



# ASSESSING LOCAL PRETRIAL JUSTICE FUNCTIONS

A HANDBOOK  
FOR PROVIDING  
TECHNICAL  
ASSISTANCE



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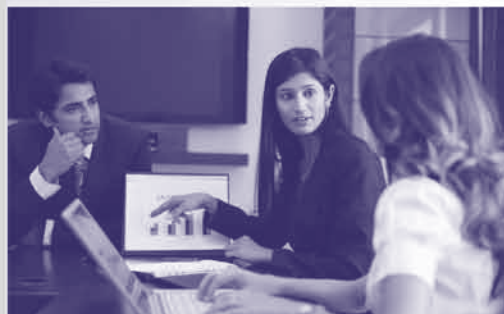
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April 2011  
NIC Accession Number 025016



This document was prepared under Grant No. 2009–DB–BX–K021, awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the authors and do not represent the official position or policies of the United States Department of Justice.

# FOREWORD

Created as a federal agency in 1974, the National Institute of Corrections (NIC) provides leadership, training, and technical assistance to the field of corrections. Unlike other federal agencies, NIC provides direct services rather than financial assistance as the primary means of carrying out its mission. NIC responds directly to the needs identified by practitioners working in state and local adult corrections.

A 16-person nonpartisan advisory board provides policy direction and helps set program priorities for NIC. The board, which was established by Public Law 93–145, includes members appointed by the U.S. Attorney General. NIC’s program priorities are created yearly and published annually on the NIC website. A complete searchable list is available at [www.nicic.gov/Training](http://www.nicic.gov/Training).

Each primary constituent group in adult corrections (jails, prisons, and community corrections) as well as its staffing arm for research and evaluation and its core set of dedicated trainers and program developers are represented and served by an NIC division. Direct technical assistance is one of NIC’s most requested services and is its primary means of assisting correctional agencies. This assistance is provided to correctional agencies and corrections-related organizations to improve management, operations, and services. Technical assistance providers serve in an advisory capacity and/or work with the staff of the state, local, or other agencies to assess programs and operations, implement advanced practices, and improve overall agency operations and programming.

This guide, a product of a cooperative agreement between NIC, the Bureau of Justice Assistance (BJA), and the Pretrial Justice Institute (PJI), presents a protocol designed to produce high-quality technical assistance for the front end of the criminal justice system—the pretrial justice stage. Assessment of factors such as the number of unsentenced jail inmates, lengths of stay for those awaiting trial, bail decisions, and pretrial supervision practices are all vital to ensuring a fully functional pretrial justice system. This guide and upcoming associated training sessions are designed to:

- Help agencies and technical assistance providers produce higher quality work.
- Build a cadre of professionals who are able to provide pretrial technical assistance and deliver a consistent process.
- Allow systems to self-assess or trade assessments with neighbors at a fraction of the cost.

Finally, this guide is about capacity building and empowerment. NIC is pleased to partner with BJA and PJI to ensure this content reaches the field.

Morris L. Thigpen  
Director  
National Institute of Corrections



## PREFACE

Traditionally in criminal justice, jurisdictions contract with individual consultants or institutions to provide short-term or technical assistance (TA). This handbook provides a clear structure for the consistent and uniform delivery of TA. The handbook also seeks to empower local pretrial practitioners and other pretrial justice stakeholders with the analytical skills most often used by TA providers. As a result, both the author and the National Institute of Corrections (NIC) hope that neighboring pretrial programs and agencies will use this publication to provide routine, cost-effective analytical program assessments for each other. Additionally, pretrial administrators will find this handbook an invaluable tool as they conduct self-assessments of their operations and performance.

*Assessing Local Pretrial Justice Functions: A Handbook for Providing Technical Assistance* is divided into five main sections covering the obligations of the TA provider, planning, onsite activities and protocols, the TA report, and followup activities.

The Pretrial Justice Institute, in collaboration with the Bureau of Justice Assistance and NIC, is pleased to provide this handbook to practitioners and stakeholders. We are confident that this handbook will play a significant role in elevating the administration of pretrial justice at both the local and national levels.

# ACKNOWLEDGMENTS

The Pretrial Justice Institute (PJI) would like to thank the Bureau of Justice Assistance (BJA), specifically Acting Director James Burch, III and Kim Ball Norris, Senior Policy Advisor for Adjudication, for supporting this work and pretrial justice in general.

PJI would like to thank Lori Eville, National Institute of Corrections (NIC) Corrections Program Specialist, and George Keiser, Chief, NIC Community Corrections Division, for their support of pretrial, agreeing to publish this work, and for the provision of training on this guide.

PJI would also like to thank the following individuals who reviewed drafts of this material, attended a focus group, and made valuable suggestions and additions:

Cherise Fanno Burdeen, Chief Operating Officer, PJI

Helen Connelly, Director, Fox Valley Technical College, Washington, DC Office

Caroline Cooper, American University, Justice Programs Office

V. Nadine Daniel, J.D., Manager, Fox Valley Technical College, Washington, DC Office—Criminal Justice Center

D. Alan Henry, Coordinator, MacArthur Foundation, Models for Change Initiative

Dr. Laura House, Senior Program Analyst, DC Pretrial Services Agency

Spurgeon Kennedy, Director of Research, Analysis, and Development, DC Pretrial Services Agency

Peter Kiers, President, National Association of Pretrial Services Agencies

Jeff Kilpatrick, Pretrial Services Supervisor, Alachua County (FL) Pretrial Services

Barry Mahoney, President Emeritus, Justice Management Institute

Janice Munsterman, former Executive Director, State Justice Institute

Tim Murray, Executive Director, PJI

Dan Peterca, Pretrial Services Manager, Cuyahoga County (OH) Common Pleas Court

Dan Ryan, Justice Solutions Group

Elaine Snyder, Technical Assistance Coordinator, BJA

Holly Szablewski, Judicial Review Coordinator, Milwaukee County (WI)

Michael Williams, Director of Court Services, DC Pretrial Services Agency

Stephanie Vetter, SJ Vetter Consulting

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# BASIC OBLIGATIONS OF A TECHNICAL ASSISTANCE PROVIDER

Before getting into the specific procedures of the technical assistance (TA) assignment, a reader should understand the basic obligations of a TA provider.

These may seem self-evident, but it is important to remember them throughout the TA assignment.

## Avoiding and Addressing Conflicts of Interest

Before accepting a TA assignment, consider whether anything in the assignment could constitute a real or perceived conflict of interest. This is unlikely; however, if you are related to or have a close personal relationship with a justice system leader in the jurisdiction to which you have been assigned, you should decline that assignment. The same would apply if a relative or close friend works for a private vendor that has been trying to win a contract within that jurisdiction's justice system.

If a possible conflict arises once you have begun your work, be sure to disclose it fully to site officials, your TA partner, and the sponsoring entity. Whenever considering whether you may have a conflict of interest, it is best to act with an abundance of caution.

## Expanding Your Knowledge Base Beyond Your Own Jurisdiction

Those who are new to providing technical assistance to other jurisdictions are apt to rely upon what is



natural—their own experiences. Indeed, it is because of your experiences that you have been asked to serve as a TA provider. Yet, there is a difference between relying on experiences from your own jurisdiction and regarding those experiences as the only feasible approach to addressing a problem or issue. If you repeatedly find yourself saying, “In my jurisdiction, this is how we do it,” then you are simply telling those you are assisting that you are limiting your assistance to one jurisdiction's experience.

One solution to expanding your knowledge base beyond your own jurisdiction is to read as much as you can to learn more about the issues presented in your TA assignment. A number of different materials are available on the Pretrial Justice Institute (PJI) website at [www.pretrial.org](http://www.pretrial.org) and on the website of

the National Association of Pretrial Services Agencies (NAPSA) at [www.napsa.org](http://www.napsa.org).

Find the pretrial release program survey at [www.pretrial.org](http://www.pretrial.org).

Find the diversion program survey at [www.napsa.org/publications/diversion\\_intervention\\_standards\\_2008.pdf](http://www.napsa.org/publications/diversion_intervention_standards_2008.pdf).

Specifically, if you are providing technical assistance that involves pretrial release decisionmaking, review the pretrial release standards of the American Bar Association (ABA) and NAPSA. For assignments that involve assessing pretrial diversion statutes, review the NAPSA Diversion Standards and the ABA standards for prosecution and defense that relate to diversion. All of these standards are available at [www.pretrial.org](http://www.pretrial.org).

While the standards describe what should be in a jurisdiction, there are also materials you should read that describe what is currently available. Make sure you are up to date with these materials. At minimum, be sure to review the findings from surveys of pretrial release and pretrial diversion practices published the year before. They will give you an idea of the variety of practices—for pretrial release and pretrial diversion—that exist around the country.

Other ways to expand your knowledge regarding pretrial services include attending the annual NAPSA conference, participating in the workshops offered there, and becoming a NAPSA certified pretrial services professional. (See [www.napsa.org](http://www.napsa.org) for details.)

