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Pretrial Services: Today and Yesterday

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Introduction

IN A recent issue of *Law and Social Inquiry*, Barry Krisberg, noted author in the juvenile justice field and president of the National Council on Crime and Delinquency, reviewed two works about the politics of juvenile justice policies in this country. In what can at best be called a pessimistic tone, Krisberg concluded that, "the history of American juvenile justice is not a slow march toward more enlightened and compassionate care of children. . . . The ascendancy of juvenile justice professionals as the primary change agents makes genuine reforms unlikely."

What was disturbing—besides the obvious—in reading Krisberg's review was that many of the criteria that lead to his somber conclusions might be easily and prophetically applied to pretrial services. Are we in danger of losing the short-lived field of pretrial services, perhaps as a result of institutional suicide? Or are we on the cusp; teetering between calcifying (or disintegrating) rapidly, and becoming one of the "players," in the complex system we call criminal justice?

Before discussing where pretrial services is heading in the coming decade and possibly the next century, a little history is appropriate, beginning with definitions. This will be followed by an assessment of programs today—some numbers first, followed by a method currently in use for evaluating programs when measured against national criminal justice standards. Probably the most difficult part, this section will include a checklist of sorts for examining a pretrial program and its impact on the community it serves. Finally, we will talk about the future of pretrial services: what we might expect as we look through our admittedly murky telescope at the criminal justice and corrections system of the '90's and beyond.

Definitions, or What Exactly Is Pretrial Services?

About a year ago I was visiting a jurisdiction to discuss the jail crowding they were facing and possible remedies they might try to alleviate it. We were about to start the session when I noticed the public defender wasn't present. When I suggested we wait for him, the state's attorney said it wasn't necessary: "I'm the real *public* defender, Mr. Henry."

The title of this work is misleading, for we will not be addressing pretrial services *per se*, which traditionally and quite correctly is a term that encompasses both pretrial release—sometimes called pretrial screening and supervision, R.O.R. or O.R.—and pretrial diversion, a completely different term.[1] We will be discussing the former: those practices and programs that screen arrestees held after arrest to provide the bail-setting magistrate concise summaries of arrestees' personal background as it relates to bail. The programs might also offer additional services, such as pretrial supervision and notification, or other ancillary justice system or corrections system services.[2] But the program or agency that provides these services in the jurisdiction might have taken on any number of titles—county pretrial O.R. unit; pretrial services agency; the R.O.R. unit; the bail agency; bail bond O.R. unit; or simply "pretrial." This confusion is historical: the first such agency in the United States was called the Manhattan Bail Project.[3]

In 1974 pretrial program administrators from across the country came together to form the National Association of Pretrial Services Agencies (NAPSA), representing both release and diversion programs. Although defining different target populations, program goals, and even arrestee labels (defendants versus clients), the two very disparate groups nonetheless believed that the new association should be made up of both groups, and work began on separate standards for the respective fields. These two sets of standards, produced in 1978, made clear the very real differences between release and diversion. Almost immediately, however, some release programs became uncomfortable with their label. They feared that they would be perceived in their locale as an advocacy group, rather than the neutral information and monitoring source they perceived themselves to be, and changed their title from "release" program to "pretrial services" programs, a label believed to be less defense-oriented.[4]

Having probably confused even the most interested reader by this time, and assuming only those remain whose passions are aroused by "how many angels on the head of a pin?" discussions, we will extricate ourselves by stating that for this article, the term "pretrial services" will be used

as a synonym for pretrial release, O.R., R.O.R., and any other label that exists for similar functions as described in the opening paragraph, and to exclude all diversion-related functions.

Pretrial Programs: Today and Yesterday.

By 1964, the date of the first national conference on bail called by then-Attorney General Robert Kennedy, there were already over 100 pretrial services agencies in existence, primarily in the larger cities of the United States.[5] Mostly small in size and budget these programs and the ones that have started since then perform their basic duties of providing information to help in the bail decision and monitoring those released. They have changed in other ways, however.

