Pretrial Services in Pierce County: A Vision for the Future
Technical Assistance Assignment No. 3-040

Pretrial Services in Pierce County: A Vision for the Future

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Executive Summary

Facing difficult problems brought about by a drug epidemic and rising crime, officials in Pierce County, Washington have been working together to bring about criminal justice system improvements. Among these improvements, the establishment of a pretrial services program has been given high priority.

A carefully designed and implemented program of pretrial services can bring many benefits to the criminal justice system and to the public. Early screening of arrestees -- the first function of a pretrial services program -- is critically important. Judges need to know the identity, criminal record, and demographics of defendants before making the initial decision to release or detain. Well-developed and accessible background reports not only enhance judicial decision making, but can assist others in the system as well. Good "front end" information on arrestees can contribute to early case assessment by the prosecutor. It can help determine eligibility for appointed counsel. It can form the basis for a pre-sentence report.

Equally important are the post release functions carried out by a pretrial services program. Tracking court dates, notifying defendants, and providing constant reminders can assure a high appearance rate. Supervised release options -- possibly including referrals to drug treatment programs, regular drug testing, or curfew supervision by telephone -- have proven to be useful tools in managing the risks inherent in the release of any defendant.

Several elements have been identified as critical to the success of a new pretrial services program. There should be a clear mission statement, preferably set forth in an authorizing document such as a county ordinance. Assuming that budgetary constraints dictate an incremental approach to implementation, the program should begin by offering a full range of services, even if only for a small percentage of the cases. Effective pretrial services programs cannot exist without strong judicial support. To ensure this support, the program must be responsive to the needs of the judiciary and should locate at least some services in the courthouse.

Pierce County is fortunate to have a high level of cooperation among all components of the justice system. With this kind of commitment, and with a clear vision of what a pretrial services program can offer, Pierce County is well on its way toward establishing a first rate program.
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Pretrial Services in Pierce County:
A Vision for the Future

I. Introduction and Background of Technical Assistance Request

The Pierce County criminal justice is experiencing many of the same problems faced throughout the country in the past decade: rising crime, fueled in part by the drug epidemic; heavy demands on existing resources brought about by stepped-up enforcement efforts; heavy felony caseloads, increasing 500% from 1985 to 1989; jail crowding on the order of 150% above capacity; and increasingly tight resources to meet these challenges.

The justice system has attempted to keep pace with these increasing demands by expanding the Superior Court bench from 12 to 18 judges, expanding jail capacity by converting an armory to short-term jail use, and speeding up the adjudication of felony drug cases through an innovative demonstration project, funded by the U.S. Department of Justice, known as "differentiated case management."

Pierce County operates its justice system with a high degree of communication and cooperation. There is in place a mechanism for fostering this cooperation in the form of a Law and Justice Commission, established just one year ago. This commission includes representatives of the State Department of Corrections, the judiciary, municipal and county law enforcement, the County Jail Administrator, the County Executive, Public Defender, Prosecutor, and others.

While the differentiated case management system was successful in reducing the average time from filing to disposition from 210 to 90 days, other concerns remained. For example, although a defendant's criminal history is a crucial factor in Washington's determinate sentencing laws, it is not always available to the court when making pretrial release decisions. Furthermore, there was general recognition that the delay in developing accurate information on arrestees was a factor contributing to the jail crowding experienced in Pierce County. In response to these problems, the Superior Court, through its Court Administrator Beverly Bright, began exploring the possibility of establishing a pretrial services program. Initially, a concept paper was developed and funding was sought from the Administrative Office of the Courts. Then the proposal was incorporated as a priority in the plan of the Law and Justice Commission.

Since Pierce County had never had a pretrial services program, (then) Presiding Judge Donald H. Thompson requested assistance from the Adjudication Technical Assistance Project of The American University. The request was renewed last September by Presiding Judge Bruce W. Cohoe. Responding to the request, the Project engaged the author of this report, John A. Carver, Esq., to act as consultant to the Superior Court and the Law and Justice Commission. On-site assistance was provided with the following objectives: (1) Assist key policy makers in Pierce County in developing a program of pretrial services; (2) identify critical elements of a successful program of pretrial services; and (3) make recommendations on implementation, organization, and administration of a pretrial services program. The assistance was carried out by meeting collectively and
individually with members of the Law and Justice Commission, the Corrections Subcommittee of the Commission, and the Criminal Procedures Committee of the Pierce County Superior Court.

On-site technical assistance took place during the week of December 14-17, 1992. This report summarizes the conclusions that grew out of a series of working sessions, meetings, presentations, individual interviews, and facility tours that occurred during that week. The recommendations contained herein reflect input from criminal justice officials in Pierce County, combined with the consultant's experience as director of a pretrial services program and specific standards and goals adopted by the National Association of Pretrial Services Agencies. Contained in this report are a number of references and citations requested by various people during the course of our discussions.

II. Pretrial Services: Definitions and Benefits

A pretrial services program can offer a number of benefits to a jurisdiction. These include: Better information gathering; better risk management; and better justice.

A. A Pretrial Services Program Can Provide Better Information to the Criminal Justice System

The most obvious benefit of establishing a pretrial services program is the benefit derived from producing accurate information on defendants early in the process of a criminal prosecution. It only stands to reason that the earlier information can be pulled together, the better will be the decisions made by all the parties that play a role in the process.

This benefit -- the early production of accurate arrestee information -- was identified repeatedly as the driving force behind the desire to establish a pretrial services program. Much of the defendant information needed to operate the system is eventually collected. However, the Pierce County Law and Justice Plan notes that "it may take up to 8 weeks before an accurate criminal history is available to Superior Court." There was a strong consensus that if this information could be assembled in a rational way on "day one", all would benefit. Specifically:

- Judges must have accurate information before making pretrial release decisions. Presently, judges cannot be certain of the identity of the defendant, let alone the defendant's criminal history. No judge wants to make a release decision "in the dark."

- Prosecutors likewise need early and accurate criminal history information, not only for determining their position on pretrial release, but also for the plea negotiation process. Washington has strong determinate sentencing laws, with heavy emphasis on prior convictions. Thus, criminal history is vital.

- The public defender pointed out that at the present time, the system is dysfunctional, due to the lack of accurate information at the early stages of
criminal case processing. With good information on each defendant, better assessments could be made regarding eligibility for various release programs.

- The Sheriff has a strong interest in the kind of information that could be developed by a pretrial services program. Needless to say, some defendants will be detained pending trial. Background information of the kind typically collected by a pretrial services program is potentially useful for jail classification purposes. It could also be useful in assessing eligibility for programs operated by the Sheriff, such as work release or electronic monitoring.

- The Office of Assigned Counsel is already collecting information on the defendant's financial resources to be used in determining eligibility for appointed counsel or cost recovery. Much of this activity could be carried out within the broader context of a pretrial services program.

