

PRETRIAL SERVICES OFFICERS

Did you know?

In the 94 federal judicial districts nationwide, U.S. pretrial services officers play an integral role in the administration of justice.

U.S. pretrial services officers balance the defendant's right to pretrial release with the court's concern that the defendant appear in court as required and not endanger the public.

U.S. pretrial services officers provide to the court two important services: *investigation* and *supervision*.

U.S. pretrial services officers are situated at a crucial place in the federal criminal justice process—the very start. In fact, officers often are the first court representatives defendants encounter after their arrest. In general, officers' mission is to investigate defendants charged with a federal crime, recommend in a report to the court whether to release or detain the defendants, and supervise the defendants who are released to the community while they await their day in court.

At the core of the day-to-day work of officers is the hallowed principle of criminal law that the defendant is presumed innocent until proven guilty. Officers must balance this presumption with the reality that some persons—if not detained before their trial—are likely to flee or to threaten others. Defendants may pose danger to a person, such as a victim or a witness, or to the community—that is, a threat that the defendant may engage in criminal activity. The officer's job is to identify persons who are likely to fail to appear or be arrested if released, to recommend restrictive conditions that would reasonably assure the defendant's appearance in court and the safety of the community, and to recommend detention when no such conditions exist. If the person does not pose such risk, the officer's mandate is to recommend to the court the *least restrictive* conditions that will reasonably assure that the person appears in court and poses no danger.

Officers deliver services that benefit the court, the community, and the defendant. Their responsibilities require them to work not only with federal judges, magistrate judges, and other court professionals, but with U.S. attorneys, defense attorneys, state and local law enforcement agents, and treatment providers. Their primary duties are briefly described below.

1. The officer conducts a pretrial services investigation, gathering and verifying important information about the defendant and the defendant's suitability for pretrial release.

The pretrial services investigation—which forms the basis of the officer's report to the court—calls for the officer to

interview the defendant and to confirm the information the defendant conveys through other sources. The investigation begins when the officer is first informed that a defendant has been arrested. The arresting or case agent calls the pretrial services office and, ideally, provides information about the defendant (such as the defendant's name, date of birth, social security number, the charges, the circumstances surrounding the arrest, and where the defendant can be interviewed).

Before interviewing the defendant, the officer runs a criminal history check and also, if possible, speaks to the assistant U.S. attorney about the defendant, the charges, and the government's position as to whether to release or detain the defendant. The purpose of the interview is to find out what the defendant has been doing, where the defendant has been living, and where the defendant has been working (or what the defendant's source of support is).

What the officer learns from collateral sources—from other persons, from documents, and from on-line research—may verify what the defendant said, contradict it, or provide something more. The officer's research, for instance, may include contacting the defendant's family and associates to confirm background information, employers to verify employment, law enforcement agencies to obtain a criminal history, financial institutions to obtain bank or credit card statements, and the motor vehicle administration to check the defendant's license and registration.

Conducting the investigation in time for the defendant's initial appearance in court can be quite a challenge. Sometimes the officer must wait for the arresting agents to make the defendant available or for the U.S. marshals to finish processing the defendant. Sometimes the defense counsel is interviewing the defendant or tells the defendant not to answer the officer's questions. Sometimes the officer must wait for an interpreter or for an interview room. Sometimes verifying information is hard because the defendant gives false information or a false identity or because persons able to verify information are not available.

The interview may take place in the U.S. marshal's holding cell, the arresting law enforcement agency's office, the local jail, or the pretrial services office. During the interview, the officer talks to the defendant in private if possible, remains objective while interacting with the defendant, and explains that the information will be used to decide whether the defendant will be released or detained. The officer does not discuss the alleged offense or the defendant's guilt or innocence. The officer also does not give legal advice to the defendant or recommend an attorney.

2. The officer prepares a report that helps the court make an informed release or detention decision.

In preparing the pretrial services report, the officer addresses two basic questions: Is the defendant likely to come back to court and stay out of trouble? If not, what conditions should the court impose to increase the likelihood? The officer considers both *danger* and *nonappearance* factors before making a recommendation to the court to release or detain the defendant. For example, the offense with which the defendant is charged and the defendant's substance abuse history may present both danger and nonappearance considerations. Factors such as prior arrests and convictions or a history of violent behavior raise danger concerns. Factors such as the defendant's immigration status and ties to family and community may influence nonappearance.

