

# Technology and Pretrial Services

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THE EFFECT of technology on the criminal justice system in the last 20 years has been substantial. The technological advances that have been achieved are incredible, and the creativity which has been employed to develop technologies and make them useful in criminal justice work is impressive.

The field of pretrial services is uniquely situated to benefit from many of these advances because—in terms of the time constraints within which it must operate—pretrial services is unlike any other criminal justice organization. Pretrial services professionals are the only members of the criminal justice community who are expected, as a matter of routine, to perform their work in hours. While probation officers have weeks and in some cases months to prepare presentence reports, and Federal Bureau of Investigation and Drug Enforcement Administration agents seek indictments on criminal cases when their investigations warrant it, pretrial services officers must produce reports for the court very quickly.

A probation officer once commented, in the midst of preparation of a large number of pretrial services investigations and reports prompted by a drug sweep, that the pretrial services office was the criminal justice system's rapid response team. While the comment was made in a derogatory fashion it truly embodies the essence of pretrial services work. In most cases, with virtually no notice and with little time, pretrial services officers are expected and in fact expect of themselves to produce detailed and accurate information about the defendants scheduled to appear before judicial officers for release/detention determinations.

Because time is always of the essence in the preparation of a pretrial services report, the recent technological advances have become a necessity. For example, how effective would pretrial services be without automated criminal retrieval systems? While criminal justice professionals take these systems for granted today, such technological advances are what makes the work of pretrial services possible. Current advances in database management, accessing new databases, and analyzing information quickly also hold real promise for enhancing the field of pretrial services through technological innovation.

The various technologies which are available can serve four basic functions in pretrial services programs. Technology can enable pretrial services pro-

grams to: 1) gather data more quickly, 2) analyze data more quickly and more subjectively, 3) monitor defendants released pending resolution of the charges against them, and 4) assist pretrial services administrators in tracking their program participants and in managing programs more effectively. This article will analyze the expansion of technology in the field of pretrial services within these functional areas and look to see what advances could come within these areas in the future. While each of these areas alone could constitute the basis of an article, this article is limited to discussing briefly each area in the larger context of technological advancements which have benefited and will continue to benefit pretrial services work in the future.

## *Gathering Data More Effectively*

The first major technological breakthrough in the area of data gathering was, of course, the advent of automated criminal record systems. Obviously, automated criminal record systems are an indispensable tool in the fast-paced world of pretrial release decision making. However, while all states and the Federal system have automated criminal record systems, the quality of those systems varies substantially from system to system. There are significant problems with many of these systems, but, even so, they are an essential tool for any pretrial services officer.

Of the many problems with the various state systems, from a pretrial services perspective, a particularly bothersome one is that many of them lack complete information about the disposition of charges. When probation officers are completing presentence investigations, they have the time to obtain those dispositions. But because pretrial services officers labor under much shorter timeframes, incomplete information in these systems presents major problems for them. Many judicial officers will not, and should not, consider charges for which there is no known disposition. Thus, the incomplete information negates the value of the arrest in determining release or detention. The other major problem in using these systems for pretrial services work is that they frequently lack information which would have bearing on pretrial release decisions. Information such as prior failures to appear and the issuance of bench warrants is rarely available in most state systems.

While there are good systems and bad systems, the state systems in New York and New Jersey come

immediately to mind as an example of how systems may vary considerably in their value to pretrial services agencies. In the author's experience, the New York system is probably one of the most complete and accurate criminal record databases in the country, while the New Jersey system is deficient in several areas. The New York system is not only more complete and accurate, but the system's design makes it much more useful to pretrial services officers in that it matches charges and dispositions, tracks bench warrants, and lists bond data.

Nationally, both state and Federal automated criminal record systems need to be updated and improved with pretrial services in mind so that the technology may more effectively meet the needs of pretrial services practitioners. The redesign of these systems presents advocates for pretrial services agencies and interested pretrial services professionals with a unique opportunity to offer advice as to what types of changes would make these systems more useful to pretrial services professionals. Only by advising the agencies that maintain these systems of system shortcomings from a pretrial services perspective and working with the agencies to eliminate or reduce those shortcomings may these systems be enhanced and more effectively meet the needs of pretrial services agencies nationwide.