In 1989, NAPSA, with funding from the Bureau of Justice Assistance, undertook a survey of pretrial programs in the United States.[6] The results of that effort provide an indepth look at how some 201 programs who responded to the survey were functioning.[7] By itself, this work is valuable in providing an idea of what pretrial programs look like. But when examined with a similar work completed 10 years earlier,[8] we can get not only an idea of current practices, but infinitely more interesting, how much and in what way program practices have changed in 10 years. Admittedly not without its methodological shortcomings—only 68 programs were surveyed in both 1979 and 1989—this comparative analysis can provide at least a blurry assessment of the field's changes.

Selected Findings of Pretrial Program Surveys: 1979-1989

- In 1979, 13 percent of the programs indicated they interviewed over 10,000 arrestees in a year; in 1989 the figure had more than doubled to 27 percent.
- Staffing changes were less clear: In both 1979 and 1989, 50 percent of the respondents had full-time staffs of 4 or less; but the number of programs with sizable staff (over 10 full-time) went from 18 percent in 1979 to 27 percent in 1989.
- Probably most interesting has been the decrease in Federal funds used to support—wholly or in part—pretrial services in the states. In 1979, 20 percent of the programs indicated they received some of their funding from Federal sources; in 1989, the figure had dropped to 7 percent. If the respondents are representative, it appears that the decrease in Federal funds has been more than supplanted by state support. In 1979, 18 percent of the programs indicated some portion of their funding came from the state; in 1989, the figure had doubled to 37 percent.
- Operating budgets for the respondents indicate a sizable growth during the eighties. In 1979, three-quarters of the programs indicated their annual operating budget was less than $200,000; in 1989, only 54 percent could claim budgets this size. While in 1979 only 4.4 percent of the respondents had a budget over $1 million, by 1989 the number had grown to 14.3 percent of the respondents.

The data reflect the steady growth in the size and funding status of pretrial programs in 10 years. What we are not able to garner from the respective surveys is a sense of how well the programs are doing what they set out to do: help decrease unnecessary (and expensive) pretrial detention thorough the assistance they provide to judicial officers in setting and monitoring bail. The most commonly used litmus test for success in the practitioner's parlance is the FTA, or failure to appear rate, roughly defined as the number of persons who fail to appear for court divided by the number released.[9] But there are problems with even this definition. For example, should the number of failures include all who are released and fail? Only those recommended by the program and released (an unstated admonishment of the judicial officer's decision not to follow their recommendation)? Only those recommended and released on non-financial conditions? Defining the denominator has shown similar variations, the upshot being that one county's 10 percent FTA rate means little compared to another's 20 percent figure, without more information as to how the figure was derived. If we nonetheless struggle forward with a sense of confidence in the spirit of consensual validity,[10] we see that the 1989 survey respondents reported a range of failures to appear that overall were consistent with the 15 percent rate reported in earlier studies.[11]

There is one other survey finding worth considering, however, before we leave the topic of FTA. In 1978, the Bureau of Justice Statistics through the Pretrial Services Resource Center surveyed 39 of the largest criminal justice jurisdictions (not programs) in the United States. These 39 in turn had been selected by the Census Bureau as representing the 75 most populous counties in the country. The purpose of the survey was to track

felony cases from initial appearance through disposition in these high volume counties and answer: Who was released pretrial? Detained? Who failed to appear and who was rearrested? A weighted sample was identified representing over 47,000 cases entering the courts in February 1988. Data from that sample showed that overall, 24 percent of the defendants released prior to the disposition of their case failed to make at least one of their court appearances, a rate dramatically higher than the NAPSA survey reported.