- The Washington State Department of Corrections is responsible for (among other things) developing pre-sentence investigations for Superior Court judges. The Department stands to benefit to the extent that basic information on the defendant can be developed at an earlier stage. Furthermore, assuming the defendant is released on some sort of pretrial supervision, the record of compliance would be very useful in assessing the likelihood for success on probation.

- Court Administrators in both the Superior and District Courts, and the judges they serve, realize that non-appearing defendants exact a toll on the court system. While a good pretrial services program should minimize failures to appear, such problems can often be resolved quickly, if the program has established a solid information base on each defendant by recording various contact points (such as address, employment, references) in the community.

B. A Pretrial Services Program Can Contribute to Effective Risk Management

Every release of a criminal suspect involves a certain level of risk. Human behavior cannot be predicted with any degree of precision. Defendants who may appear to be "good risks" sometimes are back before the court charged with a new crime. Conversely, defendants who may appear unreliable often make all their court appearances, and engage in lawful behavior. While even the best pretrial programs cannot eliminate risks inherent in any release, they can assist the court in managing these risks. They accomplish this through both front end services (information gathering and risk assessment) and follow-up services (supervision or risk management).

Our Constitution envisions a criminal justice system where the accused is presumed innocent and punishment is imposed only after conviction. Defendants are entitled to pretrial release, but the right is not absolute. The "right to bail" is subject to limitations - even outright detention. Generally, defendants are entitled by law to release on the least restrictive conditions reasonably calculated to assure appearance in court and to protect
public safety.

A pretrial services program plays a key support role to the judiciary in this scheme. The steps in this process are as follows:

- **Assess the risk** posed by the pretrial release of the defendant, using the information developed during the interview, verification of the information, a criminal history check, and possibly a drug test.

- **Develop a supervision plan** consistent with the risk factors identified, and present the plan in the form of a recommendation to the judicial officer. The recommendations should consist of the least restrictive conditions of pretrial release that will assure return to court and protect community safety. The release of a drug-dependent individual, for example, could be conditioned on participation in a drug treatment program.

- **Provide follow-up services** so that pretrial release conditions imposed by the judge can be effectively monitored and defendant compliance reported back to the Court.

This model presumes a continuum of supervision services ranging from simple release on personal recognizance at one end of the spectrum, to work release or even incarceration at the other. Where supervision options do not yet exist, it is the role of the pretrial services program to develop them, either "in house" or by tapping into the existing social service network. Pretrial services staff should serve as a bridge between the court system and social service providers, always keeping in mind that the goal of supervision at this stage is ensure the defendant's return to court, and to reduce the likelihood of criminal misconduct.

C. A Pretrial Services Program can Contribute to the Administration of Justice

A well-organized program of pretrial services can contribute to the administration of justice in a number of obvious ways. Better, more informed release decisions will be made to the extent the program is successful in gathering pertinent data. Defendants will be better supervised, given thorough risk assessments coupled with a range of follow-up services.

Perhaps not so obvious, but just as important, is the role pretrial services can play in changing the way release and detention decisions are made. Pretrial services programs are still relatively new -- with the oldest ones going back only to the mid-sixties. They were first established as part of a reform effort whose purpose was to eliminate the discrimination inherent in a system that relies on bondsmen (and money) as the mechanism for determining release or detention. Under that system, pretrial release was (and is) determined by one's ability to raise bail money. Poor defendants remain in jail, regardless of the charge or their likelihood of appearance. Defendants with money (including successful criminals) buy their way out of jail by posting bond, again, regardless of their
propensity for criminal behavior.

Over the years, pretrial services administrators, academic scholars, and professional organizations such as the American Bar Association and the National Association of Pretrial Services Agencies have called for reforms to this system of pretrial justice. Pretrial services programs have been at the forefront of these efforts, urging a more rational process for determining who should be released (and under what conditions) and who should be detained. Much progress has been made, not so much by radical change (although Kentucky outlawed bail bonding in 1976), but by a common sense approach to pretrial release decision-making. As outlined above, good programs assist judges by providing relevant information at the defendant's arraignment -- information that might otherwise not be available. They further assist judges by monitoring release conditions set by the court, and keeping the judge informed as to the defendant's general compliance with those conditions.

D. Expected Benefits From a Good Pretrial Services Program?

During the technical assistance visit, questions repeatedly arose about the costs and the expected benefits of establishing a pretrial services program. Pierce County, like many other jurisdictions, is facing severe budgetary constraints. Even given the resources already committed to this effort, any new program must be able to withstand close financial scrutiny.

While a detailed (or even a limited) cost/benefit analysis is beyond the scope of this technical assistance, experience from other jurisdictions is a useful starting point.

First, it should be recognized that there is a cost resulting from operating inefficiently. These costs, while difficult to quantify, are real. What is the cost to public safety, for example, of releasing a defendant without having available information on that person's criminal record? To what extent is jail crowding a result of poorly developed front end services? What is the likely impact of a pretrial services program in terms of release rates? If more people are released, will rearrest rates and failure to appear rates rise as well?

During the technical assistance visit, a number of individuals requested information on the experience of other jurisdictions regarding these questions. The following summarizes and documents some of the more successful efforts to develop programs of pretrial services.

- The Federal System

In 1974, Congress passed the Speedy Trial Act, which was intended to reduce the risks of crime and the danger of recidivism by expediting criminal trials in the federal system. Part of this Act directed the Administrative Office of the U.S. Courts to establish on a pilot basis ten pretrial services programs, five of which were to be operated independently and five operated from within the existing federal probation structure. An
evaluation of these ten pilot programs documented the following results: Detention rates dropped, but so did rates of rearrest and failure to appear at trial. In general, rearrest rates fell by over 50%, despite the fact that more defendants were released. (A table summarizing these results is reproduced in Appendix A)

- Prince Georges County, Maryland

The experience of Prince Georges County, Maryland is relevant to Pierce County. Prince Georges County, a suburb of Washington, D.C., established a program of pretrial services several years ago under the Department of Corrections. Like Pierce County, Prince Georges County has experienced dramatic increases in the numbers of arrestees coming into the system. The county expanded the pretrial program at the same time it set up a comprehensive system to conduct on-site drug tests of arrestees. During this time, the number of cases entering the system rose from 5289 to 6845 in one year, and the number of arrestees released to supervision rose even more, from 1024 in 1988 to 1635 in 1990, a 59% increase. The Director of the Prince Georges County program attributes the strengthening of the pretrial services delivery system to the implementation of comprehensive drug screening of arrestees, drug monitoring of pretrial defendants, and an effective system for reminding defendants of their court dates. Release rates rose, without adverse consequences. The investment in post-release supervision resources yielded system-wide returns in the form of jail crowding reductions.

- Dade County, Florida

Dade County (Miami) Florida is another example where substantial increases in release rates were accompanied by no increases in rates of pretrial misconduct. Like the program in Prince Georges County, the Dade County pretrial program is part of the Department of Corrections. Through persistent efforts of that program's management, release rates have risen dramatically. Yet failure to appear rates and rearrest rates actually declined during this period.

