

The Perspective of Federal Pretrial Services

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OCTOBER 30, 1989, the day I was appointed a U.S. pretrial services officer for the Middle District of Florida, was one of the proudest days of my professional life. It did not matter that very few people I knew had ever heard of pretrial services, nor did it bother me when I had to continually explain that I am not an attorney, and I don't work for the FBI. Most people knew it was a federal job, so it had to be good. And they were right! Except it turned out to be better than good in so many ways. I experienced quality training, national travel, ample salary progression and benefits, and a chance to work with the finest probation and pretrial services officers in our profession. I felt like I had found a career that challenged me and gave me purpose.

Separate pretrial services agencies were in their infancy, but among us there was an enthusiasm for our mission that was hard to explain. The (now retired) chief who hired me, Thomas Primosch, was crystal clear that we needed to reduce unnecessary detention. The national message was the same, frequently quoting Chief Justice Rehnquist in *U.S. v. Salerno*: "In our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." However, I soon learned that, although the mission was clear, the challenges to accomplish it were many. Limited access to interview defendants and tight time constraints often prevented officers from providing verified, written bail reports at the initial appearance. This remains problematic in many districts even today, as they face the challenge of reducing unnecessary detention.

In this article, I will share some career

experiences to commemorate the 100-year celebration of the federal probation system (augmented in 1982 by the addition of pretrial services). I will open with training I received shortly after my appointment.

Although my initial training academy differed in some ways from the Federal Probation and Pretrial Academy currently in place in Charleston, SC, at FLETC (Federal Law Enforcement Training Center), I vividly remember my two weeks of training at MITAGS (Maritime Institute of Technology and Graduate Studies) in Maryland. Unlike today, the training did not include firearms and defensive tactics, because back then each district decided what type of safety training and tools they would provide. In our district at that time, we were authorized to use pepper spray (*Oleoresin Capsicum*) and defensive tactics but had not yet started a firearms program. MITAGS had enthusiastic presenters on presentence investigations, supervision (pretrial and post-conviction), and pretrial investigations. The presenters were larger than life to me, sharing experiences and offering encouragement and inspiration to the new officers. I wondered if I could ever reach that level of knowledge and experience. But most importantly, the two weeks at MITAGS made me feel welcomed into the federal probation and pretrial services family; I knew I had an extensive support network in place, and as technology advanced in our system, my means of making use of that support system expanded as well.

Technology was not what it is now, but commitment to the pretrial mission seemed universal at all ranks in our system. If we

needed assistance with a criminal records check in another part of the country, we would call the district in that area. In most cases, we would receive a prompt response, because in pretrial, time is always of the essence. I remember one occasion where the chief in that district conducted the records check himself, because his officers were busy and he knew we needed the information quickly. Another example of this type of collaboration occurred when I was helping the Tampa office process a high number of arrests. Chief Primosch was also in the office that day. His job, in my opinion, was to manage the budget, address personnel issues, and handle other administrative tasks. However, that day he picked up two interview folders and joined the officers conducting interviews. His actions, as well as those of the helpful chief who conducted the collateral records check, told me everything I needed to know about the importance of reducing unnecessary detention through submission of timely, verified pretrial services reports. Chief Primosch also brought some humor to a stressful day as we were about to start our interviews when he said, self-deprecatingly, "I don't do this. I pick out carpet colors." He was also involved in national pretrial services initiatives and inspired me to follow suit.

In 1998, I was selected to serve as a trainer with the Federal Judicial Center at the two-week new officer academy at the Thurgood Marshall Building in Washington, D.C., which was also the location of the Administrative Office of the U.S. Courts (AO). For approximately four years, I served as an adjunct instructor, teaching pretrial

services investigation and supervision training. I liked this training location, as it allowed new officers to experience the AO, walk to the Supreme Court, enjoy our nation's capital, and fully appreciate the importance of our contributions to the federal judiciary. As an adjunct instructor, I interacted with officers from all over the country and learned about the challenging circumstances they faced in their districts. For example, in Hawaii, officers had to travel by plane to do some of their home visits! During the winter months in Montana, government cars had to be plugged into an electrical source so they would start. Some officers had prompt and easy access to conduct pretrial interviews, while in other districts, officers had limited access to defendants. I was fascinated by the creativity officers used to overcome local challenges to accomplish the pretrial mission. I also had the opportunity to meet some engaging and skilled officers from Arizona. Little did I know that we would meet again.

In 2004, I was promoted and transferred to the District of Arizona as a deputy chief U.S. pretrial services officer. I was stationed in Tucson and quickly learned of the challenges that a large, high-volume pretrial services office faced. For example, the number of interview rooms was insufficient to accommodate attorneys and pretrial interviews prior to initial appearance. I was assigned to work with the U.S. Marshals Service to develop and implement new booking procedures for agents to bring newly arrested defendants (shackled) through the courthouse and into newly renovated pretrial services office space for interviews. This was a policy introduced by (now retired) Chief U.S. Pretrial Services Officer Patsy Bingham and approved by the court. We realized it was not an ideal situation, but it was the only workable solution to fulfill our pretrial statutory duty in United States Code 18:3154(1) to "Collect, verify, and report to the judicial officer, prior to the pretrial release hearing, information pertaining to the pretrial release of each individual charged with an offense..." We were so grateful to the Marshals Service and federal agents for adapting to this new booking process, as it established a culture where pretrial services officers consistently conducted interviews and submitted written bail reports at the initial appearance. This permitted magistrate judges to make release decisions at initial appearance, when appropriate, based upon verified information in the pretrial services reports. This booking process eventually changed years

later when the Marshals Service renovated their space to include more interview rooms.