Does this mean the program administrators in the NAPSA survey were wrong? Not necessarily. The BJS survey did not identify whether their jurisdictions had pretrial services programs in place, thus we cannot attribute positive or negative effects to them. Second, the BJS survey intentionally looked at the busiest urban courts and jurisdictions, while the NAPSA effort intended to be more inclusive by also surveying very small rural and suburban programs. It is almost a tenant of the pretrial faith that smaller jurisdictions have lower failure rates; if true, that could well explain the differences in the two figures.[12] More likely, the differences in case processing that exist in the courts themselves—the number of continuances, length of time between court events, the notification systems—had more impact on failures to appear than any pretrial program practice. Whatever the cause, it is an ominous finding that the pretrial field and the courts will need to address: One out of four of those released pending trial in our larger courts failed to return to court.

What's a "Good" Pretrial Program Today? A Checklist

We significantly shortchange the profession of pretrial services if we allow the worth of such programs to be defined simply by an FTA rate, a rate in the final analysis that has to reflect a combined measurement of three different variables: defendant responsibility; pretrial program assessment and monitoring capability; and the efficiency of court processes. To fairly assess pretrial programs, many other factors must be added to the list, that, when taken together, will give us a more rounded sense of a pretrial program's work. Examining these factors gives us the capacity to begin to make cross-jurisdictional comparisons.[13] The following is a summary of those factors, divided into four general categories: identification, supervision, management, and supplemental services.

Identification

"In July 1209, the army marched on the ill-prepared town of Beziers. . . . Led by a ragtag mob of camp followers and servants, the crusaders burst though the town gates and unleashed a riot of murder and looting. In the middle of the massacre, it was reported, Arnald-Amaury was asked how the soldiers could distinguish heretics from Catholics. 'Kill them all', he replied; 'God will recognize his own.'"[14]

The first and perhaps primary role of a pretrial program is to identify the "heretics," those who would fail to appear or be rearrested if released. To accomplish this task most effectively programs do the following:

Population targeting. It is important that a program be cautious in excluding any arrestee—because of the charge or his record—from being interviewed. If programs eliminate categories of arrestees, in most instances they will be eliminating precisely those cases where judicial officers could most use the help: serious crimes, defendants with extensive records, etc. While there are exceptions, the rule of thumb here is for a program to interview every arrestee unless a) bail is not an issue; or b) there is a statutory provision that does not allow the magistrate to set bail in the case.

The interview. The interview itself should be complete and timely. Complete means that sufficient community ties information is obtained to establish what the arrestee has been doing—where he has been living and working (or how supported)—prior to the arrest. In addition, the interview process must obtain a complete criminal record of the individual—not just arrest record, but dispositions, too. Timely means that the program remembers it serves the court; taking a week to do a pretrial interview and verification is unnecessary and—assuming the defendant is detained pending the report—terribly costly to the county and the detainee. The program should attempt to have reports submitted to the judicial officer at the initial bail-setting hearing.

The assessment. The program should submit the information gathered in the interview to the judicial officer with some recommendation as to what it all means; is the defendant likely to come back to court and stay out of trouble? If not, what conditions should the judge impose that would increase the odds? The primary issue here is how the program decides; what scheme or instrument (or today, software) does it use to sort

out the defendants? There are many types of schemes used in the field—objective point scales, subjective schemes, a blend of some sort of the two—and much has been written in defense of each and will not be restated here.[15] Two caveats here about what a program's assessment procedure should do: First, it should not include an evaluation of the instant charge. While the court is required to consider the allegations in setting bail, it is not the role of the pretrial program to be the conduit for that information (the state is), nor should the program attempt to weight the merits of the case in determining an assessment. For all practical purposes the program should be "charge blind" in arriving at its assessment. The second proviso that should apply to the program's assessment is that it be defensible. If a program says that its assessments are based solely on "staff experience" or "common sense," for example, the assessment process is in need of review. Rather, it should be based on evidence that has identified characteristics associated with pretrial misconduct in the jurisdiction. If not, the program will be in danger of providing inequitable treatment (in the form of differing assessments) to similarly situated arrestees—an unacceptable situation.

