



BJA Bureau of Justice Assistance Bulletin

Criminal Courts Technical Assistance Project

by Joseph A. Trotter, Jr., Director, Criminal Courts Technical Assistance Project, American University

American University, in partnership with the National Legal Aid and Defender Association (NLADA), the Pretrial Services Resource Center, and the Justice Management Institute, has established a national technical assistance (TA) project to serve criminal courts and related adjudication system agencies. Funded by the U.S. Bureau of Justice Assistance (BJA), the Criminal Courts Technical Assistance Project (CCTAP) offers a range of services, including

- ❑ Onsite consultation to individual courts, judicial system agencies, and general government agencies by senior practitioner experts drawn from the national adjudication system community and senior staff of the consortium organizations.
- ❑ Multijurisdiction workshops for judicial system representatives on topics of common need or emerging interests nationally.
- ❑ A publications program of best-practice guides on topics pertaining to judicial system planning and operations produced by consortium members.
- ❑ A program of office-based TA, drawing on the staff experience and

specialized reference collections of the consortium organizations.

CCTAP operates in coordination with the BJA-sponsored Court Information Systems Technical Assistance Project, conducted by the National Consortium for Justice Information and Statistics (NCJIS), and with other U.S. Department of Justice (DOJ) and State Justice Institute-funded TA programs relevant to judicial system operations.

Subject-specific priorities for CCTAP services, particularly for workshops and publications, are established on the basis of periodic surveys of practitioners and through the project's liaison relationships with national membership organizations. Among these groups are the American Judges Association, the American Jail Association, the American Probation and Parole Association, the National Association for Court

The CCTAP Web site, www.american.edu/justice, contains a wide range of information on TA and training services provided by CCTAP and other American University-based TA programs.

Management, the National Criminal Justice Association, the National District Attorneys Association and its affiliated American Prosecutors Research Institute, and the National Association of State Judicial Educators. Liaison arrangements with other national associations, including those representing practitioners and agencies in the courts and corrections and law enforcement fields, are continually developed.

CCTAP's general goals are to

- ❑ Facilitate the development and conduct of accessible, fair, prompt, modern, efficient, and accountable criminal adjudication system processes.
- ❑ Promote the coordinated and efficient administration of justice.
- ❑ Enhance public confidence in the criminal adjudication system and its components.
- ❑ Stimulate networking among criminal courts and related agencies across the country to increase awareness of promising approaches to matters of common concern or emerging relevance to judicial system operations.

Requesting Technical Assistance

TA services can be requested by contacting Project Director Joseph Trotter at the CCTAP office at American University in Washington, D.C. Information submitted by requesters helps project staff discuss the type and scope of services that CCTAP may be able to provide, including the possibility of a joint approach with other TA providers. TA requests should include

- ❑ Background information on the agency requesting assistance.
- ❑ A detailed description of the problem or situation that prompted the request.
- ❑ The goals of the project and the timeframe for accomplishing those goals.
- ❑ Possible agencies or participants in the TA effort.
- ❑ Ancillary information, such as previous TA assignments conducted in the jurisdiction.

When onsite services are indicated, they will be designed and scheduled in collaboration with the requesting official. Requesters are encouraged to call the project office to discuss their needs and determine whether local goals can be met within CCTAP capabilities.

The CCTAP Web site, www.american.edu/justice, contains a wide range of information on TA and training services provided by CCTAP and other American University-based TA programs. Links are provided to other national criminal justice agencies and organizations, and the Web site provides an option to nominate a noteworthy court-community-related program for recognition on the site.

Resource Documents

CCTAP also responds to national concerns of judicial system agencies through its publication services. The

results of needs assessments and requests for CCTAP assistance are analyzed to determine service delivery priorities and to identify topics of broad interest among practitioners that can be addressed in CCTAP resource documents. These documents, developed by the project and partner organizations, are as follows:

- ❑ *Noteworthy Court-Community Relations Activities: A Compilation of State and Local Court Programs*
- ❑ *Delivering On-Site Technical Assistance: A Training Manual for Service Providers*
- ❑ *Pretrial Services Operating at the Optimum: A Self-Assessment Guide*
- ❑ *The Supervised Pretrial Release Primer*
- ❑ *Model Contract for Public Defense Services*
- ❑ *A Defender Guidebook to Technology Integration in Criminal Justice Information Systems*
- ❑ *Courts as Collaborators: Opportunities and Issues for Courts Involved in Justice System Innovations*
- ❑ *Improving Your Jurisdiction's Felony Caseload Process: A Primer on Conducting an Assessment and Developing an Action Plan*

The remainder of this bulletin presents detailed summaries of these documents.