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2. The reporting period for these figures runs from July 1 to June 30. (Report on Supervised Release, Al Hall, 1990)

3. Interview with Al Hall, June, 1990.

4. "Pretrial Services Program Annual Report for the Year 1988". Metropolitan Dade County Department of Corrections and Rehabilitation. Timothy J. Murray, Division Director. On page 12, the Annual Report states: "Although there was a 20.2% increase in the average monthly pretrial general population in 1988 over 1987, the average monthly PTS rearrest rate decreased from 1.2% in 1987 to 1.1% in 1988, a 9.1% decrease."
III. Critical Elements of a Pretrial Services Program

Having covered in general terms the nature and the potential benefits of a pretrial services program, this section turns to specifics. Much of what follows came out of a working session of the Corrections Subcommittee of the Law and Justice Commission. It also incorporates many of the principles of the pretrial services profession, as reflected in the Performance Standards and Goals for Pretrial Release.5

- The program should have a Mission Statement

The mission statement should incorporate the goal of enhancing and supporting judicial decision making by gathering complete and accurate information on arrestees to be used in determining eligibility for and conditions of pretrial release. The goal of the program should be to assist the Court in determining the least restrictive conditions of release consistent with public safety and return to court. The goal should also be to centralize and improve "front end" information-gathering efforts essential for: positive identification of defendant; appointment of counsel; the initial decision to release or detain; the applicability of the mandated sentencing guidelines; information for jail classification purposes; and information that could eventually be passed along for presentence investigations.

- Pre-release services

Ideally, the program would interview all arrestees, and provide a written report for the purpose of assisting the judge in determining appropriate conditions of release. This report shall be produced in a format acceptable to the judiciary and shall be made available prior to arraignment. The written report shall contain the following information: Criminal history; court history, (e.g.: status of pending cases, prior failures to appear, probation status, etc.) and validated personal information.

The report should contain an assessment of the defendant's release eligibility. The risk assessment should identify factors likely to increase the risk of non appearance or subsequent arrest. The risk assessment should also include information regarding possible conditions of release that could be imposed by the Court to reduce the identified risks. Where appropriate, the assessment should include eligibility for and availability of specific

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referrals, such drug abuse treatment, etc.

- **Post Release Services**

The program shall monitor compliance with release conditions imposed by the Court. It should develop mechanisms to maximize court appearance rates. To meet the goal of maximizing court appearance rates, it will be necessary for the court to "track" court dates and provide notification letters and reminders to defendants regarding their next scheduled appearance.

It is important for the program to provide timely notification to the Court of defendant non-compliance with release conditions. If conditions of release are to be set, they must be enforced. Otherwise, word quickly spreads that the Court is not serious about release conditions, breeding contempt for the entire process. Yet judges cannot hold defendants accountable unless the pretrial program provide prompt notice of violations.

The program should also establish a "bond review" unit for the purpose of re-assessing the release eligibility of detained individuals. Often, circumstances change and defendants not deemed eligible for release at arraignment may subsequently qualify. By the same token, more restrictive conditions of release (such as electronic monitoring) may be appropriate. The bond review unit should provide updated reports to the Court where appropriate.

The program should establish a "court appearance unit" designed to maximize court appearance rates. Responsibilities might include: directing defendants to the proper courtroom; locating non-appearing defendants through telephone contacts; investigating reasons for "no-shows" and providing verified information to the Court. Such a small and specialized can yield enormous savings for other parts of the criminal justice system. (See Appendix D for a description of the potential benefits from such an effort.)

Upon conviction, the program should prepare a report summarizing compliance with pretrial release conditions. This report should be made available to the sentencing judge and the Department of Corrections.

In conjunction with the Courts, the program should develop a scale of graduated sanctions to promote compliance with court-ordered release conditions. These sanctions should be fashioned consistent with the following principles: If conditions of release are imposed, they must be enforced. To be most effective, sanctions should be swift and certain. Certainty is more important than severity. The imposition of sanctions involving denial of liberty is a judicial function.

- **Evaluation**

There should be established a program evaluation component with the following goals: (1) to gather data on overall release rates, court appearance rates, rearrest rates, and defendant compliance with release conditions; (2) to validate factors used in the risk assessment.
assessmen t and (3) to quantify costs and benefits of the program. Appendix B contains a more detailed list of program measures suggested by the National Association of Pretrial Services Agencies.

IV. Recommendations for Successful Implementation of Pretrial Services

Many elements for the successful implementation of pretrial services are already in place. The level of cooperation among members of the Law and Justice Commission is high. There appeared to be a consensus that a pretrial services program is a good idea and should be implemented. Moreover, there is a willingness to pool resources to guarantee success. During the on-site technical assistance visit, the Director of the Department of Corrections was interviewing applicants to be hired and detailed to this program. The Office of Assigned Counsel was prepared to offer positions as interviewers. The Director of the Pierce County Jail likewise had resources to devote to the program. After lengthy consideration of this idea, all seemed enthusiastic at the prospect of beginning. The following recommendations, developed in consultation with various members of the Law and Justice Commission, are offered to ensure the best chance for success.

- A County Ordinance Setting Forth the Responsibilities of the Program Should Be Enacted

Pierce County has never had a pretrial services agency. It is therefore important to establish clearly the responsibilities of the program. One of the suggestions to come out of the working groups was to draft an ordinance to be submitted to the County Council. Such an ordinance could not only set forth the responsibilities of the program, but could establish an advisory board to oversee policy and operations. This could be especially useful, given the administrative placement of the planned program (Pierce County Jail) and the fact that resources are coming from several different agencies.

Since the program will be administered from an executive branch agency (Pierce County Jail) but serves the judiciary, it needs its own clearly defined focus. A county ordinance, spelling out responsibilities and perhaps designating a member of the judiciary to chair the advisory board, would go far toward promoting the kind of strong program that all desire. (See Appendix C for an example of an enabling statute establishing the responsibilities of the District of Columbia Pretrial Services Agency.)

- The Program Should Begin by Offering a Full Range of Pretrial Services, Even if For only a Small Percentage of Cases.

Ideally, Pierce County would have a full service pretrial program, providing assistance to the Municipal, District and Superior Courts. Despite the willingness of several agencies -- both State and County -- to devote resources to this goal, the program must necessarily start with less than optimal funding. The question then becomes: Where should the limited resources be allocated to maximum effect? One option would be to begin with the "front end" information gathering, and eventually add the post release services. Another option would be to consider only a small percentage of cases, yet offer
the full range of services from arrest to sentencing. This latter option offers the greatest possibility for building support for the program and ensuring success.