Supervision

"Eligible individuals may thereafter be released on the basis of a promise to return for a court appearance, though in some cases a certain amount of supervision may accompany release."[16]

The second area in assessing the effectiveness of a pretrial program involves pretrial supervision, defined to include monitoring of releasees' behavior, notification of future court dates, monitoring of detainees' status, providing appropriate assistance to releasees, and locating defendants who fail to appear while on release.

Monitoring. It appears clear that you can decrease somewhat the rate of non-appearance by increasing the contact with released defendants.[17] By having a defendant check in—either by phone or in person—with the pretrial program on a regular basis, the program can decrease (or anticipate) failures. The monitoring schedule need not and probably shouldn't be fixed throughout the pendency of the case. If a person has reported weekly for a sustained period, decreasing the frequency of check-ins would be appropriate, for example.

Pretrial staff should not become too enamored with the monitoring process; it is not meant to be a treatment/rehabilitative procedure, and any efforts to make it such should be quickly stopped. Pretrial staff have no right to "rehabilitate" someone who has not been convicted, and the coerciveness that easily becomes the rule negates even the best intentions. Certainly staff should know about treatment resources and give such information to defendants upon request, but only then, and not as an implied order of the court.

Notification. The best system action to reduce failures to appear is to improve the notification process used by the justice system. In a recent examination of missed court dates in the D.C. Superior Court, the Pretrial Services Agency found that one-third of the failures to appear could be the result of faulty or non-existent notification of the court date given the defendant. Defendants in jail on other charges, hospitalized, in the courthouse but wrong court room are some regularly reported examples where proactive agency work would nullify the need for a warrant being issued for defendants failing to appear. A good notification procedure might include notifying each defendant of each court date 7 days before the scheduled appearance. In addition, the notification should require the defendant to confirm receipt. If no such confirmation is received, say 3 days before the date, staff should attempt to contact the defendant. If staff members are unsuccessful, they should notify the court—particularly the prosecutor's office—so that witnesses can be put on stand-by and backup cases scheduled on the particular calendar. The key here is to remember that most defendants who fail to appear are not what is classically pictured as a fugitive: someone who leaves the jurisdiction to avoid prosecution, running David Jansen-like through towns and cities under assumed identities. Rather, defendants forget, oversleep, or offer some more banal reason when eventually returned to the court. While no notification system can deter the person who intends not to appear, a good system can decrease substantially the number of cases where no such intent exists.

Monitoring pretrial detainees. Once a judicial officer has decided that a money bail (or, where authorized, pretrial detention) that results in detention is appropriate, the agency's work does not end. The better agencies regularly review those cases to see if the factors that appear to have been associated with the bail-setting decision change during the detention period. Were there outstanding warrants that have been subsequently addressed? Was insufficient verification obtained prior to the court hearing? It is the responsibility of the pretrial agency to track all

pretrial defendants—released and detained—and notify the court of any changes in status that might necessitate a change in the bail status.[18]

Defendant services. Every pretrial agency should have and maintain a community services reference file that describes services in the jurisdiction for pretrial defendants. This is useful in two ways: First, judges should be made aware of such services and their capabilities when deciding appropriate conditions of release. Second, in any case where a defendant is released—with or without conditions—he or she should be able to get information about treatment programs or other such services from a single source: the pretrial agency.

Failure to appear services. While the majority of programs provide background information to judges at bail-setting as well as some supervisory services, only the better programs have the resources to address failures to appear in a systemic fashion. By this we mean immediate investigation of failures to appear and providing the results of that investigation to the court of record. In some instances the "results" provided will be the defendant himself, as such departments are often able to find the missing defendant and get him back to court.[19]

Management

As with any organizational structure, the success or failure of a pretrial program can be attributed to the effectiveness of the management. How we arrive at effective management (or managers), however, is a difficult road to map.[20] We can, however, talk about the indices of effective management demanded of the pretrial program by the other criminal justice system actors. While this does not address the key issue—how well the pretrial manager(s) manages people—the indices can give us an idea as to whether the minimum is being provided by the program.