Noteworthy Court-Community Relations Activities: A Compilation of State and Local Court Programs

This document was published to help judicial system officials develop ideas for new and innovative court-community relations programs (CCRP), and is designed to enhance the public image and understanding of the judicial process. The document is based on a national sample of 300 jurisdictions conducted by CCTAP staff and its sister project, the Courts Technical Assistance Project (CTAP),

which is sponsored by the State Justice Institute.

Over the past 20 years, many courts have become more customer oriented, instituting a wide range of services for those who become involved with the judicial process. These services include innovative court programs to

- ❑ Enhance public trust and confidence in the judicial system.
- ❑ Educate the public about the court system.
- ❑ Improve public safety.
- ❑ Provide job skills for offenders.
- ❑ Provide educational programs for juveniles in an effort to reduce juvenile crime.

To capture the diversity of noteworthy CCRPs, a survey was distributed to more than 300 general- and limited-jurisdiction court administrators that asked them to describe programs instituted by their courts to enhance the public image of the judicial system. A complementary survey was distributed to all state court administrators asking them to identify CCRPs in their states. Ninety-five responses were received that identified more than 400 programs.

Of the programs described in this document, 57 percent are from general-jurisdiction courts, 22 percent are from limited-jurisdiction courts, and 21 percent are programs described by the administrative offices of the courts. The geographic settings in which these programs operate are 40 percent urban, 38 percent rural, and 22 percent suburban.

More than 150 programs are listed with contact information. A detailed description is provided for 44 of these programs, almost half of which did not require outside funding. The following are examples of the types of programs listed:

- ❑ Legal constituent services.
- ❑ Specialty courts (teen, drug, family).

- ❑ Web site development.
- ❑ Defensive driving.
- ❑ Annual report and brochure publication.
- ❑ First appearance centers.
- ❑ Alternative dispute resolution.
- ❑ Education for divorcing parents.
- ❑ Self-help legal access.
- ❑ Family violence coordinating councils.
- ❑ Community service programs.
- ❑ Law days.
- ❑ Pro bono court education program.
- ❑ Video arraignment.
- ❑ Citizen review panels.

The *Noteworthy Court-Community Relations* publication is updated quarterly. The December 2000 issue is available free of charge from the project office or may be downloaded from the CCTAP Web site. CCTAP continually accepts nominations for its upcoming editions. If you would like to nominate a CCRP in your state, visit the CCTAP Web site and complete a nomination form or contact the project office.

Delivering On-Site Technical Assistance: A Training Manual for Service Providers

This training manual was developed to offer guidance to government grantees and contractors charged with delivering TA to state and local courts and criminal justice agencies. The manual is based on the experience of more than 20 years of partnership between DOJ and American University in providing judicial system-focused TA.

Although TA is delivered in a variety of ways including multijurisdiction workshops, office-based consultation and publication dissemination services, and hosted site visits, short-term onsite consultation is the most common image of TA. The short-term nature and remote location of the services

delivered in this form of TA make it the most expensive (on a single-jurisdiction basis) and complex in terms of quality control and impact. At the same time, it is the most welcome form of TA among agencies and jurisdictions requesting assistance from national providers. With proper planning, it has more potential than any other TA method for a substantial, near-term positive impact at relatively little cost. Furthermore, when combined with innovative service-delivery strategies and reporting and dissemination activities, this form of TA can have an impact far beyond the jurisdictions or agencies that are served directly.

This manual is designed to help service providers realize the full potential of onsite service delivery by discussing procedures and considerations that maintain quality control and maximize the impact of this form of TA. The manual is presented in 12 sections. Each section discusses one of the phases of analysis and activity entailed in carrying out a TA assignment and managing that intervention for maximum impact. Within the sections, examples of each stage of a typical onsite TA assignment are illustrated with documents from six recent CCTAP assignments.

Pretrial Services Operating at the Optimum: A Self-Assessment Guide

Pretrial service programs provide information and options to judicial officers who make decisions about the release or detention of individuals charged with criminal offenses. The implications of the release/detention decision can be significant. Unnecessarily detaining a defendant pending trial contributes to jail crowding. On the other hand, releasing a high-risk defendant without adequate supervision by the pretrial program can endanger public safety.

