # of Programs	Average Daily %
< 50,000	6	46.3
50,001 - 100,000	11	46.2
100,001 - 500,000	40	61.1
500,001 - 1,000,000	22	63.7
> 1,000,000	13	56.3

As Table 26 shows, the average daily percentages of pretrial inmates is relatively similar in jurisdictions where jail caps or consent decrees are in place but for two jurisdictional sizes. More specifically, in jurisdictions with 50,000 to 100,000 inhabitants, the average daily pretrial inmate percentage is 70% in areas in which a jail operates under caps or consent decrees and 37.3% in areas without them. The inverse proportion was reported by

[46] The program that reported an average of 12% operates in a jurisdiction serving 500,000 to 1,000,000 residents.

[47] The ranges are as follows: from 20%-98% in jurisdictions with fewer than 50,000 inhabitants; 25%-95% in jurisdictions with 50,000 to 100,000 inhabitants; 30%-100% in jurisdictions with 100,000 to 500,000 inhabitants; 12%-90% in jurisdictions with 500,000 to 1,000,000 inhabitants; and 25%-100% in jurisdictions with over 1,000,000 inhabitants.

jurisdictions with over 1,000,000 inhabitants: the pretrial inmate daily average is 50.6% under jail caps or consent decrees and 74.8% without them.

Table 26. Average Daily Percentage of Pretrial Inmates in Jurisdictions Where Jail Operates Under a Judicial Cap or Consent Decree

Size of Jurisdiction	Average Daily % of Pretrial Inmates	
	Cap or Consent Decree	No Cap or Consent Decree
< 50,000	49.3	43.3
50,001 - 100,000	70.0	37.3
100,001 - 500,000	62.3	60.6
500,001 - 1,000,000	67.9	60.8
> 1,000,000	50.6	74.8
All reporting programs	59.4	57.4

Over one-third of the state and local programs (71) indicated that their jails operate under jail caps or consent decrees and 20 have pending litigation (see Table 27).[48] In examining what, if any, relationship exists between the size of jurisdiction and existence of a cap or consent decree, it comes as no surprise that the most populous jurisdictions have the greatest proportion of jails operating under jail caps or consent decrees, as shown in Table 28. One-half of the jails in jurisdictions with a population of one million or more inhabitants (13 of 26 programs) operate under caps or consent decrees. However, the figures also show that jail crowding is not limited to the most populous areas nationwide--one-quarter of the programs whose jails operate under caps or consent decrees serve jurisdictions with less than 50,000 inhabitants (6 of 26 programs).

[48] Federal programs reported operating subject to jail caps or consent decrees in five districts (7.8%) and two districts have pending litigation.

Table 27. Jail Population Limitations

Type of Jail Limitation	# of Programs	% of Programs
Judicially ordered cap on inmate population only	36	17.9
Consent decree only	23	11.4
Both consent decree and judicial cap	12	6.0
Total number of programs in jurisdictions operating either under cap, consent decree, or both	71	35.3
Litigation pending	20	10.0

Table 28. Population Size and Jail Cap or Consent Decree

	Cap or Consent Decree	
Population Size	# of Programs	% of Programs
< 50,000	9	33.3
50,001 - 100,000	5	19.2
100,001 - 500,000	27	37.5
500,001 - 1,000,000	12	31.6
> 1,000,000	14	53.8
Total	67	

As Table 29 shows, one-third of the programs functioning in jurisdictions where their jails operate under jail caps or consent decrees had come into existence by 1974, most in the more populous areas. However, another third of the programs came into existence within the past ten years (some in response to jail crowding and many serving lesser populated areas).

Table 29. Age/Population Size of Programs Where Jail is Under Jail Cap or Consent Decree

	Population Size (in thousands)				
Age of Program	≤ 50	50-100	100-500	500-1m.	> 1m.
Prior to 1965	-	-	-	2	2
1965 - 1969	-	-	1	3	2
1970 - 1974	-	1	6	3	8
1975 - 1979	1	-	9	2	1
1980 - 1984	5	-	8	2	2
1985 - 1989	4	5	6	1	-

Impact on Program Operations

The impact of jail caps and/or consent decrees on pretrial programs operating under such limitations can be seen in five different ways: 1) the pretrial program was started in response to the court order; 2) changes were made in the program's release criteria; 3) changes were made in the program structure; 4) changes were made by criminal justice actors other than the pretrial program; and 5) no changes were made.

First, seven pretrial programs were started in response to jail caps or consent decrees, including three which operate in areas with less than 50,000 inhabitants (the four other programs are located in jurisdictions with populations over 50,000). One can only speculate as to whether some programs will be seen to be temporary "stop-gap" measures designed to give communities breathing room while more permanent jail crowding options are studied,[49] or whether the programs will become permanent fixtures of the local criminal justice system.

Second, 25 programs have made changes in their release criteria. Most frequently mentioned were the liberalization of release criteria, including establishment of misdemeanor release, modification of point scales, and expansion of release recommendations to include defendants previously judged to be FTA risks.

[49] Two program administrators indicated this to be the legislative rationale for the establishment of their pretrial program.

Third, nine programs have made changes in their structures. Examples of the changes include the expansion of program hours to include Saturday and/or holiday service, increased emphasis on conditional release and/or staff to operate it, expeditor services, and the establishment of special supervision sections to handle high risk defendants.

Fourth, system actors other than pretrial programs have made changes that directly or indirectly affected seven pretrial programs. Most frequently, sheriff's offices have modified and/or increased the use of citation release.

And lastly, 33 programs (46.5% of the programs in jurisdictions with jail population limitations) admitted that no changes have been made in spite of the presence of jail caps and/or consent decrees. For the most part, these programs have been operating within their respective jurisdictions for a long period of time and have already implemented services or programs conducive to alleviating jail crowding pressures. Examples of these services include, among others, 24-hour, 7-day pretrial services screening, direct release authority for felony and misdemeanor cases, an extensive range of release options including supervised release, and post-initial appearance follow-up for bail review.[50] Although many jail crowding responses have been implemented by the programs, this does not imply that the 33 programs have done all that may be possible within their jurisdiction.

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[50] Although average daily pretrial population may be a crude indicator of the success of these endeavors, the programs had an average daily pretrial population of 45.6% compared to the nationwide average of 58.4% noted above.

CHAPTER THREE: PROGRAM PRACTICES, POLICIES, AND PROCEDURES

This chapter will discuss specific practices and policies of pretrial programs nationwide. Structurally the discussion will parallel the traditional steps associated with the pretrial process subsequent to an arrest and include interview exclusions and timing, advisement of rights, background investigation and verification procedures, assessment procedures, release options available, notification systems, failure-to-appear (FTA) resolution procedures, FTA and rearrest rates, and procedures to document illicit drug use. Additional subjects to be addressed include management information systems and record maintenance, program evaluation procedures, and other services provided by the pretrial agencies.

In this chapter the diversity of pretrial program practices is more evident than in the 1979 and earlier surveys. Many programs found it difficult to respond to survey questions without qualifying their responses. Where relevant, these qualifiers are noted and discussed.[51]

PROGRAM INTERVIEW EXCLUSIONS

A threshold issue faced by each pretrial program is identifying the arrestee population which will be targeted for pretrial interview and the time frame within which the initial interview will take place. Although time frames may be dictated by court directives or statutory regulations, the target population interviewed is a reflection of more complex factors at work.

Historically, program interview practices have been exclusionary in regard to target population. This has been the case in spite of a unified position by national associations cautioning against excluding specific categories of defendants from the interview process based on criteria that bear no relationship to one pretrial objective, i.e., the promise to

[51] Each program received equal weight in the analysis, i.e., a program operating on a minuscule budget with one staff person was of equal value to a program operating with a ten million dollar budget and scores of professional staff persons.

appear at trial.[52] Research in this area has been extensive and debate continues over the predictive value of specific exclusions, the correlation between certain exclusions and appearance and pretrial crime, and the impact specific exclusions have on pretrial program operations. Policy decisions and program practices with regard to exclusionary policies often involve multiple factors including jail crowding concerns, state or local statutes, local jurisdictional attitudes, available resources, and whether the pretrial program has established supervisory and/or conditional release options. Exclusionary policies also involve constitutional considerations: without a rational basis upon which to justify the exclusion of specific classes of individuals, a pretrial program may run the risk that its interview policy discriminates against certain classes of defendants.[53]

Automatic Exclusions

In conjunction with criminal history checks and references, the pretrial interview constitutes the single most important element of the background investigation that is forwarded to the judicial officer so that an informed release/detention decision can be made. Frequently, the interviewing process is both a resource and policy question. Although some programs would ideally like to interview all defendants, limited staff and resources may dictate that programs concentrate on interviewing defendants least likely to be released by local judges or magistrates without program intervention.

Both NAPSA and the ABA take a strong policy stand on the issue of who should be interviewed: NAPSA strongly urges that all defendants should be interviewed, while the ABA emphasizes that all felony charged defendants should be interviewed. The rationale for the ABA position lies with recognition that resources may be limited as well as with the belief that misdemeanor charged defendants have a greater likelihood of being released without the intervention of the pretrial program.[54]

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[52] In the Commentary which follows Standard XI of the NAPSA Release Standards, the Association states that, "no person should be excluded from release consideration solely on the basis of the offense charged." Further, the Release Standards emphasize that "evaluations of defendants and release recommendations should be individualized and should take into consideration factors relevant to appearance and pretrial crime as applied to the individual defendant" (p. 64).

[53] Pryor, supra, pp. 24 - 28; see also Hall et al., supra, pp. 38 - 40.

[54] ABA Standards for Criminal Justice, Pretrial Release Standard, revised 1985, 10-4.3 - 10-4.5, pp. 68-80.

Historically, many categories of defendants have been excluded from the interview process despite the positions of the national associations.[55] Unfortunately, as current data reveal, pretrial program interviewing practices are far from the ideals promulgated by the national associations. On the contrary, as the pretrial service field enters the 1990s, a greater percentage of programs exclude certain classes of defendants from being interviewed on the basis of charge alone than at any previous time. Only a small percentage of programs nationwide have no automatic exclusion policy, i.e., no defendants are automatically excluded from the interview unless they refuse to participate and/or are ill.

Charge-Based Exclusions

Table 30 details the automatic interview exclusions. The single greatest exclusion historically has been and continues to be charge-based. Overall, 63.4% of the state and local pretrial programs nationwide automatically exclude some defendants from being interviewed on the basis of charge alone; another 14.5% exclude certain defendants based on non-charge-related exclusions (e.g., hold or warrant-based exclusions); and 22.0% have no automatic exclusion policies.[56]

Although the exclusionary practices of federal programs statistically mirror state and local programs, the data are very misleading. Federal exclusionary policies are in fact few in number and limited to very specific charges. Forty-one (41) federal programs (64.0%) automatically exclude some defendants from being interviewed on the basis of charge, five programs (7.8%) exclude defendants on non-charge-related basis, and 18 programs (28.1%) have no exclusionary policies. However, the specific charges that preclude interviews are confined to four general categories: 1) petty offenses (exempt under Title 18 U.S.C. 3156);[57] 2) unlawful flight to avoid prosecution (UFAP) cases; 3) parole and probation violators; and 4) writs from local or state custody. Miscellaneous charges unique to federal law also

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[55] For an additional perspective on the subject, see Wayne H. Thomas, Jr., Bail Reform in America (Berkeley, CA: University of California Press, 1976), pp. 140-143.

[56] The charge-based exclusion percentage includes those jurisdictions with statutorily mandated exclusions, i.e., people who are not bailable by statute. Excluding these 12 programs would reduce the overall percentage to 60.9%.

[57] Section 3.1 of AO Pretrial Release Manual states that "all individuals charged with a criminal offense other than a petty offense and in U.S. custody are subject to pre-release investigations."

exist.[58] In addition, pretrial services officers may be required to conduct a pre-release investigation of any individual at the request of the court.

Table 30. Automatic Interview Exclusions

Type of Exclusion 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Charge-related:				
- all violations 2/	29	22	15.6	34.4
- all misdemeanors	14	4	7.5	6.3
- all felonies	7	1	3.8	1.6
- specific charges	81	24	43.5	37.5
- not bailable by statute	75	10	40.3	15.6
Warrant-based:				
- warrant/detainer from another jurisdiction, in addition to local charges	77	3	41.4	4.7
- outstanding warrants in same jurisdiction	31	1	16.7	1.6
Hold-based:				
- currently on parole, probation, pretrial release	45	3	24.2	1.6
No exclusions	41	18	22.0	28.1
Other 3/	14	8	7.5	12.5

1/ Programs may exclude defendants for multiple reasons. Percentages are based on 64 federal and 186 state and local programs.
2/ Charges less serious than misdemeanors.
3/ Fourteen state and local programs were excluded from calculation. Eleven programs interview defendants at the request, order, or referral of the court. Three programs interview only arrestees who desire counsel. Programs did not specify exclusionary policies used once decisions to interview defendants are made.

[58] Examples include Japanese organized crime visa fraud violators who have no prior U.S. history, 18 U.S.C. 1326 illegal aliens, and migratory bird cases.

Eighty-one (81) state and local programs exclude defendants on the basis of specific charges.[59] Most frequently, specific charged-related exclusions are violent offenses, including, but not limited to, murder, rape and other felony sex offenses, distribution and/or sale of controlled substances, and treason. In addition, probation and parole violators, FTAs, and Driving Under the Influence (DUIs) were cited multiple times.

Table 31 highlights the changes in exclusion policies that have taken place in the past decade. As the percentages show, pretrial programs are moving away from a no automatic interview exclusion policy to a charge-based exclusion policy with increasing frequency.

Table 31. Percentage of Programs With Automatic Exclusions: 1979 & 1989

Type of Exclusion	1979	1989
Charge-based exclusions	49.6	63.4
Non-charge-related exclusions	20.2	14.5
No automatic exclusions	30.2	22.0

The practice of automatically excluding specific defendants from being interviewed on the basis of charge exclusively has been, and continues to be, contrary to the promulgated standards. Cautioning against an arbitrary exclusion policy, NAPSA states that "the offense charges may have no effect on the likelihood of appearance in court or committing pretrial crime...no person should be excluded from release consideration solely on the basis of the offense charged."[60] Although automatic exclusions may be rooted in state statutes or local legal culture or rationalized by program expediency or staff limitations, these bases do not justify the detention of individuals unable to post a low money bail and who, in turn, clog the jails. If state statutes, program exigencies, or practical considerations cause certain defendants to be excluded, local research is needed to justify the bases of specific exclusionary practices. Without local research, programs will be perpetuating exclusionary practices that are groundless or unnecessary in some instances.

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[59] These programs comprise over two-thirds (68.6%) of the programs that exclude defendants on the basis of charge. The remainder of the programs (31.4%) exclude all defendants charged with violations, misdemeanors, felonies (or a combination thereof).

[60] See Commentary which follows Standard XI of the NAPSA Release Standards for additional discussion of the statement's rationale, p. 64.

Exclusions for Other Reasons

Of the 145 programs with automatic exclusions, 118 programs exclude some classes of defendants for charge-related reasons. In addition, 50 programs automatically exclude defendants on the basis of both charge and non-charge-related reasons, and 27 programs exclude defendants solely for non-charge-related reasons, i.e., warrants or detainers from other jurisdictions in addition to local charges; outstanding warrants in the same jurisdiction; or currently on pretrial release, probation, or parole.

Again, program practices that exclude defendants based on non-charge-related reasons should be re-examined by pretrial program administrators in the absence of local research that justifies these exclusions or state statutes that mandate them. Extenuating circumstances that would help to exonerate defendants could be relevant and these circumstances would become clear at defendants' initial court appearances. One example of such a circumstance would be defendants who, despite no local address, could secure release through a cooperative agreement with a pretrial program in their home jurisdiction.

The conclusion drawn by Pryor ten years ago appears to be as timely and as relevant today when he said that, "although the various factors...should legitimately be considered in the release recommendation decision, making them the basis for automatic exclusions from interviews is inconsistent with individualized assessments advocated by national release standards."[61]

No Automatic Exclusions

Slightly over one-fifth (22%) of the programs have no program policy excluding any defendants from being interviewed. Thus, program staff interview all defendants unless they are ill or refuse.[62]

Detailed examination of the traits of the pretrial programs with no exclusion policies reveals that they operate in diverse environments and populations, do not favor use of one kind of assessment scheme over another, and mirror the traits of the pretrial program population as a whole (see Table 32).

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[61] Pryor, supra, note 18, p. 27.

[62] This does not necessarily mean that all defendants coming through the system are interviewed, as the percentage of defendants interviewed (64%) showed earlier. Although the exclusionary policies identify the potential pool of defendants that can be interviewed, some individuals may have been released through other means (financial release, citation release, etc.).

Table 32. No Interview Exclusions and Administrative Location

Administrative Location	# of Programs
Probation (municipal or county)	5
Courts	14
Corrections and law enforcement	8
Private agencies (non-profit, independent, bar association)	8
County or state government agency	5

No Interview Exclusions and Jurisdiction Size

Jurisdiction Size	# of Programs
< 50,000	2
50,001 - 100,000	4
100,001 - 500,000	17
500,001 - 1,000,000	11
> 1,000,000	7

No Interview Exclusions and Timing of Interview

Timing of Interview	# of Programs
Part of booking process	7
Prior to first court appearance	27
After first court appearance	6

No Interview Exclusion and Assessment Scheme

Type of Assessment Scheme 1/	% of Programs	
	all respondents	no exclusions
Subjective only	26.6	28.9
Objective only	24.0	31.6
Combination	39.6	34.2
Background information	8.3	5.3

1/ One program has a two-track system: a point scale is used for defendants charged with felonies, a subjective system is used for defendants charged with misdemeanors.

Thirty-five percent (35%) of these programs are court-administered. However, no state funded probation-based pretrial program operates with a no-exclusion policy.[63] Over two-thirds of these programs (68.3%) serve populations ranging from 100,000 to 1,000,000, with the remainder split evenly below and above that range. The types of assessment schemes used by programs deviate only slightly from the percentages reported nationwide. Eighty-five percent (85%) of these programs conduct their initial interviews prior to the first court appearance. However, six programs indicated that all their initial interviews are conducted six hours after booking. One can reasonably infer that during the interim, some defendants eligible for release utilize other options available in the jurisdiction (e.g., financial release).

TIMING OF PROGRAM INTERVIEW

Issues similar to those that confront pretrial practitioners with regard to interview exclusions apply to the timing of the pretrial interview. Although few would disagree with the assertion that a primary policy objective of any pretrial program is to assure the speedy release of defendants deemed eligible, other considerations often come into play in the interview timing decision including, but not limited to, existence of delegated release authority, staff coverage, booking and detention facility capabilities, time required to conduct a background investigation, availability of judicial officers, and policy constraints.

The interplay of these and other factors has led pretrial programs to intervene at four key points: 1) as part of the booking procedure; 2) immediately after booking; 3) prior to the initial court appearance but not immediately following booking; and 4) after the initial court appearance. Arguments continue to be formulated for each intervention point. While programs that intervene early in the process are in a position to interview all defendants and effectuate earlier releases for defendants deemed eligible, programs that delay interviewing until after the initial court appearance can ostensibly concentrate on providing services to those defendants most in need of their services.[64]

Both federal and state/local pretrial programs heed the standards promulgated by NAPSA and the ABA on timeliness and have their initial contact and interview with defendants prior to the initial court appearance. As Table 33 shows, almost 85% of the state and local programs and 94% of the federal programs indicated they have initial contact with defendants prior to the initial court appearance.

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[63] By comparison, over 85% of the federal programs with no automatic exclusion policies, i.e., 18 of 21 programs, operate out of probation offices.

[64] For a more detailed discussion, see Stevens H. Clarke in National Institute of Corrections, Pretrial Release: Concepts, Issues, and Strategies for Improvements, (Boulder, Colorado: October 1988), p. 16; Hall et al., supra, pp. 40-43.

Table 33. Initial Contact With Defendant: State/Local and Federal Programs

Stage 1/	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
As part of the booking process	74	10	24.0	11.4
Prior to the initial court appearance	140	57	45.5	64.8
After initial court appearance	94	21	30.5	23.9

1/ Multiple responses were permitted. Percentages are based on 308 state/local and 88 federal responses.

100% Initial Contact with Defendant at Specific Stage

Stage	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
As part of the booking process only	28	3	14.1	4.7
Prior to the initial court appearance	140	57	70.1	89.1
After initial court appearance only	30	4	15.1	6.2

Although the majority of state and local programs have contact with defendants multiple times, of note is the almost equal number of programs that have all of their initial contact with the defendant either as part of the booking process (28 programs) or after the initial court appearance (30 programs). It is to these two forms that we turn to see if there are any distinguishing characteristics between programs that interface with defendants at different stages.

First, the administrative locations of both types of programs differ: programs that have 100% of their contact with defendants as part of the booking process tend to be located within sheriff's offices or state court systems, whereas programs that have 100% of their contact after the initial court appearance are more likely to be lodged within county-sponsored probation or court-based departments.

The population areas served by the programs also differ: 17 of the 28 programs (60.7%) that have 100% of their contact at booking serve population areas of at least 500,000 compared to nine of the 30 programs (30.0%) that have 100% of their contact after the initial court appearance. All programs that have 100% of their contact with defendants as part of the booking process have delegated release authority, compared to none of the programs that have all of their contact after the initial court appearance. Further, programs with 100% contact at booking are older programs--over 90% of the programs were established prior to or during 1980, compared to 32% of the post-initial court appearance programs. Lastly, defendant caseloads differ: programs that have 100% contact with defendants after initial appearance tend to have smaller defendant caseloads.

Despite program differences in timing of the initial contact, both types of programs conduct follow-up interviews as necessary, albeit at different rates. Of the 28 programs that have initial contact with defendants as part of the booking process, fewer than one-quarter indicated that they do not conduct multiple interviews: 20 of 26 responding programs (76.9%) indicated that they conduct multiple interviews. For programs that have their initial contact with defendants after the initial court appearance, multiple interviews are conducted less frequently, i.e., 14 of 25 responding programs (56%) conduct multiple interviews.

Table 34 shows how soon after booking the initial interview takes place as well as the number of federal and state/local programs that conduct all of their interviews during a specified time frame.[65]

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[65] The parameters used in the table (before or after six hours) were suggested by the NAPSA Release Standards. Release Standard III.A. states that "a person arrested and in custody should be taken before a judicial officer without unnecessary delay. When a judicial officer is available, that delay may not exceed six hours." In the Commentary that follows, the drafters state that six hours is "suggested to allow a reasonable time for law enforcement officials to do the necessary paperwork, identification and reasonable custodial interviewing" (p. 16). Also, six hours is the time frame required by the National Advisory Commission on Criminal Justice Standards and Goals, Report on Courts, 1973, pp. 66-86.

Table 34. Timing of Interviews: State/Local and Federal Programs

Stage 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
At booking	67	19	19.8	18.8
Within six hours	120	49	35.4	48.5
After six hours	152	33	44.8	32.7

1/ Multiple responses were permitted. Percentages based on 339 state and local responses and 101 federal responses.

All Interviews Conducted During Specific Time Period

Stage 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
At booking	8	3	4.3	4.7
Within six hours	13	10	6.9	15.6
After six hours	46	4	24.5	6.3

1/ Percentages based on 188 state/local and 64 federal programs.

As Table 34 shows, a significant number of state and local programs appear to interview all defendants after six hours (46 programs). One consequence of this program practice would be to promote the use of alternative release options for defendants during the waiting period (e.g., financial release).

However, detailed examination of these programs revealed that this number is misleading. Although 46 programs do not interview defendants for at least six hours, most have contact with defendants prior to the initial appearance (25 of 45 responding programs). Lag time could reflect geographic considerations, program hours, local program policies, processing time or operational inefficiency. However, no program indicated that this delay in interviewing negatively affected interview verification efforts or development of recommendations.

Nineteen of the 46 programs that interview after six hours do not have contact with defendants until after the initial appearance. Thus, less than 10% of the programs overall do not have contact with or interview defendants until after the initial appearance. Although program policies form the bases for this practice in 13 of the 19 programs, other pragmatic

considerations appear to be involved in the interview timing decision. First, very few defendants were interviewed by these programs during the last year. The number of interviews reported by programs with information available (ten programs) ranged from seven to 698 and represented 10 of the 14 lowest interview totals of all reporting programs. Assuming that these totals are representative of all 19 programs, one can conclude that the total number of defendants not contacted or interviewed prior to the initial court appearance represents a very small fraction of the defendants interviewed by pretrial programs nationwide. Other factors that appear to affect the interview time frame are the lack of dedicated pretrial staff (four programs) and demographic characteristics (size of population served and type of area).

Table 35 reveals the bases for the limited time frame during which defendants are interviewed. At the federal level, program policies and federal statutes are the foundation of the interview time frames. At the state and local level, the primary basis continues to be a program policy decision: over one-half (109 programs or 55.6%) use program policies to justify their interview time frames. However, state statutes and/or state or local court rule or orders have dictated or guided development of many of these program policies: the Oregon bail statute requires that defendants be interviewed within 36 hours (72 hours over the weekend) and in Kentucky, pretrial services must be offered within 12 hours.

Table 35. Bases for Limited Interview Time Frame 1/

Basis	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Statute	23	24	11.7	32.0
State or local court rule or order	36	2	13.3	1.3
Federal court order	3	8	1.5	10.7
Program policies	109	22	55.6	29.3
Not applicable	54	10	27.6	13.3
Other	17	12	8.7	12.0

1/ Multiple responses were permitted. Percentages are based on responses from 196 state/local and 75 federal programs.

Almost two-thirds (65.5%) of the state/local programs and 70% of the federal programs indicated that they conduct interviews at more than one point in the pretrial process. Table 36 displays a breakdown of the circumstances which prompt pretrial programs to re-interview defendants. Most frequently bond-related activities and/or a court request will induce follow-up intervention by program staff.

Table 36. Interview Points

Interview Points 1/	# of Local Programs	# of Federal Programs
After initial arraignment	26	9
At court request/court referral	38	3
At request of attorney	13	2
Bond-related activities--bond reconsideration; expedition; review; reduction hearing	32	19
Change in defendant circumstances or new information	16	7
Release reconsideration	9	2
Any point (from time of arrest to time of disposition)	11	2
Miscellaneous	17	4

1/ Multiple responses were given by 122 state/local programs and 43 federal programs.

ADVISEMENT OF RIGHTS

For those arrestees not automatically excluded from being interviewed, an advisement of their rights prior to the start of the interview is regarded to be an integral part of the pretrial process. Confidentiality and constitutional issues related to the pretrial interview were addressed during the developmental years of pretrial services by many programs and clarified further by the passage of state and local statutes on the subject. However, these concerns have not vanished entirely. In light of pretrial drug testing, diversion activities, and monitoring conditions of pretrial compliance, confidentiality policies have been re-examined.

Anticipating the problems and challenges pretrial programs would face during the 1980s, the Release Standards stated:

> pretrial services agencies collect and have access to a substantial amount of information on defendants' background. Frequently, this information includes matters of a highly personal nature. While the agency is obligated to provide that information directly related to release decisions, it should maintain a

general policy of confidentiality to retain credibility with defendants and the criminal justice system [emphasis added].[66]

Overall, the practices of the state and local pretrial programs nationwide comport with the standards promulgated by the national associations. Over three-quarters of the programs (153 programs or 77.6%) indicated that they inform defendants prior to conducting the interview that the interview is voluntary. Further, an almost equal number of programs (147 programs or 74.6%) notify defendants prior to the interview how the information during the interview will be used, what limitations will be placed on its use, and who will have access to the information.[67] Uniformity of procedure characterizes federal program practices: all 64 programs use an "Advice of Rights and Release of Confidential Information" form issued by the AO to advise defendants of their rights and obtain their signatures.