## Staying Neutral

Maintaining a stance of absolute neutrality is, of course, impossible. Everyone has biases. As a TA provider, you must be aware of your biases, and as you approach an issue or problem, you should think about how your biases may influence your approach. Listen to all sides of an issue and be open to the reasoning expressed.

You may find yourself walking into the middle of a heated, ongoing argument over how to address a

specific issue. Avoid the temptation to jump right in and take sides in the dispute. In your findings and recommendations, you will ultimately present your views on the issue; and this will come only after you have carefully listened to and considered all viewpoints.

## Staying Within Your Expertise

As a TA provider, you must understand that you will be looked upon as an expert. Being an “expert” carries great responsibility. Providing the expertise you have can be extremely beneficial, but providing expertise that you do not have can lead to harmful results. It is not uncommon for a TA provider to be asked to stray into an area that extends beyond the initial TA request. If you feel you do not have expertise in that area, resist the inclination to try to be helpful by addressing the question directly. Instead, direct site officials to parties or locations where they can get information from more qualified sources.

## Respecting and Protecting Confidentiality

In conducting a technical assistance assignment on enhancing pretrial justice, it is not uncommon for a TA provider to view, and even be given, copies of materials that contain private information, including criminal records. Such information should not be shared with anyone other than your TA partner. Also, you should be careful to ensure that these materials are not lost or left in an area where they could be viewed by others. For example, do not leave them out in your hotel room while you are gone for the day to meet with site officials.

## Staying Within the Scope of the Project

Do not be surprised if, after arriving onsite, you discover problems that extend beyond what you have been asked to address. If this happens, conduct an assessment of the issue or problem that was presented in the initial request. Then discuss any other issues or problems with the official who requested the assistance to see if he or she wants you to address them in your report. It may be that the official is well

aware of the other problems, but, for whatever reason, prefers that you did not address them.

## Understanding the Culture of the Organization

Every organization has its own culture that drives how its work is approached, and pretrial release and diversion programs are no different. The organizational culture of a pretrial program can come from a number of different sources. Staff can shape it through dedicated commitment to the program's value, mission, and goal statements. The organizational culture may also result from external sources such as rising concerns about crime or the rising level of the jail population. Look into what factors seem to influence the program's approach to its work the most. Understanding the organization's culture is crucial to understanding the challenges you will face in getting the program to make whatever changes you will recommend.

## Exhibiting Tactfulness

Remember that the jurisdiction has requested technical assistance because it is seeking to improve pretrial justice. While no system is perfect, some are clearly more advanced than others. When confronting deficiencies in a jurisdiction, start with the assumption that those working in the system put forth good faith efforts to do their jobs and address issues to the best of their abilities. Implicit in a technical assistance assignment is the need to provide critique. Provide any feedback as constructively as possible. Never make your critiques personal.

## Keeping Confidences

In your interviews with site officials, ask them for their perceptions of how well things work and what needs improvement. Sometimes honest answers will result in negative viewpoints being expressed about particular individuals or practices. While the information obtained during such frank conversations can be extremely helpful in understanding what is going on in the jurisdiction, never attribute negative comments to one individual in your interviews with

others. Instead, use the information to develop questions that will probe into the matter.

## Discussing Findings Appropriately

Normally, you should discuss your findings only through the designated contact with the jurisdiction, or with permission from that contact. You may be approached by the media, members of the community, or others about findings before, during, or after your visit. If this occurs, check with the sponsoring entity for guidance on how to respond.

## Maintaining Intellectual Honesty

The job of a technical assistance provider is to give the best analysis and advice possible based on the provider's own expertise and on national standards and best practices. While most technical assistance requests reflect a sincere desire to identify areas for improvement, a manager or director of a pretrial program will occasionally request technical assistance for the sole purpose of affirming his or her position or practices. If in your analysis you find merit to such affirmation, then provide it. If your analysis leads to different conclusions, you must say so.

The same holds true if you are called in to support a lawsuit. For example, if an attorney representing a jailed inmate is suing the county because of jail crowding, regardless of whether your findings support or conflict with the position of the person bringing you in, your responsibility is to report your findings.

## Summary of Section I

As a TA provider, your basic obligations are to:

- Avoid conflicts of interest and address any appearance of conflict that may arise.
- Expand your knowledge base beyond your own jurisdiction.
- Stay neutral.
- Stay within your expertise.
- Respect and protect confidentiality.

## SECTION II PREPARATION FOR THE SITE VISIT

A successful site visit begins long before a technical assistance (TA) provider actually arrives on a site. There are several steps a TA provider should take to ensure that he/she is fully prepared for a visit.

### Establishing Contact With Your Technical Assistance Partner

If you have a TA partner on your assignment, the first thing you should do is to contact him/her. The sponsoring entity will provide you and your partner with the application that the site submitted for TA. This application will include the nature of the request. You and your partner should review the application and discuss the strengths that each of you bring to the assignment. Make sure you both have the same understanding of the issue(s) you are being asked to address. If you find that you and your partner are uncertain, or have different impressions of what the site or jurisdiction is asking for, contact the sponsoring entity.

The initial contact with your partner is also a good time to begin discussing dates when you would both be available for a site visit.

### Establishing Contact With the Site Liaison

The jurisdiction that will receive TA will designate a person to act as a liaison to the TA team. The liaison may be the official who submitted the TA request, or may be someone else.



You and your partner should schedule a conference call with the liaison to begin preparations for your visit. One of the most important things you must accomplish during that call is reviewing the TA request. The sponsoring entity will have provided you with the TA request that the site submitted. By taking the opportunity to discuss this request in more detail with the site liaison, you will be able to make a preliminary assessment of the needs of the site and thus be better prepared once you arrive onsite. Sometimes this preliminary needs assessment will require more than one call.

Once you have done a preliminary needs assessment you will have a much better idea of the materials you would need to review before the visit. (See “Materials To Be Reviewed Before the Site Visit.”) Ask the

site liaison to have those materials assembled and sent to you for review in advance of your visit. Also after the preliminary needs assessment, you should be able to identify the people you should interview while onsite and decide what activities you should observe. Discuss with the liaison the people (i.e., judiciary, prosecutor, defense) with whom you would like to meet. (See the next section for a discussion on selecting these individuals).

Ask the liaison to schedule 45 minutes for each interview, with at least 15 minutes in between to allow you and your partner to prepare for and get to your next interview. You may not need the full 45 minutes for the interview, but make sure you have that much time in case you need it. Even if all interviews will be held in the same location, schedule 15 minutes in between so you and your partner can compare notes from the last interview. If the next interview is not within easy walking or driving distance, have the liaison build in more time for travel.

In some instances you will need much more than 45 minutes for an interview. For example, if your assignment is to assess the existing pretrial services program, you will want to spend at least half a day between interviewing pretrial program staff and observing program activities.

You also want to make sure to observe the initial court appearance where the pretrial release decision is being made. In many jurisdictions, each of these hearings are held at a scheduled time, so you will have to plan your interviews around the hearing. In other jurisdictions, the hearing may be held at unscheduled intervals (i.e., when several cases must be heard.) When this is the case, tell your liaison that your schedule will need to be flexible so that you can visit one of these hearings.

Finally, discuss possible dates for the visit. Have your calendar ready so you can provide the liaison with a number of dates on which you and your partner would be available. Understand that the liaison will have to align your available dates with dates that are convenient for everyone onsite who must be interviewed. Thus, it may take several days before the liaison can get back to you with a firm date for the visit, and even more time for the liaison to send

a final schedule showing the date, time, and location of each appointment that will be completed.

## Reviewing Relevant Materials Before the Site Visit

**Relevant statutes and court rules.** If your assignment involves pretrial release decisionmaking, you need to know the laws surrounding it in the jurisdiction you are assisting. Many of the laws governing pretrial release decisionmaking are specified in state statutes. In some states, court rules also address pretrial release decisionmaking procedures. These rules can usually be located on the state's website for its judiciary. In some jurisdictions there are also local court rules that pertain to pretrial release decisionmaking. Check with your site liaison to ensure that you have seen all the statutes and court rules that govern the process, including any authority that can be delegated to a pretrial services program to release defendants. If you are unable to locate certain statutes or rules, ask the site liaison for a copy.

While reviewing the statutes and court rules, look at what they say about the pretrial release decisionmaking process. At minimum, you should know whether there is a presumption of release on the least restrictive conditions, what the factors are that the court is required to consider, which release options the court must choose from, whether the court can hold a defendant without bail, and the circumstances under which a defendant can be held without bail. Some statutes or court rules describe the role and duties of a pretrial services program. If that is the case in the jurisdiction you are assisting, know what these laws say. If your assignment includes a broad look at the pretrial release decisionmaking process, also examine any provisions on the use of citation releases and summonses in lieu of arrest.

If your assignment requires you to look at pretrial diversion, locating the statutes pertaining to diversion may be more difficult. In some states, the statutory authority for pretrial diversion can be scattered throughout the applicable code. Moreover, your site liaison may not be aware of what those statutes are. Check with the staff of the prosecutor's office when you meet with them during your site visit to ensure you are aware of all legal authority regarding diversion.