Management Information System. An effective program must have the capacity to track, both individually and in the aggregate, defendant outcomes during the pretrial stage. It is based on this information that the program administrator can determine where changes are necessary, both within and sometimes outside of the pretrial program.

At a minimum, the program should be able to track the real impact of the decisions made. For example, tracking the number interviewed per month is one thing; the good program also tracks how many were *not* interviewed, the reasons why, and what the court did with them. Similarly the program administrator should be looking at not only the cases where a positive recommendation was made but the cases and frequency where a program said that release was not appropriate. By tracking these exceptions, the administrator can get a better fix on the target populations that should perhaps be receiving more of the program's attention.

Based on the information gathered by the pretrial program, the administrator should be able to provide the court with some interesting data. For example, how long does it take for a defendant, on average, to have his case disposed of? In what instances do the judges most often not follow the recommendation of the program, and what are the results? Is a person released on non-financial conditions more likely to appear for court as required? What is the actual rearrest rate of persons released in the county? What conditions of release appear to have the most impact on appearance and rearrest rates? The list of possible questions that can be answered with pretrial data is virtually endless, precisely because of pretrial's locus at the front of the system and its tracking of any and all persons who enter and eventually leave.

Operations. Besides being able to gather and synthesize in some readable fashion an enormous amount of data, the pretrial program should have certain practices or operations in place and understood by the staff. First, the program should have a clear, concise mission statement. Not the "do good, avoid evil" type, but a statement of the aims and purposes of the program that is understandable to all. While it should obviously not contradict state statute, court rule, or grant wording that established the program, neither should it be taken verbatim from such documents. Second, the program should have an operations manual—not a collection of memos that exist in various states of disarray, but a manual that details how the program does what it does. Part and parcel of that document is a training schedule that the program has established. The training should include a structured orientation for new staff (more than just putting the "rookie" with the senior staff member), ongoing training for line staff, and management training for anyone in a supervisory position.

Finally, a good program is considered an integral part of the local criminal justice system; meetings don't occur without someone from pretrial services in attendance. The director is regularly providing input to judicial meetings, and salaries of the pretrial staff reflect that equity.

Supplemental Services

Because of their particular and peculiar position in the criminal justice system some pretrial programs have gone beyond the above, providing the system or a particular component of the system assistance that was either not available before or at a less expensive cost. These include:

Classification assistance. Much of the information obtained in a pretrial interview is also gathered by jail staff for making classification decisions. Some pretrial programs routinely provide copies of their interview to classification officers in cases where release was not ordered.

Diversion. Similarly, diversion programs often use the initial screening of the pretrial program to help them identify the target population for their diversion programs—first offenders, drug abusers, etc.

Indigency determination. In many jurisdictions the judicial officer has little verified information on which to base his decision about who pays for a defendant's attorney; often the judge simply swears the defendant, asks a few questions, and decides. Pretrial programs can help here, too. With the simple addition of a few questions, they are able to provide *verified* information to the judge about the person's worth, probably saving the system money.

Presentence investigations. While probation departments routinely provide PSI's in most felony cases and in some misdemeanor cases, the time spent in preparation is often 4 to 6 weeks. If the person has been under pretrial supervision while his case has been pending, however, there is a ready made track record available to the probation department and the judge that can shorten the time substantially. Again, some pretrial programs routinely provide a summary report either through probation or directly to the judge for sentencing when they have been monitoring the defendant.

The supplemental services all revolve around the ability of the pretrial program to gather accurate, verified information about the defendant early on in the process, and to gather it quickly; its application is the only difference. There are some who posit that having such complete information earlier in the system can also increase the use of intermediate sanctions, since the judge will have a "pre-presentence report" at the first appearance if the person wishes to plead.