The key to successful pretrial services work is the verification of the information provided by the defendant during the initial interview, and there are numerous electronic databases, both government and private, officers may use to verify that information quickly. Pretrial services administrators need to educate themselves in what databases are available in their area and how to gain access to the systems which provide them the most useful and cost-effective information. The following are examples of information which is available as a result of today's technological capabilities.

The NEXIS database, which is available as part of the LEXIS computer-assisted legal research system, offers databases containing property and tax records for each state in the country. These databases can be accessed by pretrial services agencies for the purpose of verifying home or property ownership information provided by defendants. Such verification is useful in corroborating the defendant's history, as well as in fashioning a pretrial release recommendation which may include a property bond if that is warranted by the circumstances of the case. A word of caution, however. This database is sometimes months behind in reporting transfers of property. Therefore, the existence of the record in the database should not be used to assure that the property is still available for posting as collateral in a particular case.

Other potential sources of information for pretrial services agencies available as a result of technological advances are the credit bureaus or credit reporting agencies. These agencies offer a credit history or credit report on individuals.

While there already are a number of useful databases available to assist pretrial services agencies in collecting and verifying information on defendants for whom they must make pretrial release recommendations, databases are ever-increasing in number and in the scope of information they provide. The anticipated explosion of databases and the improved capability to access those databases in the next 10 years no doubt will only enhance pretrial services agencies' ability to obtain necessary information. It therefore will be incumbent on pretrial services administrators to stay knowledgeable about these valuable resources and to spend their limited automation budgets wisely to obtain the most useful information at the lowest possible cost.

What the future holds in terms of database access is difficult to foresee. However, there already are a number of databases out there which would be of immeasurable value to pretrial services agencies, if access agreements could be devised. The databases maintained by utility companies hold great promise. These systems could be used to verify current residence for renters as well as owners. In addition, they could provide an exact residential history if the defendant has resided within the business area of the company for any period of time. To have the capability to verify residential history in a matter of minutes would be of immeasurable value to pretrial services organizations.

Probably the most significant development in this area will come not from new databases but improved connectivity to existing databases. For example, in the Federal Government virtually each agency maintains its own database tracking system. These systems include the Bureau of Prisons Sentry System; the Probation and Pretrial Services Automated Case Tracking System (PACTS); two systems maintained by the Offices of the Clerk (a criminal docketing system and a Judgment and Commitment System); the U.S. Attorney's Office database system; and the database systems of the investigation agencies. These are just the Federal databases which might be of interest to a Federal pretrial services agency investigating a particular defendant.

Accessing each of these systems, even for Federal pretrial services offices, is at best problematic and in some cases impossible currently. The pretrial services office has to contact any one of these organizations telephonically and have a member of that office staff conduct an inquiry and obtain the necessary informa-

tion. This results in unnecessary delays and inefficient use of staff in all of these organizations.

The solution which has already been proposed and in fact is currently being implemented is the JURIST Network. JURIST is an integrated system of wide area networks (WANS) and local area networks (LANs). This network solution when fully implemented in 5 years will allow Federal pretrial services officers to access these various databases through networked personal computers on their own desks. In the next 10 years, networking, improved access, and connectivity should produce the most dramatic improvements in terms of pretrial services offices' ability to gather information more efficiently and effectively.

Aside from database access, there have been a number of ingenious uses of technology to assist pretrial services offices in gathering data. Some offices have employed cellular phones and laptop computers in cell blocks and jails to speed the collection of data from the inception point, the initial interview with the defendant. Some offices have equipped pretrial services officers in the field with cellular phones so that they can respond immediately to requests for verification. In such cases, the field officer is contacted via the cellular phone and instructed to proceed to a particular location to verify information provided by the defendant which cannot be verified through any other means. After making the field visit the officer then relays the results of the investigation to the pretrial services office, again via the cellular phone, and thus the information is incorporated into the pretrial services report and ultimately the pretrial release recommendation.

Pretrial services administrators have come up with these and other innovative applications of technology. And there are, of course, as yet undetermined uses of available technologies which may benefit pretrial services organizations. Therefore, pretrial services managers need to be open to ideas and concepts which suggest new approaches to current procedures through the use of technology.