To build support for the concept of pretrial services, the program needs to be visible, and it needs to be perceived as vital to the judges it serves. While a strong program will benefit all of the criminal justice agencies, it is the judiciary that makes release decisions, and it is their support that is critical to success. The program needs to make an impact, and that impact must be documented. The best way to achieve measurable results is to offer supervised release throughout the pretrial period, even if for only a limited number of cases.

After discussing this issue at some length with members of the Criminal Procedures Committee, a consensus emerged that the program could begin by focusing on the drug cases assigned to one of the two differentiated case management (DCM) calendars. There are a number of advantages to this strategy. First, it builds on a successful demonstration project. Second, by focusing on drug felonies, it addresses an area of critical concern to members of the Law and Justice Commission and to the larger community of Tacoma. Third, the jail staff is already planning to implement on-site drug testing. This would be a logical and very important component in the supervision of drug cases, many of which involve drug-dependent individuals. Fourth, existing resources such as TASC might be available to work with the pretrial program.

One word of caution. Drug supervision, especially drug testing, should be implemented very carefully. Advance planning must be done in such areas as policies regarding dissemination and use of drug test results, chain of custody procedures, quality control procedures and testing protocols.

- The Pretrial Services Program Should Seek Office Space in the Courthouse.

The pretrial services program should be accessible and convenient to both defendants and judges. Locating at least some services in the courthouse would offer a number of advantages.

First, it would permit program staff to meet with defendants immediately following release from the courtroom. This is often a critical time to meet with both the defendant and any family members. It is an opportunity to double check the accuracy of address information, remind the defendant of the next court date, enlist the support of the family to ensure reappearance, and review any conditions of release that the judge may have imposed. Second, program services should be readily available to the judges. If a judge wishes to modify conditions of release, or act on a violation notice from the program, a readily available representative is useful. Finally, a presence in the courthouse will go far to ensure that program services are truly responsive to the needs of the judges -- a prerequisite for success.
V. Conclusion

Pierce County appears to have all the elements in place for successful implementation of a pretrial services program. The idea for the program has been under consideration for some time and enjoys broad support. The level of communication and cooperation among all elements of the justice system is high. Despite shortcomings in the way that suspects are positively identified and criminal histories are checked, improvements are on the way. Most importantly, various agencies at both the state and county level are prepared to offer resources to staff the program. With this kind of commitment, and with a clear vision of what a pretrial services program can offer, Pierce County is well on its way toward establishing a first rate program.
Epilogue

As often happens, professional relationships developed during an on-site technical assistance visit continue on an informal basis beyond the initial work. Such was the case in Pierce County. Following the visit in December, the consultant provided various materials to officials in Pierce County, primarily the Chief of the Jail who is responsible for establishing the pretrial services program. Among the materials forwarded were a copy of the enabling legislation of the D.C. Pretrial Services Agency, training materials and program descriptions, including a video documentary produced by CNN on bail bondsmen and pretrial services agencies, and the Standards and Goals for Pretrial Release, published.

In March of this year, as part of the planning and implementation process, a team from Pierce County arranged to visit a number of pretrial services programs. Included in the delegation were the Director of Public Safety, the Presiding Judge of the Superior Court, the Presiding Judge of the District Court, and the Chief of the Jail. The consultant coordinated a tour of the Washington, D.C. pretrial program and arranged a luncheon with the Chief Judge of the D.C. Superior Court. Also included in their itinerary was a visit to the Prince Georges County pretrial services program, which, as part of the Department of Corrections, is similar to that envisioned for Pierce County. The Pretrial Director from that program joined the visitors for lunch, then provided transportation and a tour of his program.

It is clear to this consultant that the level of commitment, the enthusiasm, and the system-wide cooperation so evident during the on-site visit has continued.
Appendices

Appendix A: Table from Yale Law Journal .......................... A1

Appendix B: Outline for a Management Information System ............ B1 - B6

Appendix C: Example of Enabling Statute for Pretrial Services .......... C1 - C6

Appendix D: "D.C. Trio Finds Superior Court No-Shows" ............. D1 - D5
high risks for pretrial crime,\textsuperscript{60} were released where pretrial services were in effect, yet failure to appear and pretrial arrest rates did not rise.\textsuperscript{61}

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\textsuperscript{*}Detained during any part or all of period before trial. \textit{Title II Rep., supra} note 47, at 43.

The trend toward overall improvements in these areas continued. For the period of 1979-80, the rate of reports submitted by the initial bail hearing rose to 39.2% in independent districts; in probation districts, it fell slightly to 73.5%. The rate of bail recommendations submitted in independent districts grew to 88.3%; in probation districts, it grew to 68.8%. The rate of rearrests fell to 10.1% in independent districts, and 3.2% in probation districts. The failure to appear rate fell to 0.0% in independent districts, and 1.6% in probation districts. The rate of initial release in independent districts rose to 77.5%, and in probation districts rose to 74.8%. \textit{See also Title II Rep., supra note} 47, at 54-55 (findings of Administrative Office of the U.S. Courts showed that between 1973-74 and 1977-78, pretrial services districts—both independent and probation-run—showed greater reductions in rates of crime on bail and failure to appear than non-pretrial services districts); id. app. A, tables C5, C6 (pretrial services demonstration districts reduced failure to appear and crime on bail by approximately 50% between 1974-75 and 1977-78).

49. \textit{See Title II Rep., supra} note 47, app. B, table III-3. The rate for “never released” defendants with drug-related current offenses was 32.9% before the demonstration agencies were implemented and 23.5% afterwards. Drug-related offenses include possession, distribution, and conspiracy. Id.

50. \textit{See Bail Reform and Narcotics: Hearings Before the House Select Comm. on Narcotics Abuse and Control, 97th Cong., 1st Sess. 45 (1981)} (testimony of Magistrate Palermo urging discretion for judicial officers in drug and other types of cases to consider specific issues of danger to the community and violation of another crime while on bail).

51. \textit{See supra} note 48 (overall failure to appear and rearrest rates lower under pretrial services programs); \textit{see also Report on the Incidence of Failure to Appear by Defendants Charged with Drug Crimes in the Southern District of Florida, reprinted in 1981 Senate Hearings, supra} note 23, at 64 (failure to appear rate eight times lower where pretrial services available); \textit{Bail Reform and Narcotics: Hearings Before the House Select Comm. on Narcotics Abuse and Control, supra} note 50, at 43 (magistrate testifying that pretrial services program is effective method of controlling misbehavior among narcotics suspects).