When looking at diversion laws, look for what they say about who (prosecutor or judge) makes the diversion decision, eligibility (or ineligibility) criteria, minimum requirements the defendant must meet while in a diversion program, criteria for successful and unsuccessful completion, and an explanation of what happens to a case in successful and unsuccessful terminations.

Regardless of whether you are reviewing pretrial release or pretrial diversion laws remember that the laws may be different than those in place in your own jurisdiction. Make a mental note of what those differences are so you do not find yourself making suggestions that are not compatible with laws in the jurisdiction.

**Bail schedule.** Many jurisdictions establish a bail schedule, which is a list of all criminal offenses and a specific bail amount or an amount range for each offense. The purpose of the schedule is to allow a person who has just been arrested to post a bail with the police or the jail before his/her initial appearance in court. The schedule tells the police or jail what the bail amount should be. In many jurisdictions, bail-setting magistrates also use the bail schedule as a guideline. If your assignment involves pretrial release decisionmaking, examine whether such a schedule exists and how the police use it.

**Court rulings or consent decrees.** Many jurisdictions are under court order or consent decrees that limit the population of the jail or require certain actions for processing defendants after arrest. These rulings and consent decrees can have a major impact on pretrial release decisionmaking. Ask the site liaison for copies of rulings or decrees that are in force in the jurisdiction. Read them so you will be able to understand better what impact, if any, they are having on pretrial release decisionmaking practices.

**Other consultant reports.** It is not unusual to encounter jurisdictions that have sought and received assistance in the recent past from consultants on issues that affect pretrial release or diversion decisionmaking. Such assistance might include assessments of criminal case processing or jail master plans. Check with the liaison about the existence of any reports from consultants and ask to receive

## PRETRIAL RELEASE DECISIONMAKING STATUTES

A full list of state statutes is available on the Pretrial Justice Institute website at [www.pretrial.org](http://www.pretrial.org).

Once a statute has been located, examine the “Criminal Procedures” section, which lists provisions pertaining to bail and pretrial release.

copies. Review them carefully for any findings and recommendations relating to the issues you will be addressing. If you find any, make a note to inquire about the status of implementing those recommendations while you are onsite.

You may find yourself in a situation where another consultant is working in the jurisdiction at the same time you are. If this occurs, it would be helpful to communicate with the other consultant to ensure you have a full understanding of the issues the other consultant is addressing and to be sure that he/she will know about your assignment. Be mindful that the other consultant is obligated to work through his/her own site liaison and may not be free to discuss his/her findings with you. Any communication with the other consultant should be done with the knowledge and approval of your site liaison.

**Internal reports and meeting minutes.** Many jurisdictions conduct their own internal analyses of issues or develop strategic plans that incorporate pretrial release or diversion decisionmaking. Ask the liaison if there are any such internal reports. Many jurisdictions have established Criminal Justice Coordinating Councils or similar bodies that meet regularly to discuss justice system issues. Ask for a copy of any minutes or other materials that relate to pretrial justice functions. By reading through such materials before your visit, you will have a much better sense of the background of the issues surrounding the TA request.

**Recent media coverage.** Part of being informed about the pretrial release or diversion decisionmaking practices in the jurisdiction you are assisting is

knowing what the media have been saying about the practices. This could include general feature pieces regarding the practices or reports on specific incidents, such as a defendant under pretrial supervision being charged with a new and very serious offense. It could also include any editorials. Either ask a site liaison about the existence of recent media coverage or search the archives of the local newspapers using such keywords as “pretrial,” “bail,” “jail,” and “diversion.”

**Pretrial program materials.** If you are being asked to provide TA to an existing pretrial services program, ask the site liaison to send you copies of the following:

- A pretrial interview form.
- A pretrial risk assessment instrument.
- A bail report to the court.
- A release order.
- A compliance/violation report to the court (if the court is involved in supervision).
- Any written procedures pertaining to any aspect of the pretrial program.
- An organizational chart for the pretrial program, including the number of staff in each category and a chart showing the pretrial program’s administrative location.
- The mission statement of the program.
- An annual report of the program or any published data on program activities.
- An annual budget for the program.
- Job descriptions for pretrial services program staff.
- Any training materials provided to staff for new employees and for in-service training.

If your assignment involves assessing a pretrial diversion program, ask for the following:

- A copy of admissions and termination criteria.

- A description of services provided.
- A copy of a compliance/violation report.
- A copy of any written procedures pertaining to any aspect of the pretrial program.
- An organizational chart for the pretrial program, including the number of staff in each category.
- The mission statement for the program.
- An annual report of the program or any published data on program activities.
- Job descriptions of pretrial diversion program staff.

Reviewing these materials before interviewing staff and observing their work can help you better understand how these programs function. This will put you in a better position to ask informed questions. In addition, by reading the program’s procedures you will be able to assess the extent to which staff are following those procedures.

**Survey results.** The jurisdiction may have participated in a survey conducted by the PJI or the National Association of Pretrial Services Agencies (NAPSA) on program practices. The survey responses that the jurisdiction provides should give a broad picture of the program’s practices. Check with PJI to identify survey results from the jurisdiction where you will be working.

**Other.** Depending on the nature of the TA request, you may need to become up to date on the latest developments on topics related to the request. For example, if the request involves improving justice processing of defendants with serious mental illnesses, be sure to check the website of the Criminal Justice and Mental Health Consensus Project at [www.consensusproject.org](http://www.consensusproject.org). If the request involves a drug court, visit the website of the National Drug Court Institute at [www.ndci.org](http://www.ndci.org).

**Data.** Jurisdictions vary greatly in their access to data relating to pretrial release and diversion practices and outcomes. Some have paper records that have to be tabulated manually. Others have sophisticated automated systems that can readily produce



data responsive to a wide range of inquiries. Most jurisdictions fall somewhere between these two extremes.

Fortunately, for a short-term technical assistance assignment, you will not need to or have the time to engage in sophisticated analyses of data. However, you will have a much better understanding of the system if you can review some basic data.

If your TA request involves examining the pretrial services program, try to get as much processing and outcome data as possible, including:

- Processing data—
  - Number of defendants interviewed in the past year.
  - Number who were not interviewed and why they were not interviewed.
  - Number recommended for release, by type of release recommendation.
  - Number not recommended and why they were not recommended.
  - Number of defendants under pretrial supervision.
- Outcome data—
  - Pretrial release rate, by type of release.
  - Failure to appear rate, by type of release.
  - Rearrest rate, by type of release.
  - Technical violation rate, by type of release.

The processing data elements will provide information on the workload and practices of the program and should be examined with this information in mind. For example, if the policies and procedures manual states that all defendants must be interviewed but the data show that only half receive interviews, you should inquire about why that is the case.

Do not be surprised if the jurisdiction cannot provide the outcome data. If you are able to get it, either before the visit or during the visit, you must determine how the failure to appear and rearrest rates were calculated. Some pretrial programs count only those

under program supervision, while others count all defendants released, regardless of type of release.

If the TA request involves looking at an existing pretrial diversion program, try to get the same kinds of data.

- Processing data—
  - Number of defendants eligible for diversion in the past year.
  - Number recommended for admission.
  - Number admitted.
  - Number not admitted and why not admitted.
  - Number receiving services.
- Outcome data—
  - Number terminated successfully.
  - Number terminated unsuccessfully and the reasons for unsuccessful termination.
  - Recidivism rate.

Again, match these data against program policies and procedures to identify inconsistencies that should be discussed during your visit. For most technical assistance requests involving pretrial justice, review of jail data is essential. At minimum, you would want to know the capacity of the jail, the current population, and the trends in the jail population over the past five years. Also, ask for any figures available about the number of bookings into the jail, the average daily population, and the composition of population in terms of status (e.g., pretrial, sentenced, awaiting probation violation hearing, holding for other jurisdictions).

## Summary of Section II

In preparation for the site visit, be sure to:

- Contact your TA partner, if you have one.
- Contact your site liaison to plan your visit and ensure that you completely understand the TA request.

- Review relevant materials, including:
  - Relevant statutes and court rules.
  - The bail schedule, if the jurisdiction uses one.
  - Other reports completed by consultants in the recent past on any related issues.
  - Relevant internal reports and meeting minutes on related issues.
- Recent media coverage.
- National survey results pertaining to the jurisdiction.
- Other materials specific to the request.
- Other relevant data.

## SECTION III

# CONDUCTING THE SITE VISIT

### Meeting With Your TA Partner

As noted in section II (Establishing Contact with Your TA Partner), it is best for you and your partner to try to arrive onsite early in the evening before the site visit begins in order to have the opportunity to meet with your TA partner. Go over the schedule with your partner and review the questions that you will want to ask in each meeting. You may want to divide the questions, so that you plan to address one line of inquiry while your partner addresses another.

### Final Preparations

Be sure to dress in business attire, have materials ready to take notes, and know where you are going. Using a GPS navigator or online website, find the locations you must go to and bring the directions with you. This can help ensure you are on time to all of your meetings.