#### *Analyzing Data More Quickly and Subjectively*

Once data have been collected the pretrial services officer needs to analyze them by the most efficient means possible to maximize their effectiveness. Technology has assisted in this process basically through the development of software programs which are designed to apply pretrial release prediction devices in analyzing whether or not a particular defendant should be released. Of course, the strict application of pretrial release prediction devices, whether automated or not, is in itself problematic. The infamous Son of Sam murder case in New York City is an example of a situation in which a release prediction

device did not work. The local pretrial services agency treated the case like any other. The pretrial services agency computed that the defendant was employed, had no prior criminal record, and had a stable residence. The conclusion was none other than that the defendant should be released on his own recognizance, and an entire city thought the pretrial services people were crazier than the defendant. The point being simply that any such software, which analyzes information and basically formulates a recommendation, should be used prudently, and recommendations generated through the use of such software should be subject to review by an experienced pretrial services professional prior to their submission to judicial officers.

A number of systems have incorporated pretrial release prediction devices into pretrial services software packages. The PRETRIAL+ system developed by the Los Angeles County Pretrial Services Division is one such system. PRETRIAL+ incorporates three distinct levels of analysis to ensure objective and consistent recommendations.<sup>1</sup> These are an initial point scale device, a risk assessment device, and a supervision services assessment.

The initial point scale device is applied within the first 48 hours after arrest. There are separate point scales for felony defendants and misdemeanor defendants. The point scales were developed in Los Angeles County in cooperation with various criminal justice organizations within the county. The goal of this initial screening is to identify those defendants who have the highest likelihood of obtaining release, the proverbial "cream of the crop."

The PRETRIAL+ system provides a second level of screening on defendants still in custody by employing a risk assessment device sometime after the first 48 hours has expired. The risk assessment device was developed by taking an existing probation risk assessment device and modifying it for pretrial services use. That device was then used for 3 years in Los Angeles County Pretrial Services and then further refined. The goal of the risk assessment device is to identify risk factors were the defendant to be released. Los Angeles County has found that the most effective predictor of appearance for its defendants is not prior criminal record but a concept which it termed demonstrated responsibility.<sup>2</sup> The risk assessment device is intended as a tool for investigators, and they are not bound by the recommendations it contains.

The third level of assessment offered by PRETRIAL+ is a supervision services assessment. This assessment is performed on all defendants who remain in custody subsequent to application of the first two devices. It essentially identifies supervision services which would need to be part of any release condi-

tions recommended for the defendant, including drug testing, electronic monitoring, and level of supervision necessary to reasonably assure the defendant's appearance.

It is apparent that the software includes a comprehensive attempt to employ technology to accomplish a quick initial screen, a more indepth risk assessment, and finally development of a supervision plan to ensure that as many defendants as possible are released. For that reason the PRETRIAL+ system provides an excellent example of what can be achieved by employing this type of software.

### *Monitoring Defendants More Effectively*

The first two categories of technological advances deal with the pretrial release decision, while this category deals with pretrial services programs' employment of technology to monitor defendants' activities while on pretrial release. The most common of these technologies is probably the electronic bracelet. The use of electronic monitoring in pretrial services is rapidly expanding. In the Federal system, for example, there were virtually no defendants on electronic monitoring in fiscal year 1986, while during fiscal year 1989 there were 195 defendants placed on electronic monitoring as a condition of Federal pretrial release.<sup>3</sup> In fiscal year 1992 there were in excess of 700 defendants placed on electronic monitoring as a condition of Federal pretrial release.<sup>4</sup> The use of electronic monitoring as a condition of release is likely to continue to expand at the Federal, state, and local levels as jurisdictions attempt to balance public safety concerns with fiscal realities and limited jail space.

Employing supervision technologies, such as electronic monitoring, frequently creates a need for officers to visit defendants in their home. These visits can be to install equipment, to check or replace malfunctioning equipment, or to verify compliance. Any increase in field supervision for officers represents an increased risk to officers' safety. Fortunately, there are a number of emerging technologies which can assist officers in meeting these responsibilities safely. These include cellular and mobile phones, pagers, and non-lethal self-defense tools.

Cellular and mobile phones can greatly assist officers in performing field work more safely. Obviously, such devices make it easy to call for help, but they also allow an officer to assess a home situation immediately before an unannounced visit, for example, and therefore limit as much as possible the chance that the officer will walk into a potentially dangerous situation. Phones and pagers also allow officers to maintain a necessary degree of privacy. These devices enable officers to be available to respond to situations during nonbusiness hours—as they must be when

supervising electronic monitoring defendants—without giving out their personal phone numbers.