While pretrial arrest rates may not be the same as pretrial crime rates, pretrial arrest rates do function as a rough indicator of pretrial crime.
Appendix B: Outline for a Management Information System

Outline for A Management Information System

<table>
<thead>
<tr>
<th>OBJECTIVE</th>
<th>DATA REQUIRED FOR PERFORMANCE INDEX</th>
<th>ASSUMPTION</th>
<th>POSSIBLE ANALYSES FOR TESTING ASSUMPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development of programs designed to maximize the rate of nonfinancial release for persons arrested and accused of a crime.</td>
<td>Rate of release on each form of bond for all arrestees: 1. Number of persons arrested for a criminal offense; 2. Number of persons who need pretrial release; a. Number of persons whose cases are disposed of at first court appearance; b. Number of persons whose cases are disposed of through bond forfeiture; c. Number of persons whose charges are dropped within 24 hours; 3. Number of persons released prior to trial on each form of bond; 4. Number of persons detained prior to trial.</td>
<td>The intervention of the pretrial release agency will result in more frequent use of nonfinancial release than would otherwise be the case. The increased use of nonfinancial release results in lower pretrial detention rates than would otherwise be the case.</td>
<td>Comparison between the frequency of use of nonfinancial release prior to agency establishment with rate of use following agency establishment. Comparison of the frequency of nonfinancial releases for persons screened by the pretrial release agency with the frequency of nonfinancial release for a similar group of defendants not screened by the pretrial release agency (randomized control group). Comparison of the rate of detention and lengths of detention for defendants screened by the agency versus those not screened by the agency (either a control group or defendants processed prior to agency implementation).</td>
</tr>
<tr>
<td>OBJECTIVE</td>
<td>DATA REQUIRED FOR PERFORMANCE INDEX</td>
<td>ASSUMPTION</td>
<td>POSSIBLE ANALYSES FOR TESTING ASSUMPTION</td>
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<tr>
<td>Speedy release of defendants from pretrial detention.</td>
<td>Speed of release: Length of time between booking and release for all persons arrested and charged with a crime who are released on some form of pretrial release, divided into each form of bond (for defendants released on nonfinancial release, separate those screened by the agency from those released without agency intervention).</td>
<td>The intervention of the pretrial release agency will reduce the average amount of time between booking and release prior to trial.</td>
<td>Comparison between agency-screened defendants and defendants released without agency intervention on the amount of time spent in custody between booking and release (either randomized control group or defendants processed prior to agency establishment).</td>
</tr>
<tr>
<td>Reduction of the inequities in the pretrial release system.</td>
<td>Distribution of the characteristics of persons released on each form of pretrial release and of persons detained prior to trial, including (but not limited to): 1. Age 2. Sex 3. Race/ethnic group 4. Economic bracket 5. Marital status.</td>
<td>The intervention of the pretrial release agency will result in a reduction of discrimination (either intentional or inadvertent) against any class of defendants. Classification of defendants for purposes of pretrial release will not be based on factors irrelevant to the probability of appearance.</td>
<td>Comparison of the percent of time between booking and case disposition spent in pretrial custody between defendants screened by the agency and those not screened by the agency.</td>
</tr>
</tbody>
</table>

Comparisons among various release groups of the percent of defendants in each group falling within each of the defendant classifications noted under “Data Required for Performance Index.” Comparisons among each release group and detained defendants along these classifications.

Subsequent assessment of any systematic difference between the groups to determine if the differences are merely coincidental with other differences relating to probability of appearance.
<table>
<thead>
<tr>
<th>OBJECTIVE</th>
<th>DATA REQUIRED FOR PERFORMANCE INDEX</th>
<th>ASSUMPTION</th>
<th>POSSIBLE ANALYSES FOR TESTING ASSUMPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimization of failures to appear as required by the court.</td>
<td>Number of defendants who miss any court appearance (broken into groups based on type of pretrial release and offense category).</td>
<td>The intervention of the pretrial release agency will result in a maximum use of nonfinancial release without any significant increase in the rate of failure to appear.</td>
<td>Comparison of the failure to appear rates between persons released on nonfinancial bases and those released on traditional forms of bond.</td>
</tr>
<tr>
<td>Minimization of the number of crimes committed by persons on pretrial release.</td>
<td>Number of appearances missed by persons on pretrial release (broken into groups based on type of pretrial release and offense category).</td>
<td>Comparison of the failure to appear rate of persons released through agency intervention versus that of a similar group of defendants released without agency intervention.</td>
<td>Comparison of the failure to appear rate of persons released through agency intervention versus that of a similar group of defendants released without agency intervention.</td>
</tr>
<tr>
<td>Minimization of the number of crimes committed by persons on pretrial release.</td>
<td>Number of appearances missed by persons in detention prior to trial.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
</tr>
<tr>
<td>Minimization of the number of crimes committed by persons on pretrial release.</td>
<td>Rate of return for persons missing any court appearance.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
</tr>
<tr>
<td>Minimization of the number of crimes committed by persons on pretrial release.</td>
<td>Number of persons who remain at large over 30 days.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
</tr>
<tr>
<td>Minimization of the number of crimes committed by persons on pretrial release.</td>
<td>Number of released defendants rearrested for a criminal offense during pretrial period, broken into felony and misdemeanor rearrests.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and those released without agency intervention.</td>
</tr>
<tr>
<td>Minimization of the number of crimes committed by persons on pretrial release.</td>
<td>Number of released defendants who are convicted of the second offense.</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and a comparable group of defendants not served by the agency (either a control group or archival comparison group).</td>
<td>Comparison of the rates of rearrest and conviction on the second charge between persons released through the intervention of the pretrial services agency and a comparable group of defendants not served by the agency (either a control group or archival comparison group).</td>
</tr>
<tr>
<td>OBJECTIVE</td>
<td>DATA REQUIRED FOR COST-BENEFIT STUDY</td>
<td>ASSUMPTION</td>
<td>POSSIBLE ANALYSES FOR TESTING ASSUMPTION</td>
</tr>
<tr>
<td>-----------</td>
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<td>----------------------------------------</td>
</tr>
<tr>
<td>Favorable ratio between program costs and program benefits.</td>
<td>A. Jail Savings. Cost of detention prior to trial (marginal, per-defendant jail costs and fixed costs; should also include associated costs such as transportation of defendants from jail to court).</td>
<td>The cost of the pretrial services agency is justifiable in terms of both dollar savings to the defendant, the taxpayer, and the criminal justice system and reduction of inequities in the pretrial release system.</td>
<td>Comparison of the costs of detention of the persons who would have been detained prior to trial without intervention by the pretrial services agency and average length of that detention (should include both persons detained the entire pretrial period as well as persons detained for some portion of that period whose release was effected sooner than would have been possible without agency intervention) with costs of program operation.</td>
</tr>
<tr>
<td></td>
<td>B. Other criminal justice systems savings. Cost of public defender per case (averages, based on type of case). (For jurisdictions in which the pretrial services agency has implemented stationhouse release). The cost of release through court appearance or magistrate.</td>
<td></td>
<td>Comparison of the costs of appointed counsel for those released to the cost of counsel for those detained.</td>
</tr>
<tr>
<td></td>
<td>C. Savings to the defendant. Cost of release through a bondsman. Dollars lost through lack of employment.</td>
<td></td>
<td>Comparison of the costs for detaining those not released until their court appearance to the costs of releasing those same persons on citation.</td>
</tr>
</tbody>
</table>