### The Entrance Interview

When possible, the first item on your schedule should include meeting with the official who requested the technical assistance. This could be the chief judge, prosecutor, a county board member, or the pretrial program director. In some cases, the requestor may come from a group, such as a criminal justice coordinating council. The purpose of this meeting is to ensure that there is clarity among all the parties—you, your TA partner, and the requesting official(s)—regarding the nature of the request, the expectations



for the visit, and any recent developments. This is also a good opportunity to ask about “turf issues” or any other potential problems that you should be aware of as you begin your interviews.

### Interviews With Key System Officials

A typical TA interview should have four stages: making introductions, obtaining a factual understanding of the process under review, obtaining perceptions about the system, and the concluding the interview.

**Making introductions.** The people you interview may have been fully briefed by your site liaison about the reason for your visit. Alternately, they may have only a vague knowledge of why you are

interviewing them. Begin each interview by introducing yourself, identifying the sponsoring entity, and stating why you are there. Feel free to give the interviewee your business card, but make it clear that you are there on behalf of the sponsoring entity, not your own organization. Summarize the TA request and then discuss your background and why your experience will be helpful in addressing the request. Be prepared to answer questions about your credentials. Just as you have come to assess them, they want to make their own assessment about how much weight to place on what you will have to say.

Ask the people you are interviewing for their business card. If they do not have one, make sure you ask for an accurate spelling of their names and for their titles. When you write your report, you will need to list everyone you met with. You want to make sure you have their names and titles correct. The time and care you take to conduct this simple task will signal to your interviewee that you are committed to being accurate.

**Obtaining factual understanding of the process under review.** When discussing the pretrial release decisionmaking process, a good way to begin is to ask the interviewee to walk you through the front end of the system as if you were an arrestee. You may begin by asking yourself questions like these:

- What happens to me now that I've just been arrested for a felony?
- What happens after arrest?
- When do I see a judge?
- When do I meet with a public defender?

After you've learned how felony cases are processed, ask about misdemeanors and identify how the process varies. Ask how the process might vary if you were arrested on a weekend or holiday. Ask what would happen if there were indications that you had a mental illness or were suspected of being an illegal immigrant.

If your assignment requires you to look at the pretrial diversion process, a similar line of questioning should provide you with an understanding of how the process works. Ask the parties you interview to

walk you through the process of what occurs following arrest, as pertains to pretrial diversion.

These lines of inquiry should be pursued for most of the parties you interview—judges, prosecutors, defense attorneys, pretrial administrators, and jail administrators. You should find that between the responses you get from each of these parties, none of whom likely will know every step in the process, you will be able to piece together a complete picture.

Once you have this information, you can begin to ask questions focused on the specific roles and practices of the interviewee. See the section titled "Obtaining Perceptions About the System" for a full discussion.

While conducting these interviews, ensure that you understand the local use of terms. For example, states use many different terms to describe the initial appearance of an arrestee in court. That same term used in your own jurisdiction may have a different meaning. Once you have learned how a particular term is used, use that term yourself. Also, it is not uncommon for individuals working within a criminal justice system to use acronyms or other shorthand language. Whenever this occurs, pause the interview to ensure you understand what everyone is saying.

**Obtaining perceptions about the system.** Once you have the facts about how the system works, turn your attention to the views of key officials about how well it works. Depending on the nature of the TA request, possible questions include:

- What do you see as the purpose of the pretrial release decision/pretrial diversion decision?
- What do you see as the role of the pretrial services program/pretrial diversion program?
- How well do you see the program performing that role?
- What do you see as the biggest challenges facing the system now?
- How do you think those challenges can best be addressed?
- In a perfect world, what would pretrial justice look like here?

- What are the obstacles to implementing that vision now?
- How do you think those obstacles could be overcome?

You will no doubt get different responses from the people you interview. This is also a good time to invite the interviewee to say anything that he/she would like. You may ask, "Is there anything else that we have not covered that you would like to talk about?"

**Concluding the interview.** At this stage of the interview, you should describe the process that will follow: You will be submitting a report to the official who requested the TA, and any further distribution of the report will be through that official. Be careful not to discuss any preliminary conclusions you may have reached. Those conclusions may change after you finish your interviews and discuss your thoughts with your TA partner. More importantly, the official who requested the TA should be the first to hear your conclusions.

Before leaving the interview, ask whether you can call at a later date with followup questions, and get information on how to best contact the person for that purpose.

## Observations

Aside from reviewing materials and conducting interviews, it is usually helpful to observe particular functions. For example, complete a walkthrough of the booking process; witness several defendant interviews by the pretrial services program, if there is one; and sit in first appearance court. This can give you a much better feel for how the pretrial release decisionmaking process works. It will help confirm what you have read and heard.

Keep in mind, however, that because you will have limited time for observations, you must avoid the temptation of coming to conclusions based on few observations. For instance, if the data show that about 60 percent of defendants are released nonfinancially at initial appearance, and the interviewees

## TIPS FOR A SUCCESSFUL SITE VISIT

- 1. Use effective interviewing techniques.** A TA assignment relies on gathering information through interviewing. Here are a few interviewing techniques that should help you get good information.

**Empathy**—Showing empathy in an interview is simply seeing things from the frame of reference of the interviewee. When you interview a prosecutor, for example, you need to show that you understand the role and responsibilities of prosecutors, and that you want to see issues from the prosecutor's perspective.

**Pacing**—The pace of the interview is important. You have a limited time to obtain a great deal of information. If the interview goes too slowly, you will run out of time and not get everything you need. If you rush the interview, you may miss valuable information. The challenge is to find the right balance. To do this, go into the interview with a good idea of what you are going to ask and what information you are trying to find out. If you find yourself with a very talkative

interviewee who easily gets off point, try to keep the person focused on the question. One way to do this is to gently interject and bring the interviewee back on task (i.e., "I think I'm getting lost here. Getting back to my question, I'm still not clear on . . .").

**Summarization**—To ensure that you accurately hear and understand the interviewee, pause from time to time during the interview to summarize what you have heard so far. This gives the interviewee the chance to correct any misunderstandings or to emphasize important points. Summarizing helps establish empathy, because you are demonstrating a sincere desire to understand what the interviewee has said.

**Concreteness**—To provide effective technical assistance, make sure that the information you receive regarding the process or issue you are examining is very specific. The interviewee will not know how specific you want to be, and thus may begin providing a

*continued on pg. 14*

general overview until you signal otherwise. If necessary, ask a series of followup questions that require the interviewee to become more specific.

- 2. Take notes.** Take thorough notes during your interviews. This can be a challenge. Ideally, when interviewing an individual, one should maintain eye contact, which can be difficult while taking notes. If you have a partner, your partner should do most of the note taking while you ask questions. This gives you the opportunity to focus on formulating followup questions without having to concentrate on writing notes. Then you should assume most of the note taking responsibilities while your partner is asking questions. If you do not have a partner, try writing down a few quick keywords that will help you remember what the response was and then fill in the gaps in your notes right after the interview.

Be careful not to tip off what you think of the importance of the responses by your notetaking actions. If you and your partner take no notes in response to one question, and then write extensive notes on another, you have signaled that the first response was of no significance. The response may have had little relevance to what you are trying to learn, but you asked the question and the interviewee went to the effort of trying to give you a meaningful answer. You do not want to run the risk of alienating the interviewee or leaving the interviewee trying to guess which of your questions produce a meaningful answer and which do not.

You may run into a situation in an interview where the interviewee will say something like “Don’t put this in your report, but . . .” Whenever you hear something like this, put your pen down or pull your hands away from your keyboard. By doing this you have signaled that the interviewee is free to speak and that you will honor the request. While you must honor that request, the information can be used as a lead that you should follow up on, which, after all, is what the interviewee intended. Sometimes the information amounts to nothing more than the interviewee trying to protect his/her “turf.” In some instances, however, interviewees convey extremely useful information.

- 3. Take advantage of breaks.** You should have several opportunities for breaks from your interviews and observations during the site visit. These breaks could occur between interviews, at lunch, during the day, or in the evening. Use these breaks to review (with your

partner) what you have learned up until that point and to identify any gaps in your knowledge that you need to address before the end of the visit. This is also a good time to reflect on how you and your partner have been conducting the interviews, and make any necessary adjustments.

- 4. Deal with flawed systems.** You may find yourself sitting in an exit interview after finding that virtually all the practices in the jurisdiction are antithetical to national standards and best practices. Problematically, officials from the jurisdiction might view their practices as among the best in the country. How you respond is going to determine whether people take your recommendations seriously and make changes or dismiss them as the workings of someone uninformed about best practices and biased against the jurisdiction.

In such situations, try to get officials to rethink some of their positions without alienating or overwhelming them with a picture of complete failure. Pick just a few of the most egregious practices, compliment them on the efforts they have made to implement what they believe to be good practices, and then gently suggest other ways of thinking about how to approach these practices. When possible, give concrete examples of the consequences of current practices.