A closer examination of the state and local programs that inform defendants about the voluntary nature of the interview or indicate to them the program's use, limitations, and accessibility practices reveal no systematic similarities. Generally, programs administered by private non-profit agencies were most likely to have advisement procedures in place, while court-based programs administered by state court systems were the least likely to have advisement procedures in place--approximately one-third of all state court-based programs fell within this category. The remaining programs were located in diverse administrative locations. In addition, no significant relationship was found to exist between the age of the program and the existence of advisement procedures: newer programs (i.e., those less than ten years old) were no more likely to advise defendants of their rights than older programs and 70.5% to 85.7% of all programs in any one five-year period reported to advise defendants of their rights.[68]

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[66] The Commentary which follows Standard XII continues to state that "no information obtained during the course of the agency's investigation or during the monitoring of conditions should be admissible on the issue of innocence or guilt. Information which is released by the agency should not include, under any circumstances, highly personal material such as psychiatric evaluations" (p. 68).

[67] Four programs provide partial notification to defendants, e.g., defendants may be told of the uses of the interview information but not about limitations of or access to the information.

[68] More specifically, at least 70.5% of all programs during any one five-year period since 1963 have established procedures to advise defendants of their rights. The oldest programs reported the highest percentage of advisement procedures in place (85.7%). This is not surprising in light of the procedural cautions taken by many older pretrial programs during the developmental years to minimize potential challenges.

A more detailed examination was made also of the existence of advisement procedures in programs that conduct urine testing as one method to identify illicit drug use among defendants. Overall, programs with urine testing components were more likely to inform defendants of the voluntary nature of the interview as well as the use, limitation, and access provisions than programs without urine testing components. However, as Table 37 shows, the differences are very slight.

Table 37. Urine Testing and Advisement of Rights

Stage	% of Programs: Programs with Urine Testing	% of Programs: Programs without Urine Testing
Inform defendant of voluntariness	78.8	76.9
Use, limitations, and access	80.3	72.7
Written waiver	31.9	26.6

Although most programs met national standards in regard to advising defendants of their rights as well as the use, limitations, and access policies, few state and local programs have implemented policies of obtaining written evidence of defendants' consent to pretrial program staff conducting the interview.[69] Approximately one-quarter of the programs indicated that they have developed written forms recording defendants' voluntary consent (56 programs or 28.4%).[70]

Once again, there appears to be a correlation between an administrative location of a pretrial program and use of a written waiver or consent form.[71] Corrections-based pretrial

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[69] The NAPSA Release Standards recommend that "the agency should establish a written policy on the extent to which defendant and/or other criminal justice personnel shall have access to defendant files...forms should be drafted, signed by the defendant and his attorney, and placed in the agency files" (p. 69).

[70] In addition, six programs indicated that defendants sign a waiver form at the end of the interview and two programs have defendants sign limited waivers authorizing the program to check court records and/or call references.

[71] "Written waiver" or "consent document" are used interchangeably in the monograph. Although distinctions exist, both terms were included in the survey question.

programs reported to use the greatest proportion of written waivers or consent forms--45.5%, almost twice the rate of state probation or court-based programs.

It appears that newer pretrial programs may be taking steps to ensure that defendants sign consent documents. In examining the correlation between age and existence of a consent provision, newer programs were more likely to have consent provisions in place. For programs established prior to 1984, use of signed waivers or consent forms did not exceed 27.5% within any one five-year period. However, 50% of the programs established since 1985 indicated that they have incorporated written consent forms into their operations.

In light of the constitutional considerations attendant to urine testing, it was anticipated that programs with urine-testing components would utilize written waivers or consent forms at rates higher than programs without such a component. However, as Table 37 demonstrates, the proportion of programs which utilize waivers is slightly higher than the overall population, i.e., less than one-third of the programs with urine testing components obtain defendants' signatures prior to the interview compared to one-quarter of the overall population.[72]

BACKGROUND INFORMATION

In his survey monograph concerns raised by Pryor with regard to the inclusion of specific criteria used to assess defendants' release or detention eligibility continue to exist a decade later. As the data will show, the criteria used by pretrial programs to assess defendants' eligibility for release have not changed significantly in ten years and programs appear to be perpetuating what are practices contrary to the standards promulgated by the national associations.[73]

Years ago, similar criteria were developed by NAPSA, the ABA, and others to guide pretrial programs in the determination of eligibility for release.[74] Programs adopted these criteria

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[72] Eight of the 14 programs that conduct either pre-initial court appearance testing only or both pre- and post-initial court appearance testing have consent provisions. These eight programs are located in the following administrative environments: three programs, state governments or courts; two programs, private non-profits; and one each in a department of corrections, independent board of trustees, and municipal court setting. The six remaining programs conduct urine testing after initial appearance as a condition of release.

[73] Pryor, supra, pp. 31-32.

[74] See NAPSA Release Standard III and the Commentary which follows, pp. 15 - 18; also, ABA Standard 10-4.4 and the Commentary which follows, pp. 71 - 77.

(with varying degrees of modification) and currently use them as the bases for the background investigation.

As a review of the criteria in Table 38 shows, primary emphasis continues to be placed by both state/local programs and federal programs on investigating defendants' community ties and their prior criminal justice involvement--over 90% of the programs investigate both the level and longevity of these ties (e.g., local address, employment/education or training status, length of time in the community, and prior convictions). Additional, albeit less, emphasis is placed on securing information about drug or alcohol use, physical and/or mental impairment, or parental status. Not surprisingly, all programs with pre-initial court appearance urine testing do consider urinalysis results as a variable in the background investigation. Federal practices are similar: all districts use a standardized summary report form to complete a background investigation and statutes have been clear in regard to the criteria to be considered.[75]

Table 39 compares criteria used in background investigations by state and local programs in 1979 and 1989. Consistency characterizes the percentages: for the most part, programs appear to be using the same criteria to the same degree as they were a decade ago.

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[75] 18 U.S.C. 3142 (g) (3) (A) of the Bail Reform Act of 1984 lists some of the factors judicial officers consider in determining conditions of release including "his 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."

Table 38. Criteria Used in Pretrial Release/Detention Eligibility Background Investigation

Criteria 1/	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
Local address	189	55	94.0	87.3
Employment/education or training status	187	62	93.0	98.4
Length of time in community	186	62	92.5	98.4
Prior convictions (any type)	183	62	91.0	98.4
Currently on probation, parole, or has another open case	179	63	89.1	100.0
Prior court appearance history	176	62	87.6	98.4
Length of time, current address	169	58	84.1	92.1
Living arrangements	165	60	82.1	95.2
Prior arrests	159	57	79.1	90.5
Use of drugs and/or alcohol (self-report)	137	62	68.2	98.4
Length of time at prior local address	134	51	66.7	81.0
Identification of references who could verify & assist defendant in complying with conditions of release	132	51	65.7	81.0
Physical/mental impairment	131	53	65.2	84.1
Parental status and/or support children	126	51	62.7	81.0
Ownership of property	120	61	59.7	96.8
Visible signs of symptoms of drug or alcohol use (interviewer observation)	117	60	58.2	95.2
Comments from arresting officer	113	48	56.2	76.2
Income level or public assistance status	97	44	48.3	69.8
Comments from victim	96	26	47.8	41.3
Possession of telephone	68	21	33.8	33.3
Someone expected to accompany defendant to arraignment	32	12	15.9	19.0
Drug test (urinalysis) results	21	44	10.4	69.8
Miscellaneous	34	5	16.9	7.9

1/ Question answered by 196 state/local and 63 federal programs, which is the basis for the percentages. Programs consider multiple variables simultaneously.

Table 39. Criteria Used in Pretrial Release/Detention Eligibility Background Investigation: 1979 & 1989

Criteria/Variables	Percentage of Programs 1979	1989
Local address	94.9	94.0
Length of time in community	92.3	92.5
Length of time at current address	84.6	84.1
Ownership of property in community	50.4	59.7
Possession of a telephone	26.5	33.8
Living arrangements	74.4	82.1
Employment/education or training status	91.5	93.0
Income level or public assistance status	42.7	48.3
Prior arrests	66.7	79.1
Prior convictions (any type)	86.3	91.0
Someone expected to accompany defendant at arraignment	19.6	15.9
Prior FTA 1/	6.0	87.6
Use of drugs/alcohol 1/	7.7	68.2
Miscellaneous	6.0	16.9

1/ These variables were not included in the original list of responses provided in the 1979 questionnaire. In all likelihood, the numbers were under-reported since the percentages were based upon programs which volunteered the information (as opposed to the other variables which, by definition, prompt a response.) In the 1979 survey, 117 programs, which form the basis for the percentages reported here, responded.

In the 1979 survey monograph, concerns were raised about the propriety of programs considering financial-related criteria (ownership of property and possession of a telephone) and prior arrests to assess defendants' release or detention eligibility.[76] As the current data reveal, use of financial-related criteria increased over the past decade: almost 60% of the

[76] It must be emphasized that many programs do not have any discretion as to whether financial-related criteria and/or prior arrests are considered. Many state statutes as well as judges require consideration of these criteria. However, perpetuation of the status quo does not mean that program administrators cannot become advocates for changes in local practices.

programs consider property ownership and 34% consider possession of a telephone in defendants' background investigation compared to 50% and 27% respectively a decade ago. Further, consideration of prior arrests has increased from 66.7% in 1979 to 79.1% in 1989.

Property ownership and possession of a telephone imply a minimal level of financial security. Deleting a reference to investigating defendants' "financial condition" when amending its standards in 1985, the ABA stated that "wealth is not an appropriate criterion favoring release, because there are no data to support a conclusion that financially unable defendants are more likely to flee or commit pretrial crimes than those with ample financial resources."[77]

An argument can be made that possession of a telephone is relevant to program notification practices and the furtherance of defendants' appearance at trial. However, it appears that the NAPSA Release Standards anticipated such an argument when calling for "written notification [that] may be supplemented by telephone contact."[78] [emphasis added]

The relevancy of a prior arrest to the release or detention decision is also tenuous. Although judges routinely require criminal records with or without pretrial intervention, commentary to the NAPSA Standards appears to be emphatically opposed to consideration of prior arrest when it states that "information regarding the defendant's criminal history should be verified...and the report submitted...should contain information about convictions only."[79] [emphasis added]

Despite these concerns, new programs have not altered their practices. Newer programs, i.e., those started since 1980, continue to consider financial-related criteria to the same degree and prior arrests to a higher degree than older programs.[80] The consistency in practices between newer and older programs suggests that newer programs may have adopted and implemented other jurisdictions' criteria without re-examining the relevancy of

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[77] ABA Standards for Criminal Justice, Pretrial Release Standards, revised 1985, 10-4.4(d), p. 76.

[78] See NAPSA Release Standard X and the Commentary that follows, p. 59.

[79] See Commentary following NAPSA Release Standard X, p. 58. However, it is possible that a program may collect and summarize prior record data as a service to the court, not as part of the release recommendation.

[80] For example, 56.5% of the newer programs consider ownership of property and 22.9% consider possession of a telephone in defendants' background investigation. A significant increase was found in regard to prior arrests: 86.9% of the newer programs consider this criterion, a 20% increase compared to a decade ago.

each criterion to their specific jurisdictional needs and practices and the overall goals of pretrial release.

VERIFICATION

The veracity of the background information provided to pretrial services officers by defendants is critical to informed decisions by judicial officers and to the overall credibility of the pretrial program within the criminal justice system. The national standards stress the importance of pretrial programs verifying information obtained from defendants prior to submission of a report and recommendation to the court.[81]

Almost without exception, programs at the federal, state, and local levels reported that verification is a critical step in the post-interview process: only 2% of the state and local programs (four programs) do not attempt to verify the information given by defendants. All federal programs attempt to verify the information[82] and the overwhelming majority of state and local programs (169 programs or 84.5%) do so without qualification. Another 13.5% (27 programs) do so with exceptions. Programs reporting exceptions to the verification effort identified the following constraints: 1) time or logistical problems; 2) defendants' charges (e.g., misdemeanor charges are not verified); 3) defendants' eligibility for non-financial release; and 4) a program policy decision to verify specific background items only (e.g., employment is not verified).

Specific verification activities were found also to comport with recommendations made by the national associations.[83] Ninety-eight percent (98%) of both federal (63) and state and local programs (195) attempt to obtain the defendants' adult criminal history, including records from local law enforcement agencies, the countywide or statewide criminal history information system, and/or local court clerk's office. Seven percent (7% or 14) of the state

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[81] Although the NAPSA Release Standards state that the information should be verified, the association implies that the pretrial agency has discretion in regard to the amount and type of verification, stating that "the verification required may vary depending upon the seriousness of the charges and the nature of the information" (p. 58).

[82] § 3154 (1) of the Pretrial Services Act of 1982 mandates such activity by pretrial services programs.

[83] In the Commentary that follows Release Standard X, NAPSA states that "information regarding the defendant's criminal history should be verified through police and court record" (p. 58).

and local programs and one federal program described exceptions to this practice. Only four local programs indicated that they do not secure defendants' adult criminal history.[84]

In light of the confidentiality of juvenile criminal history records in numerous states, it is not surprising that significantly fewer pretrial programs at all levels attempt to obtain defendants' juvenile criminal histories.[85] Slightly more than one-half of the federal programs (51.6% or 33 programs) and one-third of the state and local programs (36% or 71 programs) obtain juvenile histories routinely. An additional 18% of all respondents (12 federal and 36 state and local programs) do so with exceptions (e.g., irrelevancy, defendants' age, etc.) Almost 30% of the federal programs (19) and 46% of the state and local programs (90) indicated that no effort is made to obtain the juvenile history record. Although state statutes prohibiting this practice were cited most often, other reasons given included irrelevancy or unavailability of juvenile records.[86]

Overall, it appears that neither manpower resources nor the timing of the pretrial interview significantly hampers the ability of programs to verify the information and make recommendations to the court, with the possible exception of nine local programs that reportedly conduct no or limited verification due to time constraints. However, in spite of no or limited verification, the data suggest that neither the point of initial contact with defendants nor interview timing prevent these programs from making release recommendations.[87] Six of nine programs make release recommendations, two programs provide background information to the judicial officer, and one program provides an oral report upon request.

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[84] The four programs which do not obtain defendants' adult criminal history are not the same four programs which do not attempt to verify information given by defendants during an interview. The latter programs do check defendants' adult criminal history.

[85] In the Commentary which follows Standard X, NAPSA cautions that, "for persons under twenty-one years of age, information about juvenile convictions for criminal offenses and failures to appear should be gathered but should not be made part of the public record in keeping with the letter and spirit of laws in most jurisdictions protecting the confidentiality of the information. Accordingly, any information concerning juvenile convictions should be submitted to the judicial officer either in camera or at a bench conference" (p. 58).

[86] Programs reporting either statutory prohibition or sealed juvenile files include Alabama, Connecticut, Colorado, Florida, Iowa, Kentucky, Maryland, Minnesota, Missouri, New York, Oregon, Pennsylvania, Texas, and Virginia.

[87] All nine programs had contact with defendants prior to the initial court appearance.

ASSESSMENT AND RECOMMENDATION POLICIES

The uses of background information obtained from defendants and subsequently verified by program staff are well established. In some instances, state and local programs are authorized to release defendants without judicial approval prior to the initial court appearance. For programs without this authority, however, the information forms the basis of program recommendations made to the court at defendants' initial court appearance. The following subsection discusses how background information is used by pretrial programs.

Delegated Release Authority

Although no federal program is empowered with delegated release authority, 83 state and local programs (over 40%) indicated that they have delegated release authority, i.e., authority to release defendants without judicial approval prior to the initial court appearance. Geographically over three-quarters of the programs with delegated release authority are located in the southeast or western portions of the United States.[88]

As Table 40 illustrates, over 90% of these programs have authority to release all defendants charged with misdemeanors and varying degrees of authority to release defendants charged with other types of offenses. The extent of authority to release defendants charged with felonies varies considerably: some programs are limited to releasing defendants charged with felonies only after-hours, on the weekend, or after selective consultation with the duty judge; others are limited to non-violent first offense felonies; still others are authorized to release all but murder or treason.[89]

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[88] Almost one-half (40) of the programs are located in the western United States, as follows: Washington, 5; California, 13; Oregon, 15; Colorado, 3; Utah, 2; Arizona, 1; and New Mexico, 1. The southeastern region boasts 25 programs, as follows: Georgia, 2; Florida, 8; Alabama, 3; Texas, 7; North Carolina, 2; Louisiana, 2; and Tennessee, 1. Eleven programs are located in the midwest; the remaining seven are scattered in the eastern region.

[89] Connecticut, a statewide system, has delegated authority for all offenses, including treason and murder, with one minor exception--where the court has predetermined the bail amount in an arrest warrant subsequently executed, the program does not have authority to modify the bail amount.

Table 40. Delegated Release Authority: Types of Offenses

Type of Offense 1/	# of Programs	% of Programs
Moving traffic offenses ("major traffic" cases)	60	72.3
All infractions or ordinance violations (less serious than criminal misdemeanor)	56	67.5
All misdemeanors	75	90.4
Some felonies 2/	55	66.3

1/ Multiple responses were permitted. Percentages are based on 83 programs.
2/ Felonies itemized by programs ranged from non-violent, first offense felonies to all felonies including treason and murder (with the minor exception noted in footnote 89).

A question arose as to whether the existence of delegated release authority facilitated earlier release procedures overall. Detailed examination of the programs' interviewing patterns revealed that the interviewing practices of programs with release authority mimicked practices of programs without release authority. Although undoubtedly many defendants are released as a result of the programs' early intervention practices, many programs do not interview defendants as part of the booking process. Almost 39% of the programs with delegated release authority and information available indicated that they conduct at least 50% of their interviews six hours after booking.[90] Thus, this delay in interviewing defendants may have the effect of counterbalancing some advantages these programs have in facilitating the speedier release of defendants compared to the programs without delegated release authority.

Recommendation Policies and Types of Recommendations Made

Program practices nationwide generally conform to the guidelines set forth by the national associations in regard to the formulation of release recommendations. Addressing this subject, the ABA stated:

> ...the inquiring agency should make recommendations to the judicial officer concerning the conditions, if any, which should be imposed on the defendant's release. The agency should formulate detailed

[90] Fifty-nine of the 83 programs with delegated release authority were able to provide data on the percentage of defendants interviewed during specific time periods.

> guidelines to be utilized in making these recommendations, and, whenever possible, the recommendations should be supplied by objective factors in the guidelines. The results of the inquiry and the recommendations should be made known to the participants in the first appearance as soon as possible.[91]

Further, § 3154 (1) of the Pretrial Services Act of 1982 mandates recommendations explicitly. Articulating one of the many functions of pretrial services, the Act states that programs will report to the court information on the defendant including "information relating to any danger that the release of such person may pose to any other person or the community, and recommend appropriate release conditions for such individual."

As Table 41 reveals, almost all of the federal programs (95% or 61 programs) and three-quarters of the state and local programs (73% or 138 programs) make specific release recommendations to the court in all cases and another 5% federal and 20% state and local (4 and 38 programs respectively) make recommendations when requested by the court. Less than 7% of the state and local programs provide background information only to judicial officers.[92]

Table 41. Information Presented to the Court

Type of Information Presented	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Make recommendations in all cases	138	61	73.0	95.3
Make recommendations only when asked by court	38	3	20.1	4.7
Background information only provided	13	0	6.9	0.0
Total	189	64	100.0	100.0

[91] ABA Standards, 10-4.4(e), p. 10.58; see also Commentary following NAPSA Release Standard III.D, p. 18 and XI.B, p. 65.

[92] However encouraging the percentages are, they are less than the figures reported a decade earlier, when almost 90% of the programs reportedly made specific recommendations to the court.

Exclusions from Personal Recognizance (PR/OR/ROR) Consideration

Once the background information is collected, program staff must determine which defendants are eligible for personal recognizance (PR) release in those jurisdictions where PR exists as a release option.[93] The means used to make this determination, i.e., assessment schemes, are discussed in the next subsection. However, as a preliminary step, many programs automatically exclude certain classes of defendants from PR consideration.

The national associations are emphatic that an "individualized evaluation" should be accorded each defendant based upon the results of the background investigation.[94] In light of this emphasis on a case-by-case review of eligibility, it is disconcerting to find that programs are continuing to automatically exclude certain defendants from PR consideration. Similar to the blanket exclusions used by programs to limit the types of defendants interviewed, automatic exclusionary practices are in place which limit the types and numbers of defendants from PR consideration.

In effect, defendants have two types of pretrial program obstacles to overcome in order to be considered for PR release. As discussed earlier, defendants must first overcome the jurisdiction's exclusionary policies which may preclude them from the initial interview. If defendants can overcome the first hurdle, they must then surmount a second set of exclusionary policies to be considered for PR release. To cite an example: defendants charged with a misdemeanor offense in a specific jurisdiction may be able to surmount a program's exclusionary practice of not interviewing all those charged with felonies--being charged with a misdemeanor, the defendants will be interviewed. However, if those defendants have a known prior record, they may not be considered for PR release if they reside in a jurisdiction that automatically excludes such individuals from consideration. However, it must be emphasized that those defendants will remain eligible for other forms of non-financial or financial release (e.g., conditional release, deposit bail).

The circumstances which automatically exclude defendants interviewed from PR consideration are profiled in Table 42. With regard to state and local programs, a warrant or detainer from another jurisdiction is the most frequently employed exclusionary practice.

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[93] Personal recognizance (PR), Release on Recognizance (ROR), and Own Recognizance (OR) are used interchangeably in this discussion and are referred to as PR.

[94] Commentary following NAPSA Release Standard XI, p. 65.

Table 42. Circumstances Which Automatically Exclude Defendants Interviewed From Being Considered for Personal Recognizance Release

Circumstances 1/	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
Specific charges	102	18	60.3	28.1
Warrant/detainer from another jurisdiction	112	17	66.3	26.6
Outstanding warrants/same jurisdiction	65	12	38.5	18.8
On parole, probation, or pretrial release	84	13	49.7	20.3
No verified address	71	7	42.0	10.9
Inability to verify defendant's interview information	73	9	43.2	14.1
Prior record of failure to appear in court	82	9	48.5	14.1
Prior record of rearrest for crime committed on pretrial release	50	12	39.6	18.8
Known prior record	24	2	14.2	3.1
Defendant suspected to have severe mental or emotional problems	73	11	43.2	17.2
Evidence of use of illicit drugs	17	7	10.0	10.9
Other	22	4	13.0	6.3

1/ Programs identified multiple reasons for excluding defendants from being considered for personal recognizance release. Percentages based on 169 state and local programs and 64 federal programs.

Of greater interest, however, is that 102 programs, over 50% of all programs, indicated that specific charges preclude PR consideration. Much like programs which exclude defendants from being interviewed based on specific charges, most programs that exclude defendants from PR release consideration based on specific charges list violent crimes, e.g., aggravated offenses, rape, kidnapping, and murder.

As the table further shows, federal program practices are quite different from state and local programs and less exclusionary. The Bail Reform Act of 1984[95] provides details on the circumstances when a judicial officer may refrain from releasing or may detain defendants at their initial court appearance on any type bond, including PR. For instance, defendants on parole, pretrial release or probation at the time an offense was committed will not be released by a judicial officer pending a detention hearing. Few federal exclusions have been mandated by statute, the Judicial Conference, or the A0.

As noted earlier, 118 state and local programs exclude defendants from being interviewed on the basis of charge-related offenses. Although there is considerable overlap between programs that do not interview defendants based on charges and those that do not consider defendants for PR release based on charges, an additional 30 programs were identified as falling solely in the latter category. Thus, 148 programs, or approximately 80% of the respondents[96] preclude defendants charged with specific offenses from being considered for PR release.

Over and above charge-specific exclusions, automatic exclusions from PR consideration fall into two classes: categories that relate to defendants' prior criminal history and categories that relate to defendants' "personal" traits, e.g., mental and emotional health, use of illicit drugs, etc. While information obtained in regard to defendants' prior criminal history and personal stability are relevant to the type of release recommendation, some pretrial programs appear to be perpetuating practices of excluding defendants from PR consideration without an independent assessment of the relevancy or legitimacy of specific exclusions to their particular jurisdictional needs.[97]

Almost one-half of the state and local programs (82 programs or 48.5%) exclude defendants from consideration based upon their FTA history. The number of FTAs defendants may accumulate before automatic exclusion, however, differs widely--some programs exclude on the basis of a specified number during a certain time period (e.g., one FTA within the last three years), while others exclude after one FTA. Although FTA is considered highly

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[95] 18 U.S.C. 3142 (d), (e), and (f).

[96] The percentage is based on the 186 programs that answered the questions on exclusions.

[97] A key factor appears to be whether the pretrial program has a mechanism in place capable of predicting risk levels.

relevant to PR consideration,[98] a question arises whether an FTA exclusively is sufficient justification for pretrial program staff to exclude a defendant from PR consideration.

With the increasing availability and use of conditional and supervisory release options in the past decade, speculation arises as to whether and to what extent programs may be recommending these options at the expense of PR release. It is unknown to what extent the availability of these options has affected programs' PR consideration practices, i.e., how many defendants would be eligible and recommended for PR release but for conditional and/or supervisory release. Cautious program practices in regard to the types of defendants who should be considered for PR release may minimize the FTA and pretrial crime risks and further program credibility, but they also may result in the over-utilization of conditional and supervisory release options, thereby placing under restrictions defendants who could otherwise be safely released without them.

The concerns noted by Pryor in the 1979 survey monograph remain as relevant and timely as a decade ago when he said:

> There is a need within most programs for more ongoing research and evaluation in order to determine whether there is a valid, legitimate reason for the kinds of exclusions they employ. Unless and until such corroboration of exclusionary policies takes place, it is likely that many defendants will be needlessly detained and/or forced to pay money bail due to unnecessary cautious program practices.[99]

Defendant Screening Mechanisms: Type of Assessment Schemes Used

Over the years, considerable research and attention have focused on the different types of schemes used by pretrial programs to assess defendants' eligibility for release (as well as type of release).[100] It is the consensus of national associations as well as researchers that pretrial programs should utilize objective assessment schemes to evaluate defendants' release

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[98] For instance, see Michael P. Kirby, "Failure to Appear: What Does it Mean? How Can it be Measured?" (Washington, D.C.: Pretrial Services Resource Center, June 1979) in which the author states that "criminal justice indicators, such as prior record and prior FTA behavior, appear to be more predictive of FTA rates than community ties and socioeconomic factors" (p. 7).

[99] Pryor, supra, p. 35.

[100] For a more complete discussion of the strengths and weaknesses of each type of assessment scheme, see Hall, et al., supra, pp. 46-50.

eligibility whenever possible. The overriding rationale for using objective schemes was cogently summarized by the NAPSA Release Standard drafters:

> In order to remove the individual bias [of the pretrial interviewer], release recommendations should be based on objective criteria. This is the only way to remove arbitrariness and approach equal treatment for all defendants.[101]

In spite of these urgings, state and local programs continue to use subjective and combination assessment schemes to the same degree as reported a decade ago. While subjective assessment schemes rely on the perceptions of the interviewer, thereby multiplying the chances of bias and systemwide inconsistency, objective schemes are perceived by some to be too rigid to allow for relevant observations by an interviewer. The weaknesses associated with either scheme have led many program administrators to adopt combination schemes that allow staff to combine subjective judgments with objective evaluations in arriving at release/detention recommendations.