1 Cost-benefit studies should only be conducted following sound research which numerically delineates what would have happened had the pretrial services agency not intervened. Since these studies are highly complex, only a general outline with some examples is presented.
<table>
<thead>
<tr>
<th>OBJECTIVE</th>
<th>DATA REQUIRED FOR COST-BENEFIT STUDY</th>
<th>ASSUMPTION</th>
<th>POSSIBLE ANALYSES FOR TESTING ASSUMPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>D. Savings to the taxpayer. Number of families who would have been forced to rely on welfare for support as a result of detention of the defendant. Estimated tax revenue lost as a result of job loss because of detention.</td>
<td></td>
<td>Comparison of wages lost by those defendants detained to wages earned by those released through program intervention. Comparison of welfare costs for families of detained defendants to welfare costs for families of those defendants not detained. Comparison of taxes lost because of unemployed detained defendants to potential revenue had defendants been released, employed, and contributed to the tax base. Comparison of those who were sentenced to probation terms to those who received jail sentences, where intervention of program services accounted for the difference.</td>
<td></td>
</tr>
<tr>
<td>E. Other benefits.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>F. Program costs (include both fixed and marginal program costs).</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
In addition to the kinds of data listed on the preceding pages it is suggested that collection of the following data will permit analysis so necessary to the proper functioning of a true management information system:

1. Disposition of cases (adjudication and sentences) for all persons arrested and accused of a crime, divided into offense categories and release-type categories (including detained defendants);
2. Compliance with conditions of release;
3. Time spans between arrest, notification of charges, release from custody prior to trial, and case disposition;
4. Basic defendant background information, including—
   a. Age, race, sex,
   b. Marital status, extent of family ties in community,
   c. Economic bracket, employment,
   d. Prior criminal history,
   e. Education,
   f. Length of residence in community,
   g. Status at time of arrest (on probation, parole, etc.),
   h. Type of attorney (public defender, court appointed, private, etc.).
Appendix C: Example of Enabling Statute for Pretrial Services

§ 23-1301  CRIMINAL PROCEDURE

CHAPTER 13. BAIL AGENCY [PRETRIAL SERVICES AGENCY] AND PRETRIAL DETENTION.

Subchapter I. District of Columbia Bail Agency [Pretrial Services Agency].

Sec. 23-1301. District of Columbia Pretrial Services Agency.

The District of Columbia Pretrial Services Agency (hereafter in this subchapter referred to as the "agency") shall continue in the District of Columbia and shall secure pertinent data and provide for any judicial officer in the District of Columbia or any officer or member of the Metropolitan Police Department issuing citations, reports containing verified information concerning any individual with respect to whom a bail or citation determination is to be made. (July 29, 1970, 84 Stat. 639, Pub. L. 91-358, title II, § 210(a); 1973 Ed., § 23-1301; Sept. 27, 1978, 92 Stat. 753, Pub. L. 95-388, §§ 1, 2.)


As used in this chapter—

(1) the term "judicial officer" means, unless otherwise indicated, the Supreme Court of the United States, the United States Court of Appeals for the District of Columbia Circuit, the District of Columbia Court of Appeals, United States District Court for the District of Columbia, the Superior
§ 23-1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations.

(a) The agency shall, except when impracticable, interview any person detained pursuant to law or charged with an offense in the District of Columbia who is to appear before a judicial officer or whose case arose in or is before any court named in section 23-1302 (1). The interview, when requested by a judicial officer, shall also be undertaken with respect to any person charged with intoxication or a traffic violation. The agency shall seek independent verification of information obtained during the interview, shall secure any such person's prior criminal record which shall be made available by the Metropolitan Police Department, and shall prepare a written report of the information for submission to the appropriate judicial officer. The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released or detained under any of the conditions specified in subchapter II of this chapter. If the agency does not make a recommendation, it shall submit a report without recommendation. The agency shall provide copies of its report and recommendations (if any) to the United States attorney for the District of Columbia or the Corporation Counsel of the District of Columbia, and to counsel for the person concerning whom the report is made. The report shall include but not be limited to information concerning the person accused, his family, his community ties, residence, employment, and prior criminal record, and may include such additional verified information as may become available to the agency.

(b) With respect to persons seeking review under subchapter II of this chapter of their detention or conditions of release, the agency shall review its report, seek and verify such new information as may be necessary, and modify or supplement its report to the extent appropriate.

(c) The agency, when requested by any appellate court or a judge or justice thereof, or by any other judicial officer, shall furnish a report as provided in subsection (a) of this section respecting any person whose case is pending.
§ 23-1304. Executive committee; composition; appointment and qualifications of Director.

(a) The agency shall function under the authority of and be responsible to an executive committee of 9 members of which 5 members shall constitute a quorum. The executive committee shall be composed of 5 persons appointed by the Mayor of the District of Columbia with the advice and consent of the Council of the District of Columbia, the Chief Judge of the United States Court of Appeals for the District of Columbia Circuit or his or her designee, the Chief Judge of the United States District Court for the District of Columbia or his or her designee, the Chief Judge of the District of Columbia Court of Appeals or his or her designee, and the Chief Judge of the Superior Court of the District of Columbia or his or her designee. Each member appointed by the Mayor shall serve for a 3-year term, which shall begin on the date that a majority of these members are sworn in. This date shall be the anniversary date for all subsequent Mayoral appointments.

(b) The executive committee shall appoint a Director of the agency who shall be a member of the bar of the District of Columbia. (July 29, 1970, 84 Stat. 641, Pub. L. 91-358, title II, § 210(a); 1973 Ed., § 23-1304; Feb. 28, 1987,
§ 23-1305. Duties of Director; compensation; tenure.

The Director of the agency shall be responsible for the supervision and execution of the duties of the agency. The Director shall receive such compensation as may be set by the executive committee but not in excess of the compensation authorized for GS-16 of the General Schedule contained in section 5332 of title 5, United States Code. The Director shall hold office at the pleasure of the executive committee. (July 29, 1970, 84 Stat. 642, Pub. L. 91-358, title II, § 210(a); 1973 Ed., § 23-1305.)

§ 23-1306. Chief assistant and other agency personnel; compensation.

The Director, subject to the approval of the executive committee, shall employ a chief assistant and such assisting and clerical staff and may make assignments of such agency personnel as may be necessary properly to conduct the business of the agency. The staff of the agency, other than clerical, shall be drawn from law students, graduate students, or such other available sources as may be approved by the executive committee. The chief assistant to the Director shall receive compensation as may be set by the executive committee, but in an amount not in excess of the amount authorized for GS-14 of the General Schedule contained in section 5332 of title 5, United States Code, and shall hold office at the pleasure of the executive committee. All other employees of the agency shall receive compensation, as set by the executive committee, which shall be comparable to levels of compensation established in such chapter 53. From time to time, the Director, subject to the approval of the executive committee, may set merit and longevity salary increases. (July 29, 1970, 84 Stat. 642, Pub. L. 91-358, title II, § 210(a); 1973 Ed., § 23-1306.)