Say, for example, that the pretrial services program declines to interview defendants charged with certain serious offenses using the rationale that the judge is not going to release these defendants to pretrial anyway. Point out that the statute requires the judge to consider the same information in all cases, not just the less serious ones, and state that the judge must make some decision in every case. Tell the officials that judges have to be most concerned about public safety in serious cases. By providing information only in the less serious cases, when faced with a more serious offense, the program is leaving the judge with much more limited information to make a consequential decision.

Do not worry if you are not able to design a complete overhaul of the failed system. Getting officials to begin to rethink assumptions that they have made about their own practices would be a major accomplishment. This could open the door to major changes in the future.

cite a similar figure, do not assume you are being deceived if only about 20 percent of defendants were released nonfinancially in the half hour you were in court. You may nonetheless wish to raise your observations that do not match what you have read and been told with the site liaison.

## The Exit Interview

As with the entrance interview, conduct the exit interview with the requesting official and any other party that official invites to participate. During this meeting, present your preliminary findings. Remember to remain tactful when presenting your findings, especially when those findings are critical of current practices. Remember, site officials asked for assistance because they recognized the need for improvements.

To present preliminary findings assumes that you and your TA partner agree about the findings. Therefore, make sure you have time for discussions with your partner before going into the exit interview.

Also during the exit interview describe the process to follow—the preparation and submission of the report and the timeframe. This is an opportunity to respond to any questions and arrange how you can fill any gaps you may encounter once you begin writing the report.

## Summary of Section III

Begin your site visit with a meeting with the official who had requested the TA. Reaffirm the details of the request, become apprised of any recent developments, and get final details on the schedule for the visit.

The interviews with system officials consist of four stages:

- Introductions.
  - Describe your background.
  - Get names (with correct spellings) and titles.
- Obtaining a factual understanding of the process under review.
  - Ask officials to walk you through the process from arrest to pretrial release or diversion.
  - Make sure you understand the use of local terms.
- Obtaining interviewee perceptions about the system.
  - What are the current problems?
  - In a perfect world, what would this system look like?
  - What are the obstacles to implementing that vision?
- Concluding the interview.
  - Describe when your report will be ready.
  - Describe how it will be disseminated.

Other good tips include the following:

- Use good interviewing techniques.
- Take thorough notes.
- Take advantage of breaks to reassess whether you are getting all the information you need.
- Use an incremental approach to deal with deeply flawed systems.

## SECTION IV

# PEOPLE WHO SHOULD BE INTERVIEWED AND AREAS OF INQUIRY

Identifying the people who should be interviewed is a key early task that relates to the nature of the TA request. For example, if the request involves a broad look at the front end of a jurisdiction's criminal justice system, you should interview all of the people listed in that section. Most TA requests will be much narrower than that. This section seeks to identify the situations in which the people in the offices listed below should be included in interviews and in areas of inquiry for each.

### Judicial Officers

There is no standard configuration of the judiciary across the states. In some, the judiciary may consist of separate felony and misdemeanor trial courts. In others, the felony and misdemeanor trial courts may be combined. Judicial officers presiding at initial appearance court can include those who are non-attorney or attorney justices of the peace, magistrates, or commissioners and misdemeanor or felony trial judges. In some counties or judicial districts within states are municipalities where a court judge holds the initial appearance. If you cross the town line a county magistrate or justice of the peace may hold responsibility for initial appearances. You should be aware of the judicial configuration within the jurisdiction you are assisting.

#### **Court judicial officers at the initial appearance.**

For most TA assignments relating to pretrial justice, you will need to meet with judicial officers who preside at initial appearance. Meet with at least one of



these officials, preferably one with extensive experience in initial appearance court. When possible, try to meet with two to get at least one more perspective.

In these interviews, have the judicial officer explain the process, as described in section III, that occurs in the first hours and days after arrest. Find out the time intervals between arrest and initial appearance, the system stakeholders who are present at the initial appearance, and the frequency of those hearings. In most instances—again, depending upon the nature of the TA request—one part of the interview should focus on what information is available to the judicial officer for pretrial release decisionmaking purposes. Also, you should ask about the options available to the court in making the pretrial release decision.



Once you have the factual information, try to glean the impressions of the judicial officers about the initial appearance process and how well or poorly it works. For general questions on this, see “Obtaining Interviewee Perceptions About the System” in section III. One area of inquiry should address whether the officers think they are getting all information they are required by statute or court rule to consider. Have a list of what the system statute or rule requires and match that up with their response. Identify information that appears to be missing or incomplete, and see how they respond. If there is a pretrial services program in the jurisdiction, ask about their impressions of the information it provides, how it assesses risks, and its recommendations. Ask if they know how the pretrial program assesses risks and formulates recommendations.

**After the initial appearance.** Even if trial-level judges never preside at an initial appearance in a particular jurisdiction, they still have to address pretrial release issues in situations such as bail reviews and pretrial release condition violation hearings. Make sure to include at least one judge. Ask the judge to describe the situations in which these events occur, the frequency of their occurrence, and the information the judge has available for decisionmaking in such situations. If a pretrial services program exists, ask about what information it provides and the judge’s perceptions about the value of that information.

Another area to explore with trial level judges is the use of expedited case processing for defendants who are in custody. Do judges try to move cases along faster when the defendant is detained? Do they even know which defendants are detained and which are not?

## Prosecutors

For most TA assignments involving pretrial release decisionmaking, and certainly for all involving pretrial diversion, you should speak with at least one representative of the prosecutor’s office. The chief prosecutor in a jurisdiction could be the district attorney, state’s attorney, prosecuting attorney, solicitor, or attorney general. In larger jurisdictions, the chief prosecutor probably will not have much knowledge

of the work, including the initial court appearance, of assistant prosecutors at the initial stages of a case. Therefore, ensure that you speak with a veteran prosecutor with experience at that stage.

Prosecutor offices vary in terms of the role they play early in the life of a case. Some offices have veteran prosecutors screening cases prior to the initial appearance, weeding out cases that are not likely to go anywhere. Others do not take a first look at a case for weeks. In many jurisdictions, a prosecutor is present in court at the initial appearance, and many other jurisdictions have no prosecutor. When getting the prosecutor’s narrative on what occurs in the aftermath of an arrest and in the initial stages of a case, address these issues.

If a pretrial services program is in place, ask for the prosecutor’s impressions of the information and options the program provides. Do not be surprised if the prosecutor says the pretrial program recommends too many people for release. If this happens, try to get the prosecutor to be as specific as possible about his or her reasons for believing this.

The prosecutor is a key official in the pretrial diversion decisionmaking process. If your assignment requires you to look at pretrial diversion, ask about the criteria the prosecutor’s office uses for approving the placement of defendants in pretrial diversion and terminating diversion agreements.

## Defense Attorneys

For most TA assignments related to pretrial justice, you should interview defense attorneys, particularly attorneys who represent indigent defendants. Jurisdictions will have different approaches for providing indigent defense, including public defender systems and appointed counsel. Some jurisdictions have a mixture of approaches. Make sure you are scheduled to meet with defenders who have a strong working knowledge of the initial court appearance and other early matters in the life of a case.

When getting the defense attorney’s description of the process following arrest, focus on the timing of the counsel’s appointment, the access that attorneys have to defendants before their initial appearance

in court, the counsel's presence at the initial appearance, and the counsel's awareness of pretrial release and diversion options. Also, inquire about defense practices in filing bail review motions—including the frequency in which this occurs and the typical outcomes of this process.

If a pretrial services program exists, determine the defense attorney's perceptions about the effectiveness of the program. Try to get the defense attorney to back up any compliments or criticisms with specific information that would help you better understand the strengths and weaknesses of the program.

## Pretrial Services Program Staff

If a pretrial services program exists, meet with the administrators of the program. In the narrative you receive from the pretrial services program regarding the process following arrest, focus on the following:

- The target population for pretrial interviews.
- The timing of initial interview.
- Interview and investigation practices (i.e., verification, record checks).
- Risk assessment and recommendation practices.
- Supervision practices.
- Court date reminder practices.
- Failure to appear followup practices.

Also discuss how the administrators view the mission and goals of the pretrial program and how they measure their success in achieving them. Ask them about how successful they believe the program has been in meeting its mission and goals and what obstacles they face in achieving the success they are working toward. If the program uses an objective risk assessment instrument, inquire if, when, and how it was validated. Inquire about the training that is provided to pretrial program staff, including formal training programs, national or state pretrial association conferences, and staff certification through the National Association of Pretrial Services Agencies. Ask to see the program's budget and find out where its funding comes from. Pretrial programs can be funded by a

variety of sources, and they are often included in the budget of the court, the jail, or the probation department. Finally, find out what administrative entity has formal supervisory authority over the program.

Also interview some staff of the pretrial program, reviewing information about program practices. In some larger pretrial programs, administrators may not have complete knowledge of the day-to-day practices of staff, so by including staff in interviews you may get a more accurate picture of current practices and challenges.