By employing the above "checklist," program administrators, funders, and policy makers reviewing local pretrial practices can begin to assess whether their pretrial program is effective.

The Future

Ten years ago, *The Economist*, a well known London-based magazine, carried a story about the terrible crowding in U.S. correctional facilities. "Experts in criminology tend to suggest that overcrowding should be dealt with by probation, shorter sentences, earlier parole and more time off for good behavior. But public opinion, quickly reflected in the state legislatures, is moving in exactly the opposite direction." The prognosis was disquieting: "With a law-and-order administration in Washington and a public determined that criminals shall not escape retribution, there is unlikely to be a shortage of prisoners." This same pessimism must influence any predictions made today. Consider also:

- Both the number of cases filed in court and the number of people locked up in jails is growing exponentially, the latter having increased 15 percent in just 1 year (1988-1989).
- The current recession is lasting longer than the more optimistic projections anticipated, with disagreement as to just how long it might now continue.
- Law enforcement, courts, and corrections are having difficulty finding qualified people to fill vacancies or even retaining current staff.
- Public opinion surveys continue to reflect a declining respect for court and corrections officials (although respect for law enforcement appears to be increasing).

But what about pretrial services? Is the outlook equally depressing? Are we likely to have the same problems in the future that Krisberg described for juvenile services? Probably not. It appears that pretrial services will continue to expand, both in the number of programs that exist and the services offered, as a result of pretrial services' good work and increasing need. There is much that still needs to be done (few programs would be able to complete the checklist above without finding some areas needing attention, for example), but there is also forward movement; positive things are happening in the field. While it is no doubt true that many of the changes in the field in recent years are due in large part to

the crisis of jail crowding that has forced local jurisdictions to take a closer look at how they are using a scarce resource—jail beds—some credit must also be given to the professionals in the field for making sure the changes actually took place.

In fact the most heartening aspect of pretrial services in recent years has been the continuing increase in the level of professionalism, a trend that we would expect to continue as programs mature. In addition, four ideas that have been discussed for some time in the field may become reality in the coming decade.

- Accreditation. Following its peers in corrections, the pretrial field has developed national standards for pretrial services; what has not yet been developed, however, are accreditation procedures. Translating general precepts into measurable actions is difficult, but it is likely that such a process will take place in the near future for pretrial services.
- Detention management. In recent years, more pretrial programs have been started under the locus of local corrections, a result at least in part of jail crowding suits. With the recognition by the courts that pretrial detainees must be treated differently than those serving sentences of incarceration, it is not unlikely that pretrial services might expand to include the actual management of facilities that hold detainees.
- Structural changes in recommendation schemes. Many pretrial programs currently do not consider danger to the community in any measurable manner in their recommendation scheme, except by exclusion of certain charges. This is likely to change. Where the traditional first measurement of pretrial services has been FTA, it is likely to be supplanted by rearrest, the only available measurement of community safety available.
- Surety bond. A recent Cable News Network series focusing on bail bondsmen ended with the assertion that bondsman were doomed to go the way of the dinosaur. Hopefully, that is true. There is no process or activity in the criminal justice system of the United States more repugnant to anyone concerned with justice than the surety bond system. Condemned by every national criminal justice association, the system still exists (and in some jurisdictions flourishes). Hopefully, the coming decade will be the last for this untenable adjunct to our system of justice.