As seen in Table 43, more than 60% of the state and local programs (122 programs) use some form of objective scheme, with 24% (46 programs) using an objective scheme exclusively. At the federal level, slightly more than 30% (19 programs) use objective schemes with 21% using bail guidelines exclusively.[102] Over one-quarter of the state and local programs (51 programs) and over two-thirds of the federal programs (42 programs) use a purely subjective scheme in their assessments of defendants. Eight percent of the state and local programs (16 programs) make no release recommendations, i.e., only background information is presented to the judicial officer.

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[101] Commentary following NAPSA Release Standard XI.A.4., p. 64.

[102] At the time of the survey in the summer of 1989, additional federal programs were taking part in a nationwide pilot project utilizing bail guidelines only.

Table 43. Systems Used to Assess Release Eligibility

Type of System Used	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
Objective system only (point scale, risk matrix, bail guidelines)	46	13	24.0	21.3
Subjective system only	51	42	26.6	68.9
Objective system plus subjective input	76	6	39.6	9.8
No release recommendation: background information only provided to judicial officer	16	0	8.3	0.0
Other 1/	3	0	1.6	0.0
Total	192	61	100.1*	100.0

* Rounding error

1/ One program uses a point scale for felony charged defendants and a subjective scheme for misdemeanor charged defendants; one program uses a point scale and provides background information to judicial officer; and one program uses a point scale if arrestee is interviewed by deputy release officers or jail staff and a subjective scheme if arrestee is interviewed by release officer.

Examination of the data in greater detail reveals no distinguishing characteristics that would help to explain why state and local pretrial programs use a specific scheme or the benefits accrued from the use of a specific scheme. Rather, variations among programs seem more a function of individual program idiosyncracies and practices than any systematic differences. To highlight some findings:

First, no correlation exists between the type of assessment scheme used by a specific program and the administrative milieu in which it operates, the type of jurisdiction it serves, or the size of the population served. An objective scheme is as likely to be used in a probation-administered program in a rural area with a population of fewer than 50,000 as in a court-administered operation in a major metropolitan area with a population over 1,000,000. This finding is true when examining programs that operate in jurisdictions under jail caps or consent decrees--all types of schemes are used without regard to the size of population served (see Table 44).

Table 44. Assessment Scheme and Population Size and Presence of a Jail Cap/Consent Decree

	Population Size (in thousands)				
Assessment Scheme	< 50	50-100	100-500	500-1m	> 1m
Subjective Only	1	1	10	6	2
Objective Only:					
- Bail guidelines	-	-	-	-	1
- Point scale or community ties	4	1	2	2	3
- Risk matrix	-	-	-	1	1
Combination	4	3	16	3	7
Background information only	1	1	3	1	1

	Percentages	
Scheme	With Cap/CD	All Programs
Subjective scheme	26.7	26.6
Objective scheme	20.0	24.0
Combination	44.0	39.6
Background information only	9.3	8.3

For the most part, the number of defendants interviewed by a program is not related to the type of assessment scheme used. The 35 state and local programs that interviewed the greatest number of defendants during the last reporting year were found to use differing schemes to the same degree as the 35 programs that interviewed the least number of defendants during the last year.[103]

[103] The program with the third highest interview total (approximately 82,000) uses a purely subjective system. All other programs in the "top ten" interview totals use combination or objective schemes.

Neither program staff size nor use of volunteers and/or student staff appears to influence a program's choice of assessment scheme. One and two-person staffs were found to be as likely to use objective schemes as programs with staffs of 50 of more. Also, programs that use volunteer and/or student staff were found to be as likely to use subjective assessment schemes as any other scheme.[104]

Since interviewer discretion and/or bias and systemwide accountability are relevant to assessment schemes, a question arose about the degree to which programs that use subjective schemes advise defendants of their rights prior to the interview. Programs that use subjective schemes were found to have advisement policies in place to a far lesser degree than programs that utilize objective or combination schemes. Over 35% of the subjective-scheme-based programs (18 programs) fail to inform defendants of the voluntary nature of the interview or their policies on use, limitations, or access to the background information compared to 15% (seven programs) of the objective-scheme-based programs. Further, whereas 41% of the programs with objective schemes obtain signed consent forms from the defendants, fewer than 15% do so in programs utilizing subjective schemes.

The programs' age and the type of assessment scheme used were examined to ascertain whether any shifts had occurred in the past decade. As Table 45 shows, a greater number of newer programs are opting to use objective schemes to assess defendants' eligibility. While the number of programs that use combination schemes has remained relatively constant over the years, fewer programs are opting to use a subjective scheme. Explanations for the increasing popularity of objective assessment schemes by newer programs are not obvious. Reasons could include: a determination that objective schemes are better; as a response to national standards and research on the subject; to secure a greater level of systemwide predictability; or as a response to a court directive. Conversely, older programs may be perpetuating their reliance on subjective schemes in order to capitalize on the experience and knowledge of the interviewing staff. Regardless of the explanation, the shift should be monitored over the next decade to document its permanency.

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[104] Eleven programs that use purely subjective schemes also use volunteers and/or student staff. It is unknown whether use of volunteers and/or students prompt program administrators to provide additional training or take additional steps to maintain system integrity.

Table 45. Age of State/Local Program and Assessment Scheme

Program Start	Type of Assessment Scheme Used: Subjective Scheme	Objective Scheme	Combination Scheme	Background Information
1963 - 1969	1	5	7	1
1970 - 1974	14	9	18	3
1975 - 1979	12	10	16	0
1980 - 1984	9	6	16	3
1985 - 1990	7	17	18	4

Origin of Assessment Scheme

In response to an inquiry on the derivation of their assessment schemes, programs frequently cited multiple sources as shown in Table 46. Three sources of assessment schemes for federal programs are statutes, Judicial Conference advise, and instruments developed by the AO or the Federal Judicial Center (FJC). For programs that use a purely subjective assessment scheme, pretrial officers rely heavily on considerations set forth for judicial officers in the Bail Reform Act of 1984.[105] Federal programs that employ objective schemes use bail guidelines developed jointly by the AO and FJC.

Commentators have repeatedly cautioned pretrial programs about importing assessment schemes from other programs and/or jurisdictions without modification. Although this practice can be condoned during a program's infancy stage, local demographic dissimilarities such as crime rates, geography, and population size should prompt new programs to re-evaluate the bases of their assessment schemes as soon as it is feasible.

It appears that an increasing number of state and local programs are, in fact, doing so. Of particular interest is the percentage of programs that utilize their own research and data in assessment scheme development; compared to 9% of the programs a decade ago, over 40% of the programs in 1989 reported using local research and data.

[105] 18 U.S.C. 3142 (g) outlines the factors a judicial officer takes into account in determining whether there are conditions of release that will reasonably assure the appearance of defendants as required and the safety of any other person and the community.

Table 46. Origin of Recommendation Scheme

Derivative Source for Scheme 1/	# of Programs State/Local	# of Programs Federal
Committee or program decision, based on subjective assessment of what criteria should be included	72	14
Adapted with changes from another program	81	4
Based on program's own research and data	73	8
Other	46	26

1/ Multiple responses were permitted. The number of programs responding to the question totalled 188 state and local programs and 64 federal programs.

It appears that newer pretrial programs adapt an older program's scheme and supplement it with their own research and data at differing rates. Although earlier surveys documented a significant number of programs that "borrowed verbatim" another program's approach, it is unknown whether or to what extent the practice continues. The only current indicator that the practice may still be prevalent is the number of programs that reported to adapt assessment schemes from other jurisdictions but do nothing more--23 programs that started operations since 1980 fell within this category.[106] Clearly, sufficient time has passed for a number of programs to have conducted some research and modified their assessment schemes.

Validation of Assessment Scheme

For years researchers have encouraged programs to empirically validate their objective assessment schemes. For pretrial programs validation studies can serve multiple purposes. In addition to legitimating the different weights assigned to specific criteria in the scheme, validation studies can also serve to rebut potential concerns about the relevancy of certain criteria and/or the discriminatory impact certain criteria may have in precluding defendants from PR consideration.

[106] However, this does not mean that the programs "borrowed verbatim."

While AO has overall responsibility for validating objective schemes in use at the federal level,[107] the majority of state and local programs have not taken steps toward validating their schemes. Whether the current shortage of validation studies is attributable to limited resources or policy decisions remains unclear.

Only slightly more than one-fifth of the pretrial programs that use objective or combination assessment schemes (25 programs) report having empirically validated their objective assessment instruments. Older programs in urban areas have validated their schemes at rates higher than newer or more rural programs: of the 25 programs that have validated their schemes, almost one-half were in operation by 1973 (compared to less than one-quarter after 1980). Likewise, all of the validation studies have been conducted in areas with populations of at least 100,000. Although most of the validation studies have been conducted by programs which serve populations between 100,000 and 500,000 (ten studies or 12.2%), the largest proportion of studies has been conducted in jurisdictions that serve a population base over 1,000,000.[108] Further, although most of the studies (18 studies or 72%) were conducted by programs with at least eight staff members, four validation studies (16%) have been conducted by one and two member staffs.

A correlation was found between validation studies and a program's administrative location. Thirty percent (30%) of the private non-profit pretrial programs have validated their assessment schemes.[109] Programs with governing bodies in place were disproportionately more likely to have validated their schemes than programs without them. Although this finding is not surprising in light of the number of private non-profit programs overall that have validated their studies, the numbers suggest that the presence of a governing body may be a motivational element.

Subjective Override

In some state and local jurisdictions, objective assessment schemes allow for departure from the initial assessments (subjective override). Programs were asked to estimate the percentage of cases in which overrides occurred during the past year.

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[107] Four of 11 federal respondents that use a bail guidelines system reported that AO has validated their schemes.

[108] Seven programs (26.9%) have conducted validation studies including one statewide system.

[109] One reason for this relationship may be that some non-profit agencies are held more accountable and are more likely to be challenged by other system actors regarding their procedures.

With few exceptions, it appears that overrides are used infrequently. Although the range was considerable (0% to 90% of all cases), over 80% of the 39 state and local programs indicated that an override was used in 20% or fewer cases during the last year. Further, as Table 47 reveals, over one-half of the programs reported an override in 10% or fewer cases.

Table 47. Subjective Override

Override Percentage	# of Programs	% of Programs
0	2	5.1
.01% - 1%	4	10.2
1.1% - 5%	6	15.4
6% - 10%	10	25.6
11% - 20%	10	25.6
21% - 50%	5	12.8
51% - 90%	2	5.1
Total	39	99.8*

* Rounding error

Consideration of Danger

During the past decade, one of the more obvious changes in pretrial assessment practices has involved the assessment of defendants' potential danger to the community, i.e., the risk to the community from pretrial crime in addition to failure to appear posed by released defendants. For years many programs have considered danger implicitly and frequently used pre-existing eligibility criteria to restrict from PR consideration defendants perceived to be dangerous. In recent years, however, the U.S. Congress and legislators from 36 states and the District of Columbia have amended their bail statutes to include protection of the community as a legitimate purpose of bail. Anticipating the amendments by federal and state governments, NAPSA addressed this issue in 1978 in its Release Standards:

> Minimizing the potential danger posed by the release of certain persons...agencies can lessen the risk of crime committed by persons on pretrial release by effectively evaluating a defendant's background and recommending appropriate release conditions for high risk defendants.[110]

[110] Commentary following NAPSA Release Standard VIII.C.5., p. 38.

Although debate on danger as a factor in release decisions has subsided, the question remains how an assessment of danger should be made by pretrial release programs, i.e., whether a function of a pretrial program includes a recommendation of pretrial detention or whether high risk defendants can be and should be controlled by the imposition of conditions of release.

Most programs must formally consider risk to the community from pretrial crime as well as risk of flight when making assessment determinations. Consideration of defendants' potential danger is mandated in the Bail Reform Act of 1984 and all federal programs reported that their judges adhere to this requirement.[111] At the state and local level, the overwhelming majority of programs (166 programs or 87.8%) do likewise. Of the 24 programs that do not consider danger, only five operate in one of 14 states without a legislative mandate allowing a judicial officer to consider a person's dangerousness in setting bail. However, a number of these programs indicated that they assess potential danger on an informal basis.[112] Most often, danger is assessed by both the pretrial interviewer and the court--all federal programs and approximately 90% of the state and local programs consider assessment to be a function of both system actors.

A disproportionate number of programs that serve large populations did not consider danger. Almost one-quarter of the programs that serve populations of one million or more do not assess defendants' potential danger to the community (although all of these programs have a conditional and/or supervisory release component).

Programs that use subjective assessment schemes to assess release or detention eligibility consider danger more frequently than programs using other types of schemes--over 90% of these programs reported doing so. Conversely, programs that utilize point scale or community ties matrices consider potential danger the least, i.e., 76%.

What impact, if any, non-consideration of danger ultimately has on recommendation practices is unknown. The decision to consider (and not to consider) defendants' risk to the community most often reflects statutory mandate and/or local jurisdictional preferences. Support for and judicial confidence in pretrial release depends on minimizing pretrial crime and FTA. If consideration of danger ultimately paves the way for higher risk defendants to

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[111] § 3142 (d), (e), and (f).

[112] For instance, one program considers danger on an informal basis where there is a history of domestic violence or spousal abuse and another considers danger in instances where the defendants have a prior history of serious offenses. Another state explicitly precludes consideration of danger, although a statutory change is under consideration.

be released with conditions who would not have been otherwise, then pretrial programs have met both community and programmatic concerns.

GRADUATED RELEASE ALTERNATIVES

Release Options Available

Throughout the Release Standards, NAPSA repeatedly encourages pretrial programs to maximize the rate of nonfinancial release. Identifying and discussing program objectives, NAPSA states that agencies should "continually work toward expansion of the use of nonfinancial release" and strongly encourages programs to develop practices that will increase the frequency of use of nonfinancial release.[113]

Historically, pretrial programs concentrated their initial efforts on determining defendants' suitability for PR release. As pretrial programs have matured and responded to specific jurisdictional pressures and needs, they have developed a comprehensive set of pretrial release options for the courts' consideration, including conditional release, supervised release, and deposit bail.[114]

Table 48 illustrates the types of release options now available in jurisdictions and/or through pretrial release programs nationwide. As the data show, at least 90% of all federal pretrial services officers reported having all release options. Over three-quarters of the state and local programs report having conditional release and supervised PR release and about 40% of the programs have third party custody release. Although the availability of nonfinancial release options has increased in the past decade, financial release options remain viable alternatives in many jurisdictions.

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[113] Commentary following NAPSA Release Standard VIII.C.1., p. 52.

[114] Although conditional release encompasses all forms of non-financial release including supervised release, the two are distinguished for the following reasons: the glossary of terms accompanying the survey defined the terms distinctly; supervised release implies more frequent and intense contact between the pretrial program and defendants as opposed to conditional release; and some programs have a supervised release component but no conditional release component (and vice-versa).

Table 48. Release Options Available in Jurisdictions

Type of Release 1/	% of Programs State/Local	% of Programs Federal	% of Programs State/Local	% of Programs Federal
Personal recognizance 2/	190	61	94.5	95.3
Cash bond	155	64	77.1	95.3
Supervised release	151	63	75.1	100.0
Surety bond	140	60	69.6	98.4
Deposit bail	115	62	57.2	96.9
Personal bond	93	59	46.3	92.2
Third party surety	79	60	39.3	93.8
Other	37	9	18.4	14.1

1/ Multiple responses were permitted. Percentages are based on 64 federal programs and 201 state and local programs.
2/ Category also included own recognizance (OR) as well as release on recognizance (ROR).

The information does not show to what extent the availability of these options help augment the nonfinancial release of higher-risk defendants who would otherwise be detained or released only on money bail, nor does it show the frequency with which various options are recommended to the court.

The most significant change in the past decade has been in the increased availability and use of supervised PR release, although the types of services provided and the frequency and level of contact between programs and defendants differ nationwide.[115] Research indicating that some high risk defendants can be released under certain conditions without jeopardizing public safety concerns has been instrumental in the adoption of supervised pretrial release.[116] However, other factors have contributed to development of supervised release, including jail crowding, the increased number of defendants identified having special needs, and judicial sentiment.

[115] In the 1979 survey, supervised PR release was subsumed under conditional release.

[116] James Austin and Barry Krisberg, Evaluation of the Field Test of Supervised Pretrial Release--Final Report (San Francisco, CA: National Council on Crime and Delinquency, June 1984) (Final Report on NIJ Grant No. 80-IJ-K014).

Nonfinancial and Financial Release Recommendations

Data show that federal, state, and local programs are recommending a host of nonfinancial release alternatives to the courts in addition to PR release. Although AO encourages federal programs to formulate recommendations that will impose minimal conditions of release that will assure defendants' appearance, it expressly sanctions the use of other options, as Table 49 shows.[117] With regard to state and local programs, approximately 80% of the programs recommend forms of nonfinancial conditional release and over 50% recommend third-party custody release in addition to determining eligibility for or recommending PR. These figures closely parallel those reported a decade earlier and sustain the increase found to have occurred between 1975 and 1980.[118] Although a high proportion of programs recommend various forms of non-financial conditional release, few programs only recommend these conditions. The data reveal that 35 programs, less than one-quarter of the respondents to this question, recommend non-financial conditional release or third-party custody release only. An additional 16 programs (10%) recommend both options and pretrial detention only.

Table 49. Specific Recommendations Made to the Court 1/

Type of Specific Recommendation	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Non-financial conditional release	126	62	79.7	96.9
Release to third party custody	83	60	52.5	93.8
Set monetary bail (other than 10%)	80	62	50.6	96.9
Specific bail amount (other than 10%)	73	62	46.2	96.9
10% deposit bail	55	63	34.8	98.4
Pretrial detention	76	62	48.1	96.9

1/ Multiple responses were permitted. Percentages based on 64 federal programs and 158 state and local programs.

In spite of admonitions to the contrary, programs continue to make financial release recommendations at high rates. As Table 49 shows, at least 45% of the state and local programs recommend that monetary bail be set, recommend specific bail amounts, or both

[117] Chapter 3 of the Pretrial Services Manual, supra, pp. 27 - 31.

[118] Pryor, supra, p. 39.

(other than 10% deposit bail).[119] Twelve programs (7.6%) recommend financial options only and another seven programs do so in addition to recommending pretrial detention. Approximately 10% of the programs overall recommend financial conditions of release only; whether this practice reflects a practical recognition by pretrial staff that, but for the financial release recommendations being made, higher risk defendants would be detained, is not known.

Availability of a conditional release or supervised PR release option has not led programs to abandon the use of financial release recommendations. On the contrary, programs that have no conditional or supervised PR release option recommend specific bail amounts to a far lesser degree than programs with either one or both of these release options. More specifically, 41.9% of the programs with conditional release and 37.7% of the programs with supervised PR release continue to recommend specific bail amounts compared to 7.5% and 13.8% of the programs without those release options.

Programs operating in court-based environments were found to utilize financial recommendation options other than 10% deposit bail at rates significantly higher than any other administrative locus. Specifically, court-based programs recommended financial conditions to the courts 56% of the time compared to probation-based, law enforcement-based, or private-non-profit-based programs (with percentages of 41%, 42%, and 31% respectively). Local court-based programs, i.e., municipal or county, were most disposed to make financial recommendations--three-quarters of all county or municipal programs recommend specific bail amounts.

It remains unclear whether programs are perpetuating the practice of recommending financial release merely for the sake of expediency or for other reasons. In some jurisdictions bail recommendations may lead to less restrictive release conditions being set for defendants than if no such recommendation were made. Programs may recommend bail infrequently. Additionally, the costs associated with conditional or supervised PR release may limit a program's ability to recommend all eligible defendants for these program options. The data suggest that programs appear to be propelled by program expediency and jurisdictional realities. Since these practices are contrary to fundamental pretrial tenets, re-examination of financial recommendation policies should be undertaken by many programs to determine their continuing necessity.

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[119] This percentage is consistent with the figure reported in 1979.

PRETRIAL REPORT PREPARATION AND DISSEMINATION

Although national standards urge pretrial programs to prepare and submit written reports summarizing the information gathered about defendants, there is the concomitant recognition that circumstances may preclude submission of written reports. Factors such as geographic location, program hours, and/or program policies may affect the procedures utilized to submit timely information to judicial officers. Under certain circumstances, e.g., judicial preference, oral reports may supplement or substitute for written reports.

Although no clear practice is favored, all programs generally provide some form of written documentation reporting the results of defendants' background investigation to the judicial officer at the bail-setting stage. As Table 50 shows, federal programs routinely provide more detailed documentation than state and local programs due to standardized pretrial services reports.[120]

One-half of the state and local programs submit a written summary of the interview and verification process, a record check, and release recommendations.[121] Seventeen (17) programs (9.0%) indicated that no report is provided routinely, although two of these programs will provide a report if so requested by a judicial officer. Sixteen (16) programs provide oral reports only (including nine programs which make only an oral recommendation).

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[120] Each pretrial services report contains a summary of: the defendant's background including family/community ties; military history; employment/financial history; health (both physical and mental); prior criminal history including pending charges or outstanding warrants, summary of charges; comments about the defendant from any critical source; an assessment of flight and danger; and the pretrial service officer's recommendation including specific conditions of release. The source of verification provided by the defendant is identified.

[121] Most often, programs submit all three types of documentation to the judicial officer.

Table 50. Means Used to Report Results of Background Investigation to Judicial Officer

Means Used by Programs 1/	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
Written summary of interview and verification process	104	56	55.3	87.5
Record check	101	46	53.7	71.9
Release recommendations	98	52	52.1	81.2
Oral report	94	52	50.0	81.2
Current offense summary	48	11	25.5	17.2
Written summary of interview	36	32	19.1	50.0
Other written report	29	4	15.4	6.3
Report provided only upon request of judicial officer	24	4	12.8	6.3
Report not provided	17	1	9.0	1.6

1/ Multiple means may be used to report results of defendants' background investigation to judicial officer and total exceeds the 64 federal and 188 state and local programs that responded to this question and which form the basis for the percentage.

State and local programs do not habitually provide written reports to prosecutors or defense counsel.[122] Although almost 70% of the programs take some affirmative steps to provide reports--either on a routine basis (42.9%) or upon request of prosecutors or defense counsel (26.6%)--almost one-third (30.4%) of the programs do not as a matter of program

[122] Addressing the subject, the ABA standards, at 10.4.4(e) state:

> After an inquiring agency's report has been presented to a judicial officer, the prosecuting attorney and defense counsel may wish to supplement or dispute it. That can be accomplished only if they have copies of the report sufficiently in advance to prepare adequately for the first-appearance hearing...because prosecuting attorneys are responsible for initiating either preventive detention or conditional release pending diversion...inquiring agencies [should] transmit promptly to a prosecuting attorney the material they have gathered bearing on either alternative form of disposition (p. 79).

policy.[123] On the other hand, almost all federal programs routinely provide reports to prosecutors or defense counsel: 95.3% (61 programs) reported doing so routinely, 3.1% (two programs) provide reports on request, and 1.6% (one program) does not provide a report.

PRETRIAL REPRESENTATIVE PRESENCE AT INITIAL COURT APPEARANCE

National standards urge a pretrial program representative to be available at the time of the initial court appearance. Availability at the initial court appearance by pretrial program representatives fulfills two program objectives: not only can pretrial representatives respond to court inquiries, but also can explain the conditions of release and sanctions for noncompliance to defendants.

The data reveal that almost all federal programs (62 programs or 96.9%) and almost 60% of state and local programs (59.5% or 114 of 192 programs) indicated that a pretrial representative is present at defendants' initial court appearance. However, practical and policy considerations interfere with the execution of this duty: 12 federal programs and 50 state and local programs report exceptions to this activity. Federal programs attribute absences to either not being advised of or being excused from the initial court appearance. Most often, state and local programs indicate that resource limitations (lack of staff or scheduling conflicts) are responsible for the absence of the representative. In some local jurisdictions representatives attend hearings only in specific courts (e.g., representatives are allowed in municipal courts).

Although manpower resources may affect whether a representative will be able to attend a hearing on a specific day, manpower limitations do not explain the absence of representatives in 40% of the state and local pretrial programs.[124] Detailed examination of the data reveal that, with the exception of programs with no full-time professional staff, pretrial representatives from small programs are as likely to be present at the initial hearing as staff from large programs. Although both small and large programs' initial court appearance practices are similar, smaller programs face time limitations or competing requests more frequently.

Programs' verification policies do not affect their policies on whether a representative appears in court: the few programs that do not verify their information are evenly split on

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[123] Many programs provide reports only to the prosecutor or to defense counsel but not to both parties.

[124] Only two federal programs (3.1%) indicated that a pretrial representative is not present at defendants' initial court appearance.

their appearance in court policies. This also holds true for programs that perform limited verification--approximately 50% of these programs send a representative to the hearing.

It appears that the type of assessment scheme in use affects a program's initial court appearance policy. Programs that use either subjective schemes or combination schemes are more likely to provide a representative at an initial court appearance--61% and 74% respectively. Since these schemes have judgmental elements, it is understandable why programs more frequently elect to have a representative present to clarify points in the report. Conversely, programs using point scales (or similar community ties index) or bail guidelines are less likely to have a representative present at hearings--48% and 33% respectively.

Most programs attempt to have a pretrial representative present at the initial court appearance hearing. However, pretrial representatives are frequently absent or not present as a matter of policy over 40% of the time. Therefore, the possibility exists that, on any given day, almost two-thirds of state and local programs are not providing in-court representatives at initial hearings.[125]

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125. The figure includes the 78 programs that do not provide a representative as a matter of policy and the 50 programs that cite exceptions to the practice--128 of 192 programs or 66.6%.

CHAPTER FOUR: POST INITIAL APPEARANCE PROCEDURES

Activities performed by pretrial programs following the release or detention decision are critical to the operational success or failure of pretrial programs. As the following sections will show, services provided to defendants and to other criminal justice system actors are becoming more comprehensive as pretrial programs respond to new demands and challenges. However, nationwide differences in the level and types of services continue to exist.

INTER-AGENCY COMPACTS

In response to whether they were willing to "supervise, monitor, or work in other ways with defendants with charges pending in other jurisdictions," over 90% of the federal programs and 74% of the state and local programs indicated that they were so disposed, which comports with national standards.[126] However, at all levels, programs limited their willingness to "certain circumstances": over one-quarter of the federal programs and almost one-half of the state and local programs so qualified their willingness.[127]

Resource limitations were identified as the primary impediment to more state and local pretrial programs entering into inter-agency compacts nationwide. Staff size appears to be most relevant to this ability: 50% of the programs that do not supervise defendants have staff sizes of two or fewer and many programs indicated that staff size precludes supervising under specific circumstances.

Generally, probation-based programs at the county or municipal levels are less likely to supervise and/or work with defendants charged from other jurisdictions. Only 14% of the

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[126] See Commentary following NAPSA Release Standard IX.D. which states, in part, that "judicial officers are much more likely to release transients on nonfinancial conditions of release if a background check has been made and agreement for the supervision of that transient has been forthcoming from a pretrial services agency where the transient lives" (p. 18).

[127] Federal programs provide courtesy supervision to other federal districts and D.C. only.

probation-based programs indicated an unequivocal willingness to supervise, compared to approximately 60% for all other types of programs.

The number of referrals actually made and accepted by state and local programs in the last reporting year ranged from 0 (20 programs) to 120 (one program). Excluding the one program with 120 referrals, programs averaged ten referrals for the year. Federal referrals were significantly higher: the number of referrals made and accepted ranged from 0 to 450 with an average of 84 referrals per program per year.