Section reference.—This section is referred to in § 1-612.16.
§ 23-1307. Annual reports to executive committee, Congress, and Mayor.

The Director shall on June 15 of each year submit to the executive committee a report as to the agency's administration of its responsibilities for the previous period of June 1 through May 31, a copy of which report will be transmitted by the executive committee to the Congress of the United States, and to the Mayor of the District of Columbia. The Director shall include in his report, to be prepared as directed by the Mayor of the District of Columbia, a statement of financial condition, revenues, and expenses for the past June 1 through May 31 period. (July 29, 1970, 84 Stat. 642, Pub. L. 91-358, title II, § 210(a); 1973 Ed., § 23-1307; Apr. 30, 1988, D.C. Law 7-104, § 7(g), 35 DCR 147.)

Effect of amendment — D.C. Law 7-104
Legislative history of Law 7-104. — See substituted "the Mayor" for "the Commissioner" in the first and second sentences and in the catchline.


Budget estimates for the agency shall be prepared by the Director and shall be subject to the approval of the executive committee. (July 29, 1970, 84 Stat. 642, Pub. L. 91-358, title II, § 210(a); 1973 Ed., § 23-1308.)

§ 23-1309. References to "Bail Agency" deemed to be to "Pretrial Services Agency."


Subchapter II. Release and Pretrial Detention.

§ 23-1321. Release in other than first degree murder cases prior to trial.

(a) Any person charged with an offense, other than murder in the first degree, shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required or the safety of any other person or the community. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release...
§ 23-1303

Criminal Procedure

before any such appellate court or judicial officer or in whose behalf an application for a bail determination shall have been submitted.

(d) Any information contained in the agency’s files, presented in its report, or divulged during the course of any hearing shall not be admissible on the issue of guilt in any judicial proceeding, but such information may be used in proceedings under sections 23-1327, 23-1328, and 23-1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceeding.

(e) The agency, when requested by a member or officer of the Metropolitan Police Department acting pursuant to court rules governing the issuance of citations in the District of Columbia, shall furnish to such member or officer a report as provided in subsection (a).

(f) The preparation and the submission by the agency of its report as provided in this section shall be accomplished at the earliest practicable opportunity.

(g) A judicial officer in making a bail determination shall consider the agency’s report and its accompanying recommendation, if any. The judicial officer may order such detention or may impose such terms and set such conditions upon release, including requiring the execution of a bail bond with sufficient solvent sureties as shall appear warranted by the facts, except that such judicial officer may not order any detention or establish any term or condition for release not otherwise authorized by law.

(h) The agency shall —

1. supervise all persons released on nonsurety release, including release on personal recognizance, personal bond, nonfinancial conditions, or cash deposit or percentage deposit with the registry of the court;
2. make reasonable effort to give notice of each required court appearance to each person released by the court;
3. serve as coordinator for other agencies and organizations which serve or may be eligible to serve as custodians for persons released under supervision and advise the judicial officer as to the eligibility, availability, and capacity of such agencies and organizations;
4. assist persons released pursuant to subchapter II of this chapter in securing employment or necessary medical or social services;
5. inform the judicial officer and the United States attorney for the District of Columbia or the Corporation Counsel of the District of Columbia of any failure to comply with pretrial release conditions or the arrest of persons released under its supervision and recommend modifications of release conditions when appropriate;
6. prepare, in cooperation with the United States marshal for the District of Columbia and the United States attorney for the District of Columbia, such pretrial detention reports as are required by Rule 46 (h) of the Federal Rules of Criminal Procedure; and
7. perform such other pretrial functions as the executive committee may, from time to time, assign. (July 29, 1970, 84 Stat. 640, Pub. L. 91-358, title II, § 210(a); 1973 Ed., § 23-1303.)
Mohammad Chaudhari keeps tabs on system's victims.

Bureaucracy That Works
'Mr. Lost and Found'
Woos Court's No-Shows

BY DANIEL KLAIDMAN

With this article, Legal Times is incorporating an occasional feature that will spotlight innovations within the local and federal courts—creative efforts to overcome the criminal-justice system's seemingly intractable problems.

Deep in the D.C. Superior Court bureaucracy, a tiny office focuses on a major problem: getting defendants to show up in court. The unit's methods work so well that 40 court systems from across the country have borrowed the idea.

But saving time and money for the bureaucracy is not the only benefit of the Pretrial Services Agency's Failure to Appear Unit. Mohammad Chaudhari and his two assistants also spare people from jail.

Kott Gibson recently found out how it works: On Feb. 7, with impediments in her voice, she called the unit to say that she wanted to turn herself in. Last August, Gibson was scheduled to face trial on charges of sexual solicitation. When she didn't show up in court, Superior Court Hearing Commissioner John Treanor Jr. issued a warrant for her arrest.

Now Gibson, eight and a half months pregnant, was terrified at the prospect of being locked up in her condition. But she also wanted to clear her name before the baby was born.

For Frederick Dyugi, a staff member in the Failure to Appear Unit, Gibson's predicament was not unusual. By surrendering voluntarily,

SEE INNOVATIONS, PAGE 18
D.C. Trio Finds Superior Court's No-Shows

Mohammad Chaudhari (center) and his team—Frederick Oyugi (left) and David Gilchrist (right)—save the D.C. court system money by finding no-show defendants and helping them stay out of jail.
he told her, she would greatly reduce her chances of being jailed.

"You will be much better off if you turn yourself in than if you are picked up by the police," Ouygi told Gibson gently.

Two weeks later, Gibson came to Ouygi's office in the basement of the D.C. Courthouse. Later that day, Feb. 21, Hearing Commissioner Hugh Stevenson quashed the bench warrant and released Gibson.

For Chaudhari, who has run the tiny unit since its establishment in 1979, it was "another bench warrant quashed, another human tragedy spared."

Also spared were the resources of police, prosecutors, courts, and the corrections department. Instead of an arrestee to deal with, the criminal-justice system had a cooperative volunteer.

"Most of these people are willing to cooperate. They're just afraid," says Chaudhari.

Making a Difference

Operating out of cramped offices, with a staff of only three and a total budget of less than $100,000, Chaudhari and his colleagues have made an impressive dent in the District's failure-to-appear rate, a costly problem that has plagued urban courts for years.

While the city's arrest rate has more than doubled in the last decade, the no-show rate in Superior Court has dropped steadily, according to statistics provided by the Pretrial Services Agency. Of those arrested, only about three percent fail to appear in court, one of the lowest rates in the country.

The unit, the first of its kind in the nation, is a stark, if obscure, example of how little more than creative thinking and a dedicated staff can turn around a festering problem.