There is another issue that must be considered in contemplating the future of pretrial, an issue than may supersede jail crowding as the catalyst for change. That catalyst is the introduction of new technologies to assist in the identification and supervision of those deemed fit for pretrial release. Just 10 years ago, for example, VCR and PC meant nothing to the average person, while today they are immediately recognizable terms and part of everyday life. It is not therefore a particularly daring prediction to say that criminal justice and pretrial specifically will feel the effects of technology; nonetheless it is interesting to muse about how these changes might dramatically affect pretrial programs. With that in mind we make the following technological predictions about pretrial services and systems in the year 2001:

- The "issue of the day" for pretrial services will be determining how to limit access to individual defendant data.
- Training of pretrial officers will be primarily done at the national level, with access to local jurisdictions available through cable and video cassettes.
- The pretrial services interview will be online, automatically accessing a picture of the defendant, criminal record information, current case status, and prior history of compliance with all court orders. In addition, the interview process will access employment and residency records, eliminating the need for telephonic verification.
- The pretrial recommendation will be computer-generated, based on regularly updated software that catalogues and assesses all local variables related to failure to appear and rearrest, including an assessment of the charge filed. The recommendation options will be either pretrial detention in a maximum security facility (less than 5 percent of the arrestees), release on recognizance without supervision (5-10 percent of the cases), and the remainder recommended for varying degrees of electronic monitoring. In the highest level of electronic monitoring, immediate corporal sanctions will be applied through the use of implants when violations occur. Other monitoring technology will include interactive television, ATM monitoring, and traditional "bracelets."

- Surety bail will no longer exist—not due to any recognition of its inherent discriminatory application, but because it will simply no longer be needed. Traditional money will rarely be used, replaced by electronic transfers in all purchases or bill collection, and courts will be able to order ATM monitoring as a condition of pretrial release, thus controlling the releasee's ability to purchase tickets, buy gas, or purchase any other means for fleeing the area.
- Presentence investigations will be combined with pretrial supervision services, with recommendations based on the pretrial track record of the offender.

To summarize, while the role of the pretrial program—to identify and supervise—will remain virtually the same, the way that role will be acted out could change dramatically.

Conclusion

At the end of a recent meeting of police chiefs from some of the larger jurisdictions in the United States called by Lee P. Brown, police commissioner of New York City, a joint statement was released that said in part, "The police are continually left to deal with the aftermath of years of urban neglect, of the rampant drug culture, of increasing criminal victimization, and of a lost generation wandering the streets without employment or hope of a better future." The chiefs' statement could just as well have come from a group of judges, prosecutors, corrections officials, or even pretrial services administrators, reflecting the frustration that professionals in criminal justice feel today.

Part of the reason for that frustration is the misperception of the public that by increasing the resources available to criminal justice, crime will decrease; when that fails to occur, the public in turn feels angry and deceived. After all, budget (and tax) increases for law enforcement, courts, and corrections were passed, and yet people feel less safe than before. What's wrong here?

The problem is that the criminal justice system—law enforcement, the courts, and corrections—will not stop crime, no matter how efficient. To create or to harbor such a misconception is erroneous and possibly dangerous. As the chiefs indicated in their joint statement, crime is caused by a myriad of factors that come into play long before the incident of arrest. What the system and pretrial services particularly can do is provide policymakers and the public generally with accurate information for targeting real crime reduction efforts. As pretrial services moves into its fourth decade this is a responsibility that must be assumed.

NOTES

[1]Diversion is a process where arrestees are "diverted out" of the regular criminal justice process, usually with agreed upon conditions. If the divertee complies with the conditions during a fixed period of time, the original charge is usually dismissed by the prosecutor.

[2]Some programs are responsible for the indigency determination screening that occurs for appointment of counsel, others actually do the inmate classification for the jail.

[3]For an excellent history of the first program, see "The Manhattan Bail Project: An Interim Report on the Use of Pretrial Parole," *New York University Law Review*, Vol. 38 (1963), pp. 67-85. Similarly, at least one state statute referred to pretrial service as "pre-conviction services," hardly an optimistic title from the defendant's perspective.

[4]To make matters even more confusing to outsiders (and many in the field) some diversion programs also chose to adopt the title of pretrial services; in South Carolina, for example, if one refers to pretrial services, the reference is to the statewide system of pretrial diversion. Others were called pretrial intervention programs, first offender treatment programs, and a number of other titles at least equal to pretrial releases' labeling list.