## Pretrial Diversion Program Staff

If a pretrial diversion program exists and the TA assignment involves diversion, meet with the administrators and staff to address the following:

- The target population.
- Timing of the diversion decision.
- Intake practices.
- Supervision practices.
- Success/termination practices.

As with the pretrial release program, ask about missions, goals, successes, and obstacles in achieving them; the budget of the program; the administrative focus of the program; and the training provided to staff.

## Jail Administration Staff

Depending on the nature of the TA request, you may or may not need to meet with a representative from the jail. If the request is specific to a discrete function of the pretrial services or pretrial diversion program, for example, you would not need such a meeting. If the request is a broad look at front end decisionmaking, a meeting would be necessary.

You can usually accomplish the interview session with the jail staff as part of a tour of the booking process. While walking you through the booking process, jail staff can explain each step.

In some jurisdictions, the first appearance court is located within the jail. In some jails, new arrestees are escorted to a room where the initial appearance occurs through a video link with the courthouse. In other jails, arrestees are transported outside the jail to the courthouse.

During this interview/tour, make sure the discussion includes where defense counsel and pretrial services staff meet with arrestees. Also, ask about the process that occurs for arrestees who exhibit signs of mental illness. Get their impressions about how to improve the flow of arrestees through the booking process and into the first appearance court to speed up release.

Some jails have the authority to release certain inmates. In your meeting with jail staff, find out whether such authority exists, in what circumstances it can be used, the process that is employed when using the authority, and the frequency in which it is used. Ask for their opinions on whether this authority is being exercised appropriately.

## Probation

Many jurisdictions locate the pretrial release or pretrial diversion program administratively under probation. In these instances, meet with probation representatives to learn more about pretrial release and diversion. For TA requests that involve broad system issues or jail crowding, you should also meet with probation department officials to discuss probation violation procedures. Specifically, try to understand what the procedures are when a new arrest or a technical violation occurs. Also inquire about the time intervals between arrest on a probation violation warrant and appearance in court before the judge who issued the warrant. Ask what could be done to speed up those times, and facilitate the processing of probation violators.

## Law Enforcement

In TA assignments that include a broad look at pretrial release or diversion decisionmaking processes, law enforcement officials should be included in the interviews. Many local jurisdictions may have

multiple law enforcement agencies (e.g., one from each municipality, plus the county sheriff and the state police). If this is the case, you will not have time or the need to interview representatives from each. Ask your site liaison to select the one or two law enforcement agencies responsible for the most arrests in the jurisdiction. Your line of inquiry should include:

- The existence of statutory authority to issue citations in lieu of arrests.
- The extent to which citations are used and the circumstances in which they are used.
- The timeliness of incident report preparation.
- The timeliness of arrest to delivery of arrestee to the jail.
- Bail recommendation practices.
- Availability, knowledge of, and use of diversion options, particularly for the mentally ill, inebriates, etc.

## Social Service Providers

When the TA request requires you to address the options that are available for pretrial release or diversion, you should assess the services that are available in the community. The most prominent services are drug treatment, alcohol treatment, mental health treatment, and anger management programs. For pretrial diversion, they could also include community service programs. Find out what the policies are for accepting referrals for pretrial release or diversion, the services the jurisdiction offers, and how they notify the pretrial release or diversion programs of whether those referred complied. Ask how many slots are available for criminal justice referrals and whether slots are typically available or if there are waiting lists.

## Specialty Courts

Many pretrial programs (both release and diversion) play a role in specialty courts (e.g., drug, mental health, and domestic violence courts). This could involve identifying potential candidates for the

specialty court program, providing or brokering services, or monitoring compliance. In such cases, meet with key officials connected to the court, particularly the presiding judge, to learn more about their roles and about their perceptions of the effectiveness of pretrial services.

## Information Technology Staff

You should be able to gain information about the processing capabilities of the pretrial program by reviewing the data you had requested before your visit. If the data are sparse or the program was

unable to produce any of the requested data, the program likely has significant needs in this area. If the data are complete, then you will know that the program is capable of producing the kind of data necessary to examine its practices closely.

In the former situation, when little or no data were available, a meeting with the information technology (IT) staff that serves the pretrial program will help determine whether the lack of data results from lack of communication between the pretrial program and the IT staff about the program's needs, or the information system's inability to produce the data.

## BEST PRACTICES

- 1. Pretrial justice.** If your assignment includes a broad look at pretrial justice in the jurisdiction, match the practices employed in the jurisdiction against this list of best practices, as taken from the American Bar Association's *Standards for Criminal Justice, Pretrial Release* (2002) and the National Association of Pretrial Services Agencies' *Standards on Pretrial Release* (2004).
  - Citation release in lieu of a full custodial arrest in minor cases where the person's identity, residence, and prior criminal history is confirmed.
  - Summonses in lieu of arrest warrants or bench warrants in minor cases where the person's identity, residence, and prior criminal history is confirmed.
  - Diversion of persons with serious mental illness from the criminal justice system to the mental health system—ideally occurring at early points, such as initial police contact and initial appearance in court.
  - Early screening of cases by the prosecutor's office to remove those that are not likely to proceed to a conviction.
  - Early appointment of defense counsel.
  - Prosecutorial diversion of cases where justice can be best served by addressing underlying issues that led to the arrest rather than by prosecuting the individual.
  - Gathering accurate information about the residence, employment, community ties, criminal history, and drug, alcohol, and mental health status of new arrestees and presenting that information to the judicial officer at initial appearance, along with an assessment of risk of pretrial misconduct that is based on objective criteria.
  - Providing mechanisms to match the range of risks posed by new arrestees with a range of conditions designed to minimize those risks by having the capability to supervise conditions of pretrial release imposed by the court.
  - Providing mechanisms to meet the needs of defendants, such as substance abuse and/or mental illness, while they await adjudication of their charges.
  - Facilitating the processing of criminal cases, particularly for those detained, by limiting continuances and scheduling hearings as near in the future as possible.
- 2. Pretrial services program.** If your assignment requires you to look at the pretrial services program operating in the jurisdiction, match the practices against this list of key elements.
  - Impartial universal screening of all defendants, regardless of the charge.

*continued on pg. 22*

- Verification of interview information and criminal history checks.
  - Assessment of risk of pretrial misconduct.
  - Presentation of recommendation to the court based upon the risk level.
  - Followup reviews of defendants who are unable to meet the conditions of release.
  - Accountable and appropriate supervision of those released, including proactive court date reminders.
- 3. Pretrial diversion program.** If your assignment includes an assessment of a pretrial diversion program, examine the following elements:
- The defendant should be offered the opportunity to participate in diversion early in the life of the case and should be able to speak with an attorney first. Application is voluntary.
  - Eligibility guidelines should be in writing and followed, and defendants should not be deemed ineligible solely because of their inability to pay restitution or diversion program fees.
  - Diversion program requirements should be clear, fair, and equitable, and a guilty plea should not be required for admission.
  - The diversion plan should be developed through the use of a comprehensive assessment of the defendant's needs, related to reducing his/her future criminal behavior.
  - Successful completion of diversion should result in dismissal of charges; unsuccessful completion should result in a return of the defendant's case to traditional prosecution without prejudice.

In the latter situation, where the requested data were available, a meeting with IT staff can help you understand whether the information system can be used to monitor any changes you will be recommending.

### Criminal Justice Coordinating Council

Over the past two decades, many jurisdictions have seen the value of having criminal justice coordinating councils, or similar bodies comprised of key justice system officials, to address common justice system problems. You may have meet with several members of the council as you make your rounds of judges, prosecutors, defense attorneys, and others.

Try to meet with the chair of the council about issues that have come before the council and relate to your TA assignment. Find out how the council has addressed the issue that you are there to resolve. In some cases, the council itself may have initiated the TA request.

### Summary of Section IV

Parties to meet with include:

- Judicial officers.
- Prosecutors.
- Defense attorneys.
- Pretrial services program staff.
- Pretrial diversion program staff.
- Jail administration staff.
- Probation staff.
- Law enforcement officers.
- Social service providers.
- Specialty court staff.
- Information technology staff.
- Criminal Justice Coordinating Council members.

## SECTION V AFTER THE SITE VISIT

After completing the site visit, you should have amassed a great deal of information about your site's technical assistance (TA) request. This section describes what to do with that information.