And the solution is catching on. Last month, the New York City courts implemented their own version of the D.C. program.

Similar programs already operate in Cook County, Ill.; Portland, Ore.; Boulder, Colo.; and Pontiac, Mich.

"We have started such a unit in our pretrial release office, and it is very successful," Chief Criminal Judge Philip Abraham of the Multnomah County Court in Portland, Ore., said in 1989. "We are thankful to Jay [Carver, director of the Pretrial Services Agency] and Mohammad . . . for this innovative addition to our local program," Abraham added.

Chaudhari's team, which includes Ouygi and David Gilchrist, not only has drawn nationwide attention, but also has become a force within the District's criminal-justice system.

Some judges now wait to hear from Chaudhari's office before issuing bench warrants for defendants who skip court.

Years of detailed record-keeping and interviews with thousands of defendants, defense lawyers, courtroom clerks, jail officials, and others have helped expunge wide cracks in the system. Chaudhari, 47, has learned that defendants often fail to appear in court not because they're irresponsible or lazy, but because of bureaucratic snafus over which they have no control.

"The incompetence of people in the system," says Chaudhari, "ends up costing the criminal-justice system an enormous amount of money."

Kim Gibson was a case in point. It turned out that Gibson didn't show up in court for her solicitation trial because she was being held in the Fairfax County Detention Center on other charges.

"That bench warrant never should have been issued in the first place," says Chaudhari.

Another problem cited frequently by defendants is the failure to receive a notice of the proceeding. Chaudhari verifies that excuse, just as he checks on others.

Failure to appear can also be traced to something as basic as being sent to the wrong courtroom. And lawyers often neglect to let their clients know what's scheduled (see accompanying chart).

The D.C. Jail is another culprit. Officials there don't update records, says
EXCUSES, EXCUSES

What follows is a breakdown of the excuses for missed D.C. Superior Court dates offered by defendants in 1989 to the Pretrial Services Agency's Failure to Appear Unit:

<table>
<thead>
<tr>
<th>System-Related</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Incarcerated</td>
<td>180</td>
</tr>
<tr>
<td>Notification problem</td>
<td>177</td>
</tr>
<tr>
<td>Court problem</td>
<td>62</td>
</tr>
<tr>
<td>Transfer failure</td>
<td>31</td>
</tr>
<tr>
<td>Attorney problem</td>
<td>28</td>
</tr>
<tr>
<td>Subtotal</td>
<td>478</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Defendant-Related</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Forgot/confused</td>
<td>197</td>
</tr>
<tr>
<td>Sick</td>
<td>129</td>
</tr>
<tr>
<td>Transportation problem</td>
<td>86</td>
</tr>
<tr>
<td>Family emergency</td>
<td>68</td>
</tr>
<tr>
<td>Subtotal</td>
<td>480</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospitalized</td>
<td>359</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>195</td>
</tr>
<tr>
<td>Inpatient drug/alcohol</td>
<td>69</td>
</tr>
<tr>
<td>Dead</td>
<td>17</td>
</tr>
<tr>
<td>Subtotal</td>
<td>640</td>
</tr>
</tbody>
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TOTAL 1,598

INNOCATIONS FROM PAGE 18

Chaudhari. "Their record-keeping is often shoddy," he adds.
Chaudhari calls these miscues "system-related problems."
But he says in many instances defendants are victims of the system in a much broader sense.

Perhaps most chilling is that many defendants fail to appear in court because they have been gunned down in the District's streets.

In one particularly violent four-week period last summer, five defendants didn't show up for previously scheduled court dates because they had been murdered.

Last week, another defendant had that horrible excuse. Oyugi notified Superior Court Judge Patricia Wyne that Darrell Blaine would not be able to show up for his status hearing—Blaine had been shot and killed two weeks earlier.
Oyugi tracked down Blaine's death certificate at the funeral home and attached it to his memo to Judge Wyne as evidence.

"Lately we've been spending more time trying to get our hands on death certificates," Oyugi says ruefully.

That sort of attention to detail has marked the unit since its inception in 1979, when Bruce Beaudin, then director of the Pretrial Services Agency, recognized that defendants were routinely missing court dates—at great expense to the city. It was a waste of time when judges, clerks, and police officers gathered to deal with a case and the defendant charged didn't show up.

Beaudin, who is now a D.C. Superior Court judge, turned to a junior employee who had demonstrated a knack for coming up with creative solutions to difficult problems. He knew that Mohammad Chaudhari would relish the challenge.

For Chaudhari, who had been a prosecutor in Pakistan before emigrating to the United States in 1970, it was his first real position of responsibility since coming to this country, where his first job had been working as a night security guard in a Washington hotel. Chaudhari had worked hard to improve his status, earning a master's degree in comparative jurisprudence in 1973 from the Howard University School of Law.

Chaudhari's initial research turned up some surprising results. He found that a high number of defendants had legitimate reasons for not showing up, a conclusion that poked holes in some of the basic assumptions about why defendants failed to appear in court.

But many of these people, Chaudhari found, were afraid to notify the court because they thought they would be arrested and sent to jail.

What was needed, Chaudhari concluded, was a neutral office where defendants could surrender. The office would then verify their excuses for missing court dates and relay the information to the judge.

But Chaudhari needed the cooperation of the Office of the U.S. Attorney. Eventually, Beaudin persuaded then U.S. Attorney Earl Silbert to give the program a chance. Since 1979, hardly any defendants who've turned themselves in have been prosecuted for initially skipping trial.

Chaudhari says he is aware that some defendants take advantage of the unit to avoid coming to court. Defendants, for example, will call the office on the day of a scheduled court appearance and say they are being treated at home by a family therapist.
The Failure to Appear Unit is part of the Pretrial Services Agency, directed by John Carver III. Carver estimates the city spends about $25 when a defendant surrenders to the unit, compared to about $1,200 when a no-show defendant must be arrested.

The information is often hard to verify.

But Chaudhari notes, "It is far more often the case that defendants are exploited by the system."

Chaudhari cites a defendant who called to say he would not make it to his court hearing because he had no money for transportation and had no shoes. He was urged, nonetheless, to show up to avoid arrest.

Later in the day, according to Chaudhari, the elderly man appeared at the front doors of the courthouse. He had walked, bare-footed from Rockville, Md., in sweltering 90-degree weather.

He was turned away by court security guards, who cited a city regulation prohibiting persons from entering public buildings without shoes.

Chaudhari later heard about the incident and was able to get the man’s case continued. The action meant that a bench warrant was not issued.

Chaudhari says he cherishes such cases, where he can prevent a person from being beaten down by an often impersonal and intimidating system.

"If I had stayed in Pakistan, by now I’d most likely be a senior judge," says Chaudhari, leaning back in a chair in his small office. "But I would have little influence on the justice system there. Here in America, I’m a bureaucrat, but I’ve been able to make a big contribution. It fills me up with pride."