As the pretrial interviewing process improved, so did the supervision work and officers' reliance on technological advances in the field, which I observed firsthand. Early in my career, fieldwork involved paper maps and a reliance on good directions by defendants. I spent a significant amount of time trying to find residences in rural areas, often searching for non-existent road signs. I knew where local payphones were located and would check in periodically with the home office using our toll-free phone number. When I transferred to Arizona and went with tech-savvy officers in the field, I witnessed skilled use of technology. We had Motorola GPS systems in each vehicle for officers to use and locate defendant residences for mapping. Thereafter, we progressed to smartphones with that mapping technology. On one occasion, I accompanied a supervision officer who was conducting a home contact with a defendant who had an alcohol restriction. We observed a large pile of beer cans overflowing his trash bin outside of the residence. As I considered how to clearly document what we observed to accurately report this to the court, the officer pulled out a digital camera and took multiple pictures. Huh? I guess that will work too ... times had changed.

My interest in contributing to pretrial services on a national level continued, and I was fortunate to be selected to join the National Pretrial Services Working Group in 2005, led by Office of Probation and Pretrial Services Program Administrator Trent Cornish. It consisted of a small group of chiefs, deputy chiefs, supervisors, and an officer and was designed to provide advice and feedback regarding national pretrial practices and policies. Oversight of this working group transferred to Data Analysis Branch Chief Tim Cadigan in 2008. New members were added, including a management analyst. Both AO leaders were effective in keeping the working group members on task and navigating us through the bureaucracy at the AO to accomplish our goals.

In 2007, I was promoted to chief U.S. pretrial services officer in the District of Arizona. I was appointed chair of the working group the following year and served in that position until the working group ended in 2013. Members of the group were enthusiastic about our mission and well versed in pretrial statutes, principles, and national policy. Due to national budgetary concerns, the first working

group initially focused on cost containment recommendations. As a border district representative, I was given the opportunity to coordinate with the five Southwest border districts on the appropriateness of workload credit for investigations on non-status (no legal immigration status) defendants. The Administrative Office proved to be quite reasonable and receptive to our recommendations for continued workload credit once they understood the legal and practical use of pretrial reports for this population.

The working group moved on to other pressing topics, such as updating national policy, including the alternatives to detention, supervision, and investigation monographs. These updates required much coordination with team members for review and feedback. PPSO relied on members of the working group for field experience in establishing practical and realistic policies and procedures. Our meetings consisted of lively discussions and debate as we shared various philosophical and regional perspectives to achieve consensus, since we understood our decisions affected all districts. Everyone who presented to the working group on subjects such as PACTS (Probation and Pretrial Case Tracking System), workload measurement, evidence-based practices, a pretrial risk assessment instrument, and the national training academy at FLETC wanted our unfiltered views, and they got them! The working group ensured that pretrial and legal principles, as well as research, drove our decision-making process. When my term on the working group ended in 2013, I was proud of our legacy but happy to be able to focus more intently on work in Arizona.

The most satisfying memory of my career in the District of Arizona was leading our dedicated staff to earn the Proclamation for Excellence from the Administrative Office, the Probation and Pretrial Services Office, and the Judicial Conference Committee on Criminal Law. The award was in recognition of "work found to be exceptional, achieving among the highest rates of adherence to statutory, rule and policy requirements of all offices reviewed throughout the year." It was presented during a Chiefs and Deputies Administrative Meeting in April 2019 by John Fitzgerald, Chief of PPSO, and Amanda Garcia, PPSO Program Oversight Branch, to the District of Arizona Pretrial Services Office after achieving the highest compliance score (97 percent) of the 24 probation and pretrial services offices reviewed by PPSO in fiscal year 2018. It was

our agency's report card, and it informed our court that our staff fulfilled our statutory and policy requirements to reasonably ensure public safety. It was the culmination of five years of focused effort to improve our performance after a less-than-stellar program review in 2013. After the 2013 review, we enlisted the help of some of those subject matter experts on the review team and the Administrative Office for guidance and training in areas where we sought to improve. Our national probation and pretrial services family gave us as much help as we needed, and our dedicated staff and management team tirelessly did the

rest. I will forever be thankful for their efforts. I was fortunate to work my last two years before retirement seeing those officers and supervisors as they fielded questions from other districts on how to improve aspects of their pretrial supervision work. In five years, we went from being the ones asking for help to being the ones giving it.

Over the 31 years of service in federal pretrial services, 14 years as a chief, I had the pleasure of working with many U.S. probation and pretrial services professionals who encouraged and inspired me. I am also grateful to the judicial officers who supported my

local and national efforts to achieve excellence in pretrial services. Now, over four years into retirement, I could not tell you if release rates have increased or decreased since my departure. I am confident, though, that our federal probation and pretrial services system still consists of the finest officers in the country. Over my career, wherever I went, if there was a U.S. probation or pretrial services officer, I knew I had a friend. I miss those friends—but love my pension and the freedom it affords. God speed to all my federal colleagues who do such important *work*.