MEMORANDUM

TO: Joseph A. Trotter, Jr.
FROM: Caroline S. Cooper
SUBJ: T.A. Meeting June 17, 1988 regarding T.A. No. 139 (Pre-trial Drug Testing Program Baltimore City)
DATE: June 17, 1988

The following is a report of the Legislative Committee Meeting charged with developing the plan for pre-trial drug testing in Baltimore City which I attended this morning and the tasks which need to be accomplished by the ATAP. Attached is a list of the Committee members. Absent from the meeting were Floyd, Stephen Boccian and Emory Pitt.

I. Program Status

The program will begin operation July 1st in the Eastern Regional Courthouse. Two lab technicians have been hired and equipment, etc., should be delivered by the first week in July.

Discussions were held last month with the P.G. program but no current information was on hand regarding the status of this program and how they are dealing with the issues confronting Baltimore.

Until the legal issues of the program are clarified, testing will be done anonymously with the results used only for general research purposes. Legal challenges to any other use of the test results are expected, particularly from the public defender.

Legislation for the pretrial drug testing will therefore need to be drafted and this will be accomplished within the next 3 - 4 weeks (due date is August 1st). The most pressing issue which must be addressed by the legislation is the development of a program for mandatory drug testing which is constitutionally sound. Various strategies for drafting this legislation were discussed, including the following:

- submitting alternative bills and withdrawing those that appear to raise substantial opposition;
- submitting a blanket bill and then letting the legislature amend it; and
- submitting legislation to provide for mandatory testing only of arrestees with prior convictions; (Judge Ciotola's suggestion).
Other issues which need to be resolved are whether the testing program will be statewide? For the five largest counties? Run on a pilot basis? Include a "sundown" provision terminating the program in 3 years unless other action is taken.

One very recent development greatly supporting the conduct of the program in Baltimore City is the creation of a central booking facility for nine precinct areas.

II. Issues which need to be explored

A. How is the P.G. drug testing program organized?
   - What is its statutory authority?
   - What is its stage of development?
   - Any sops developed?

B. Have there been any other court challenges to pre-trial drug testing programs?

C. Are there any statutes drafted to address pre-trial drug testing?
   We should get copies of these materials, including D.C.'s.

D. What materials have been developed for pre-trial drug programs?
   - sops?
   - legislation?
   - waiver forms?
   - position papers?

   We should obtain these.

III. T.A. Needs:

1. Background information and materials on above-listed issues.

2. Assistance/guidance in developing sops for doing the testing, collecting the data, dealing with the chain of custody, etc. These sops will be rewritten by the Program Supervisor who will be hired shortly. An interim supervisor is now in the position. This needs to be provided in early July and could begin with a meeting of our t/a consultant with program staff following the July 14th meeting (see No. 3 below)

3. Attend the next meeting of the Committee July 14, 1988 (9:00 a.m.) with a consultant who can then meet with program staff and supervisor to provide guidance on the development of the sops.

IV. Further Communication Contacts

While we should coordinate the provision of any further t/a with John Camou, I promised to send any materials we obtained on the issues outlined above to all of the Committee members.

V. Further Information Obtained:
1. Talked with Andy Hall by phone.
   a. legal challenges: he knows of none other than the D.C. case (including no situation in which an arrestee has refused to be tested);
   b. special legislation: he knows of no special legislation which jurisdictions have developed to authorize the pretrial drug testing program; they operate under existing bail laws. Arizona has a state statute requiring pretrial drug testing which provides authorization for the Phoenix and Tucson projects, if such authorization were questioned; however no programs have been implemented under this statewide legislation;
   c. special reports, etc.: Andy says we should contact each site to request reports, background materials, etc. He says PTSA only has grant administrative materials on hand. Included among the reports we should obtain is Arizona Support of Drug Testing Commission which could be obtained from Richard Bark at the Supreme Court.

process of revising its sop and has also developed a Memorandum of Understanding.

VI. What Needs to be Done

1. Schedule t/a consultant for July 14th meeting (perhaps one of Jay's staff).
2. Contact Al Hall of P.G. (I’ve left another message for him today).
3. Contact Jay Carver about t/a availability July 14th as well as information needed. (I left a message for him today but he's on vacation until June 26th).
4. Consider sending out a survey of the current sites to obtain the materials and information requested by Baltimore. (We'll need to coordinate this with the Resource Center first).

Below is a suggested outline of the information we should try to obtain:

To: Project Director

The Adjudication Technical Assistance Project (ATAP) operates under a Cooperative Agreement between the Bureau of Justice Assistance of the U.S. Department of Justice and The EMT Group, Inc. to provide technical assistance to state and local justice system agencies. A major ATAP priority is to assist jurisdictions in implementing programs under the ANTI-Drug Abuse Act of 1986. In this regard, we are requesting jurisdictions implementing pre-trial drug testing programs to provide the following information, if available, which will then be compiled and made available to all jurisdictions involved with pre-trial drug testing programs.

Please feel free to call me if you have any questions. Thank you for your assistance.
I. Pre-Trial Drug Testing Program

A. Program Information

1. Project Director:
   
   Name ________________________________
   
   Address ________________________________
   
   Telephone ( ) _________________________

2. Agency Administering Pre-trial Drug Testing Program

3. Date Program Began (or is expected to begin).

B. Program Information

1. Program Description (e.g., who is tested, drugs tested for, equipment used, use of test results).

2. Statutory Authority for the Testing Program.
   
   - Please include a copy of your current Bail Statute and any other statutes relevant to the pre-trial drug testing program.

3. Operating Procedures
   
   - Please include a copy of the Standard Operating Procedures used by the Drug Testing Program.

4. Relevant Forms
   
   - Please provide copies of relevant forms, including waiver forms, used in the program.

5. Other Relevant Materials
   
   - Please include copies of any other relevant materials developed during the planning and/or implementation of the drug testing program, including legal memoranda, Memoranda of Understanding with Relevant Agencies, Interim program reports, etc.

6. Legal Challenges to the Drug Testing Program
   
   - Please describe any challenges that have been raised to the drug testing program in your jurisdiction and the current status of these challenges.