[5]The primary reference concerning the early years of pretrial services programs include Wayne Thomas, *Bail Reform in America* (University of California Press), 1976; John S. Goldkamp, *Two Classes of Accused: A Study of Bail and Detention in American Justice* (Ballinger Press), 1979; Bruce D. Beaudin, Donald E. Pryor, D. Alan Henry, "A Proposal for the Reform of Pretrial Release and Detention Practices in the United States" (Pretrial Services Resource Center Annual Journal, Vol IV. pp. 68-102), 1981; Stevens H. Clarke, *Pretrial Release: Concepts, Issues, and Strategies for Improvement* (National Institute of Corrections Research in Corrections, Vol. 1, Issue 3, pp. 1-40), 1988.

[6]The funding was part of a larger cooperative agreement between the Pretrial Services Resource Center and BJA involving a national examination of pretrial services and their use of drug testing in daily operations. Under the agreement, the Resource Center subcontracted with NAPSA to undertake a national survey of existing programs.

[7]The survey also included Federal pretrial programs. They are excluded from the analysis provided here, however.

[8]Don Pryor, *Practices of Pretrial Release Program: Review and Analysis of the Data*, Pretrial Services Resource Center, February 1982.

[9]While FTA is the most commonly used measurement in the pretrial field, that is a result of statutory wording that, at least until the 1970's, clearly stated that appearance considerations were the only appropriate concerns of bail-setting magistrates. In recent years, danger to the community has become an accepted factor that can also be considered in setting bail conditions, and many pretrial programs are beginning to track rearrests as a measurement of that factor, also.

[10]This is basically a term that says if enough people say something to a researcher he will believe it even (mark this) without documentation.

[11]See Kristen L. Segebarth, *Pretrial Services and Practices in the 1990s: Findings from the Enhanced Pretrial Services Project*, March 1991.

[12]The BJS survey is being repeated with 1990 data. Included in the new survey will be information about whether pretrial services are provided in the jurisdiction. The findings will be available in late summer.

[13]Much of the following is drawn from the Enhanced Pretrial Services Project, a BJA funded project that sought to identify the critical elements necessary for a pretrial program, as well as those additional or "enhanced" elements that should exist in order for drug testing of pretrial detainees to be introduced into a program. For information about the project, contact the Pretrial Services Resource Center.

[14]"Heretics, Inquisitors and a Gory Crusade," *Smithsonian Magazine*, Vol. 22, Number 2, May 11, 1991, p. 44.

[15]See, for example, Chris W. Eskridge, *Pretrial Release Programming: Issues and Trends*, Clark Boardman Company, Ltd. 1983, or John S. Goldkamp, *Policy Guidelines for Bail: An Experiment in Court Reform*, Temple University Press, 1985.

[16]Jails: Intergovernmental Dimensions of a Local Problem. Advisory Commission on Intergovernmental Relations, May 1984, p. 177.

[17]While the majority of research supports this statement, there are opposite findings. In a recent study performed by staff of the San Mateo County California program, differing levels of supervision involving greater or lesser contact showed no difference in either failures to appear or rearrests.

[18]Operationally, the program should notify the defense counsel and prosecutor with any changes so that they may request a bail review by the court.

[19]For an excellent description of the operations of one such program see "D.C. Trio Finds Superior Court No-Shows," *Legal Times*, Feb. 25, 1991.

[20]We will address this very issue in a forthcoming document from the PSRC on pretrial management issues and answers available towards the end of the year. In the meantime, an excellent reference piece on court-associated management questions appears in the Winter 1991 issue of *The Court Manager*. Titled "Has Your Court Administrator Retired? Without Telling You?," the article by John M. Greacen provides an excellent list of management questions that could apply to pretrial as well as court administrators.