SUPERVISION CAPABILITY AND CONDITIONS

Section 3154 of the Pretrial Services Act of 1982 expressly states that a pretrial service office will "supervise persons released into its custody."[128] However, this provision does not imply that supervision is provided in all cases to federal defendants: 40.6% (26 programs) provide supervision in all cases and 59.4% (38 programs) do so if specifically ordered by the court.

Comparable mandates do not exist at the state and local level. Data from these programs show that 38% of the programs always provide supervision and 43% do so if specifically ordered by the court. However, almost one-fifth of the programs do not provide supervision for defendants released with one or more conditions.

Conditions Recommended and Automatically Imposed

Nationwide, federal and state bail statutes routinely list conditions that courts may impose on defendants to reduce the risk of flight and/or risk of danger to the community. Conditions can be "problem-oriented"--social services or alcohol, drug, or mental health treatment--or involve restrictions on association and travel or require contact with the pretrial services staff. Inquiries were made about the types of conditions pretrial programs can recommend in regard to specific defendants, as well as the automatic conditions that a court can place on defendants regardless of whether the conditions are recommended by the programs.

The Bail Reform Act explicitly lists the conditions available to federal officers with regard to conditioning defendants' release, and practices are uniform in this area.[129] However, automatic conditions imposed on defendants can vary across districts. Although § 3142 of the Bail Reform Act mandates that all federal defendants not violate any federal, state, or

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[128] 18 U.S.C. § 3154 (3).

[129] 18 U.S.C. § 3142 (c) provides a laundry list for pretrial programs to choose from when recommending conditions of release.

local law during their release, additional conditions have been imposed by district courts en banc and by magistrates. The responses mirror those imposed at the state and local level and are displayed in Table 52.

Tables 51 and 52 list the responses reported by state and local programs. As the responses in Table 51 reveal, the conditions most frequently recommended by programs (91 programs) are "problem-oriented," i.e., referral of defendants to physical or mental health facilities for evaluation, treatment, and/or counseling. Forty-four (44) programs specifically recommend drug testing and/or monitoring. If one includes the 33 programs that make "any appropriate" recommendation in this group, then over 70% of the programs recommend physical and mental health referral and treatment on a regular basis. Other options frequently recommended by programs include travel restrictions (55 programs), association restrictions (32 programs), and routine reporting by telephone or in person (42 programs).

Generally, programs tend to recommend a range of options for the court to choose from. Only nine programs indicated that they recommend no options; the court is charged with the responsibility of formulating and imposing conditions tailored to each defendant.

Table 51. Conditions Most Frequently Recommended by State/Local Programs

Condition Recommended 1/	# of Programs	% of Programs
Physical/mental health referral, treatment, and/or counseling	91	53.5
Drug testing/UA or SA monitoring	44	25.9
Any appropriate	33	19.4
Time/travel restrictions 2/	64	37.6
Routine reporting to program 3/	42	24.7
Supervision	14	8.2
Electronic monitoring	8	4.7
None	9	5.3
Other	46	27.1

1/ Multiple responses were permitted. Percentages were based on 170 programs.
2/ Includes restrictions such as curfew, house arrest, etc.
3/ Reporting either by telephone or by personal appearance.

Notwithstanding program recommendations, courts consistently impose certain types of conditions automatically, as Table 52 shows. The two most prevalent conditions imposed relate to the two basic conditions of release: that the defendants appear as required by the court and that the defendants refrain from criminal activity. The NAPSA Release Standard best articulates the rationale for making these conditions express when it states that, "the court is allowed rapid and unquestioned recourse in the event of violation of the conditions [and] neither condition imposes any restriction on the defendant's legal liberties."[130] Approximately one-third of the state and local programs automatically impose reporting requirements on defendants. Only 12 local jurisdictions do not impose any automatic conditions on defendants.

Table 52. Automatic Conditions Placed on Defendants

Automatic Conditions /1	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Return to court as scheduled	132	37	71.3	57.8
Obey all laws/refrain from criminal activity	109	64	58.9	100.0
Abstain from illicit drugs and alcohol	43	17	23.2	26.6
Routine reporting to pretrial program/probation officer	59	13	31.9	20.3
Change of address notification	50	16	27.0	25.0
Travel restrictions	55	13	29.7	20.3
No contact with victim	32	11	17.3	17.2
Other 2/	49	6	26.5	9.4
Seek/maintain employment	20	3	10.8	4.7
None	12 3/	0	6.5	0.0

1/ Multiple responses were permitted. Percentages based on 64 federal and 185 state and local programs.

2/ Four primary conditions at the state and local level: retain/keep in contact with attorney; waiver of extradition; notify program of rearrest; and obey court orders.

3/ Includes one program which places no automatic condition on its PR defendants but does on other classes of defendants.

[130] Commentary following NAPSA Release Standard III.F., p. 19.

Average Length of Supervision

Defendant supervision is the most labor-intensive activity performed by pretrial programs following the initial court appearance. Resource pressures on pretrial programs highlight the need to place under supervision only those defendants who cannot be released under less restrictive conditions.

Table 53, which shows the average length of contact between defendants under supervision and programs (able to supply this information), reflects the labor intensity of pretrial supervision. Although the figures reported by state and local programs range from 30 to 360 days, over 66% of all defendants in these programs are under supervision from 1 1/2 to 3 1/2 months. The average for all state and local programs is 112 days. Federal figures are considerably higher; programs range from 35 to 330 days with an average of 150 days.

Table 53. Average Length of Supervision

Number of Days	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
45 or less	10	1	10.3	3.1
46 - 90	39	4	40.2	12.5
91 - 150	26	12	26.8	37.5
151 - 180	15	10	15.4	31.3
over 180	7	5	7.2	15.6
Total	97	32	99.9*	100.0

* Rounding error

However, the average length of contact between defendants under supervision and state and local programs drops over 25% for those programs that interview and supervise defendants charged only with felonies. The ten programs with information available reported a range between 35 to 180 days, with the average length of supervision of 78 days.

NOTIFICATION

When discussing the necessity of notification--to ensure the appearance of defendants--the NAPSA Release Standards state:

> To comply with one of the basic conditions of release, appearance in court, defendants need to know when and where they are to appear. While some court systems maintain comprehensive notification systems, the function of defendant notification is often carried out or supplemented by the pretrial services agency. Written notification should include the date, time, and exact location of the court appearance as well as the telephone number and name of a person to call if the defendant has questions regarding the time and place of appearance.[131]

As Table 54 shows, approximately 80% of all pretrial programs have some type of notification procedure in place. This percentage includes 14 programs with "two-track" mechanisms, i.e., notification procedures whereby the programs notify only certain classes of defendants (e.g., those released on conditions).

Table 54. Notification Procedures

	# of Programs		% of Programs	
Notification Procedure	State/Local	Federal	State/Local	Federal
Notification procedure in place	147	46	73.5	71.8
Two-track notification	10	4	5.0	6.3
No notification by program	43	14	21.5	21.9
Total	200	64	100.0	100.0

Notification may be accomplished by a wide variety of mechanisms and may involve other criminal justice system actors. For instance, notification may be accomplished by reviewing court dates with the defendants during regular supervision contacts or following initial court appearances or may involve written notification and/or a telephone calls prior to court dates. Further, notification by pretrial programs may be a supplemental activity to other parties charged with the primary responsibility of notifying defendants. Examination of the data reveals that the use of these options and procedures varies considerably among pretrial programs nationwide.

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[131] See Commentary following NAPSA Release Standard X.A.5., p. 59.

Over two-thirds of the federal programs and one-third of the state and local programs with notification procedures provide notification services to supplement procedures already in place. In these jurisdictions, notification is the primary responsibility of other criminal justice system personnel including, but not limited to, court clerks' office, defense attorneys, and prosecutors.[132] Table 55 reflects the frequency with which other system actors are relied upon to ensure that defendants appear.

Table 55. Notification Responsibility in the Absence of More Formal Program Notification 1/

	# of Programs		% of Programs	
Notification Responsibility	State/Local	Federal	State/Local	Federal
Defendant's responsible	46	4	47.4	8.2
Court clerk's office	46	45	47.4	91.8
Defendant's defense attorney	57	26	58.8	53.1
Other 2/	8	6	8.2	12.2

1/ Multiple responses were permitted. Totals exceed the 49 federal and 97 state and local programs that responded to question. Two types of programs responded to this question: 1) programs with no notification mechanism which rely upon other criminal justice actors; and 2) programs with notification mechanism in place but believe notification is responsibility of all criminal justice system actors.

2/ Actors identified included bondsmen, state's attorney/ prosecutor, data processing office, and responsible person (if so identified).

State and local programs that coordinate their efforts with others are most likely to serve smaller population areas, i.e., programs that serve populations of 100,000 or fewer rely on other personnel about 50% of the time. As the size of the population increases, pretrial programs tend to consolidate what may be fragmented notification procedures and directly control all notification efforts.

However, this does not mean that all pretrial programs serving large populations have notification procedures. On the contrary, programs that serve areas with one million or more inhabitants are just as likely not to have notification mechanisms in place as programs that serve areas with a population area of 50,000 or less--about one-quarter of the programs in each group. Given the large number of defendants on conditional or supervisory release

[132] This is especially true at the federal level where clerks' offices retain primary responsibility to notify defendants of upcoming court dates.

in large jurisdictions, justifiable concerns should be raised about the wisdom of such a practice by the larger programs.

In regard to the procedures used to notify released defendants of upcoming court appearances, the majority of programs use pre-existing contact points to remind the defendants about future court dates as Table 56 shows.

Table 56. Procedures Used to Notify Defendant of Upcoming Court Appearances

Type of Procedure 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Reviews court date with defendant upon release following initial court appearance	122	23	75.3	46.0
Reviews court date during regular supervision contact	102	43	63.0	86.0
Sends defendant letter or postcard prior to court date	62	6	38.3	12.0
Telephones defendant prior to court date	66	13	40.7	26.0
Other 2/	6	2	3.7	4.0

1/ Multiple steps may be undertaken and total exceeds the 50 federal and 162 state and local programs that responded to this question and which form the basis for the percentage.

2/ Included in this category are the following steps: transport defendant to court; home visit if unable to contact defendant; contact bondsman or defense attorney; and contact relatives, friends, or references.

Procedures most frequently utilized by programs differ: whereas most (75.3%) state and local programs seize the opportunity presented by an initial court appearance to remind defendants of future court dates, fewer than one-half (46.0%) of the federal programs do likewise. Rather, federal programs tend to rely on regular supervision contacts more so than state and local programs (86% and 63% respectively).[133] Utilizing these pre-existing opportunities involves negligible costs to pretrial programs. Other mechanisms, involving greater costs, are used less frequently. Although approximately 40% of the state and local

[133] Reliance on regular supervision contact necessarily circumscribes the group of defendants who receive notification.

programs take more active steps to ensure defendants' appearance by either sending written notification or calling defendants prior to court dates, fewer federal programs take similar steps.

State and local programs that have supervised release components were found to have notification procedures in place almost 85% of the time, while programs with conditional release components have them 80% of the time. Although these percentages are high, concerns must be raised about programs that do not have notification mechanisms, especially those serving large populations. Since research consistently suggests that notification does make a difference in ensuring appearance, and since by definition defendants on conditional or supervised release are higher-risk, the lack of a notification procedure may be counterproductive to maximizing these defendants' appearance.

A relationship between administrative location of a program and the existence of a notification mechanism was found. All private non-profit programs have notification mechanisms in place.[134] Programs based in law enforcement or corrections milieus also fared well: about 85% have notification systems. Programs least likely to have notification procedures were probation-based (one-third of the programs do not have them compared to about one-quarter of the court-based programs).

An examination of the 43 state and local programs with no notification procedures was made to ascertain if there were distinguishing characteristics among those programs. Programs without notification mechanisms in place generally interview fewer defendants overall. The highest interview total reported was 4,098 defendants by a program that serves a population of at least one million. In this and other cases, it appears that insufficient staff resources affect notification capability. With few exceptions, the majority of programs without notification procedures were found to operate with very small staffs, i.e., primarily fewer than three staff. However, since most of the programs have fewer defendants to contact, an argument could be made that notification efforts should not be hampered by manpower limitations.

In spite of the research and literature that has been generated on the topic in the last decade, newer programs are not taking steps to ensure that notification mechanisms are in place. On the contrary, 50% of all 43 programs without notification mechanisms came into existence within the last decade--overall, 22.4% of the programs that have started since 1980 do not have notification procedures in place. While many of the newer programs have sprung up in the more rural, less populated areas where defendant caseloads are smaller, program administrators and other criminal justice actors should consider incorporating basic notification procedures into their programs.

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[134] Two private non-profit programs have "two-track" notification mechanisms discussed earlier.

FAILURE-TO-APPEAR RESOLUTION

To minimize criminal justice system expenditures, pretrial programs are urged to try to locate nonappearing defendants and to encourage their voluntary return to court. Addressing this issue, the NAPSA Release Standards state that programs "should immediately attempt to locate the defendant and persuade him to return to court, and should cooperate with other individuals in efforts to locate the defendant."[135]

Table 57 reveals that most federal, state, and local programs take at least one step to try to contact the defendants if they fail to appear in court.[136] Most often, programs telephone the defendants--at least 65% of all programs take this step. If telephone contact is unsuccessful, over three-quarters of the federal programs (30 programs) and one-quarter of the state and local programs (26 programs) make a home visit to the defendants. Further, at least 50% of all programs assist the police or U.S. Marshal Service in locating the defendants.

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[135] Commentary following NAPSA Release Standard X.A.7., pp. 59-60.

[136] It is unknown how many programs take no steps. Four local programs admitted taking no steps. However, since the option was not included in the list of responses, additional programs that take no steps may have chosen to leave the question unanswered.

Table 57. Steps Taken to Contact Defendant if the Defendant Fails to Appear in Court

Steps Taken by Program 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Phones defendant urging return to court	99	40	63.9	74.1
Assists police in locating defendant	80	38	51.6	70.4
Sends letter to defendant urging voluntary return to court	66	17	42.6	31.5
Tries to locate defendant who has apparently left the jurisdiction	51	18	32.9	33.3
Places defendant back on the court calendar	42	4	27.0	7.4
Locates defendant and quashes the warrant	34	1	21.9	1.9
Makes home visit to defendant urging return to court	26	30	16.8	55.6
Program staff may arrest	20	2	12.9	3.7
Request court to issue bench warrant/file with court 2/	17	3	11.0	9.3
Miscellaneous 3/	26	11	16.8	20.3

1/ Multiple steps may be undertaken and total exceeds the 54 federal programs and 155 state and local programs that responded to this question and which form the basis for the percentage.

2/ Not included in the original list of responses in the questionnaire (see Appendix C). Therefore, this response, in all likelihood, under-reports the number of programs that may take such steps.

3/ Included in this category are the following: contact family, friend, or references (collateral contacts); notify defense or prosecuting attorney; act at court direction; and no steps taken.

Steps taken by state and local programs correspond with earlier findings only in the broadest sense. Although programs continue to take the same steps to locate defendants as they did a decade ago, the overall percentage of programs that take steps has decreased: 56 (45.3%) programs reported to make home visits in 1979 compared to 26 (16.8%) programs in 1989; 67 (57.3%) programs reported to assist the police in locating defendants in 1979 compared to 80 programs (51.6%) in 1989; 64 programs (54.7%) sent a letter to defendants in 1979 compared to 66 programs (42.6%) in 1989; and 93 programs (79.5%) reported to telephone defendants in 1979 compared to 99 programs (63.9%) now. Explanation for these changes

may relate to the growing number of pretrial programs in rural areas--small staff sizes and/or large geographic service areas affect a program's ability to take certain steps (e.g., make a home visit), and notification responsibilities are frequently vested in another agency or office.

Circumstances Under Which Programs Inform the Court of Failure to Comply With Conditions of Release

It has long been recognized that to be effective, conditions of release must be enforced. As the NAPSA Release Standards state, "setting conditions of release would be a futile exercise without an ability to monitor compliance and to punish disobedience and reward compliance."[137] Concomitantly, the standard drafters were pragmatic about system pressures, stating that:

> in monitoring compliance with conditions of release, the responsible agency should have some discretion in evaluating the seriousness of any noncompliance. Factors that should be considered include the nature of the condition, the reason for noncompliance, and the degree of violation.[138]

While violation of release conditions cannot be ignored, most program administrators would agree that flooding the court with notices of minor infractions is counterproductive. Other factors, including jail crowding, must be considered when developing program policies in regard to the circumstances that will give rise to reporting failure of release conditions to the court.

§ 3154 (5) of the Pretrial Services Act of 1982 requires federal programs to "inform the court and the United States attorney of all apparent violations of pretrial release conditions, arrests of persons released...and recommend appropriate modifications of release conditions." Although all federal programs reported to adhere to this mandate, discretion is allowed in some districts in regard to the type and severity of the violation as well as the means by which it is reported to the court (oral versus written report).

Table 58 displays the responses of state and local programs. Although 16.6% of the programs indicated that they report any failure to comply with conditions of release to the courts, the remaining 83.4% handle violations differently. Of the 64 programs (37.9%) that report failures of court-ordered conditions, 38 programs report specific failures of court-ordered conditions and 26 programs report all failures of court-ordered conditions. Further, a considerable number of programs use discretion in deciding whether or not to report

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[137] Commentary following NAPSA Release Standard VI.B., p. 31.

[138] Ibid., p. 31.

violations--35 programs (20.7%) do not report violations to the court unless they are either persistent (i.e., repetitive) or significant as determined by program staff.

Table 58.
Circumstances That Prompt Programs to Report Failure to Comply With Conditions of Release

Circumstances 1/	# of Programs	% of Programs
Failure to comply with a court-ordered condition	64	37.9
All circumstances 2/	28	16.6
Rearrest	30	17.8
Failure to report--to agency or treatment program	21	12.4
Persistent violations 3/	20	11.8
Significant violations 4/	15	8.9
Known violation 5/	12	7.1
None	4	2.4
Miscellaneous	26	15.4

1/ Question answered by 169 programs which became basis for percentages. Programs consider multiple circumstances simultaneously.
2/ Four programs exclude minor technical violations.
3/ Persistent violations are reported either after a certain number of repeat violations by defendants as determined by program policy or at the discretion of the pretrial program officer.
4/ A violation that is not a minor technical violation and no mitigating excuse(s) is operable.
5/ A violation is either reported or becomes known to the agency or program.

CUSTODY REVIEW

Over 90% (57 programs) of the federal programs and 62% (121 programs) of the state and local programs have instituted varying levels of bail review procedures for detainees denied PR or detainees unable to satisfy a financial bond following an initial court appearance. As Table 59 illustrates, the range of bail review activities among the jurisdictions is considerable. Less than one-fifth of all programs nationwide (23% federal and 18% state and local)

conduct bail review on a routine basis.[139] Most programs, however, conduct bail review at the request of the court, counsel, or both--54.7% of the federal programs (35 programs) and 42.5% of the state and local programs (31 programs) reported to conduct bail review only in response to such requests. Of greater importance, almost 38% of the state and local programs and 11% of the federal programs conduct no bail reviews.

Table 59. Bail Review

Frequency of Bail Review 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Conducts bail review always	35	15	18.0	23.4
Conducts bail review with some exceptions	26	7	13.4	10.9
Conducts bail review at court's request	62	35	32.0	53.8
Conducts bail review at counsel's request	36	15	18.5	23.4
No bail review	73	7	37.6	10.9

1/ Multiple responses were recorded in two areas since review can be at request of court or/and counsel. Thus, total exceeds the 64 federal and 194 state and local programs that responded and form the basis for the percentage.

Although post-initial court appearance review can be an effective tool to help reduce jail crowding, its use is not widespread by programs functioning in jurisdictions under a jail cap and/or consent decree. A detailed examination of the data revealed that only 16.4% of the programs in jurisdictions operating under a jail cap or consent decree (12 programs) always conduct bail review[140] and 28.8% (21 programs) conduct no bail review whatsoever.[141]

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[139] In some jurisdictions, bail review is statutorily mandated, e.g., Kentucky pretrial program staff must conduct bail review within 24 hours of the defendants' initial bail setting.

[140] These programs serve populations either under 50,000 or over 500,000.

[141] No programs serving jurisdictions of 50,000 to 500,000 (which contain the largest number of programs operating under a jail cap or consent decree) conduct bail review.

INFORMATION SYSTEMS: DATA TRACKING AND MONITORING

A program's information-processing capability is critical to measuring the effectiveness (and thereby "success") of pretrial program practices and the pretrial process generally. Regardless of whether an automated or a manual system is used, "there are certain basic data directly related to the agency's goals and objectives and to the assumptions implicit in establishing a pretrial agency."[142]

Sophisticated automated management information systems (MIS) are not a prerequisite for data collection and, as Table 60 illustrates, methods to collect and track data continue to be diverse. Although almost 70% of the state and local programs currently use a combined manual and automated MIS, just under 25% of the programs continue to collect and maintain data records manually. As the data further show, federal collection procedures remain diverse, although fewer programs are wholly reliant on manual methods.

With regard to state and local programs, there is a positive correlation between manual systems and the size of population served--over one-third of the programs that use manual means to collect data serve populations of 50,000 or less and have a correspondingly smaller defendant interview base. Also, there is a relationship between budget and manual MIS use--over one-quarter of these programs operate with budgets of $50,000 or less within diverse administrative locations.

Table 60. Type of Management Information System (MIS) Used by Pretrial Programs

Type of MIS	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Manual	46	11	23.2	17.2
Automated	17	2	8.6	3.1
Mixed manual and automated	135	51	68.2	79.7
Total	198	64	100.0	100.0

However, use of an automated MIS does not automatically correspond to a large population base, budget, or program staff size. Programs with fully automated systems are functioning

[142] Commentary following NAPSA Release Standard XIII.A., pp. 71-72. For a summary of the purpose, uses, and planning of a management system, see Hall et al., supra, pp. 102-106.

in all population areas with both small and large budgets and staffs that range from zero to over 50 full-time professionals. In all likelihood, some fully automated systems are being shared by staff from multiple agencies.

Table 61 lists the types of information that programs track on a regular basis. For the most part, programs either collect or have access to some data deemed important for measuring program operations.[143] The uniformity of federal collection practices is attributable to monthly data reports submitted to the AO. However, state and local figures do not approximate those found at the federal level--a substantial proportion of programs do not maintain or track FTA rates (32.3%), detention rates (71.2%), or release rates (52.5%).

At a minimum, programs should know their jurisdictions' annual overall arrest totals and numbers of defendants detained pretrial.[144] Data reveal that only 141 state and local programs overall reported their jurisdictions' arrest totals and 93 programs reported knowing both arrest and interview totals. Although a lack of resources or access to system data could account for some lack of reporting, significant numbers of programs do not track variables critical to the measurement of program operations.

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[143] In the Commentary following Release Standard XIII.A., pp. 71-72, NAPSA states:

> There are certain basic data directly related to the agency's goals and objectives and to the assumptions implicit in establishing a pretrial services agency. Accordingly, the pretrial services agency should collect or have access to the collection of the following data:
>
> 1. The number of persons arrested and charged with a criminal offense by misdemeanors and felonies;
> 2. The number of persons released prior to trial on each form of release;
> 3. The number of persons detained prior to trial according to charge and the length of detention;
> 4. The number of persons who failed to appear at a scheduled court appearance;
> 5. The number of persons rearrested for criminal offenses;
> 6. The number of persons convicted of criminal offenses and the types and lengths of sentences imposed; and
> 7. The time span between arrest, initial release from detention and case disposition.

[144] For further discussion of this point, see Pryor, supra, pp. 52-54 and the Commentary following NAPSA Release Standard XIII.A., pp. 71-72.

Table 61. Programs That Track Data on an Ongoing Basis

Type of Data 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Defendant background information	187	58	94.4	90.6
Local criminal history information	183	59	92.4	92.2
Release/detention status	161	63	81.3	98.4
Upcoming court dates	153	50	77.3	78.1
Dispositions	144	60	72.7	93.8
Failure-to-appear rates	134	48	67.7	75.0
Release rates	94	43	47.5	67.1
Rearrest rates	84	39	42.4	60.9
Detention rates	57	45	28.8	70.3
Other	31	8	15.6	12.5

1/ Programs track multiple types of information on an ongoing basis and the total exceeds the 64 federal programs and 198 state and local programs that responded and form the basis for the percentages.

Table 62 further illustrates that few programs routinely analyze specific information on an ongoing basis. In light of the fact that only 67.7% of the state and local programs track their FTA rates, it is not surprising to find that far fewer programs keep track or analyze FTA rates for those defendants not recommended by the program and/or released with no program monitoring responsibilities--less than 16% of the reporting programs indicated that they did so. If one concludes that the remaining programs that did not provide statistical data in this area do not routinely monitor such information, this would mean that, overall, 7% or less routinely monitor such FTA rates. A similar conclusion can also be made about pretrial crime rates, since the number of programs providing any information in this area was even smaller than for FTA data. Less than 7% of the reporting programs, and undoubtedly a smaller proportion of the non-reporting programs, monitor pretrial crime rates for those defendants not recommended by the program and/or released with conditions monitored by the program. Federal efforts in this area are poorer: less than one-third of the federal programs make efforts to track and analyze this type of information.

Table 62. Programs That Track and Analyze Data on an Ongoing Basis

Type of Data 1/	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
Dispositions for those released through program	72	18	81.8	90.0
Separate FTA or pretrial crime rates for defendants with different types of charges	27	0	31.0	0.0
FTA rates for those not recommended by the program	14	2	15.9	10.0
FTA rates for those released on bail in the community, with no program monitoring	12	3	15.4	15.0
Pretrial crime rates for those released on bail in the community with no program monitoring	6	1	15.7	5.0
Pretrial crime rates for those not recommended by the program	5	1	3.0	5.0

1/ Programs track and analyze more than one type of data indicator. Totals exceed the 20 federal and 88 state and local programs that responded to the question and form the basis for the percentages.

The absence of minimal systematic data collection is surprising in light of the technological advances made, as well as the increased pressure on programs to justify their cost-effectiveness and/or objectively demonstrate program effectiveness. Without knowledge of many performance indicators, programs will be hampered in their ability to further improve pretrial program operations.

FTA AND PRETRIAL CRIME RATES

FTA rates and pretrial crime rates are critical to studying program operations and measuring program effectiveness. Although the overall FTA rate has remained relatively stable over the past decade, recent research has focused on FTA rates of specific classes of defendants, i.e., felony defendants and defendants in pre- and post-initial court appearance drug testing

jurisdictions.[145] However, as researchers have long recognized, the lack of common definitions and common defendant groups, as well as the diversity of pretrial program practices, frustrate meaningful discussion, analysis, and comparison of FTA rates.[146]

Discussion of FTA and pretrial crime rates is difficult under the best of conditions. However, two additional factors are relevant to the findings as well: first, the survey mechanism used to collect the data made no provision for independent verification of FTA and rearrest rates supplied by the programs and second, the overall paucity of program information. Therefore, the reader is urged to use caution in interpreting the data and should consult other studies for more scientific reliability.

Overall, research studies nationwide consistently indicate court appearance rates for released defendants of 85% or more and greater appearance rates in jurisdictions where there are active pretrial release programs.[147] Although only 86 programs reported FTA rates (64.1% of the programs that report to track FTA rates on an ongoing basis and 42.7% of all pretrial programs nationwide), the rates reported are consistent with research findings.