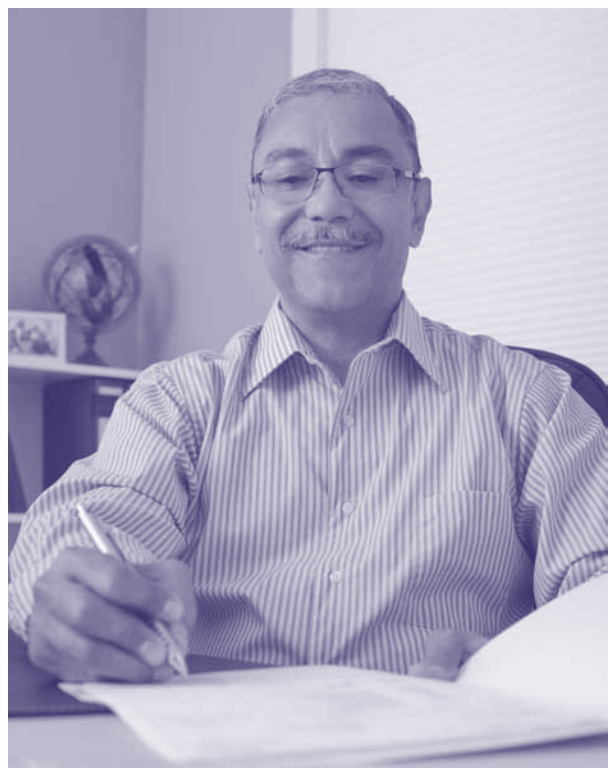
### Organizing the Information

A report on your findings and recommendations will be due to the sponsoring entity within three weeks of your site visit, so you have a lot to do in a short period of time. Before leaving your TA partner at the end of the site visit, ensure you both understand your individual report writing responsibilities. Usually, one partner will take the lead in writing a first draft, with the second partner providing input to that draft.

If your partner is taking the lead on writing a draft, write up your notes from the interviews and observations, add your recommendations, and submit them to your partner within a few days of the visit. If you are the lead writer, organize your own notes and other materials while you are waiting for your partner's notes. After you get your partner's notes, review them along with your own to identify any inconsistencies and gaps in information. Check with your partner first about any gaps that might exist. If they cannot be addressed, contact the appropriate person at the site. For example, if there was a question about what a judge had said about something, you should contact the judge.

### Writing the Report

Once you have all the information you need, begin writing the report. A typical report should comprise



three sections: (1) background, (2) description and analysis of the program/system/problem being reviewed, and (3) conclusions and recommendations.

### Background

The background section of the report should cover the following:

- **Nature of the TA request and identity of the TA requestor.** In the first paragraph of the report, describe what the request was and who in the jurisdiction submitted the request.

- **Brief description of the issue being addressed.**

In about one to three paragraphs, provide a brief description of the situation that led to the request. For example:

*The department was concerned about a decline in the number of defendants being recommended for release through the pretrial program and a decline in the number of recommended defendants who were then released by the court. The department was also concerned about a growth in the number of defendants who were being released by the court when no recommendation to do so had come from the pretrial program.*

*These concerns led the department to request a review of the program's practices as they relate to risk assessments and recommendations. In its request, the department wrote:*

*The goal of this technical assistance should be to ensure that our operation comports with case law, is in compliance with standards established by the National Association of Pretrial Services Agencies, protects public safety, and provides the least restrictive measures to ensure the court appearance of inmates. If this goal is met, the outcome should provide this agency with recommendations to improve the program's processes, update and validate the risk assessment tool, enhance staff confidence in the tool, and ensure "buy-in" from the courts and allied agencies.*

- **The TA team assigned.** Identify yourself, your TA partner, and both of your current and former positions (e.g., director of pretrial services in Lehman County, Pennsylvania).
- **Dates of the TA site visit.** Record the dates in the same paragraph in which you identify the members of the TA team.
- **Work done in preparation of the visit.** Describe any materials that you reviewed or discussions that you had with the site liaison prior to the visit.

- **Persons interviewed and activities observed**

**while onsite.** Present a list of all persons you interviewed during your visit, including their titles, and ensure that their names are spelled correctly. Also note any activities that you observed (e.g., the booking process or initial appearance in court.)

## **Description and Analysis of the Program, System, or Problem Being Reviewed**

The content of this section will vary depending upon the nature of the request. If, for example, the request is to explore the feasibility of starting a pretrial services program, you would describe what happens to a defendant after arrest—where the defendant is held pending initial appearance before a judicial officer, when the initial appearance takes place, what parties are present at the initial appearance, the role(s) of those parties, what information and options are available to the judicial officer at initial appearance, and what opportunities exist to review the bond that was originally set by the court. Provide analysis of the issues or problems within your description. For example:

*The only information available to the judicial officer at the initial appearance is the police report and a printout of a criminal record—with many of the dispositions to prior arrests missing. The only options available to the court are to release those defendants charged with the most minor offenses and with no prior criminal record on personal recognizance or set a money bail for everyone else.*

When data are available on aspects of the pretrial release decisionmaking process, describe what the data show. For example:

*The jail has data available on the average daily population (ADP) by month for every month over the past five years. That data show that the ADP rose consistently each year—from between 400 and 450 inmates five years ago to current levels of between 650 and 700 inmates. Furthermore, the percentage of the population comprising pretrial inmates has grown steadily from 52 percent five years ago to 61 percent during the past year.*

Then describe how a pretrial services program could address any issues or problems that you have identified.

If you are assessing an existing pretrial services program, describe where the program's administration is located, how the program is organized, what its budget is, its number of staff, and other specifics. Then provide an analysis of the practices of the program using national standards (i.e., NAPSA, ABA) as the framework for the discussion. You can begin this analysis with language similar to the following:

*The American Bar Association and the National Association of Pretrial Services Agencies have detailed standards addressing the operations of pretrial services programs. The review that follows takes each of the tasks of a pretrial services program, presents what the standards say about the approach pretrial programs should take toward completing those tasks, and then discusses the degree to which the pretrial services program meets those standards.*

The practices you should describe and analyze include:

- **The population targeted by the program for interviews and investigations.** The American Bar Association (ABA) and National Association of Pretrial Services Agencies (NAPSA) standards state that an investigation should be conducted by pretrial services on all persons who have been arrested, charged with a criminal offense, and placed in custody) (ABA Standard 10–4.2(a), NAPSA Standard 3.3(a)). Describe and analyze the practice of the TA site you visited.
- **Timing of the pretrial interview.** ABA and NAPSA standards call for interview and investigation of the defendant to occur prior to the defendant's initial appearance in court. (ABA Standard 10–4.2(a), NAPSA Standard 3.3(a)). Describe and analyze the practice of the TA site you visited.
- **The interview and verification process.** ABA and NAPSA standards state that the pre-initial appearance inquiry should consist of an interview and verification process that collects and verifies

information on the defendant's family; residence and employment status; and history with drugs, alcohol, or mental illness (ABA Standard 10–4.2(g), NAPSA Standard 3.3(c)).

Pretrial services programs collect information for two purposes: to assess risks of pretrial misconduct and to have the means to contact the defendant if he/she is released. Thus, the interview should elicit information concerning the defendant's address and community ties, criminal history, and mental health or substance abuse history. Verification consists of confirming the information that the defendant provided by contacting references. Much of the information used to assess a defendant's risks of pretrial misconduct and to contact released defendants relies upon the accuracy of the information provided by the defendant in the interview.

Describe and analyze the practice of interview and verification at the TA site you visited.

- **Criminal record checks.** Once the interview and verification processes are complete, a pretrial services program should conduct an investigation into the criminal history, court appearance history, and current criminal justice status of defendants (ABA Standard 10–4.2(g), NAPSA Standard 3.3(c)).

One of the most important factors that courts are required to consider in the pretrial release decision is criminal history. Pretrial programs are often the best, and sometimes the only, source of criminal histories at bail-setting hearings. The pretrial program should conduct a check of all records, including those from out-of-state sources.

Describe and analyze the practice of criminal record checks at the TA site you visited.

- **Risk assessment.** Once all the information is gathered, the next step is to conduct a risk assessment, which will form the basis for the program's recommendation to the court. The ABA says that this process "should be organized according to an explicit, objective, and consistent policy for evaluating risk and identifying appropriate release options." The risk assessment "should include factors shown to be related to the risk of flight or of threat to the safety of any person or the



community and to the selection of appropriate release conditions” (ABA Standard 10–4.2(g)). NAPSA Standards contain very similar wording (NAPSA Standard 3.4(a)).

Describe and analyze the practice of risk assessment at the TA site you visited.

- **Submission of the pretrial report to the court.** NAPSA standards call for written reports that can be “transmitted either electronically or on paper” (Standard 3.4 and Commentary). According to NAPSA, submitting and distributing written reports to the court, prosecution, and defense can lead to a more meaningful initial appearance. “With the pretrial services report and recommendations in hand, both the prosecution and the defense counsel have a basis for making informed arguments about possible release conditions” (Commentary to Standard 3.4(b)).

Describe and analyze the practice pretrial report submission at the TA site you visited.

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

Describe and analyze the practice of bond reviews at the TA site you visited.

- **Supervision of release conditions.** ABA standards state that pretrial programs should “develop and provide appropriate and effective supervision for all persons released pending adjudication who are assigned supervision as a condition of release” (Standard 10-1.10). NAPSA standards say that pretrial services programs should provide “monitoring and supervision of released defendants in accordance with conditions set by the court” (NAPSA Standard 3.1).

Describe and analyze the practice of the TA site you visited, including court reminder and failure-to-appear followup protocols.