If no risk factors are evident, the officer recommends release on personal recognizance. If risk factors exist, the officer recommends either release with conditions or detention. Release conditions are tailored to the individual defendant, but always include the universal condition that the defendant not commit a federal, state, or local crime during the period of release. The officer may recommend, and the court may set, conditions to accomplish any number of goals, including *prohibiting* possession of weapons, contact with victims, or use of alcohol or drugs; *restricting* the defendant's freedom of movement or with whom the defendant associates; and *requiring* the defendant to seek or maintain employment, obtain education or training, or surrender a passport. If the defendant is likely to fail to appear, the officer may recommend a financial bond, which the defendant (or the defendant's family) forfeits if the defendant fails to appear in court as directed.

3. The officer supervises offenders in the community to make sure they comply with court-ordered conditions of release.

Officers supervise defendants released to the community until they begin to serve their sentence, the charges are dismissed, or they are acquitted. Generally, officers' supervision responsibilities are to: 1) monitor defendants' compliance with their release conditions; 2) manage risk; 3) provide necessary services as ordered by the court, such as drug treatment; and 4) inform the court and the U.S. attorney if the defendant violates the conditions.

When the officer receives a case for supervision, the officer reviews the information about the defendant, assessing any potential risk the defendant presents and any supervision issues that may affect the defendant's ability to comply with the release conditions. The officer selects appropriate supervision strategies and develops a supervision plan, which the officer modifies if the defendant's circumstances change.

The officer carries out risk management activities to help ensure that the defendant complies with the release conditions, as the examples in the chart on this page show. Among the officer's routine supervision tasks are monitoring the defendant through personal contacts and phone calls with the defendant and others, including family members, employers, and treatment providers; meeting with the defendant in the pretrial services office and at the defendant's home and job; helping the defendant find employment; and helping the defendant find medical, legal, or social services. Also, some officers—for instance, drug and alcohol treatment

Condition of release	Risk management activity
Maintain or commence an educational program.	<ul style="list-style-type: none"> ‡ Verify enrollment by contacting the registrar. ‡ Obtain copies of registration forms, attendance sheets, transcripts, or report cards. ‡ Contact the defendant at school. ‡ Verify attendance with relatives.
Abide by specified restrictions on personal associations.	<ul style="list-style-type: none"> ‡ Visit the defendant's home, job, or school unannounced. ‡ Communicate with other officers who supervise the defendant's codefendants to make sure there has been no contact. ‡ Contact law enforcement agents, the assistant U.S. attorney, or the defendant's family to monitor compliance.
Refrain from using drugs.	<ul style="list-style-type: none"> ‡ Give periodic, unannounced drug tests. ‡ If test results are positive, and drug treatment is not a release condition, ask the court to modify the release order to require treatment. ‡ Look for physical signs of drug abuse. ‡ Contact family, employers, and law enforcement agents to monitor compliance.

specialists or home confinement specialists--perform special supervision duties that require certain skills or expertise.

If the release conditions become unnecessary, the officer asks the court to remove them. If the defendant violates the release conditions, the officer notifies the court and the U.S. attorney. Depending on the circumstances, the officer may recommend that the court conduct a hearing to decide whether to modify the release conditions, revoke the defendant's bail, issue a bench warrant, or order the defendant detained.

4. The officer, at the request of the U.S. attorney, investigates whether the defendant is suitable for placement in a pretrial diversion program.

Pretrial diversion is an alternative to prosecution that diverts the defendant from prosecution to a program of supervision administered by the pretrial services officer. The U.S. attorney identifies candidates for diversion—persons who have not adopted a criminal lifestyle and who are likely to complete the program successfully. The pretrial services officer investigates the individual, recommends for or against placement, and recommends length of supervision and special conditions. Diversion is voluntary; the person may opt to stand trial instead. If the individual is placed in the program, he or she is supervised by a pretrial services officer. If the person successfully completes supervision, the government declines prosecution and makes no record of the arrest.