Given their important role, pretrial service programs should strive to operate at optimum levels. The *Self-Assessment Guide* is designed as a tool for pretrial program administrators to gauge the effectiveness of their programs through process measures of performance. It divides the key functions of pretrial service programs into categories and describes the best practice for each function. A self-administered scoring instrument is provided for administrators to rank their effectiveness in each function.

The functions of the first category, the Information Gathering and Assessment Process, include population targeting, the pretrial interview, records check, verification, risk assessment, and submission of the report to court. The functions of the second category, Monitoring and Followup, include supervision of release conditions, court date notification, location and return of defendants who fail to appear, and review of the pretrial custody population. The final section describes the Management Practices of a pretrial services program.

The Supervised Pretrial Release Primer

After a sudden surge in the county jail population, the policy committee of a California pretrial service agency calls a meeting. It agrees to enlarge the agency's supervised release program to increase the pretrial release rate by providing more options to local courts.

Under multimillion dollar legislation to alleviate jail crowding, local officials in New York draft proposals for state criminal justice funding. Ten counties request and receive grants to expand programming to include supervised release.

Overcrowding is the subject of ongoing jail litigation in an urban Georgia jurisdiction. To analyze the crowding problem, the county engages a consultant, who recommends instituting a supervised release program to reduce unnecessary pretrial detention.

The real events described above point to recent crisis conditions in American jails caused by overcrowding. Jail crowding is not a phenomenon confined to any particular geographic region of the United States. It is a national problem. Consequently, in cities and counties across the country, task forces and committees are investigating the causes of crowding and proposing remedies.

One alternative is supervised pretrial release (SPR), in which defendants are released on their promise to adhere to court-ordered nonfinancial conditions, with compliance monitored by pretrial services or other criminal justice staff. SPR is a vital component in the spectrum of pretrial alternatives, one that permits the safe release of higher risk defendants (i.e., those deemed ineligible for release on personal recognizance) who are ineligible for less restrictive options. In addition, SPR can play a central role in jail crowding-reduction plans.

SPR is not a miracle cure for crowding. Jail population levels are determined by various factors, some of which are not subject to the influence of pretrial services. Moreover, absent careful planning and controls, SPR may be inappropriate for defendants who could be released on less restrictive conditions. As a result, SPR should not be implemented without first analyzing current pretrial release and detention practices. If implemented as part of a comprehensive approach to effectively utilize costly jail beds, SPR can contribute to reducing detention rates without jeopardizing community safety or the integrity of the legal process.

This resource document is a practical guide to supervised release. With a question-and-answer format, it highlights the development of supervised release and program planning considerations. Topics include

- ❑ The origin of SPR.
- ❑ National standards for pretrial programs.

- ❑ Supervised release versus other alternatives.
- ❑ Conditional release without supervision.
- ❑ The advantages of active supervision.
- ❑ Problems associated with the use of SPR.
- ❑ Kinds of defendants targeted for SPR.
- ❑ Types of conditions currently used.
- ❑ The amount of staff supervision needed.
- ❑ Screening defendants.
- ❑ Referrals to SPR.
- ❑ Information gathering.
- ❑ Eligibility for SPR.
- ❑ Presenting information to the court.
- ❑ Violation of SPR conditions.
- ❑ Evaluation studies.
- ❑ A checklist for new programs.

Model Contract for Public Defense Services

This document was published to help counties and states interested in contracting for indigent defense services identify and address issues regarding cost, accountability, workload, and quality of services. The model contract implements national standards set by the National Legal Aid Defenders Association (NLADA) and the American Bar Association (ABA).

National standards governing indigent defense express a preference for a full-time independent public defender program (preferably at the state level) wherever caseloads are adequate to justify it as a cost-effective alternative to exclusive reliance on assigned counsel. Many jurisdictions use a third type of indigent defense delivery mechanism, either alone or as a supplement to a public defender and/or assigned counsel system, by contracting with nongovernmental providers of criminal defense services. These defense providers generally fall into two categories: private lawyers, splitting their

time between contract indigent defense and fee-paying clients, and full-time non-profit indigent defense organizations similar to a governmental public defender agency.