- **Information system.** NAPSA Standards ask jurisdictions to operate “an accurate management information system to support the prompt identification of defendants, and the information collection and presentation, risk assessment, identification of appropriate release conditions, compliance monitoring, and detention review functions essential to an effective pretrial release agency or program” (NAPSA Standard 3.7 (c)(v)).

Describe and analyze the practice of the TA site you visited.

## Conclusions and Recommendations

Try to start this section of your report by complimenting site officials on what they do well, or on actions that they have taken in the past to address the problem. Even in the most troubled programs or jurisdictions, good work is being done and should be acknowledged.

The direction this section will take will depend on the assignment. When assessing an existing pretrial release or diversion program, one approach may involve beginning with a statement similar to the following:

*The Mission County pretrial services/diversion program is staffed by dedicated professionals who are well-versed in national and state standards on best practices, and who work hard to see that those standards are implemented. The program and its staff enjoy high levels of respect from key system officials for the quality of the services they provide.*

*This assessment of the pretrial program has uncovered a few areas where improvements could be made to help the program better achieve best practices. The following recommendations address those areas.*

After a statement such as this, you would describe the specific recommendations. These recommendations should suggest improvements that these

programs can make. A good way to present these recommendations is to discuss what changes can be made to current policies and processes that would have a favorable impact on the issue being addressed. Changes in policies and processes can sometimes be made fairly quickly, if no additional resources would be required to implement those changes. For example, the program may only have to revise its policies regarding recommendations to implement the recommendation. Then you can get into recommendations that would require either more funding or the shifting of existing resources.

If you are assessing a jurisdiction that is trying to decide whether to implement a pretrial release or diversion program, consider starting with:

*County officials are to be congratulated for their efforts to date to reduce the population of the jail to align it more with its capacity, and for recognizing that the pretrial population should be addressed if any further reductions are possible.*

Assuming that your analysis concludes that the implementation of a pretrial release or diversion program would address the problems you have identified, a good approach would be to present the recommendations in the form of an implementation plan. The plan should walk the jurisdiction through the steps of implementing the program.

Regardless of the nature of the TA assignment, use the following rules for writing recommendations:

**Recommendations should flow from the findings of the analysis.** The findings you make must be substantiated by the evidence you have gathered and presented. The recommendations you make must be substantiated by your findings. Take a critical look at the draft of your report and consider whether you support what you say. Ask your TA partner to do the same. Some officials in the jurisdiction may never like what you have to say, but as long as they cannot refute any of your findings and the recommendations flow logically from those findings, you have done your job well.

**Recommendations should be specific.** When writing recommendations, be specific about what task is to be completed, the office or person who will be

responsible for completing it, and a timeframe for its completion.

**Recommendations should be achievable.** Good recommendations will not only say what needs to be done, but provide a road map for getting it done. Officials receiving a recommendation must be able to see how they could implement it. If you cannot provide a road map, then this might indicate that what you are recommending is not possible. When making recommendations that would take several months or even years to implement, present them as building blocks, with a series of shorter-term milestones that will occur while the jurisdiction works its way toward the long-term goal. If site officials are able to celebrate small achievements on the way to implementing your grander recommendations, they will be more likely to do the work required over the long run to see the ambitious recommendations come to fruition.

Remember that tone is very important. The site requested assistance because it was looking for help to improve. Every system, process, or program has strengths to build upon. Recognize those strengths and how they can form the basis for making the necessary improvements. With every criticism you offer in your report, think about how you would like to hear that criticism if it was directed at you or at what you do by someone outside your system. Read carefully through the draft of your report and ask your TA partner to help you ensure that the tone is not unnecessarily harsh.

Also remember that the criminal justice system is interrelated in many ways. It can be difficult to make changes to one process or program without affecting another process or program. Therefore, work to understand and address the impact of your recommendations on other system functions, processes, or programs.

## Submitting the Report

Your sponsoring agency may wish to have you send a draft of the report to the jurisdiction to check for accuracy. Also, the TA sponsor may wish to review your draft and make edits before it is sent to the jurisdiction. Check with your TA sponsor to determine the preferred process for submitting the report.

## Summary of Section V

- When you return from the site visit, organize your notes and any documents you obtained before or during your visit.
- A typical report has three sections:
  - Background of the TA request.
  - Description and analysis of the program/ system/problem being reviewed.
  - Conclusions and recommendations.
- Follow the procedures proscribed by your sponsoring entity for submitting the report.

# CHARACTERISTICS OF EFFECTIVE TECHNICAL ASSISTANCE

In 1999, the Justice Management Institute, at the request of the Office of Justice Programs in the U.S. Department of Justice, conducted two focus groups—recipients of Justice Department-funded technical assistance (TA) comprised one group and providers of such TA comprised the other. Focus groups were asked to identify the characteristics of an effective TA event. The groups compiled the following list:

**Responsiveness:** The TA should be responsive to the true needs of the recipient jurisdiction and be sensitive to the circumstances in the jurisdiction.

**Timeliness:** The TA should be planned and delivered within a timeframe that makes it most useful to the recipient.

**Respect:** There needs to be mutual respect between and among the TA provider, TA recipient, and sponsoring entity.

**Expertise:** TA providers should be experts in the area of the assistance.

**Needs assessment:** TA providers should be able to clarify the problem, make a sound assessment of the needs of the recipient, and identify the resources needed to address the problem.

**Clear goals:** Both TA providers and TA recipients should understand the goals of the TA.

**Stakeholder support:** While broad support for changes may not be present at first, the existence

of a core of support is essential for undertaking any major technical assistance effort.

**Partnership approach:** The TA should be viewed as a partnership among the TA recipient, TA provider, and funding agency.

**Preparedness:** The TA provider should be prepared for the assignment.

**Communications:** Good communications between and among the TA provider, TA recipient, and funding agency are essential from the initiation of the TA through to its conclusion.

**Flexibility:** Circumstances can change quickly during a TA assignment, and providers must have the flexibility to respond.

**Candor:** TA providers should give candid feedback and recommendations.

**Empowerment:** TA providers should empower recipients to solve problems.

**Work products:** Reports and other work products should be designed for practical use.

Adapted from: Barry Mahoney, Richard B. Hoffman, and Karen Booth. *Improving The Effectiveness of OJP Technical Assistance*. Denver, Colorado: The Justice Management Institute. 1999.

## LOGISTICS OF ACTING AS A CONSULTING TECHNICAL ASSISTANCE PROVIDER

A sponsoring entity should have information regarding the specific procedures for the logistical arrangements and requirements of a technical assistance (TA) assignment. Generally, they will include the following:

### Making Travel Arrangements

Your sponsoring entity will provide you with specific information on how to reserve your flight, hotel, and ground transportation. They should also provide you with information on federal government per diem rates for the jurisdiction you will be visiting. Make sure you understand and can follow the procedures put in place by your sponsoring entity for making travel arrangements. Below are some tips to remember when making those arrangements.

**Air, rail, or car travel.** The distance you have to travel and the proximity of an airport or train station near your assigned jurisdiction will dictate whether you choose to fly, take a train, or drive. Whatever transportation you choose, be sure that you are scheduled to arrive onsite sufficiently in advance of your first meeting so that any delays will not put you behind schedule. Under most circumstances, this will require arriving the night before in order to be present for a visit at the start of the next business day. If you have a TA partner, try to plan your arrivals near the same time, and allow time for you and your partner to meet to make final plans for your interviews before the visit begins.

**Hotel.** One requirement in selecting a hotel is that it meets the published government rate for the jurisdiction. Once that requirement is met, look for a hotel that is close to where you will be spending most of your time. This will provide the most convenience for getting to your site in the morning and back home in the evening.

**Ground transportation.** If no hotels are within the government rate near where you will be visiting, or if your meeting sites are not within walking distance of each other, you will have to arrange for getting back and forth. In some instances, the site liaison will offer to pick you up at the hotel in the morning and then drive you to any outlying meeting sites. In other instances, you will have to use taxis or rent a car. Before your visit, ask your site liaison what transportation situation you are likely to encounter so you can plan accordingly.

**Food.** Federal government per diem rates specify an allowance for food. You will be reimbursed for up to the maximum daily allowance. Any food costs exceeding the allowance are your responsibility.

### Following Up on Past Technical Assistance

On certain occasions, the site may request that the TA provider return to the site and present the findings and recommendations to local stakeholders. Should the site request this option, the sponsoring entity will contract with the TA provider separately.

In all cases, technology such as web-based meetings should be explored to ensure travel costs are contained.

## **Paying Consulting Fees**

Once you submit your final report and the sponsoring agency has approved it, you can submit your voucher for payment. The sponsoring entity should provide you with a voucher form and instructions on how to complete the voucher. You must submit your vouchers no later than three weeks after the sponsoring entity receives your final report. Checks will be

processed by the sponsoring entity no later than four weeks after the report has been submitted.

## **Evaluating Services**

Within three weeks of delivery of the final report to a site, the sponsoring entity will send the point of contact for the TA client an evaluation link to provide his/her experiences with the TA provider and with the final product. Results of those evaluations will have an impact on the future selection of a TA provider and will be provided in summary form.

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