As Table 63 shows, 85% of the federal programs and 34.9% of the state and local programs reported FTA rates of 3% or less and 95% of the federal programs and 44.2% state and local programs reported FTA rates of 5% or less. However, where programs calculate FTA rates in multiple ways, the lowest program rate is reflected in the table (35 of 86 state and local programs reported multiple FTA calculations). Only one federal program and 24.4% state and local programs indicated that their FTA rates were more than 10% (the highest rate reported nationwide was 38%).

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[145] For instance, see the National Pretrial Reporting Program, "National Report" (Washington, D.C.: Pretrial Services Resource Center, January 1990).

[146] For a more thorough discussion of the issues involved in FTA calculation, see Kirby, supra, pp. 13-15.

[147] See "Pretrial Issues: Significant Research Findings Concerning Pretrial Release" (Washington, D.C.: Pretrial Services Resource Center, February 1982). Clarke, supra, pp. 17-18, updates and discusses more recent studies and confirms that the overall FTA rate has remained relatively steady.

Table 63. Lowest FTA Rates Reported by Programs 1/

Reported FTA Rate	# of Programs State/Local	# of Programs Federal	% of Programs State/Local	% of Programs Federal
2% or less	19	14	22.1	70.0
2.1 - 3.0%	11	3	12.8	15.0
3.1 - 4.0%	3	2	3.5	10.0
4.1 - 5.0%	5	0	5.8	0.0
5.1 - 7.5%	15	0	17.4	0.0
7.6 - 10.0%	12	0	14.0	0.0
More than 10% 2/	21	1	24.4	5.0
Total	86	20	100.0	100.0

1/ Many programs reported more than one FTA rate in response to the different definitions of failure. In such cases, the lowest is reported here.

2/ The highest FTA rate reported by federal programs was 15.5% and state and local programs 38%.

Although state and local FTA rates are generally consistent with nationwide research, they are significantly higher than the rates reported in all prior surveys--whereas two-thirds of the programs in the PSRC, NCSC, and OEO surveys reported less than a 5% FTA rate and 12% reported over 10% FTA, these percentages increased to 45% and 24% respectively in 1989. It is inappropriate to assume that programs may be less effective in their ability to assure defendants' appearance in court compared to earlier years based on these figures. Numerous reasons could explain the poorer showing in 1989 including: the increased number of defendants released; different survey respondents and the reliability of their figures; data collection methods and the method of estimating FTAs; jail crowding conditions which precipitate the release of more serious defendants; and program efficiency.

Table 64 displays a more detailed state and local breakdown of reported FTA rates that corresponds to the different ways to define or calculate FTA rates. Since the Table reflects multiple FTA rates reported by a program, not just its lowest reported rate, higher FTA rates are displayed. Overall, the data confirm that appearance-based FTA rates tend to be lower than those that are defendant-based and that warrants are not always issued for missed appearances (FTA rates based on issuance of warrants are typically lower than those based on any missed appearance).[148]

[148] The definitions of appearance-based FTA and defendant-based FTA rates are noted in Table 64. For a more detailed discussion of the advantages and disadvantages of each method of calculation, see Kirby, supra, pp. 13-15.

Table 64

FTA Rates Reported by Programs, by Separate FTA Definitions

and % of Programs with Specified FTA Rates Under each Definition 1/

Reported FTA Rate	Defendant-Based Rate 2/				Appearance - Based Rate 3/			
	Any FTA 4/		Warrant 5/		Any FTA		Warrant	
	#	%	#	%	#	%	#	%
2% or less	5	11.9	9	18.8	8	25.0	9	30.0
2.1 - 3%	6	14.3	7	14.6	5	15.6	4	13.3
3.1 - 4%	5	11.9	4	8.3	1	3.1	0	0.0
4.1 - 5%	5	11.9	1	2.1	3	9.4	3	10.0
5.1 - 7.5%	6	14.3	7	14.6	5	15.6	5	16.7
7.6 - 10.0%	3	7.1	5	10.4	5	15.6	3	10.0
10.1 - 12.0%	6	14.3	6	12.5	1	3.1	0	0.0
12.1 - 15.0%	1	2.4	2	4.2	1	3.1	2	6.7
15.1 - 20.0%	5	11.9	4	8.3	1	3.1	3	10.0
More than 20%	0	0.0	3	6.3	2	6.3	1	3.3

1/ Four basic definitions were used by programs. The numbers providing FTA rates for each are provided in the column totals. The percentages are based on the numbers of programs using each definition. Many programs provided rates for more than one definition.
2/ Defendant-based rates indicate the proportion of released defendants who miss one or more court appearances.
3/ Appearance-based rates indicate the proportion of scheduled court appearances which are missed.
4/ Any FTA means any missed appearance, whether or not the defendant was issued a warrant, ultimately returned to court, etc.
5/ Warrants refer to cases in which a missed appearance leads to issueance of a bench warrant (varies from jurisdiction to jurisdiction).

It is suggested that warrant-based FTA rates are more accurate reflections of true failure-to-appear and the costs associated with court disruption.[149] In some jurisdictions warrants are automatically issued if defendants fail to appear in court. However, in some jurisdictions there is a grace period during which time the defendants may appear without recrimination. The majority of the programs reporting FTA rates (48 of 86) use warrant-based FTA as at least one method to calculate FTA rates. As Table 64 shows, almost 60% of the programs reporting such rates have warrants issued for fewer than 10% of the defendants released to the program.

FTA rates were also examined in two additional areas. First, programs with urine testing components reported FTA rates similar to programs without such components, i.e., they were as likely to have high and low rates in similar proportions to programs that did not conduct drug testing. Second, programs that provide supervision and/or monitoring of defendants did not report lower FTA rates than those programs without a supervision component.

Table 65. Program Rearrest Rates

Reported Rearrest Rate	# of Programs	% of Programs
2% or less	15	22.7
2.1 - 3.0%	4	6.1
3.1 - 4.0%	6	9.1
4.1 - 5.0%	7	10.6
5.1 - 7.5%	15	22.7
7.6 - 10.0%	4	6.1
10.1- 15.0%	8	12.1
15.1 - 20.0%	4	6.1
More than 20% 1/	3	4.5
Total	66	100.0

1/ The highest rearrest rate reported was 35%.

Difficulties similar to those underlying FTA calculation attach to pretrial crime rates--a lack of consistency in definition and measurement of pretrial crime frustrates much research. Research conducted to date reports varying rearrest rates, ranging anywhere from 3% to over 20%. Rates reported by 66 programs are consistent with research studies on the

[149] Pryor, supra, p. 50.

subject, as Table 65 shows. Approximately one-half of the state and local programs indicated rearrest rates of 5% or less.[150]

More programs reported higher rearrest rates than a decade ago. In the 1979 survey, 4.4% of the programs reported a rearrest rate higher than 10% compared to 24.7% of the programs in 1989. Again, there could be a number of explanations for the significantly higher rearrest rates including the number of defendants released and data collection methods.

DETERMINATION OF ILLICIT DRUG USE

The Federal Bail Reform Act of 1984 and some state bail statutes specifically list periodic drug testing as one of a range of release conditions that courts may impose upon defendants in appropriate cases to reduce pretrial misconduct.[151] During recent years the pretrial field has been the beneficiary of substantial research monies and attention as the correlation between drug use and criminality has become more firmly established. Although pretrial programs have traditionally taken steps during the interview process to ascertain defendants' levels of drug use, pressures have increased on pretrial staff to identify drug-using defendants so that appropriate action may be taken. At the same time, vocal opinion on the part of public policy-makers, criminal justice officials, and judges to get tougher with the drug-using criminal, including long periods of incarceration, mandatory treatment, and other harsh responses has increased.

Complexity characterizes the entire issue of drug use determination. Legal issues attach to many inquiries about illegal drug use, from asking questions as part of the interview to the reliability of the chemical processes. There is a critical need for pretrial programs to effectively identify drug-using defendants and minimize their pretrial misconduct. This subsection discusses the reality of the situation, i.e., how, with limited resources, programs are identifying drug users.

Overall, programs continue to rely on indirect indicators of illicit drug use. As Table 66 reveals, multiple indicators are used by over 50% of the programs to detect illicit drug use. The primary technique used to detect drug abuse prior to defendants' initial court

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[150] Rearrest rates by federal programs were not calculated. Twenty-four of 39 pretrial services officers were not aware of their rearrest rate. Officers who either knew or estimated their rearrest rates reported rates that ranged from 0 to 7.5%.

[151] See § 3142 of the Bail Reform Act and NAPSA Release Standard IV.C.8., p. 21 and Commentary that follows which recognizes drug use to be a factor related to the risk of pretrial misconduct.

appearance remains self-reporting (93.5% of the federal programs and 85.9% of the state and local programs).[152] Although the vast majority of programs use this method to detect drug use, they supplement self-reporting with other methods including prior criminal convictions or arrests for drug-related offenses.

Table 66. Determination of Illicit Drug Use

	# of Programs		% of Programs	
Means Used by Programs 1/	State/Local	Federal	State/Local	Federal
Self-report	159	58	85.9	93.5
Prior criminal convictions for drug possession and/or distribution/sale	131	49	70.8	79.0
Physical indicia (interviewer observation)	122	57	65.9	90.5
Prior criminal arrests for drug possession and/or distribution/sale	118	49	63.8	79.0
Previous enrollments in drug treatment program	97	49	52.4	79.0
Urine testing	72	62	38.9	100.0
Drug testing technology other than urine testing	7	2	3.2	3.2
Other	31	5	17.8	8.1

1/ Programs use multiple means to determine whether defendants currently use illicit drugs. Percentages based on 62 federal and 185 state and local programs.

Only ten local programs (6% of all state and local programs) rely on self-reporting exclusively.[153] Studies have indicated that reliance on self-report of drug use alone by defendants in custody potentially leads to significant under-reporting. The result is that

[152] Urine testing by federal, state, and local programs occurs for the most part after the initial court appearance.

[153] These ten programs serve diverse population sizes ranging from under 50,000 to over 1,000,000 and interviewed from 197 to 38,739 defendants in their respective jurisdictions during the last reporting year.

many pretrial programs misclassify a large proportion of active drug users as non-users.[154] However, as a recent federal publication noted, "self-reports provide one of the best methods of diagnosing the extent of drug abuse, once a person admits to it."[155] Given the unreliability of self-reporting and the insufficiency of relying on it as the exclusive means of classifying individuals as drug-users, programs may want to consider supplementing self-reporting with other indicia (e.g., prior drug treatment program enrollment), if they are not doing so already.

As the data show, almost all of the federal programs and two-thirds of the state and local programs also rely on physical indicia observed during the interview process. Similarly to self-reporting, programs use interviewer observations as an adjunct to other indicators. In some programs staff are specially trained to evaluate the defendants. However, not all programs have trained staff and, therefore, inconsistent evaluations by untrained staff must be controlled for by program administrators.

Urine Testing

Urine testing as a drug detection mechanism provides a potentially objective and efficient tool for determining recent drug use. Although all federal programs currently use urine testing to detect illicit drug use (albeit at different stages), less than one-half of the state and local programs do likewise. In all likelihood, reasons for limited use at the state and local levels may include adequate resources to carry out testing, constitutional concerns and local judicial opinion on its utility. Moreover, urine testing involves cost considerations: periodic urine testing, at either the pre- or post-initial appearance stage, can be an expensive and labor-intensive activity for a pretrial program or any criminal justice agency to operate.

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[154] For a more detailed discussion of research findings, see Mary Toborg, John Bellassai, Anthony Yezer, and Robert Trost, Assessment of Pretrial Urine-Testing in the District of Columbia--Monograph No. 1: Background and Description of the Urine-Testing Program (Washington, D.C.: National Institute of Justice, December 1989) (Final Report of NIJ Grant No. 83-IJ-CX-KO46); Eric Wish and Bruce Johnson, "The Impact of Substance Abuse on Criminal Careers," Criminal Career and Career Criminals, ed. A. Blumstein et al., Vol. II (Washington, D.C.: National Academy Press, 1986); and Eric Wish, Elizabeth Brady, and Mary Cuardrado, Urine Testing of Arrestees: Findings from Manhattan (New York, NY: Narcotic & Drug Research, Inc. (NDRI), May 1986).

[155] See Eric Wish, Mary Toborg, and John Bellassai, Identifying Drug Users and Monitoring Them During Conditional Release (Washington, D.C.: National Institute of Justice, February 1988) p. 3.

As Table 66 reveals, approximately 40% of the state and local programs (72 programs) use urine testing as a means to detect illicit drug use. In over 80% of the state and local programs (58 programs), urine testing is imposed as a court-ordered condition of release for specific defendants; in 18% of the programs (13 programs) urine testing is done at both pre- and post-initial appearance stages;[156] and 1% (one program) does urine testing prior to the initial court appearance only. For the most part, federal procedures mirror state and local ones: almost 73% (45 programs) conduct urine testing as a condition of release; 23% (14 programs) conduct pre- and post-initial court appearance testing; and 5% (three programs) conduct testing prior to the initial appearance.[157]

Reliance upon urine testing as the sole indicator of drug use is not prevalent, as ten local programs only rely on it as the exclusive means to detect drug use.[158] Although programs that use urine screening at both the pre- and post-initial court appearance stages appear to rely more on urine screening than other drug use indicators, all federal programs and 12 of the 13 state and local programs continue to use test results in conjunction with other indicia.

More detailed examination of the state and local programs that use urine testing as a means to detect illicit drug use was performed to identify any programmatic consistencies. In light of the costs associated with the development and maintenance of a urine-testing capability, it is not surprising that state-sponsored programs were found to be the most likely to utilize urine testing as a means of detecting illicit drug use, regardless of whether the program was probation, court, correction, or government-based. More specifically, state probation-based as well as private non-profit programs were found to use urine testing to the same degree--45% of the time.[159] Further, programs with urine testing components operate primarily in mixed geographic areas with population bases between 100,000 and 500,000.

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[156] Some programs test all booked defendants prior to the initial court appearance while other programs test defendants who meet specific criteria, e.g., defendants arrested on a drug offense, thereby excluding some defendants from the urine testing requirement.

[157] Federal programs conducting urine testing at the pre-initial court appearance stage were participants of a demonstration project. Findings from the project will be useful in determining whether all federal programs implement pre-initial court appearance testing.

[158] Of these ten programs, nine programs do urine testing as a condition of release after the initial court appearance if so ordered by the court. One hopes that sufficient indicia are present for the court to justify the imposition of the urine testing requirement on the defendants in these instances. One program conducts both pre-and post-initial court appearance urine screening.

[159] If one examines programs that conduct urine testing as a condition of release only, the proportion increases to 50% of all state probation programs and decreases to 29% of all private non-profit programs.

Given the costs frequently associated with urine testing, it was anticipated that larger budgets and staffs might be found. But, since 80% of the urine testing takes place after defendants' initial court appearance in offsite facilities (especially in probation-based programs), budgets and staff sizes of programs with urine testing components were found to be consistent with overall program figures.[160]

Although programs with urine testing components mirror the general characteristics of programs nationwide, this is not true for the 13 programs which conduct pre- and post-initial court appearance testing. Examining the similarities of these programs, a correlation was found between programs with urine testing units and larger budgets, staffs, and population areas served. First, 10 of the 13 programs function under jail caps or consent orders. Second, the programs tend to serve larger mixed geographic areas with larger populations (usually 500,000 to 1,000,000 inhabitants). Third, budgets and staff sizes are proportionately high--one-half of the programs have budgets of $380,000 or more and operate with at least 25 staff.[161] Clearly, the operating costs of in-house units contribute to the high budgets and staff sizes.

Nature of Capacity: Location and Type of Urine Testing

Location of urine testing components often involves consideration of numerous factors. Although cogent arguments can be made that a program's urine testing unit should be located in-house to control for chain-of-custody and timeliness problems, many jurisdictions find that costs and practical considerations often dictate that the pretrial program take advantage of pre-existing capabilities within the jurisdiction, i.e., community corrections departments or TASC programs.[162]

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[160] For example, 39.4% of programs with a urine testing unit are operated by a staff of two or fewer compared to 35.7% of programs overall.

[161] One program with an in-house unit operates with two staff members and interviews proportionately fewer defendants compared to the other programs.

[162] Some of the considerations include the requirement of specialized staffs to operate a drug-testing unit, defendant caseload, and the costs of securing and maintaining drug-testing equipment. For a more detailed discussion of the considerations involved, see Integrating Drug Testing into a Pretrial Services System: An Implementation Guide (Draft), (Washington, D.C.: Pretrial Services Resource Center, June 1990).

Almost all federal programs (87%) use offsite facilities to process the urine tests.[163] Of the 72 state and local programs that conduct urine screening, almost one-third (23 programs) reported having in-house capability to perform the test. Of these 23 programs, 65% operate within in a court, law enforcement, or corrections-based administrative location. Generally, probation-based programs rely on offsite facilities to process the urine screens (practices differ, however, in regard to where the urine specimen is collected).

Staff sizes and budgets of programs with in-house urine testing units were compared to programs that have offsite testing. There is a correlation between the existence of in-house units and larger budgets and staffs: two-thirds of the programs (16 programs) operate with budgets of at least $600,000 and have large staffs. However, one-third of the programs (eight programs) operate with one or less full-time professional staff and small budgets. All eight programs with in-house units do urine testing as a condition of release only.

Urine testing technologies are evolving and are subject to being superseded by more sophisticated and newer detection techniques. At the current time, approximately 60% of the programs at all levels reported using EMIT (enzyme immunoassay) as their primary screening test. Confirmation testing of positive test results is performed usually using another technology when defendants dispute the results. Twenty-six federal programs reported to use GC/MS (gas chromatography/mass spectrometry) and 19 federal programs use TLC (thin-layer chromatography) for confirmatory purposes primarily. Three programs at the state and local level reported to use GC/MS.[164]

Drug Research and Evaluation

As will be discussed later, evaluation studies of program practices or procedures have been few in number and confined for the most part to larger, well-funded state and local programs. Even fewer are the number of programs which have conducted any research to determine the level of illicit drug use in their jurisdiction.[165] With varying levels and sources of sponsorship, 23 programs (14% overall) indicated they have conducted research during the past three years to determine the nature and/or extent of illicit drug use among arrestees or pretrial detainees. This figure is not surprising in light of the fact that only 33% of all state and local programs have done evaluation of any kind. Programs that have

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[163] As of the summer of 1989, two contract laboratories processed all specimens.

[164] Programs were not directly polled about the type of technologies used in confirmation testing. Therefore, the extent to which programs use a specific technology is unknown.

[165] Two federal programs have conducted drug research studies in the past three years.

conducted drug use studies report substantial increases in use of drugs by the arrestee population over the past few years.[166]

Examination of the data reveals that most drug use studies are being performed by well-funded programs in urban areas with a large defendant population. Eighty-seven percent (87%) of the programs that have conducted drug use research serve a population area of at least 500,000 inhabitants. Over one-half of the reporting programs operate with budgets of at least $1,000,000. Nine programs involved in drug use studies are conducting some type of urine testing: six are performing both pre- and post-initial court appearance testing and three are conducting post-initial court appearance testing only. The majority of programs interview significant numbers of defendants: programs conducting drug use research had seven of the ten highest defendant interview totals during the past year.[167] Given the research need for a large data base, this finding is hardly surprising.

Federal funding is responsible for almost three-quarters of all drug use research being conducted. Six respondents presently participate in the Drug Use Forecasting (DUF) Program, an NIJ sponsored effort to measure the nature and extent of illegal drug use in the arrestee population, six programs are part of other national research efforts, and five programs participate in both the DUF Program and another research effort.[168]

Local funding limitations are clearly evident in the small number of locally sponsored efforts. Of the six programs which receive local assistance, three have pre-existing fiscal ties to national research efforts. In addition, the two programs which are spearheading their own internal research efforts have ties to national sponsors.

As the future of federal drug research funding becomes less certain, concerns will arise as to whether programs will have the internal resources to conduct additional drug use research

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[166] Programs with information available report that drug use ranges from 40% to 80% of the arrestee population based on the results of drug tests. In certain areas, the number of defendants testing positive for cocaine has doubled; in other areas, the increased use of pretrial detention has been attributed to the increase in drug arrests; still others note that defendants on bond continue to test positive at significant levels.

[167] The lowest reported defendant interview base was 4,000 interviews while the highest base was over 211,000 interviews.

[168] DUF sites were not counted among those who have drug testing simply due to their participation in the DUF Program--four DUF sites have urine testing components and use the test results at different stages for different purposes.

or whether local funding sponsorship will become available to programs. Based on current information the outlook is not promising.

PROGRAM EVALUATION

Researchers and commentators for years have encouraged pretrial administrators to conduct local research and/or evaluation of program effectiveness and new practices.[169] Speaking to this issue, NAPSA stated:

> the pretrial services agency should...evaluate its own program in terms of agency action and desired impact on the system. Without this evaluation, it would be impossible to ascertain whether the pretrial services agency caused the observed changes; without this evaluation, it would be impossible to formulate plans about the most effective means for achieving a specific goal...program evaluations should be viewed as an aid to the improvement and refinement of agency procedures....Existing agencies should continually re-examine their operations to determine whether or not they are optimizing service to the criminal justice system and to defendants...while it is often not possible to conduct extensive research for program planning, some statistical evaluation of jurisdiction need and optimal program structure is necessary.[170]

Despite this encouragement and other appeals by commentators and researchers, pretrial programs are conducting significantly less research than ten years ago.[171] As Table 67 reveals, more than two-thirds of all programs (126 programs) have performed no research or evaluation in the past five years. Compared to ten years ago, twice as many programs are taking no steps to evaluate their program practices.[172]

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[169] Pryor, supra, pp. 54-55; Hall et al., supra, pp. 108-109.

[170] Commentary following NAPSA Release Standard XIII.B., pp. 72-73.

[171] The AO, often in conjunction with the FJC, is responsible for identifying and coordinating research efforts at the federal level. Monthly statistical reports submitted by each federal pretrial office, annual reports, AO priorities, Judicial Conference guidance, and Division staffs all contribute to identifying and performing ongoing projects, demonstration projects, and long-term research efforts. Therefore, discussion of research efforts in this section focuses only on state and local programs.

[172] In 1979, 43 (36.1%) programs reported to do no research. The 126 (66.3%) programs reporting as such in 1989 are greater than the entire universe of programs surveyed in 1979.

Table 67. Program Research or Evaluation

Types of Research/Evaluation 1/	# of Programs	% of Programs
None	126	66.3
Evaluation of program's screening techniques and ability to predict FTA or pretrial crime rates	40	21.0
Evaluation of cost effectiveness of program	39	20.5
Evaluation of impact of supervision, notification, types of services, etc. on FTA or pretrial crime rates	30	15.8
Evaluation of program's management practices	28	14.7

1/ Multiple responses were permitted. Percentages based on 190 programs.

Although fewer programs are conducting research, the types of studies being performed are changing. The most dramatic increase in the types of studies conducted is the number of cost effectiveness studies: programs, undoubtedly in response to local funding pressures, have placed greater emphasis on justifying program costs. This is especially true for programs that have started up more recently--over 60% of the cost-effectiveness studies performed in the past five years have been conducted by programs that began after 1975. Also in response to jurisdictional pressures, more emphasis is being placed on conducting evaluation studies of how well a program's screening techniques predict FTA or pretrial crime rates. Fewer studies are focusing on the impact that program activities (supervision, notification, types of services, etc.) have on FTA or pretrial crime rates.

For the most part, programs conducting evaluation studies other than cost-effectiveness studies are older programs with larger than average budgets. Almost 40% of the programs performing research studies operate with a budget of at least $500,000. While resources and/or budget facilitate program research, the lack thereof does not preclude it--29% of the programs conducting research operate with a budget of $100,000 or less.[173]

[173] These statements are not meant to imply a relationship between actual budgetary amount and the ability of a program to fund research endeavors.

Programs that are conducting impact or predictive studies and program operation studies are older programs. Although programs that started prior to 1975 comprise 32% of the respondents, they were found to conduct a disproportionate share of the research in the three following areas: evaluation of management practices (57%), screening techniques (47%), and program activities (46%). An encouraging discovery was the amount of research that new programs are conducting. More specifically, programs that began operations since 1985 are conducting as many studies of the impact of program activities on FTA or pretrial crime rates as the programs that began prior to 1975.

Although staff size affects whether or not studies are undertaken, it does not preclude them. As Pryor and other commentators have pointed out, research need not be a sophisticated, costly effort conducted by outside evaluators.[174] Much can be done with small staffs and existing resources, and the data showed that smaller staffed programs are, in fact, performing research studies to the same degree as larger staffed operations.[175]

However encouraging some signs are, it is clear that greater efforts must be made by pretrial programs in the area of research and evaluation. Not only will evaluation studies enable programs to assess the effectiveness of their practices, but also will equip programs with tools to further their own existence. As a researcher noted:

> evaluation is of paramount importance in effectively and accurately informing decision makers of the impact of a pretrial program. This is important not only to the local decision makers, but also to national decision makers who must disseminate criminal justice innovations.[176]

The four advantages of evaluation cited by the researcher--funding relevancy, technique validation, community reputation, and policy impact--are as relevant today as when first discussed.

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[174] Pryor, supra, p. 55.

[175] More specifically, 34.9% of the programs with 16 or more staff have conducted studies compared to 30.2% of the programs with three or fewer staff.

[176] Michael Kirby, Management 1: "The Role of the Administrator in Evaluation" (Washington, D.C.: Pretrial Services Resource Center, February 1979), pp. 6-8.

SUPPLEMENTAL SERVICES

In addition to providing services directly related to defendants' release or detention, pretrial programs are increasingly assuming a responsibility for providing other types of services to the accused including, but not limited to, referrals to social services agencies, pre-sentence investigation, and jail classification assistance. As the NAPSA Release Standards note:

> the pretrial services agency is often in an excellent position to provide other kinds of services. Provision of such services can aid the agency in enhancing its utility to the jurisdiction and its credibility to the courts.[177]

Reasons for this potential vantage point are obvious: not only is the program frequently the first contact point between defendants and the criminal justice system (other than law enforcement personnel), but it also is in a position to provide comprehensive and verified background information on defendants to other criminal justice actors.[178] Issues relevant to whether a pretrial program provides supplemental services--confidentiality of data, resource limitations, and perceived program neutrality--must be addressed when programs seek or are requested by others to provide services and assistance other than those traditionally associated with release. The following subsection presents what programs are currently doing in these areas.

Social Services Referrals

Addressing the need for social services, the NAPSA Release Standards state:

> Many defendants on pretrial release need some type of social services, such as aid in obtaining employment, alcohol or drug abuse treatment, psychiatric or family counseling, housing, medical aid, vocational and educational guidance, day care, etc. The pretrial services agency should, at a minimum, maintain a list of referral agencies.[179]

For the most part, programs nationwide have followed the advice of NAPSA. Almost all programs at the federal level (93.8% or 60 programs) and most at the state and local levels ((72.4% or 144 programs) maintain a list of referral agencies to facilitate the placement of defendants in need of social services. State and local programs least likely to maintain

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[177] NAPSA Release Standard X.B. and the Commentary which follows, pp. 61-62.

[178] For other reasons, see Hall, et al., supra, pp. 83-85.