Jurisdictions vary in the extent to which these contracts reflect the elements of competent and ethical legal representation in different types of cases and link the contract price to such specifications. Serious problems can arise when the contracts ignore performance requirements and simply specify a flat rate for handling all or a portion of a county's indigent defense caseload. Problems are compounded when such contracts are awarded to the lowest bidder. Such a situation can result in the following:

- ❑ Contractors taking on more cases than they can competently handle.
- ❑ Conflicts of interest.
- ❑ Failure to perform essential legal work, such as investigation, client interviews, or discovery, or to pursue a trial where warranted.
- ❑ Improper pretrial or sentencing decisions.
- ❑ Cases delayed or reversed because of high caseloads or attorney incompetence.
- ❑ Conviction of the innocent.

The problems of overloaded attorneys and conflicts of interest have led courts to invalidate low-bid contracts and order increased funding or lower caseloads.¹

The *Guidelines for Negotiating and Awarding Governmental Contracts for Criminal Defense Services* was developed over 4 years to address the emergence of low-bid contracts. The guidelines were adopted by NLADA in 1984 and by ABA in 1985. These and other NLADA and ABA national standards prohibit awarding contracts for public indigent defense services on the basis of competitive bidding and specify the components of competent and ethical representation.

The model contract is designed to be the practical implementation of the NLADA/ABA contracting guidelines and other national standards to promote uniform quality of services. It includes background on the issue of contracting, the model contract itself, a digest of cases in which courts have intervened to curtail excessive defender caseloads, and commentary on national and state standards. Among the elements of the model contract are workload limits, procedures for exceeding the limits, special provisions for complex cases, support staff ratios, separate funds for investigations, oversight by an independent board, requirements for attorney experience, qualifications, training and supervision, and administrative provisions covering areas such as recordkeeping, reporting, liability, insurance, subcontracting, and termination or renegotiation.

To facilitate customization by local jurisdictions, the model contract and supporting materials are available online at www.american.edu/justice. See also *Contracting for Indigent Defense Services: A Special Report*, BJA, April 2000 (NCJ 181160).

A Defender Guidebook to Technology Integration in Criminal Justice Information Systems

This document was published to help indigent defense agencies and planners of integrated criminal justice information technology systems design integration initiatives. It addresses the benefits and challenges of including indigent defense agencies therein.

Federal, state, and local funding agencies are investing billions of dollars in criminal justice technology integration. Funding agencies recognize the operational and budgetary efficiency of building a single shared technology system rather than multiple redundant systems that cannot communicate with one another. BJA and the Office

of Justice Programs (OJP) have devoted attention and resources to defining the key elements of technology integration and sponsoring training, TA, and publications to promote uniform implementation.

One area in which uniformity in technology integration is lacking is the inclusion of indigent defense agencies. However, because the concept of technology integration has spread to include not just apprehension and enforcement agencies but also the adjudication function, local jurisdictions have been quick to realize the efficacy of establishing a single integrated criminal justice information network that includes indigent defense, courts, prosecution, pretrial services, probation, and parole. OJP and the U.S. Attorney General have made it a top priority to ensure that technology integration should provide all state and local stakeholders, including indigent defense, with immediate access to the information needed to resolve criminal cases. They emphasize the need to include indigent defense in every aspect of technology integration, including planning, implementation, and funding.

As a recent OJP publication explained: "Technology integration and information sharing between indigent defense and other justice system agencies, as well as parity of technological resources, reduce redundancy, improve the efficiency of the entire system, and promote earlier disposition of cases and more appropriate, individualized, and effective sanctioning of offenders." (*Improving Criminal Justice Systems Through Expanded Strategies and Innovative Collaborations: Report of the National Symposium on Indigent Defense*, OJP, March 2000, NCJ 181344).

The *Defender Guidebook* presents 10 defender interests served by participating in integrated systems, including data quality, parity of technological resources with other justice agencies, increased efficiency, time and cost

savings from prompt access to materials such as fingerprints and booking photos, prompt access to case information, paper reduction, more efficient calendaring and processing of documents and evidence, legal and factual research, real-time court transcripts, and the opportunity to work with other justice system entities.

The *Guidebook* also identifies challenges to defender participation in integrated technology systems, including legal and privacy issues, organizational resistance, technical issues, staffing, systems development and planning, and security. It includes examples of implementation documents relating to defender participation.

For additional information, see *Indigent Defense and Technology: A Progress Report* (BJA, November 1999, NCJ 179003), *Report of the National Task Force on Court Automation and Integration* (BJA, June 1999, NCJ 177601), and the NCJIS technology-integration Web site SEARCH, at www.integration.search.org, which describes integration projects at the state and local level throughout the country.