The expansion of nonlethal self-defense technologies is also a significant improvement for officers who must perform field work. No longer is officers' only alternative, provided their jurisdictional authority allows it, to carry firearms or not carry firearms as a means of self-defense. There are now other legitimate alternatives to carrying a firearm for self-defense.

Beyond the use of electronic monitoring, a number of technologies being employed by various pretrial services agencies around the country assist in supervising and monitoring pretrial releasees, including phone systems, onsite substance abuse monitoring systems, and portable substance abuse monitoring systems.

A wide range of telephone systems available provide essentially similar basic services in varying combinations, and in addition each system frequently offers its own unique features and benefits within its core package. These telephone systems are generally known as interactive voice message systems. Interactive telephone systems can be broken down into two basic functions: functions which can place calls and functions which can receive calls.<sup>5</sup>

Telephone system functions which can place calls are used in many pretrial services offices throughout the country. Those system functions essentially place calls to pretrial releasees at programmed intervals to remind them or instruct them to do such things as report to the office, attend their next scheduled court appearance, provide a urine specimen, or whatever other information officers need to convey to defendants. These system functions can also be used to monitor defendants' home detention or curfew conditions of release.

Telephone system functions which receive calls are also employed by several pretrial services agencies throughout the country. These receive call functions are useful for handling routine telephone reporting, taking messages while officers are unavailable, and providing to defendants instructions left by officers through the interactive features.

The Prince George's County Pretrial Services Agency employs a voice-based telephone system which was designed to help reduce the number of defendants who fail to appear in court. The system is designed to contact defendants to notify them of upcoming court dates, notify them to report for drug testing, and to notify them that they failed to report to pretrial services as directed. The system has been effective at reducing manpower needs by placing these calls electronically. Prince George's County has found this system most useful in reducing the failure to appear rate in that jurisdiction.

One final area of technology, designed to assist in supervising defendants in the community, is the development of field substance abuse testing equipment. Some examples include portable breathalyzer units, onsite drug testing equipment, and a number of disposable testing apparatus for both alcohol and drug use. These technologies assist officers in screening substance-abusing defendants and provide officers an opportunity to confront defendants with positive test results much more quickly than is possible using standard lab results. This allows officers to identify more quickly substance abuse and thus refer defendants to the proper treatment authorities. As the research has clearly demonstrated, responding to substance-abusing defendants quickly, either by getting successful treatment or having their release status revoked, will lessen the risk of criminal behavior or failure to appear while defendants are in the community.

### *Managing Operations More Efficiently*

Database management systems enable pretrial services programs to capture and manage the vast amounts of data they receive regarding defendants. These systems are essentially software programs which can operate on a wide range of host computer configurations. These configurations include a stand-alone personal computer, a network configuration of personal computers and servers, a Unix-based system with a multi-user configuration, or a mainframe computer also with a multi-user configuration. Regardless of the hardware or software which is employed, the goal of such systems is to assist pretrial services agencies in managing the wealth of data which is created by the performance of the pretrial services function.

The advantages of automating these data are numerous. First, is the ease with which the automated data can be accessed and retrieved in the event the defendant is arrested again or if another agency seeks information on a defendant who has been processed by the agency.<sup>6</sup> Secondly, automated pretrial services systems include the capability to produce reports on numerous topics which can assist the agency in better managing the wealth of data which it accumulates. Finally, automated systems allow for effective and equitable distribution of tasks among professional staff.

Retrieval of this information from manual files is impractical for all but the smallest pretrial services organizations. By automating this information, a pretrial services agency can access it in seconds, rather than the minutes, hours, or days it might take to access it from manual systems. In addition, an automated system allows the information to be accessed

from any office within the jurisdiction of the agency; this is a significant improvement for state and Federal pretrial services organizations, since they frequently have numerous offices within that jurisdiction.

Automated systems can quantify or structure the vast amounts of data into useful and manageable output reports. For example, the reduction of unnecessary pretrial detention is an area of concern for most pretrial services organizations. Therefore, an automated system could be designed to produce a list of defendants who are in pretrial detention, yet meet certain criteria which may indicate that a release package could be devised for them. These cases could be further investigated by pretrial services professionals and possibly be recommended for release. The advantage of automation is that those cases with virtually no chance for release need not be reviewed, allowing pretrial services officers to focus on those borderline cases in which they are most likely to have an impact. This maximizes the limited resources of the agency and allows those defendants who are likely to appear and not commit new offenses to be identified and possibly released.