[179] NAPSA Release Standard X.B.1., p. 61.

referral lists are programs that serve more rural populations (i.e., less than 100,000 people) and which are located within state or municipal probation departments.[180]

In addition to maintaining a referral list, programs are encouraged to develop relationships with agencies that can provide the necessary services to defendants.[181] As Table 68 illustrates, programs routinely refer defendants who have been identified as having a drug and/or alcohol problem or a mental health problem to the appropriate service or program--two-thirds of the responding programs utilize mental health and alcohol and/or drug screening and treatment services in their jurisdictions. Although defendants are referred to halfway houses and night shelters less frequently, in all likelihood the figures reflect the absence or remoteness of such facilities in specific jurisdictions and not the reluctance of pretrial programs to refer defendants to those social service programs.

Table 68. Program Services Referrals

Type of Service or Program 1/	# of Programs		% of Programs	
	State/Local	Federal	State/Local	Federal
Mental health services	148	60	90.8	93.8
Outpatient treatment program(s) (post-detoxification)	138	61	84.7	95.3
Inpatient treatment program(s) (post-detoxification)	118	54	72.4	84.4
Mental health screening	118	52	72.4	81.3
Special substance abuse screening	111	50	68.1	78.1
Detoxification centers	106	52	65.0	81.3
Night shelter programs	64	35	39.3	54.7
Halfway homes	51	48	31.3	75.0

1/ Multiple responses were permitted. Totals exceed the 64 federal and 163 state and local programs that responded to the question and which form the basis for the percentage.

Current indicators such as the DUF and DTTT data and DUI arrests confirm that defendants with specialized needs are entering the system at alarming rates. By virtue of their place in the criminal justice system, pretrial programs are uniquely situated to identify

[180] State funded programs (both court and probation-based) are less likely to maintain a list than other programs. Most likely to maintain a referral list are correction-based programs (90%).

[181] NAPSA Release Standard X.B.1., p. 61.

arrestees in need of specialized services, to develop specific release conditions tailored to individuals, and to provide courts with meaningful release alternatives.

Presentence Reports

The need to streamline duplicative procedures among different criminal justice system actors becomes more pressing as judicial system pressures increase, and information sharing becomes more critical. In the area of presentence reports, pretrial programs are in a position to assist the court in two ways: first, by providing non-confidential background information gathered and verified during the interview process and second, by providing information on defendants' compliance with release conditions during the pretrial stage.[182] Cooperation with probation departments and/or authorized individuals in regard to presentence reports is encouraged so long as the information shared does not violate the confidentiality practices of the jurisdiction.

Almost all of the federal programs and three-quarters of the state and local programs currently provide information to authorized individuals for use in presentence reports. Since probation departments most often prepare these reports for the court, it is not surprising to find that over 85% of the state and local probation-based programs use the information gathered during the pretrial interview in the presentence report. Although pretrial staff operating in law enforcement or correction agencies are least likely to provide background information to the appropriate representatives, they do so in over 60% the programs.

Jail Classification

Efforts to identify appropriate processes or programs to reduce or control jail populations depend upon the cooperation and involvement of all criminal justice system actors. Pretrial programs are in a position to provide jail administrators with relevant background

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[182] NAPSA Release Standard X.B.3., p. 61 states:

> Defendants' behavior while on pretrial release may be of substantial aid to the court in determining appropriate sentences after conviction. If a defendant has complied with conditions of release, the court may consider that compliance justification for probation rather than incarceration. In keeping with its policy on confidentiality the pretrial services agency should make information on the degree of compliance available to persons conducting presentence investigations, and may actually aid in the investigation itself.

information on the defendant population, which can be used to improve intake classification procedures and/or efforts to maximize release.

The level of pretrial program involvement in jail classification activities is minimal: less than 13% of the programs nationwide (25 programs) report to be involved in jail classification.[183] As anticipated, the majority of these programs function within a law enforcement or corrections-based milieu (i.e., 15 of 25 programs).

Diverse responses were received as to how jail classification services interface with program release or detention procedures. Numerous programs indicated that screening for pretrial release and jail classification is conducted concurrently, often using an integrated interview form; others review interview information when finalizing a classification decision; and others provide selective input in such areas as defendants' danger to themselves and community, and detoxification and/or medical needs.

[183] No federal program is involved in jail classification activities.

CHAPTER FIVE: ISSUES

As the pretrial services field enters the 1990s, persistent problems and new challenges dictate that pretrial program administrators continue to devise and implement new program strategies to effectively provide services to the courts and manage increasingly risk prone populations nationwide. External system factors---bulging court dockets, judicial conservatism, and jail crowding--will continue to exert pressure on programs to expand the scope of their services and assume more responsibility for fashioning system-wide solutions. At the same time, internal program factors--changing staffing needs, higher-risk defendants, dysfunctional defendants--will demand that programs provide different and more efficient services. Given their strategic position, pretrial programs have never been in a better position to enhance their usefulness to other system actors and influence programmatic and jurisdictional changes outside their agency. The more successful and accepted a pretrial services program is, the more likely that additional roles and responsibilities will be assigned to it that are critical to keeping the system working efficiently.

As a prerequisite to a more active role in the criminal justice system, however, it is imperative that pretrial programs assess the soundness of their own practices and procedures. Despite the fact that some programs are influenced by staffing patterns, resource limitations, and/or local statutes, program administrators must re-examine their own program and identify practices and procedures that are exclusionary, invalid, or/and not based on local demographics.

The monograph identified program practices that continue to be inconsistent with goals and standards formulated by national associations. However, another decade has passed and the pressures on the pretrial field have increased. The pretrial field can no longer afford to turn its back on procedural inconsistencies or exclusionary practices in an indiscriminate manner. It is time for debate or action--debate on the continuing relevancy of goals and standards in the face of noncompliant program behavior or action to conform program practices with the standards.

Pretrial practices and issues that should be re-examined in the next decade include:

- Automatic interview and personal recognizance exclusions. As was documented, programs exclude more defendants from the initial interview and PR consideration on the basis of charge than at any previous time surveyed. The negative implications of conservative exclusionary practices include fewer defendants being

interviewed and released and are contrary to promulgated standards. These practices need to be re-examined.

- Background information and release eligibility determination. The criteria used in defendants' background investigation continue to encourage the exclusion and misclassification of high risk defendants. Criteria, including financial related criteria and arrest data, must be scrutinized for local jurisdictional necessity and relevancy.

- Defendant screening mechanisms. Programs continue to use subjective screening mechanisms to assess defendants' eligibility for release despite identified weaknesses associated with such schemes. Resource, program, and methodological difficulties often obstruct program attempts to adapt risk assessment systems that may be more conducive to the release of a broader range of defendants and may minimize the risks of flight and danger to the community. Scarce funds must be freed up to validate and re-validate objective schemes.

- Financial conditions of release. As the data showed, programs continue to recommend financial conditions of release to courts at high rates. Program administrators should re-examine their program's complicity in the perpetuation of this practice which violates the fundamental underpinnings of the pretrial field.

- Notification procedures. Despite the importance of notification procedures in assuring defendants' appearance, a sufficient number of programs have not taken steps to implement some form of notification procedure in their jurisdiction.

- FTA and Rearrest Rates. Despite the widespread introduction of automation in the past decade, too many programs fail to track and monitor information on a routine basis that is critical to measuring program effectiveness. Often, programs are dependent on other criminal justice agencies to provide essential information (e.g., arrest data). Efforts must be made to obtain this information and implement a system to track it on a routine basis.

- Evaluation efforts. Currently, two-thirds of the programs have not conducted any evaluation studies. Although many pretrial programs claim to be fiscally limited in their ability to conduct evaluations, it is critical that administrators be able to document program effectiveness.

- Delivery of Pretrial Services. Debate should be encouraged with regard to whether some type of statewide network is conducive to and/or an efficient means of providing pretrial services. As fiscal conservatism forces many states to evaluate current delivery systems, administrators and policy-makers should explore

the feasibility of restructuring pretrial services. The issues, although complex, would not be insurmountable: statewide pretrial systems would require legislative initiative and funding to implement and pretrial program administrators would have to convince legislators of both the need for and efficiencies that could be achieved on a statewide basis. In addition, the choice of governing body could be a sensitive issue: from an administrative and fiscal point of view, the choice of agency would not necessarily be the group(s) currently providing pretrial services.

- Appropriate role of pretrial programs vis-a-vis jail crowding. In some jurisdictions, pretrial programs are being called upon to help reduce jail populations by taking on new and/or expanded interviewing, supervisory, and release responsibilities, often with no additional resources. In other jurisdictions, new and larger jails are being viewed as permanent solutions to jail crowding rather than the establishment or expansion of pretrial services. Pretrial program administrators must be in a position to address these and other concerns and participate in efforts to control jail populations.

- Continued need for research and demonstration projects. Extensive research and demonstration efforts need to continue at all levels, and administrators must assume an advocacy role in this regard. Many federal demonstration projects have been beneficial to the growth and improvement of pretrial programs: the efficacy and adoption of supervised release components was attributable in part to nationwide research and similar efforts are now underway with other innovative programs. It is imperative that programs continue to urge federal, state, or local governments to sponsor additional projects, such as resolution and prevention of FTA, assessment schemes, and alternative sanctions on a demonstration basis.

APPENDIX A

MONOGRAPH DEVELOPMENT: PROCESS

SURVEY MONOGRAPH DEVELOPMENT: PROCESS

The major tasks in the Enhanced Pretrial Services Survey Monograph Project are described below.

1. **Survey Instrument Development:** In March 1989, the survey instrument was developed in part from previous survey instruments, NAPSA member input, and literature review. Previous surveys and literature were reviewed to identify common pretrial functions nationwide and to identify areas ill-suited to information gathering, topics subject to multiple definitions and/or misinterpretation, and other procedural difficulties.

The draft survey instrument developed was disseminated to NAPSA Board members, selected PSRC staff members, and selected practitioners for review and comment in May 1989. Follow-up meetings with reviewers were held to refine the instrument. At a Board of Directors meeting in Charleston, SC in May 1989, the Board articulated its position in regard to survey objective and target audience. The Board stated that both NAPSA and BJA agreed upon the following:

a. **Survey Objective:** The objective of the survey was to identify and document the full range of pretrial release programs and criminal justice professionals who provide information, among other things, to judicial officers in the release/detention determination. The Board wanted the survey to be broad, yet comprehensive; applicable to individuals who may be performing a pretrial function without benefit of title; and thorough enough to allow for the development of baseline information. The initial emphasis of the survey was to be placed on those programs that engaged in release screening activities (alone or in conjunction with other services).

b. **Target Audience:** Survey recipients would fall into two groups--known and not as yet identified pretrial programs. The known programs, numbering approximately 450, would receive the survey instrument. With regard to the second group, the unknown programs, the Board of Directors, articulating the beliefs of the original planners and BJA, thought that county administrators nationwide should be contacted to identify individuals and/or agencies within their jurisdiction responsible for pretrial services. Once identified, these pretrial providers would be mailed a survey instrument. At the meeting the Board authorized the Project Director to contact other group(s) if appropriate.

2. **Development of Mailing Lists:** Subsequently, two mailing lists were developed.

a. **Known Programs:** A mailing list for known programs was developed based on numerous sources, including the NAPSA membership list and NAPSA

Pretrial Directory; the U.S. Courts Directory; PSRC's Enhanced Pretrial Services Request for Proposal (RFP) recipient list; Treatment Alternatives to Street Crime (TASC) program list; and four statewide lists. All names were cross-checked and a mailing list numbering approximately 450 was compiled.

b. Unknown Programs: A mailing list for unknown programs was developed after extensive discussions were held with associations and individuals best situated to render advice on the subject. Associations contacted included the National Association of Counties, the National Center for State Courts, the Council of State Governments, the American Parole and Probation Association, the ABA Committee on Courts of Limited Jurisdiction, the National Sheriffs' Association and the American Correctional Association. It was the general consensus of all these groups that local chief probation officers and local sheriffs nationwide would be the two groups best situated to identify pretrial providers within their respective jurisdictions. The American Correctional Association was contacted and a list of 904 chief probation officers and 3108 sheriffs was obtained. After cross-checking names, a list of 2540 individuals was developed.

3. **Pretest of Survey Instrument:** NAPSA Board members, numerous pretrial program administrators, and selected social scientists pretested the survey for clarity, comprehensiveness, overall presentation, and length of time to complete the survey. Based upon the pretest feedback, the survey instrument was modified.

4. **Request Letters to Chief Probation Officers and Sheriffs, Unknown Programs:** In June 1989, 2540 letters were sent to chief probation officers and sheriffs nationwide requesting the identity of the pretrial provider in their respective jurisdiction. Of the 2540 letters sent, 450 (17.7%) were returned to the office. Responses were illuminating in that some recipients indicated that no pretrial program operated within their jurisdiction; bail schedules were utilized; and pretrial services were unnecessary. Review of the responses revealed that 280 of 450 were suitable for follow-up survey dissemination.

5. **Survey Dissemination:**

a. Known Programs: In June 1989, surveys were mailed to the "known" pretrial programs and/or agencies. A total of 450 surveys were sent to federal, state, and local programs as well as to TASC programs.

b. Unknown Programs: Survey dissemination to "unknown" programs began as soon as the chief probation officers and sheriffs returned letters identifying pretrial providers in their jurisdictions. Two hundred eighty (280) surveys were distributed to these individuals and/or agencies in July and August 1989.

6. **Follow-up Efforts:** Follow-up letters were sent to both groups in July and August 1989. Telephone follow-up calls were made in August requesting cooperation and reminding administrators of the deadline for inclusion in the analysis.

7. **Response Rates:** It was anticipated that response rates would differ between the two groups, i.e., a higher response rate was envisioned for the "known" programs. Reasons for the anticipated disparity in response rates were numerous. The unknown programs were, for the most part, housed in probation departments, sheriff's offices and/or state attorney's offices where pretrial services are one of many functions performed by the staff. It was believed that resource and/or time limitations as well as the level of commitment to a nationwide survey on pretrial services might affect (i.e., lower) response rates. Further, it was believed that the lack of ties to or knowledge of NAPSA would affect the response rate. Lastly, pretrial providers were subject to misidentification by the chief probation officer or sheriff.

The response rate for the entire group was 48.6% or 355 of 730. However, the response rates differed between the two groups, as follows: the first group, the "known" programs, had a significantly higher response rate than the second group, the "unknown" programs. The response rate for the known programs was 58% or 261 of 450 surveys disseminated. The second group's response rate, the "unknown" programs, was 33.5% or 94 of 280 surveys disseminated.

8. **Survey Categorization:** Although the number of responses totaled 355, the universe that was used as the basis for analytical purposes was 265 (201 local and state programs and 64 federal programs). Since the initial emphasis of the survey focused on local pretrial release programs and activities, program responses were disallowed if they fell into any one of the following four categories: 1) the program primarily provided services other than release screening (i.e., TASC program, diversion programs, monitoring and/or supervision services only, etc.); 2) the program did not have a pretrial program; 3) the survey was returned too late for data entry and analysis; and 4) duplicative responses were inadvertently recorded by the same program.

Fifty-five (55) programs identified themselves as providers of services other than pretrial release screening. The services provided by the 55 respondents not engaged in release screening were as follows:

Services	Number of Programs
Monitoring and/or supervision of pretrial releases	16
Diversion	23
Victim-Witness	5
Jail Classification	2
Defendant Indigency Determination	1
Other	8

Twenty-four (24) programs were identified not to have a pretrial component. Responses were recorded for future use by NAPSA and the pretrial community (in light of no more definitive information about specific jurisdictional practices, these responses are enlightening

in regard to the efforts made and services provided within some jurisdictions). A disservice would have been rendered to NAPSA had information from these jurisdictions not been recorded.

The third and fourth categories are self-explanatory. Six surveys were received too late to be incorporated into the analysis. Four surveys were duplicates.

9. Workshop Presentation, NAPSA Annual Conference, Charleston, SC: Following computer entry of the data in September 1989, the raw numbers were tallied and a written report summarizing the responses of the 265 programs that engage in screening activities was prepared for the 17th Annual NAPSA Conference in Charleston, SC in October 1989. Preliminary findings of the surveys were presented in a two-hour workshop on October 23rd. Conference attendees were cautioned that the preliminary findings reflected raw data only and that these were still subject to cleaning and analysis. Copies of the preliminary findings were made available to conference attendees.

10. Data Clean-up Activities: From November 1989 to March 1990, the data were "cleaned." Telephone follow-up activities with approximately 75 survey respondents were made to clarify ambiguities and non-responsive answers. Data were double-checked to ensure for completeness, accuracy, and consistency in responses. Due to the dissimilarities in bail practices and reporting practices nationwide, it was necessary to make the data as compatible as possible. Toward that end, select survey questions were aggregated and recoded to promote meaningful analysis and facilitate data manipulation (e.g., 50 programs with distinct 'hours of operation' were grouped together so long as the programs operated during business or court hours).

11. Monograph Outline: The survey monograph outline was developed during March and April 1990 and disseminated to the NAPSA Board of Directors, BJA officials, and select PSRC staff. Meetings were held with designated parties to discuss the monograph outline and forge agreement with regard to its content. The outline was finalized in May 1990.

12. Survey Analysis and Monograph Preparation: From June to September 1990, the correlations identified and agreed upon in the final outline were analyzed. Survey monograph development followed two tracks concurrently--the generation of tables and the drafting of narrative sections to support the tables. As the monograph was prepared, the approach remained fluid in response to the table findings--questions that could not be anticipated arose as frequencies were tallied. Although the first draft of the monograph was completed mid-September, distribution of the document was postponed due to the need to incorporate additional information and further clean the document.

13. Workshop Presentation, NAPSA Annual Conference, Minneapolis, MN: Survey findings and conclusions were presented to conference attendees at the 18th Annual NAPSA Conference in Minneapolis on September 24, 1990.

14. **Draft Monograph Dissemination and Critique by Peer Reviewers, NAPSA Board of Directors, and PSRC:** Following a final edit of the draft monograph, the document was distributed to the NAPSA Board of Directors, select PSRC staff, and peer reviewers in November 1990. Peer reviewers, representatives of a cross-section of the pretrial community nationwide, were chosen by the NAPSA Board of Directors to review the draft survey document. These individuals were chosen for their specific expertise, pretrial program knowledge, and jurisdictional perspective (geographic location and program size).

15. **Final Survey Monograph:** A detailed review of the draft survey document was made by PSRC staff, NAPSA Board members, and peer reviewers. Based upon the insightful comments, the monograph was edited and changes were made between December 1990 and March 1991. The monograph was submitted to the prime contractor, PSRC, and BJA on March 30, 1990.

APPENDIX B

SURVEY RESPONDENTS

ALABAMA

Jefferson County Pretrial Release Program
Jefferson County Jail
809 21st Street North
Birmingham, AL 35263
(205) 325-5716

Madison County Pretrial Release
Madison County Courthouse
Huntsville, AL 35801
(205) 539-0092

Mobile County Pretrial Services Program
109 Government Street
Room 113
Mobile, AL 36602
(205) 690-8450

US Pretrial Services
154 St. Louis Street
POB 2985
Mobile, AL 36602
(205) 690-2385

ALASKA

Pretrial Services Division
303 K Street
Anchorage, AK 99501
(907) 264-0415

US Probation & Pretrial Services
District of Alaska
222 West 7th Avenue, #48
Anchorage, AK 99513
(907) 271-5492

ARIZONA

Maricopa County Pretrial Services Agency
Luhrs Building, Suite 216
11 W. Jefferson
Phoenix, AZ 85003
(602) 262-8500

US Pretrial Services
230 N. First Avenue
2041 US Courthouse
Phoenix, AZ 85025
(602) 261-3214

Superior Court Pretrial Services
110 West Congress
9th Floor
Tucson, AZ 85701
(602) 740-3310

ARKANSAS

US Pretrial Services & Probation
6th and Rogers
POB 1564
Fort Smith, AR 72902
(501) 783-8050

CALIFORNIA

Placer County Probation Department OR Program
11564 "C" Avenue
Auburn, CA 95603
(916) 889-7900

Berkeley Own Recognizance Program
Stiles Hall
2400 Bancroft Way
Berkeley, CA 94704
(415) 548-2438

Sierra County Jail
POB 66
Downieville, CA 95936
(916) 289-3234

Humboldt County Alternatives to Incarceration Program
Humboldt County Probation Department
2002 Harrison Avenue
Eureka, CA 95501
(707) 445-7601

Fresno County Probation
POB 453
Fresno, CA 93709
(209) 488-3420

Los Angeles Superior Court
Pretrial Services Division
433 Bauchet Street
Los Angeles, CA 90012
(213) 974-5821

US Pretrial Services
US Courthouse
312 N. Spring Street
Room 754
Los Angeles, CA 90012
(213) 894-4726

Special Investigations Unit
938 Main Street
Martinez, CA 94553
(415) 646-2772

Municipal Court Services Office
670 W. 22nd Street
Room 16
Merced, CA 95340
(209) 385-7486

Butte County Sheriff's Department Pretrial Release
33 County Drive
Oroville, CA 95965
(916) 538-7437

Shasta County Probation Department
Supervised OR Release Program
1545 West Street
Redding, CA 96001
(916) 225-5681

San Mateo County Bar Association
ROR Program
303 Bradford Street
2nd Floor
Redwood City, CA 94066
(415) 589-9401

Riverside County Probation Department
Detention Release Unit
3609 11th Street
Riverside, CA 92501
(714) 787-6406

US Pretrial Services
US Courthouse
650 Capitol Mall, Room 8553
Sacramento, CA 95841
(916) 551-2634

San Diego Superior Court
Pretrial Services
222 West "C" Street
San Diego, CA 92101
(619) 531-4067

Own Recognizance Project
The San Francisco Institute for Criminal Justice
15 Boardman Place
San Francisco, CA 94103
(415) 552-1496

Marin County Probation Own Recognizance (OR) Program
Civic Center, Room 175
San Rafael, CA 94903
(415) 499-7058

Detention Release Unit
700 Civic Center Dr., West
Santa Ana, CA 92702
(714) 834-4793

Santa Barbara Pretrial Court Service Unit
County Jail
4436 Calle Real
Santa Barbara, CA 93110
(805) 681-5643

Pretrial Services
701 Ocean Street, Room 240
Santa Cruz, CA 95060
(408) 425-2601

Court Services
Bail Review Unit
624-B W. Foster Road
Santa Maria, CA 93455
(805) 934-6140

Sonoma County Probation Department
600 Administration Drive
Room 104-J
POB 11719
Santa Rosa, CA 95406
(707) 527-2731

El Dorado County Probation Department
1359 Johnson Blvd.
POB 14506
South Lake Tahoe, CA 95702
(916) 573-3088

Bail Investigations
Sheriff's Department
800 S. Victoria Avenue
Ventura, CA 93008
(805) 654-2854

Yolo County Probation Department
Pretrial Release Program
218 W. Beamer Street
Woodland, CA 95695
(916) 666-8015

Siskiyou County Probation Department
805 Juvenile Lane
Yreka, CA 96097
(916) 842-8220

Sutter County Probation Department
446 Second Street
Yuba City, CA 95991
(916) 741-7320

COLORADO

Court Services Unit
Adams County Sheriff's Department
1901 E. Bridge Street
POB 566
Brighton, CO 80601
(303) 654-1850

El Paso County Pretrial Services
20 E. Vermijo, Suite 211
Colorado Springs, CO 80903
(719) 520-7277

US Pretrial Services Agency
US Courthouse
1929 Stout Street, Rm. C-122
Denver, CO 80294
(303) 844-4155

Alternatives to Pretrial Detention
1060 E. 2nd Avenue
POB 498
Durango, CO 81301
(303) 259-5357

Arapahoe County Judicial Services
7325 S. Potomac, Rm. 229
Englewood, CO 80112
(303) 790-7201

Larimer County Community Corrections Department
Pretrial Release Services
315 W. Oak Street, #100
Fort Collins, CO 80521
(303) 221-7530

Bond Commissioner Program
2307 154 Road, #26
Glenwood Springs, CO 81601
(303) 945-6213

Jefferson County Pretrial Release
801 14th Street
Golden, CO 80401
(303) 279-9320

Pueblo County Department of Correctional Services
10th & Main Streets
Pueblo, CO 81003
(719) 543-3550

CONNECTICUT

US Pretrial Services
106 US Courthouse & Federal Building
915 Lafayette Blvd.
Bridgeport, CT 06604
(203) 579-5512

Bail Commission
2275 Silas Deane Highway
Rocky Hill, CT 06067
(203) 529-1316

DELAWARE

US Probation & Pretrial
Federal Building, Rm. 112
840 King Street
Wilmington, DE 19801
(302) 573-6180

DISTRICT OF COLUMBIA

D.C. Pretrial Services Agency
400 F Street, N.W.
Washington, D.C. 20001
(202) 727-2911

FLORIDA

Pretrial Services
Polk County Courthouse
POB 9000, Box J-121
Bartow, FL 33830
(813) 534-4617

Court Investigation Unit
ROR Program
14255 49th Street, N.
Building 2, Suite B
Clearwater, FL 34622
(813) 530-6410

Volusia County Judicial Services Department
123 W. Indiana Avenue
DeLand, FL 32720
(904) 736-5981

Broward County Sheriff's Office
Pretrial Services Program
555 S.E. 1st Avenue
Fort Lauderdale, FL 33301
(305) 357-5921

US Pretrial Services
311 W. Monroe Street, Rm 252
POB 4399
Jacksonville, FL 32201
(904) 791-3545

Monroe County Pretrial Services
323 Fleming Street
Key West, FL 33041
(305) 294-7288

Metropolitan Dade County Pretrial Services
1500 N.W. 12th Avenue
Suite 726
Miami, FL 33136
(305) 547-7903

US Pretrial Services
One N.E. 1st Street
Suite 513
Miami, FL 33132
(305) 536-7573

Marion County Sheriff's Department
700 N.W. 30th Avenue
Ocala, FL 32675
(904) 351-8077

Pretrial Release
Corrections Division
672 N. Semoran Blvd.
Suite 230
Orlando, FL 32807
(407) 244-2505

Manatee County Supervised Release
606 6th Street, West
Palmetto, FL 34261
(813) 722-1183

Pretrial Release Program
Seminole County Correctional Facility
211 Bush Blvd.
Sanford, FL 32733
(407) 323-6512

Brevard County Detention Center
Pretrial Release
POB 800
Sharpes, FL 32959
(407) 636-5119

Leon County Pretrial Release
301 S. Monroe Street
Tallahassee, FL 32304
(904) 488-7222

GEORGIA

Atlanta Pretrial Services
236 Peachtree Street, S.W.
Atlanta, GA 30335
(404) 658-6020

US Pretrial Services
75 Spring Street, S.W.
Suite 2012
Atlanta, GA 30303
(404) 331-0952

Blue Ridge Judicial Circuit
Pretrial Services
100 North Street
POB 803
Canton, GA 30114
(404) 479-8970

Pretrial Services
Superior Court
Hall County Courthouse, Rm. 106, POB 1435
Gainesville, GA 30503
(404) 535-5307

US Probation Office
POB 13
Macon, GA 31202
(912) 752-8106

Cobb County Pretrial Court Services
185 Washington Avenue
Marietta, GA 30090
(404) 429-3293

Pretrial Release
Court Administrator's Office
133 Montgomery Street
Room 116
Savannah, GA 31499
(912) 944-4718

GUAM

Superior Court of Guam
Division of Probation Services
Pretrial Services Office
110 West O'Brien Drive
Agana, GM 96910
(671) 472-8961

US Probation
238 Archbishop Flores Street
Room 1003 E, PNB
Agana, GM 96910
(671) 472-7369

HAWAII

Hawaii Intake Service Center
60 Punahele Street
Hilo, HI 96720
(808) 961-7511

Oahu State Intake Center
2199 Kamehameha Highway
Honolulu, HI 96819
(808) 848-2584