Courts as Collaborators: Opportunities and Issues for Courts Involved in Justice System Innovations

Collaborative programs that involve the courts with other agencies and with units of the justice system and beyond to seek community improvement by emphasizing education, employment, health, and housing concerns have been growing in number during the past decade.

To learn how courts may most effectively participate in collaborative improvement programs, this document examines several projects involving collaboration among courts, other justice system institutions, and local

communities. The projects vary in purpose and scope, but share at least two common features: each is designed to address a problem or set of problems defined as important by members of the community and by court and other justice system leaders, and each is forward looking, incorporating approaches to dispute resolution and problem solving that go beyond the core court functions of adjudication and imposition of sentence.

Three of these innovations—community courts in Portland, Oregon; Hartford, Connecticut; and Minneapolis, Minnesota—strive to improve the handling of low-level criminal offenses. In sum, the collaborative community court programs developed in each city place strong emphasis on

- Rapid processing and adjudication of cases that are eligible for the community court.
- Use of sanctions, such as short terms of community service, that are not Draconian but that have a direct impact on the offender and are visible to the community.
- Provision of a broad range of social services such as mental health and substance abuse treatment for the offender.

Nevertheless, each of these three community court programs came into existence through markedly varying processes of collaboration. In Portland, the program was started largely through the efforts of the district attorney's office, with the local court a willing but less active partner. In Hartford, the city manager's office formed a strong working relationship with the state court administrator's office to get the program started. The entire city was included within the geographic boundaries of its community court, and a somewhat different list of offenses became eligible for adjudication there. In Minneapolis, the key

relationship was forged between the local court and a retired judge from a nearby county.

Improving Your Jurisdiction's Felony Caseflow Process: A Primer on Conducting an Assessment and Developing an Action Plan

The effectiveness of felony case-flow management has a great impact on the quality of justice administered in a jurisdiction, public perceptions of the quality of justice and community safety, and public trust and confidence in the justice system. It also has a major impact on the cost of system operations—including costs of juror and witness time, police officers' court appearances, and jail construction, renovation, and operation.

Case-flow management is the process by which courts and other agencies manage the time and events involved in the movement of cases through the judicial system. With many different organizations and institutions responsible for at least some part of the felony case-flow process, it is little wonder that few jurisdictions have developed effective systems for managing the process. Yet, some jurisdictions do a better job of this than others. Jurisdictions that have developed effective felony case-flow management systems reap benefits that accrue to the public at large, to the individuals (including victims, witnesses, and jurors) involved in the cases, and to the courts and justice system agencies that make up the criminal justice system.

This document outlines an analytical framework to help practitioners and policymakers analyze the felony case-flow processes and initiate needed

changes. It discusses threshold issues that court and justice system leaders must resolve before undertaking an assessment—what kinds of information should be collected, approaches to obtaining the data, and key issues to be addressed in analyzing the information. The last section focuses on the products of the assessment.

One of the striking findings from empirical research on the subject is that no single model of a successful delay reduction program or case-flow management system exists. Successful courts and criminal justice systems have had widely varying levels of available resources, are organized in many different ways, use various types of case screening procedures and case assignment systems, and differ in the extent to which they use modern computer technology.

Despite this diversity, successful courts and justice systems share some characteristics. Perhaps most important, successful programs are relatively comprehensive. Rather than seeking a miracle cure, jurisdictions that have succeeded at felony case-flow management have incorporated several components into their systems. Furthermore, they have refined and maintained the systems through a great deal of hard work.

Notes

1. For example, *State v. Smith*, 140 Ariz. 355, 681 P.2d 1374 (1984), finding a low-bid contract in violation of the NLADA/ABA contracting guidelines for failing to take into account the attorney's workload and competence, the complexity of each case, and failing to provide separate funding for investigators, paralegals, and law clerks. See also *People v. Barboza*, 29 Cal. 3d 375, 627 P.2d 188 (1981), and *People v. Mroczko*, 35 Cal. 3d 92, 672 P.2d 835 (1983).

For Further Information

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Resource documents are available on request from the American University CCTAP office or may be downloaded from the project's Web site: www.american.edu/justice.

For more information about Bureau of Justice Assistance (BJA) grants and programs, contact:

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Clearinghouse staff are available Monday through Friday, 8:30 a.m. to 7 p.m. eastern time. Ask to be placed on the BJA mailing list.

U.S. Department of Justice Response Center

1-800-421-6770 or 202-307-1480

Response Center staff are available Monday through Friday, 9 a.m. to 5 p.m. eastern time.

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