Most pretrial service organizations, like other criminal justice and government agencies, are operating under strict budgetary constraints and limited resources. In that type of environment it becomes even more crucial to assure that all of the limited professional resources which are available are used properly and adequately. Overuse of some staff members could lead those individuals to burnout, while minimal use of other members of the staff is a luxury which cannot be justified with today's budgetary restraints. Automated systems allow pretrial services managers to monitor staff assignments quickly and ensure that work allocations are equitably distributed.

There are a wide range of pretrial services databases currently in operation. Many agencies have devised their own systems, and several organizations have developed systems which they are making available for purchase by other pretrial services agencies. These range from systems designed to manage or track cases to systems designed to process cases.

Case tracking systems are designed to meet basic data retrieval requirements and to assist in the management and tracking of pretrial services cases, including investigations, hearings, conditions, and supervision. An example of this type of system is the Probation and Pretrial Services Automated Case Tracking System (PACTS). PACTS is a Unix-based system which is currently in operation in Federal pretrial services offices. The goals of PACTS are to track investigation and supervision cases and target important action dates, such as due dates for investigations and case review dates for supervision cases; to

provide an on-line index of investigation and supervision cases for pretrial services and to replace the master card index in offices; to produce standard hard-copy reports, which will assist in managing an office on a day-to-day basis; to produce custom reports, which can be formulated by the PACTS technical support person, to meet the data needs of the district beyond the capabilities of the standard reports; and to provide information about the district's workload, a work unit's workload—as the group of officers being supervised by a supervisor—or an individual officer's workload.

Other systems are designed to process cases and assist pretrial services organizations in handling actual cases from initial interview through disposition. An example of this type of system is the Washington, D.C. Pretrial Services Agency System. The features of the D.C. Pretrial Services Agency System include processing the pretrial services report from interview through court hearings; issuance of letters to defendants advising them of court dates, bench warrants, address verifications, and supervision reporting notices; monitoring of supervision contacts; monitoring of urine test results; monitoring of curfew results; and the standard features associated with the tracking systems outlines above.

Whether a particular pretrial services agency requires a tracking system, a processing system, or some combination of both systems is a decision which can only be made by the appropriate administrator in consultation with the people who will become the users of that system. Neither system is inherently more effective than the other; they are merely designed to meet different goals. The key to the successful development or adoption of an automated system for pretrial services agencies is recognizing what the agency needs the system to do. Once an organization is clear on what the system should do, it can more effectively analyze the alternatives and either design a system or purchase an existing system which will meet the predefined needs of the organization.

Once an organization has a core system which meets the basic needs of the agency, there are still additional needs to consider, including such other activities as drug testing, electronic monitoring, and contracting

for substance abuse services. These are ancillary functions which will need to be added to most basic systems. This is especially relevant when purchasing an established system, since frequently there are additional charges for these added features.

### Conclusions

The technological advancements of the last 20 years have significantly and positively affected the delivery of pretrial services work. From electronic monitoring to cellular phones to improved database availability and access, the employment of technology in the field of pretrial services has benefited those administrators with the foresight to invest in the proper areas.

While it is difficult to predict what the future will hold, it can be said with some certainty that advancements will be made, and those advancements will have applications which will serve the interests of pretrial services organizations. However, the most effective way for the new emerging technologies to have applications in the field is for pretrial services professionals to be involved in the development of technologies which show promise. This will ensure that those technologies are developed with a full understanding of the role of pretrial services and that the final products will more effectively meet legitimate goals of the field.

### NOTES

<sup>1</sup>Information about PRETRIAL+ was obtained from David Davies, administrator, Pretrial Services Division, Los Angeles County.

<sup>2</sup>Demonstrated responsibility included established employment, paying rent, and similar factors which demonstrated the defendant's financial responsibility.

<sup>3</sup>Cadigan, "Electronic Monitoring in Federal Pretrial Release," 55 Federal Probation 29 (March 1991).

<sup>4</sup>Exact data for fiscal 1992 is of yet unavailable from the Administrative Office of the United States Courts.

<sup>5</sup>Generally these telephone systems can provide both call out and receive call functions or just one of those functions depending on the needs of the user.

<sup>6</sup>Of course, the agency must ensure that all confidentiality requirements are met prior to disclosure of any information gathered during a pretrial services investigation.