US Probation
300 Ala Moana Blvd.
Room C-126
Honolulu, HI 96850
(808) 541-1283

IDAHO

US Probation & Pretrial Services
550 W. Fort Street
POB 032
Boise, ID 83724
(208) 334-1630

ILLINOIS

US Pretrial Services
218-A W. Main Street
POB 726
Belleville, IL 62222
(618) 277-7860

McDonough County State Attorney's Office
McDonough County Courthouse
Macomb, IL 61455
(309) 837-2309

Rock Island County Court Services
Pretrial Release Program
1501 4th Avenue
Rock Island, IL 61201
(309) 786-4451

Marion County Court Services
200 East Schwartz Street
Salem, IL 62854
(618) 548-5040

Pretrial Services Unit
33 N. County Street
Waukegan, IL 60085
(312) 360-5947

McHenry County Pretrial Services
Department of Court Services
2200 N. Seminary Avenue
Woodstock, IL 60098
(815) 338-2179

INDIANA

Monroe County Unified Court System
The Justice Building
301 N. College Avenue
Bloomington, IN 47401 (812) 333-3615

Warrick Circuit Court
Probation Department
Courthouse
Clerk's Office, Rm. 201
Boonville, IN 47601
(812) 897-6134

Allen Superior Court
Bail Services Division
City-County Building
Room B-12
Fort Wayne, IN 46802
(219) 428-7337

Gary City Court
Pretrial Services
1301 Broadway
Gary, IN 46407
(219) 881-1273

US Probation & Pretrial Services
Federal Building, Rm. 312
507 State Street
POB 870
Hammond, IN 46325
(219) 937-5234

Dubois Superior Court
Courthouse
Jasper, IN 47546
(812) 634-1955

Shelby County Prosecutor's Office
Courthouse, Room 303
Shelbyville, IN 46176
(317) 392-6440

Southwest Regional Alternatives Project
POB 244
Vincennes, IN 47591
(812) 886-4470

IOWA

Second Judicial District
Department of Correctional Services
510 5th Street
Ames, IA 50010
(515) 232-1511

Seventh Judicial District
Department of Correctional Services
Scott County PTR Unit
416 W. 4th Street
Davenport, IA 52801
(319) 326-8791

Fifth Judicial District
Department of Correctional Services
Polk County Jail
110 6th Avenue, Rm. 283
Des Moines, IA 50309
(515) 286-2156

Third Judicial District
Department of Correctional Services
711 Douglas
Sioux City, IA 51102
(712) 252-0590

First Judicial District
Department of Correctional Services
POB 2596
Waterloo, IA 50704
(319) 236-9626

KANSAS

13th Judicial District
Court Services
Jail-Judicial Building
121 S. Grody
El Dorado, KS 67042
(316) 321-5390

US Probation & Pretrial
812 N. 7th Street
Kansas City, KS 66101
(913) 236-3717

7th Judicial District
Douglas County Court Services
Judicial-Law Enforcement Center
111 E. 11th Street, Rm. 172
Lawrence, KS 66044
(913) 841-7700

24th Judicial District
Court Services
Courthouse
POB 445
Ness City, KS 67560
(913) 798-3695

3rd Judicial District
Pretrial Release Program
200 E. 7th Street, 104
Topeka, KS 66603
(913) 291-4004

KENTUCKY

Kentucky Pretrial Services Agency
100 Millcreek Park
Frankfort, KY 40601
(502) 564-2350

LOUISIANA

Release on Recognizance
300 St. John Street
Monroe, LA 71210
(318) 323-5188

Pretrial Services Program
2700 Tulane Avenue
Room 200
New Orleans, LA 70119
(504) 827-9211

Central Intake for Alternative Program (CINTAP)
Orleans Parish Criminal Sheriff's Office
2800 Gravier Street
New Orleans, LA 70119
(504) 827-8522

US Pretrial Services
500 Camp Street, Rm. 117
New Orleans, LA 70001
(504) 589-4904

Caddo Parish Sheriff's Office
501 Texas Street, Room 101
Shreveport. LA 71101
(318) 226-6527

MAINE

US Pretrial & Probation
156 Federal Street
Office 105
Portland, ME 04101
(207) 780-3358

MARYLAND

Department of Public Safety & Correctional Services
Pretrial Release Services
508 Mitchell Courthouse
110 N. Calvert Street
Baltimore, MD 21202
(301) 333-3834

US Pretrial Services
101 W. Lombard Street
Baltimore, MD 21201
(301) 962-4820

District Court of Maryland
2 S. Bond Street
BelAir, MD 21024
(301) 836-4516

District Court of Maryland
3 Persing Street
POB 1421
Cumberland, MD 21502
(301) 777-2112

District Court of Maryland
170 E. Main Street
Elkton, MD 21921
(301) 398-4334

District Court of Maryland
POB 409
Prince Frederick, MD 20678
(301) 855-1243

Wicomico County Department of Corrections
Pretrial Services Unit
411 Naylor Mill Road
Salisbury, MD 21801
(301) 548-4850

Alternative Sentencing Program
Pretrial Component
201 W. Chesapeake Avenue
Towson, MD 21204
(301) 887-2056

District Court of Maryland
111 West Allegheny Avenue
Towson, MD 21206
(301) 321-3370

District Court of Maryland
14757 Main Street
Upper Marlboro, MD 20716
(301) 952-3145

Prince George's County Department of Corrections
Pretrial Services Unit
13400 Dille Drive
Upper Marlboro, MD 20772
(301) 952-7050

MASSACHUSETTS

Ware District Court Probation
POB 300
Ware, MA 01082
(413) 967-3302

US Pretrial Services
802 J.W. McCormack Post Office and Courthouse
Boston, MA 02109
(617) 223-9213

MICHIGAN

US Pretrial Services
464 US Courthouse
231 W. Lafayette
Detroit, MI 48226
(313) 226-4962

Genesee County Pretrial
932 Beach Street
Flint, MI 48502
(313) 257-3480

Kent County Pretrial Release
Hall of Justice, Room 302
333 Monroe, N.W.
Grand Rapids, MI 49503
(616) 774-3990

US Probation & Pretrial
110 Michigan, N.W., Rm. 137
Grand Rapids, MI 49503
(616) 456-2384

Ingham County Pretrial
City Hall, 2nd Floor
Lansing, MI 48933
(517) 489-1357

Oakland County Pretrial Services
Oakland County Sheriff's Department
1201 Telegraph Road
Pontiac, MI 48053
(313) 858-0166

MINNESOTA

Anoka County Corrections
Courthouse
325 E. Main Street
Anoka, MN 55303
(612) 421-4760

Arrowhead Regional Corrections
319 County Courthouse
Duluth, MN 55805
(218) 726-2633

Dakota County Community Corrections
Courthouse
Hastings, MN 55033
(612) 438-4464

Hennepin County Pretrial Unit
1100-A Government Center
Minneapolis, MN 55487
(612) 348-3667

Clay County Court Services
Courthouse
POB 280
Moorhead, MN 56560
(218) 299-5052

Project Remand, Inc.
150 E. Kellogg Blvd.
Suite 650
St. Paul, MN 55101
(612) 298-4932

MISSISSIPPI

US Probation
POB 520
Oxford, MS 38655
(601) 234-2761

MISSOURI

St. Louis County Department of Justice Services
Intake Service Center, ROR
7900 Forsyth
Clayton, MO 63105
(314) 889-2115

Boone County Court Services
Pretrial Unit
Boone County Courthouse
3rd Floor
Columbia, MO 65201
(314) 874-7545

Pretrial Release Office
New Courts Building
1315 Locust, Rm. 100
Kansas City, MO 64106
(816) 881-4315

US Pretrial Services
217 US Courthouse
811 Grand
Kansas City, MO 64106
(816) 426-5734

22nd Judicial Circuit
Pretrial Release Commissioner
Municipal Courts Building
1320 Market Street, Rm. 141
St. Louis, MO 63103
(314) 622-3340

US Pretrial Services
635 US Court & Custom
1114 Market Street
St. Louis, MO 63101
(314) 539-2931

MONTANA

Alternatives, Inc.
3109 1st Avenue, North
POB 657
Billings, MT 59103
(406) 259-9695

Hill County Attorney
312 3rd Street
Havre, MT 59501
(406) 259-9695

NEBRASKA

Kearney County Sheriff's Office
POB 185
Minden, NE 68959
(308) 832-1155

NEVADA

Clark County Justice Court Intake Services
330 S. Casino Center
1st Floor
Las Vegas, NV 89101
(702) 455-4284

US Pretrial Services
Phoenix Building
330 S. 3rd Street
Suite 820
Las Vegas, NV 89101
(702) 388-6780

Court Services OR & Bail Reduction Program
Reno Justice Court
Washoe County Courthouse Annex
POB 11130
Reno, NV 89520
(702) 785-5739

NEW HAMPSHIRE

US Probation
55 Pleasant Street, Rm. 414
POB 127
Concord, NH 03302
(603) 225-1515

NEW JERSEY

Cape May County Criminal Case Management Office
Cape May Courthouse
Main Street
Cape May, NJ 08210
(609) 889-6520

US Pretrial Services
970 Broad Street, Rm. 1435-F
Newark, NJ 07102
(201) 645-2230

Passaic County Criminal Case Management
18 Clark Street
Paterson, NJ 07505
(201) 881-7688

Criminal Case Management
Superior Court of NJ
209 S. Broad Street
Trenton, NJ 08609
(609) 989-6610

US Pretrial Services
US Courthouse, Rm. 259
402 E. State Street
Trenton, NJ 08608
(609) 989-2056

NEW MEXICO

Pretrial Services
401 Roma Avenue, N.W.
Albuquerque, NM 87103
(505) 841-8138

NEW YORK

US Pretrial Services
Post Office Building
POB 433
Albany, NY 12201
(518) 472-3618

Steuben County Probation & Correctional Alternatives
Pretrial Release
County Office Building
Pulteney Square East
Bath, NY 14810
(607) 776-9631

US Probation & Pretrial
US Courthouse
225 Cadmar Plaza East
Brooklyn, NY 11201
(718) 330-7133

Erie County Pretrial Services
134 W. Eagle Street
Buffalo, NY 14202
(716) 858-6993

US Probation
68 Court Street, Rm. 404
Buffalo, NY 14202
(716) 846-4241

Ontario County Probation
Pretrial Release Program
3871 County Road, #46
Canandaigua, NY 14424
(716) 396-4222

Delaware County Alternatives to Incarceration
Pretrial Release
1 Gallant Avenue
Delhi, NY 13753
(607) 746-2075

Chemung Project for Bail, Inc.
412 E. Church Street
Elmira, NY 14901
(607) 734-8854

EAC, Inc., TASC Division
Bail Program & Nassau TASC
250 Fulton Avenue
Hempstead, NY 11550
(516) 486-8944

Nassau County Probation Department
Pretrial Services Bureau
99 Main Street
Lower Leverl, Rm. L41
Hempstead, NY 11550
(516) 566-2430

Vera Institute of Justice
Nassau Bail Bond Agency
45 Main Street
Hempstead, NY 11550
(516) 481-4733

Cattaraugus County ATI Program
303 Court Street
Little Valley, NY 14755
(716) 938-9111

New York City Criminal Justice Agency
305 Broadway, 5th Floor
New York City, NY 10007
(212) 577-0500

Oswego County Pretrial Release
70 Bunner Street
Oswego, NY 13126
(315) 349-3477

Tioga County Pretrial Release Program
231 Main Street
Owego, NY 13827
(607) 687-0390

Pretrial Services Corporation
Monroe County Bar Association
65 W. Broad Street, Rm. 610
Rochester, NY 14614
(716) 454-7350

Law, Order, and Justice Center
144 Barrett Street
Schenectady, NY 12305
(518) 346-1281

Onondaga County Probation Department
Pretrial Release
421 Montgomery Street
Syracuse, NY 13202
(315) 425-2380

Pretrial Services Institute of Westchester, Inc.
300 Hamilton Avenue
Lower Level, Rm. 8
White Plains, NY 10601
(914) 428-6663

Suffolk County Probation Pretrial Services
Yaphank Avenue
POB 188
Yaphank, NY 11980
(516) 282-1442

NORTH CAROLINA

Mecklenburg County Pretrial Services Department
County Office Building, #304
720 E. 4th Street
Charlotte, NC 28202
(704) 336-2027

Pretrial Release Program
131 Dick Street
Fayetteville, NC 28301
(919) 323-5210

US Probation
324 West Market Street
Room 115
POB 327
Greensboro, NC 27402
(919) 333-5341

NORTH DAKOTA

US Probation & Pretrial Services
655 1st Ave. North, Rm. 115
Fargo, ND 58107
(701) 239-5123

Mercer County Sheriff's Department
County Courthouse
POB 39
Stanton, ND 58571
(701) 745-3333

OHIO

Pretrial Release Services
209 S. High Street
Akron, OH 44308
(216) 379-2307

Stark County Pretrial Release
209 W. Tuscarawas Street
Room 601
Canton, OH 44702
(216) 438-0773

Greater Cincinnati Bail Project
Hamilton County Justice Center
1000 Sycamore, Rm. 116
Cincinnati, OH 45202
(513) 763-5110

US Pretrial Services
799 Rockwell, Suite 461
Cleveland, OH 44114
(216) 522-7608

Adult Court Services Department
Pretrial Unit
Courthouse
Newark, OH 43055
(614) 349-6207

OKLAHOMA

US Probation & Pretrial
POB 1645
Muskogee, OK 74402
(918) 687-2366

Oklahoma County OR Bond & Community Service Sentencing Program
Oklahoma County Courthouse
321 Park Avenue, Rm. 822
Oklahoma City, OK 73102
(405) 278-1381

US Probation & Pretrial
US Courthouse, Rm. 2432
200 N.W. 4th Street
Oklahoma City, OK 73102
(405) 231-4801

OREGON

Deschutes County Release Assistance Office
1100 N.W. Bond Street
Bend, OR 97701
(503) 388-5300

Pretrial Release Office
Courthouse
2nd & Baxter
Coquille, OR 97423
(503) 396-3121

Polk County Release Office
Polk County Couthouse
Room 305
850 Main Street
Dallas, OR 97338
(503) 393-9635

Pretrial Release
Custody Referee
101 W. 5th
Eugene, OR 97401
(503) 687-4201

Washington County Circuit & District Court Pretrial Release
145 N.E. 2nd Avenue
Hillsboro, OR 97124
(503) 640-3560

Hood River Community Corrections
205 3rd Street
POB 301
Hood River, OR 97031
(503) 386-4168

Jefferson County Sheriff's Office
657 C Street
Madras, OR 97741
(503) 475-2201

Yamhill County Pretrial Release
615 6th Street
McMinnville, OR 97218
(503) 434-7513

Jackson County Release Assistance Office
Justice Building, Rm. 205
100 S. Oakdale
Medford, OR 97501
(503) 776-7171

Pretrial Release Assistance Office
Lincoln County Courthouse
225 W. Olive
Newport, OR 97365
(503) 265-4236

Clackamas County Sheriff's Department
2223 S. Kaen Road
Oregon City, OR 97045
(503) 655-8218

Multnomah County Pretrial Services
1120 S.W. 3rd Avenue, #301
Portland, OR 97204
(503) 248-5042

US Pretrial Services
620 S.W. Main, Rm. 201
Portland, OR 97205
(503) 326-3560

Marion County Release Office
4000 Aumsville Highway, S.E.
Salem, OR 97301
(503) 588-8560

Wasco County Community Corrections
Wasco County Courthouse
The Dalles, OR 97058
(503) 296-1134

Malheur County Jail
251 B Street W.
Vale, OR 97918
(503) 473-3690

PENNSYLVANIA

Lehigh Valley Office of Pretrial Services, Inc.
408 Adams Street, 2nd Floor
Bethlehem, PA 18015
(215) 867-8477

Chester County TASC
Exton East Shops
313 E. Lancaster Avenue
Exton, PA 19341
(215) 363-7709

Lancaster County Bail Agency
50 N. Duke Street
Lancaster, PA 17603
(717) 299-8041

Diagnostic Services
Court of Common Pleas
Delaware County Courthouse
Media, PA 19063
(215) 891-9486

Susquehanna County Pretrial Release
Susquehanna County Probation Department
Courthouse Annex
Montrose, PA 18801
(717) 278-4600

Bail Program
11 E. Airy
Norristown, PA 19401
(215) 275-8800

Pretrial Services
Court of Common Pleas & Municipal Court
219 N. Broad Street, 6th Floor
Philadelphia, PA 19107
(215) 686-7410

US Pretrial Services
1234 US Courthouse
601 Market Street
Philadelphia, PA 19106
(215) 597-9961

Allegheny County Court of Common Pleas Bail Agency
205 County Office Building
Pittsburgh, PA 15219
(412) 355-4732

US Pretrial Services Agency
1000 Liberty Avenue, Rm. 315
Pittsburgh, PA 15222
(412) 644-4562

Berks County Prison Society
Community Release Program
424 Walnut Street
Reading, PA 19601
(215) 372-8933

US Probation
Federal Building, Rm. 330
N. Wahington & Linden Sts.
POB 191
Scranton, PA 18501
(717) 342-8128

Bradford County Probation Bail Program
County Courthouse
Towanda, PA 18848
(717) 265-1706

Chester County Bail Agency
Courthouse Annex, 3rd Floor
17 N. Church Street
West Chester, PA 19380
(215) 344-6886

Lycoming County Supervised Bail
277 W. 3rd Street
Williamsport, PA 17701
(717) 326-4623

PUERTO RICO

US Pretrial Services
634 Federico DeGetau Federal Building
Carlos Chardon Street
Hato Rey, PR 00919
(809) 766-6030

RHODE ISLAND

Bail Information Unit
One Dorrance Plaza
Garrahy Complex, Rm. 375
Providence, RI 02903
(401) 277-3827

SOUTH CAROLINA

US Probation Office
1845 Assembly Street
Room 1453
Columbia, SC 29201
(803) 253-3330

SOUTH DAKOTA

US Probation
212 US Couthouse
400 S. Phillips
Sioux Falls, SD 57102
(605) 330-4437

TENNESSEE

US Probation & Pretrial
530 S. Gay Street
Knoxville, TN 37902
(615) 673-4248

Shelby County Pretrial Services
201 Poplar, 7-01
Memphis, TN 38103
(901) 576-2464

US Pretrial Services
Federal Building
167 MidAmerican Mall
Room 459
Memphis, TN 38103
(901) 521-3592

US Pretrial Services
A-725 US Courthouse
Nashville, TN 37203
(615) 736-5771

TEXAS

Travis County Personal Bond Office
11th & Guadalupe Street
Austin, TX 78701
(512) 473-9381

Omnibus Pretrial Program
Courthouse
Beeville, TX 78102
(512) 358-1839

Brazos County Adult Probation Department
202 E. 27th Street, 2nd Floor
Bryan, TX 77806
(409) 361-4410

Dallas County Pretrial Release
600 Commerce, Rm. 612
Dallas, TX 75218
(214) 653-2950

US Pretrial Services
1100 Commerce, 13C30
Dallas, TX 75231
(214) 767-0768

West Texas Regional Adult Probation Department
Pretrial Release & Diversion
4824 Alberta, #361
El Paso, TX 79905
(915) 541-6200

Tarrant County Pretrial Release
200 W. Belknap
Fort Worth, TX 76196
(817) 334-1465

Galveston County Pretrial Release
1914 Sealy
Galveston, TX 77550
(409) 766-2399

Harris County Pretrial Services Agency
301 San Jacinto, Rm. 408
Houston, TX 77002
(713) 221-5175

US Pretrial Services
515 Rusk, Rm. 8610
Houston, TX 77002
(713) 226-4230

106th Judicial District DA Office
POB 8
Lamesa, TX 79331
(806) 872-2259

Collin County Pretrial Release Service
200 S. McDonald Street
McKinney, TX 75069
(214) 548-4515

Pretrial Release & Court Administration
Orange County Courthouse
Orange, TX 77630
(409) 883-7740

Bexar County Personal Bond Program
200 N. Comal
San Antonio, TX 78207
(512) 270-6313

US Pretrial Services
727 E. Durango, Rm. A-419
San Antonio, TX 78259
(512) 229-4053

Hays County Adult Probation & Community Service
222 E. Hutchinson, Suite G
San Marcos, TX 78666
(512) 353-8923

Smith County Pretrial Release
119 S. Spring Street
Tyler, TX 75702
(214) 595-4861

US Probation
221 W. Ferguson
Tyler, TX 75702
(214) 597-3727

UTAH

Adult Probation Pretrial Services
2540 Washington Blvd.
Ogden, UT 84401
(801) 626-3700

Salt Lake City Pretrial Services
350 E. 500 South, Suite 200
Salt Lake City, UT 84111
(801) 538-2149

VIRGINIA

Alexandria Sheriff's Office
Pretrial Program
2001 Mill Road
Alexandria, VA 22314
(703) 838-4137

US Pretrial Services
333 N. Fairfax Street
Alexandria, VA 22314
(703) 557-3104

Arlington County Sheriff's
Pretrial Release Program
901 N. Arlington Street
Arlington, VA 22201
(703) 558-3199

Offender Aid & Restoration
Court Services Program
414 4th Street, N.E.
Charlottesville, VA 22901
(804) 296-2441

Prince William County Pretrial
Program
9254 Lee Avenue
Manassas, VA 22110
(703) 335-6065

Norfolk Pretrial Services
800 E. City Hall Avenue
Suite 600
Norfolk, VA 23510
(804) 441-2333

Offender Aid & Restoration of
Richmond, Inc.
501 N. 9th Street, Rm. G-1
Richmond, VA 23219
(804) 643-6749

US Probation & Pretrial
POB 1563
Roanoke, VA 24007
(703) 982-6281

VERMONT

US Pretrial Services
Pearl & Elmwood Avenues
OB 432
Burlington, VT 05402
(802) 951-6706

VIRGIN ISLANDS

US Probation
POB 720
Charlotte Amalie
St. Thomas, VI 00804
(809) 774-4821

WASHINGTON

Snohomish County Pretrial
Services
Carnegie Building
Courthouse Complex
Everett, WA 98201
(206) 388-9404

Offender Services
Hall of Justice
312 S. 1st Street, W.
Kelso, WA 98626
(206) 577-3087

Raymond Municipal Court
233 2nd Street
Raymond, WA 98577
(206) 942-3456

King County Court Services
King County Courthouse
516 3rd Avenue, Rm. E-245
Seattle, WA 98104
(206) 296-4120

US Pretrial Services
206 US Courthouse
1010 5th Avenue
Seattle, WA 98104
(206) 442-7435

Spokane County Department
of Corrections
Pretrial Services Unit
Spokane County Courthouse
W. 116 Broadway Avenue
Spokane, WA 99260
(509) 456-5703

US Probation
US Courthouse
POB 143
Spokane, WA 99210
(509) 353-2383

Tacoma TASC
710 S. Fawcett
Tacoma, WA 98402
(206) 572-4750

Clark County Corrections
Intake Services
POB 5000
Vancouver, WA 98668
(206) 699-2436

WEST VIRGINIA

US Probation
4307 US Courthouse
500 Quarrier Street
Charleston, WV 25301
(304) 347-5110

US Probation
POB 127
Elkins, VA 26291
(304) 636-7277

WISCONSIN

US Probation
140 US Courthouse
120 N. Henry Street
Madison, WI 53703
(608) 264-5165

Wisconsin Correction Service
Central Intake Unit
436 W. Winconsin Avenue
Milwaukee, WI 53203
(414) 271-2512

WYOMING

US Probation
2120 Capitol Avenue
Room 2018
Cheyenne, WY 82003
(307) 772-2714

APPENDIX C

SURVEY INSTRUMENT AND GLOSSARY

PRETRIAL SERVICES SURVEY

Instructions

The survey is comprised of three major sections: 1) Program Structure, 2) Pretrial Assessment Scheme, and 3) Pretrial Data. Please answer all questions as completely as possible. Please feel free to add hand-written comments or explanations at any point, using the margin of the page or additional sheets of paper. If specific data is either not available or unknown for a given response, please provide the best available approximation of requested information. In addition, if the question is not applicable, please write "NA" next to the question and add any explanation you believe is necessary or appropriate. (You may want to forward various sections of this survey to other staff members to complete to ensure that the most complete and accurate information is provided. If you do so, please ask other respondents to return these sections of the survey to you so that you can return the entire completed survey instrument to us at the same time.)

A glossary of terms and definitions follows these instructions to aid you in resolving any questions. Pretrial activities are extremely diverse nationwide and the terminology used to describe specific activities varies considerably. For the purposes of this survey and to foster continuity, NAPSA has defined terms very broadly while still trying to convey their generally accepted technical meaning in the field. Please answer the questions using the glossary as reference. If you have any questions with regard to definitions, please call us.

You are encouraged to forward copies of any written supplemental materials that may be useful to us in describing pretrial services in your jurisdiction, (e.g. court rules, program procedure manuals, annual reports, evaluation reports, etc.).

If you have any questions concerning the survey, please contact NAPSA's Project Director, Kristen L. Segebarth, at 202/ 347-4503.

GLOSSARY

Pretrial Services: Services provided by criminal justice professionals to the court from booking to trial. As used, this term implies continuing court proceedings beyond the initial court appearance stage for defendants. Common activities include interviewing the arrestee and verifying his or her responses; performing criminal history checks; performing risk assessments or classifications; preparing recommendations or information for use by a judicial officer in the release/detention determination; monitoring compliance with conditions of release; engaging in "follow-up" contact with the defendant to ensure appearance at trial; and reporting compliance information to the court.

Pretrial Services Provider: Any criminal justice professional (pretrial services agency staff, deputy sheriff, probation officer, bail commissioner, judge) who is involved in the release/detention determination and may perform other pretrial related tasks. As used, this term includes those individuals who may perform any pretrial activity within the scope of their job, although this activity may not be their primary job function. For example, many deputy sheriffs or probation officers are involved in specific pretrial activities--but clearly, the pretrial function is but one of several functions related to job performance.

Release on Recognizance (ROR, OR, PR): Release on recognizance, or own recognizance, or personal recognizance (ROR,OR,PR) refers to release of a defendant on his or her simple promise to appear for trial. As the term is used in this survey, ROR implies no additional conditions of release other than the defendant appear in court as required. Some jurisdictions have release procedures which, although the procedure may not be called "ROR", nevertheless the outcome is synonymous with ROR--for example, in some jurisdictions, defendants post a nominal bail amount ($1.00) or are released on a "personal bond" where only an administrative fee is posted, not the full face amount of the bond. For the purposes of the survey, we equate these types of release with ROR.

Conditional Release: Conditional release refers to any form of non-financial release in which the defendant is required to comply with specific limitations on association, movement, or activities during the pretrial period. These conditions may include checking in with a pretrial release agency, maintaining a specified place of residence, avoiding complaining witnesses, submitting to periodic drug testing, electronic surveillance, or intensive supervision. However, as this term is used here, conditional release does not include the two primary conditions which are objectives of most bail statutes--that the defendant refrain from engaging in criminal activity during the pretrial period and that he or she appear at trial as required.

Supervised Release: Supervised release implies frequent and intensive contact between the supervising agency and the defendant. For example, these conditions may include the defendant participating in a drug treatment or counseling program or working with a vocational counselor to secure employment.

Objective Assessment Scheme: Recommendations developed by interviewers based on an objective point scale, "community ties index", bail guidelines, or other matrix-style scoring schemes which preassign points or weights for certain information or answers to questions raised in an interview to determine defendant eligibility for release or detention.

Initial Appearance/Arraignment: An initial appearance (also called an arraignment in many jurisdictions), is the first appearance of an accused before the court having jurisdiction in his or her case. At this point, an arrestee is generally informed of his or her rights and of the charges and a pretrial release or detention decision is made. Determination of legal representation will generally also take place. The timing of the initial court appearance is determined by each jurisdiction's laws governing the maximum time a person can be held prior to an initial court appearance. The entering of an initial plea of guilty or not guilty constitutes the completion of the arraignment, although the defendant may not have the opportunity to enter a plea at the initial appearance. In minor misdemeanor cases, the initial appearance may be the only court appearance prior to trial.

Felony: A major criminal offense, including capital crimes, punishable by incarceration--usually in a state correctional facility--or by death (if provided by statute). Usually the minimum length of incarceration for a felony is one year, although the length of punishment may not be the only consideration in differentiating between misdemeanors and felonies. In most jurisdictions, minor offenses are misdemeanors, while the more serious crimes felonies.

Misdemeanors: A criminal offense punishable by incarceration for a term that is usually one year or less and served in a local jail.

Deposit Bail: A system of money bail which is designed to serve as an alternative to security or cash bond. After bail is set, the defendant deposits with the court only a stipulated percentage--usually 10 percent--of the face amount of the bond. This amount is returned in full (sometimes minus a small administrative processing fee) at the successful conclusion of the pretrial period. If the defendant fails to appear in court as required, he or she becomes liable for the full face amount of the bond. Some deposit bail systems become activated in a given case only at the discretion of the releasing judicial officer ("court option") while others are available as a matter of right to all defendants in cases where money bond is set ("defendant option").

Dangerousness Determination: The pretrial release statutes of 33 states, the District of Columbia, and the federal system have been amended in recent years to expand the original purpose of pretrial release--to ensure that the defendant returns to court as scheduled and does not flee--to include a second purpose--protection of community safety from the risk that defendant might commit a criminal offense if released. The "dangerousness determination" is the perceived risk that is assessed concerning the comparative likelihood that a given defendant will be a danger to the community if released. How it is made--whether objectively factored into a point scale, bail guidelines, or matrix release policy--or subjectively by the releasing authority varies widely across jurisdictions.

Pretrial Detention: Also sometimes called "preventive detention." The laws of many states and the federal system now allow the court to detain certain carefully defined categories of defendants without possibility of pretrial release, because in the judgment of the court they constitute so high a risk of flight or danger or both that no condition or combination or release conditions can reduce that risk to an acceptable level. A pretrial detention decision is not automatic simply because a defendant falls into one of the statutory categories defined as high risk. A decision must be made by a judicial officer, after a due process hearing ("detention hearing") that the facts warrant detention, i.e., that the prosecution has borne its burden of proof that the defendant constitutes so high a risk that he or she must be detained pretrial.

Failure-to-Appear (FTA): The act of not appearing for a required court proceeding. Measures of failure-to-appear are usually either defendant-based (e.g., the number of defendants who miss a court appearance) or appearance-based (e.g., the total number of court appearances which are missed by all defendants released).

Subjective Assessment Scheme: Typically based on similar questions in an interview as the objective assessment schemes but with no formal 'scoring'. Rather, the recommendation(s) made or information presented by the pretrial agency interviewers, deputy sheriffs, or probation officers is based on a subjective evaluation of the defendant by the interviewer, who draws on his or her prior experience to assess release eligibility.

Recommendation Scheme: The method by which a program/agency or individual presents recommendations, including bail recommendations, to a judicial officer. As the term is used here, recommendations include any quantification as to what a judicial officer should or should not do in regard to a certain defendant. Some jurisdictions base their recommendations on a point scale, "community ties index", or bail guidelines (objective scheme), while others rely on subjective criteria by interviewers. Still others use a combination of subjective and objective criteria--interviewers are allowed to supplement or "override" a point scale determination based upon certain subjective information given by the defendant during the interview.

Point Scale/Community Ties Index: An objective release eligibility determination instrument that assigns each defendant a certain number of points based upon his or her answers to uniform questions asked during the pretrial interview (and subsequently verified in most jurisdictions) about the nature and extent of defendant's community ties to the locale (how long a resident, whether employed locally or in school, etc.); prior involvement with the criminal justice system, if any; and possible behavioral dysfunctions (drug or alcohol use, mental health problems, etc.). A fixed number of points are added to or subtracted from the defendant's score based on his or her response to each standard question. A predetermined number of points typically is required by a jurisdiction in order for the defendant to be eligible for pretrial release. A point scale does not dictate the type of release to be granted, it only assesses the comparative release risk posed by the defendant based on the numerical score received.

Bail Guidelines: An objective release decision-making scheme which has been implemented in several jurisdictions to ensure for more uniformity in pretrial release decisions from judge to judge. Under this approach, all release decisions are made by each judge referring to a uniform set of court-wide guidelines that predetermine the type of non-financial release or, in more serious cases, the amount of bail based on a) charge severity, and b) which of several risk categories the defendant falls in; these are based on the extent of community ties, prior criminal record, and other risk indicators. These two factors are plotted on a grid, with charge severity categories on one axis and risk categories on the other axis. The type of release granted is predetermined by which cell the defendant falls into.

Matrix Release: A term coined in recent years to describe pretrial release or detention decision-making by county sheriffs and local law enforcement personnel, usually in response to court-imposed jail crowding reduction orders affecting facilities they administer. Typically, such law enforcement agencies release defendants previously held in detention by them according to an objective system which rates a defendant's perceived dangerousness by means of a score based on how the defendant fits into a classification matrix that takes into account charge severity, prior criminal record, behavioral characteristics, etc. Such a matrix may or may not bear a resemblance to a traditional point scale or community tie index used by pretrial services agencies.

PRETRIAL SERVICES SURVEY

I. Program Structure

1. Program Identification:

Full Name of Program: _____

Street Address: _____

_____

City/State/Zip: _____

Telephone (including area code) : _____

2. Please indicate what services your program offers (check any that apply):

- ☐ (a) pretrial release screening
- ☐ (b) monitoring and supervision of pretrial releasees
- ☐ (c) pretrial diversion
- ☐ (d) mediation/arbitration
- ☐ (e) victim/witness
- ☐ (f) jail classification
- ☐ (g) defendant indigency determination
- ☐ (h) other (specify) _____

3. In what year did your program begin interviewing arrestees for pretrial release/detention eligibility determinations? _____

4. What are your program's hours of operation? (e.g., 24 hrs./day, Monday-Friday during court hours, 7 days/week, etc.) _____

5. Indicate the type of jurisdiction served by your program (check only one):

   ☐ (a) portion of local jurisdiction

   ☐ (b) local jurisdiction--city, town, or county

   ☐ (c) more than one county

   ☐ (d) federal district (specify) _____

   ☐ (e) other (indicate) _____

6. What is the approximate population of your jurisdiction? (check only one)

   ☐ (a) less than 50,000

   ☐ (b) between 50,000 and 100,000

   ☐ (c) between 100,000 and 500,000

   ☐ (d) between 500,000 and 1,000,000

   ☐ (e) more than 1,000,000

7. How would you describe the nature of the area served by the program? (check only one)

   ☐ (a) city--primarily urban

   ☐ (b) town--primarily suburban

   ☐ (c) country--primarily rural

   ☐ (d) mixture of suburban, city, and rural

8. Where is your program located administratively in the criminal justice system ? (check only one)

- ☐ (a) probation department (state or federal)
- ☐ (b) probation department (municipal)
- ☐ (c) courts (state)
- ☐ (d) courts (county or municipal)
- ☐ (e) district attorney (prosecutor)
- ☐ (f) public defender
- ☐ (g) law enforcement custodial agency (police, sheriff)
- ☐ (h) bar association
- ☐ (i) other private, non-profit organization
- ☐ (j) independent board of trustees
- ☐ (k) other (indicate) _____

9. Does your program have a formal governing body (advisory board or committee) responsible for the develpment of program goals and policies?

☐ (a) yes ☐ (b) no

(IF NO, SKIP TO QUESTION #11)

10. Please indicate the current composition of the governing body, i.e., what criminal justice interests are represented on the Board - defense bar, judicial officers, prosecutor's office, representatives of local community or social service agencies, private citizens, etc.

_____

_____

_____

11. What is the program's annual budget? _____

12. Please indicate the sources of funding for your program and the approximate percentage of your budget that comes from each source (check any that apply):

Percentage	Source of Funds
_____	(a) federal funds
_____	(b) state government
_____	(c) county government
_____	(d) municipal government
_____	(e) fees
_____	(f) private contributions
_____	(g) other (indicate) _____

13. How many staff do you have? (for paid staff, include any current vacancies likely to be filled within a month or two)

Full-time	Part-time	
_____	_____	(a) professional
_____	_____	(b) clerical
_____	_____	(c) volunteer
_____	_____	(d) students
_____	_____	(e) TOTAL

14. What method(s) do you use to gather/store/retrieve casefile information?

☐ (a) manual

☐ (b) automated (What kinds?., e.g. mainframe, computer, personal computer, (PC), etc. _____

☐ (c) mixed manual and automated systems

☐ (d) none

15. What types of information does your program capture or keep track of on a regular basis? (check any that apply)

- ☐ (a) defendant background information
- ☐ (b) local criminal history information
- ☐ (c) release/detention status
- ☐ (d) upcoming court dates
- ☐ (e) dispositions
- ☐ (f) detention rates
- ☐ (g) release rates
- ☐ (h) failure-to-appear (FTA) rates
- ☐ (i) rearrest rates
- ☐ (j) other _____

16. Is your agency willing to supervise, monitor, or work in other ways with defendants with charges pending in other jurisdictions? (i.e., engage in inter-agency compacts)

- ☐ (a) yes ☐ (b) no
- ☐ (c) in certain circumstances

If yes, how many referrals were actually made and accepted in the last year?

_____

17. Is your program operating under any of the following in regard to jail crowding? (check any that apply)

- ☐ (a) judicially-ordered cap on inmate population
- ☐ (b) consent decree
- ☐ (c) litigation currently pending (if so, name of case(s)): _____

_____

(IF NO, SKIP TO NEXT SECTION)

18. Has your program changed its release/detention policies as a result of a jail cap or consent decree?

☐ (a) yes ☐ (b) no

If yes, how? _____

_____

If yes, when? _____

II. **Pretrial Assessment Scheme**

19. What types of releases are available in your jurisdiction and/or through your program? (check any that apply)

- ☐ (a) ROR/OR/PR
- ☐ (b) conditional release
- ☐ (c) supervised OR release
- ☐ (d) third party custody
- ☐ (e) deposit bail
- ☐ (f) personal bond
- ☐ (g) cash bond
- ☐ (h) surety bond
- ☐ (i) other _____

20. Are there arrestees who are automatically excluded from being interviewed by your program? (check any that apply)

- ☐ (a) all violations (less serious than misdemeanors)
- ☐ (b) all misdemeanors
- ☐ (c) all felonies
- ☐ (d) specific charges (see #21 for greater detail)
- ☐ (e) those held on warrant or detainer from another jurisdiction, in addition to local charges
- ☐ (f) those with outstanding warrants in the same jurisdiction(s) served by the program
- ☐ (g) people who are not bailable by statute
- ☐ (h) currently on parole ( ), probation ( ), and/or pretrial release ( )
- ☐ (i) no, all arrestees are interviewed (unless sick, arrestee refuses, etc.)
- ☐ (j) other (specify) _____

(IF SPECIFIC CHARGES ARE NOT CHECKED IN #20(d), SKIP TO QUESTION #22)

21. Please specify which criminal charges automatically exclude some arrestees from being interviewed by the program (as indicated in Question #20(d) above):

_____

_____

22. When does your program first have contact with the defendant? (check any that apply)

☐ (a) as part of the booking process

☐ (b) prior to initial (first) court appearance

☐ (c) after initial court appearance

23. Of those cases in which your program interviews defendants to determine release/detention eligibility, on the average, how soon after booking does the initial interview take place and what percentage of defendants are interviewed during this time frame?

Percentage

_____ (a) at booking

_____ (b) within 6 hours of booking

_____ (c) after 6 hours

24. What is the basis for the limited time frame during which the interview with the defendant must take place? (check any that apply)

☐ (a) statute

☐ (b) state or local court rule or order

☐ (c) federal court order

☐ (d) program policies

☐ (e) not applicable

☐ (f) other _____

25. Does your program interview at more than one point?

☐ (a) yes ☐ (b) no

If yes, specify at what points: _____

26. Does your program have the direct authority (i.e., "delegated release authority") to release defendants prior to the initial court appearance?

☐ (a) yes ☐ (b) no

If yes, what offenses?

☐ (c) moving traffic offenses ("major traffic" cases)

☐ (d) all infractions or ordinance violations (less serious than criminal misdemeanors)

☐ (e) all misdemeanors

☐ (f) some felonies (specify) _____

_____

27. Do your program interviewers inform the defendant prior to conducting the interview that the interview is voluntary?

☐ (a) yes ☐ (b) no

28. Is the defendant notified prior to the interview as to how the information during the interview will be used, what limitations will be placed on its use, and who will have access to the information?

☐ (a) yes ☐ (b) no

29. Does your program have a written waiver or consent document that is signed by the defendant prior to conducting the interview?

☐ (a) yes ☐ (b) no

30. Does the program attempt to verify the information given by the defendant? (check only one)

☐ (a) yes

☐ (b) yes, with some exceptions (specify) _____

☐ (c) no

31. Does the program attempt to obtain the defendant's adult criminal history, including records from local law enforcement agencies, countywide or statewide criminal history information system, and/or local court clerk's office?

☐ (a) yes

☐ (b) yes, with some exceptions (specify) _____

☐ (c) no (if no, why not?) _____

32. Does the program attempt to obtain the defendant's juvenile criminal history, including records from local law enforcement agencies, countywide or statewide criminal history information system, and/or local court clerk's office?

☐ (a) yes

☐ (b) yes, with some exceptions (specify) _____

☐ (c) no (if no, why not?) _____

33. Does your program make specific release recommendations to the court, or does it provide defendant background information only, without specific recommendations? (check only one)

☐ (a) makes recommendations in all cases

☐ (b) makes recommendations only when asked by court

☐ (c) background information only provided

34. Provided ROR exists as a release option in your jurisdiction, please indicate any circumstances which automatically exclude anyone who is interviewed from being considered for personal recognizance release (ROR) (even if the person might be eligible for non-financial conditional release, supervised release, cash or deposit bail, bail reduction, etc.) (check any that apply):

☐ (a) specific charges (see #35 for more detailed breakdown)

☐ (b) those held on warrant or detainer from another jurisdiction

☐ (c) those with outstanding warrants in the same jurisdiction(s) served by the program

☐ (d) no verified address

☐ (e) currently on parole ( ), probation ( ), and/or pretrial release ( )

☐ (f) known prior record of failure to appear in court (if checked, now many? _____)

34. con't.

☐ (g) known prior record of rearrest for crime committed while on release

☐ (h) known prior record

☐ (i) currently on pretrial release

☐ (j) inability to verify information provided by defendant in the interview

☐ (k) defendant suspected of having severe mental or emotional problems

☐ (l) evidence of the use of illicit drugs

☐ (m) other (specify) _____

(IF SPECIFIC CHARGES ARE NOT CHECKED IN #34(a), SKIP TO QUESTION #36)

35. Please indicate which specific criminal charges automatically exclude defendants from being eligible for/recommended for ROR, regardless of other circumstances (as indicated in #34(a) above):

_____

_____

_____

36. Other than determining or recommending eligibility for ROR, does your program ever make any of the following specific recommendations to the court concerning specific defendants? (check any that apply)

☐ (a) recommends non-financial conditional release

☐ (b) recommends release to a third party custody

☐ (c) recommends that monetary bail be set (other than 10% deposit bail)

☐ (d) recommends specific bail amounts (other than 10% deposit bail)

☐ (e) recommends 10% deposit bail

☐ (f) recommends pretrial detention

37. When a defendant is interviewed by the program concerning possible release, what kind of system is used to assess the release eligibility of the arrestee? (check only one)

☐ (a) a point scale or similar "community tie index" system only

☐ (b) a bail guidelines system only

☐ (c) a risk matrix system only

☐ (d) a subjective system only

☐ (e) a point scale, bail guidelines, or matrix system plus subjective input

☐ (f) no release recommendation; background information only provided to judicial officer

38. How were procedures derived for the release assessment scheme? (check any that apply)

☐ (a) committee or program decision, based on subjective assessment of what criteria should be included

☐ (b) adapted with changes from another program

☐ (c) based on program's own research and data

☐ (d) other (specify) _____

_____

39. Has your point scale or other objective assessment instrument been empirically validated?

☐ (a) yes ☐ (b) no

If yes, when and how? _____

40. What criteria or variables are used in the pretrial release/detention eligibility background investigation? (check any that apply)

☐ (a) local address

☐ (b) length of time resident in local community

☐ (c) length of time resident at present address

☐ (d) length of time resident at prior local address

☐ (e) ownership of property in community

☐ (f) possession of a telephone

☐ (g) living arrangements (e.g., whether married or living with relatives)

40. con't.

☐ (h) parental status and/or support children

☐ (i) employment and/or educational or training status

☐ (j) income level or public assistance status (means of support)

☐ (k) physical and/or mental impairment

☐ (l) use of drugs and/or alcohol (self-report)

☐ (m) visible signs or symptoms of drug or alcohol use (interviewer observation)

☐ (n) drug test (urinalysis) test results

☐ (o) comments from arresting officer

☐ (p) comments from victim

☐ (q) prior arrests

☐ (r) prior convictions

☐ (s) whether currently on probation, parole, or has another open case

☐ (t) prior court appearance history

☐ (u) whether someone is expected to accompany the defendant to court at arraignment

☐ (v) identification of references who could verify and assist defendant in complying with conditions of release

☐ (w) other _____

41. Is potential danger to the community (i.e., risk of rearrest) considered when assessing release or detention eligibility?

☐ (a) yes ☐ (b) no

(IF NO, SKIP TO QUESTION #43)

42. If yes, is dangerousness assessed by the interviewer?

☐ (a) yes ☐ (b) no

Is dangerousness assessed by the court?

☐ (c) yes ☐ (d) no

43. How, if at all, does your program report the results of the background investigation of a defendant to the judicial officer at the bail-setting stage? (check any that apply)

☐ (a) written summary of interview

☐ (b) written summary of interview and verification process

☐ (c) other written report (specify) ____ _____

_____

☐ (d) oral report

☐ (e) record check

☐ (f) current offense summary

☐ (g) release recommendations

☐ (h) report provided only upon request by judicial officer

☐ (i) report not provided

44. Are copies of the written report(s) provided to the prosecutor and defense counsel?

☐ (a) yes ☐ (b) no ☐ (c) upon request

45. Is there a pretrial program representative present at the defendant's initial court appearance?

☐ (a) yes, always

☐ (b) yes, with some exceptions _____

_____

☐ (c) no

46. Does your program provide supervision for a defendant released with one or more conditions?

☐ (a) yes, always

☐ (b) yes, if specifically ordered by the court

☐ (c) no

47. What options are available that your program can recommend to the court in regard to the conditions that are placed on a defendant?

_____

48. What automatic conditions are placed on defendants (whether recommended or not recommended) by your program? (e.g., refrain from criminal activity/illicit drug use, return to court as scheduled, etc.) _____

_____

49. What means does your program use to determine whether a defendant currently uses illicit drugs? (check any that apply)

☐ (a) self-report

☐ (b) prior criminal arrest(s) for drug possession and/or distribution/sale

☐ (c) prior criminal convictions(s) for drug possession and/or distribution/sale

☐ (d) previous enrollment(s) in a drug treatment program

☐ (e) physical indicia (e.g., withdrawal symptoms) observed during interview

☐ (f) urine testing (see questions #50 and #51)

☐ (g) drug testing technology other than urine testing (specify) _____

_____

☐ (h) other (specify) _____

(IF URINE TESTING IS NOT CHECKED IN #49(f), SKIP TO QUESTION #52)

50. If your program does have a pretrial urine testing capability, at what stage(s) are defendants requested to submit to urine testing? (check any that apply)

☐ (a) prior to initial court appearance

☐ (b) as a condition of release after initial appearance if so ordered by the court

☐ (c) both

51. If your program has a urine testing capability, describe its location and type:

Location: ☐ (a) in-house lab (at courthouse or pretrial program)

☐ (b) offsite (contract lab)

Type: ☐ (c) TLC

☐ (d) EMIT

☐ (e) GCMS

☐ (f) other (specify) _____

52. Has your program established a system to notify released defendants of upcoming court appearances?

☐ (a) yes ☐ (b) no

(IF YES, SKIP TO QUESTION #54)

53. If no, who does notification? (check any that apply)

☐ (a) no one, i.e., defendant is responsible for making court dates

☐ (b) court clerk's office

☐ (c) defendant's defense attorney

☐ (d) other (specify) _____

54. What procedures does your program use to notify a released defendant of upcoming court appearances? (check any that apply)

☐ (a) reviews court date with defendant upon release following initial court appearance

☐ (b) reviews court date with defendant during regular supervision contact

☐ (c) sends defendant notification letter or postcard prior to court date

☐ (d) telephones defendant prior to court date

☐ (e) other (specify) _____

55. If the defendant fails to appear in court, does your program take any of the following steps to try to contact the defendant? (check any that apply)

☐ (a) sends letter to defendant urging voluntary return to the court

☐ (b) makes phone call to defendant urging return to court

☐ (c) makes home visit to defendant urging return to court

☐ (d) program staff may arrest

☐ (e) assists police in locating defendant

☐ (f) tries to locate defendants who have apparently left the jurisdiction

☐ (g) locates defendant and quashes the warrant

☐ (h) places defendant back on court calendar

☐ (i) other (specify) _____

56. Under what circumstances does your program report failure to comply with conditions of release to the court? _____

_____

_____

57. Does your program conduct a bail review of those defendants who fail to post bail in the amount originally set by the court following an initial court appearance?

☐ (a) yes, always

☐ (b) yes, with some exceptions (specify)_____

☐ (c) no

☐ (d) if requested by court

☐ (e) if requested by counsel

58. Does your program maintain a list of referral agencies to facilitate the placement of defendants in need of social services?

☐ (a) yes ☐ (b) no

59. Does your program refer defendants who have been identified as having a drug and/or alcohol and/or mental health problem to any of the following services or programs?

☐ (a) special substance abuse screening

☐ (b) detoxification centers

☐ (c) outpatient treatment program(s)(post-detoxification)

☐ (d) inpatient treatment program(s)(post-detoxification)

☐ (e) night shelter programs

☐ (f) halfway homes

☐ (g) mental health screening

☐ (h) mental health services

60. Does your program provide information to probation departments or other authorized individuals for use in presentence reports?

☐ (a) yes ☐ (b) no

☐ (c) not allowed because of sentencing guidelines

61. Is your program involved in jail classification?

☐ (a) yes ☐ (b) no

If yes, please describe how classification/risk assessment services interface with release/detention procedures: _____

_____

62. What types of evaluation or research has your program done or contracted to be done by outside researchers in the past five years? (check any that apply)

☐ (a) none

☐ (b) evaluation of program's management practices

☐ (c) evaluation of how well the program's screening techniques predict FTA pretrial crime rates

☐ (d) evaluation of the impact of supervision, notification, types of services, etc., on FTA or pretrial crime rates

☐ (e) evaluation of the cost effectiveness of the program

III. **Pretrial Data**

Note: For the purposes of answering this survey, pretrial data should be reported for your program's last full program year. Where the information is unknown, please indicate N.A. If some or all of the information is contained in your annual report, you may submit a copy in lieu of answering the questions. However, if you do submit an annual report, please review the following questions to ensure that the information requested is in the annual report.

63. In the jurisdiction(s) covered by your program, approximately how many total arrests (excluding minor ordinance violations) occurred last year?

_____ (a) misdemeanors

_____ (b) felony

_____ (c) TOTAL

Does this number include major traffic offenses?

☐ (d) yes ☐ (e) no

64. How many defendants were interviewed by your program staff last year?

_____ (a) number of felony

_____ (b) number of misdemeanor

_____ (c) total # only

65. How many defendants (excluding fugitives) were excluded from an interview in the last year? _____

66. Please indicate the number of arrestees for each of the following:

Recommended		Not Recomm.		Information	
Rel.	N-Rel.	Rel.	N-Rel.	Only	
					(a) ROR, PR, OR
					(b) conditional release
					(c) third party custody
					(d) other non- financial (specify) _____
					(e) TOTAL NON-FINANCIAL
					(f) property bail
					(g) deposit bail
					(h) surety bail
					(i) cash bail
					(j) other financial (specify) _____
					(k) TOTAL FINANCIAL

67. Please indicate the number of defendants released ROR based on information only (i.e., no recommendation was made to a judicial officer):

_____ (a) misdemeanors

_____ (b) felony

68. How many revocations from agency supervision occurred in the past year? _____

69. What was the average length of contact between defendants under supervision and your program during the last year? _____

70. If a point scale (or other objective assessment instrument) is used which allows for a subjective override of a numerical score, in what percentage of cases has an override been used in the past year? _____ %

71. What is the jail capacity ("design capacity") in your jurisdiction? _____

72. What was the average daily jail population in the last year? _____

73. What was the average daily percentage or number of pretrial defendants in your jail in the last year? _____ % or _____ #

74. What was the average length of time between booking (or if released on citation, arrest), and disposition of a case in your jurisdiction?

_____ (a) misdemeanor

_____ (b) felony

75. Does your program calculate failure-to-appear (FTA) rates by one of the following methods?

☐ (a) case based ☐ (b) appearance based

76. Please indicate, if known, your program's FTA rates during the most recent full program year:

_____ (a) percentage of all program defendants who miss one or more appearances, for whatever reasons

_____(b) percentage of all scheduled appearances which are missed, for whatever reason

_____ (c) percentage of all program defendants for whom bench warrants are issued for missed appearances

_____(d) percentage of all scheduled appearances for which bench warrants are issued for missed appearances

77. Please indicate, if known, the following pretrial crime rates for your program during the most recent full program year:

_____ (a) percentage of program defendants who are rearrested during the pretrial period

_____ (b) percentage of program defendants who are convicted of arrests made during the pretrial period

78. Does your program keep track and analyze any of the following on an ongoing basis? (check any that apply)

☐ (a) dispositions for those released through the program

☐ (b) FTA rates for those not recommended by the program

☐ (c) FTA rates for those released on bail in the community, with no program monitoring

☐ (d) pretrial crime rates (rearrest or conviction) for those not recommended by the program

☐ (e) pretrial crime rates for those released on bail in the community, with no program monitoring

☐ (f) separate FTA or pretrial crime rates for defendants with different types of charges (e.g. misdemeanor v. felony)

79. Has any research been done in your jurisdiction over the past three years to determine the nature and/or extent of illicit drug use among arrestees or pretrial releasees?

☐ (a) yes ☐ (b) no

(IF YES, PLEASE ANSWER QUESTIONS #80 AND #81; IF NO, YOU HAVE COMPLETED THE SURVEY)

80. If yes, please indicate the nature or sponsorship of this research:

☐ (a) Drug Use Forecasting (DUF) Program

☐ (b) internal study by pretrial program

☐ (c) other locally sponsored research study

☐ (d) national research effort which included our jurisdiction as one site

81. If yes, what did the research find about the nature and extent of pretrial drug use in your jurisdiction? _____

_____