

(2) The chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title is authorized, subject to the general policy established by the Director and the approval of the district court, to procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code. The staff, other than clerical staff, may be drawn from law school students, graduate students, or such other available personnel.

(b) The chief probation officer in all districts in which pretrial services are established under section 3152(a) of this title shall designate personnel appointed under chapter 231 of this title to perform pretrial services under this chapter.

(c)(1) Except as provided in paragraph (2) of this subsection, information obtained in the course of performing pretrial services functions in relation to a particular accused shall be used only for the purposes of a bail determination and shall otherwise be confidential. Each pretrial services report shall be made available to the attorney for the accused and the attorney for the Government.

(2) The Director shall issue regulations establishing the policy for release of information made confidential by paragraph (1) of this subsection. Such regulations shall provide exceptions to the confidentiality requirements under paragraph (1) of this subsection to allow access to such information—

(A) by qualified persons for purposes of research related to the administration of criminal justice;

(B) by persons under contract under section 3154(4) of this title;

(C) by probation officers for the purpose of compiling presentence reports;

(D) insofar as such information is a pretrial diversion report, to the attorney for the accused and the attorney for the Government; and

(E) in certain limited cases, to law enforcement agencies for law enforcement purposes.

(3) Information made confidential under paragraph (1) of this subsection is not admissible on the issue of guilt in a criminal judicial proceeding unless such proceeding is a prosecution for a crime committed in the course of obtaining pretrial release or a prosecution for failure to appear for the criminal judicial proceeding with respect to which pretrial services were provided.

(Added Pub. L. 93-619, title II, §201, Jan. 3, 1975, 88 Stat. 2086; amended Pub. L. 97-287, §3, Sept. 27, 1982, 96 Stat. 1136.)

AMENDMENTS

1982—Pub. L. 97-267 substantially revised section by substituting provisions relating to the organization and administration of pretrial services for provisions relating to organization and administration of pretrial services agencies which vested the powers of five such agencies in the Division of Probation of the Administrative Office of the United States Courts and the powers of the remaining five agencies in Boards of Trustees, set forth requirements for membership and terms of office with respect to such Boards, and provided for appointment of Federal probation officers in agencies governed by the Division of Probation, and chief pretrial service officers in agencies governed by Boards of Trustees, which designated officers would be respon-

sible for the direction and supervision of their respective agencies.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 3154. Functions and powers relating to pretrial services

Pretrial services functions shall include the following:

(1) 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, including information relating to any danger that the release of such person may pose to any other person or the community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title.

(2) Review and modify the reports and recommendations specified in paragraph (1) of this section for persons seeking release pursuant to section 3145 of this chapter.

(3) Supervise persons released into its custody under this chapter.

(4) Operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including residential halfway houses, addict and alcoholic treatment centers, and counseling services, and contract with any appropriate public or private agency or person, or expend funds, to monitor and provide treatment as well as nontreatment services to any such persons released in the community, including equipment and emergency housing, corrective and preventative guidance and training, and other services reasonably deemed necessary to protect the public and ensure that such persons appear in court as required.

(5) Inform the court and the United States attorney of all apparent violations of pretrial release conditions, arrests of persons released to the custody of providers of pretrial services or under the supervision of providers of pretrial services, and any danger that any such person may come to pose to any other person or the community, and recommend appropriate modifications of release conditions.

(6) Serve as coordinator for other local agencies which serve or are eligible to serve as custodians under this chapter and advise the court as to the eligibility, availability, and capacity of such agencies.

(7) Assist persons released under this chapter in securing any necessary employment, medical, legal, or social services.

(8) Prepare, in cooperation with the United States marshal and the United States attor-

ney such pretrial detention reports as are required by the provisions of the Federal Rules of Criminal Procedure relating to the supervision of detention pending trial.

(9) Develop and implement a system to monitor and evaluate bail activities, provide information to judicial officers on the results of bail decisions, and prepare periodic reports to assist in the improvement of the bail process.

(10) To the extent provided for in an agreement between a chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, or the chief probation officer in all other districts, and the United States attorney, collect, verify, and prepare reports for the United States attorney's office of information pertaining to the pretrial diversion of any individual who is or may be charged with an offense, and perform such other duties as may be required under any such agreement.

(11) Make contracts, to such extent and in such amounts as are provided in appropriation Acts, for the carrying out of any pretrial services functions.

(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.

(13) If approved by the district court, be authorized to carry firearms under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe.

(14) Perform, in a manner appropriate for juveniles, any of the functions identified in this section with respect to juveniles awaiting adjudication, trial, or disposition under chapter 403 of this title who are not detained.

(15) Perform such other functions as specified under this chapter.

(Added Pub. L. 93-619, title II, § 201, Jan. 3, 1975, 88 Stat. 2087; amended Pub. L. 97-267, § 4, Sept. 27, 1982, 96 Stat. 1137; Pub. L. 98-473, title II, § 203(b), Oct. 12, 1984, 98 Stat. 1984; Pub. L. 101-647, title XXXV, § 3576, Nov. 29, 1990, 104 Stat. 4929; Pub. L. 102-572, title VII, § 701(b), title X, § 1002, Oct. 29, 1992, 106 Stat. 4515, 4521; Pub. L. 104-317, title I, § 101(b), Oct. 19, 1996, 110 Stat. 3848; Pub. L. 110-406, § 15(a), Oct. 13, 2008, 122 Stat. 4294; Pub. L. 111-174, § 5, May 27, 2010, 124 Stat. 1216.)

AMENDMENTS

2010—Pars. (14), (15). Pub. L. 111-174 added par. (14) and redesignated former par. (14) as (15).

2008—Par. (4). Pub. L. 110-406 inserted “, and contract with any appropriate public or private agency or person, or expend funds, to monitor and provide treatment as well as nontreatment services to any such persons released in the community, including equipment and emergency housing, corrective and preventative guid-

ance and training, and other services reasonably deemed necessary to protect the public and ensure that such persons appear in court as required” before period at end.

1996—Pars. (13), (14). Pub. L. 104-317 added par. (13) and redesignated former par. (13) as (14).

1992—Par. (1). Pub. L. 102-572, § 1002, inserted before period at end “; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title”.

Pars. (12), (13). Pub. L. 102-572, § 701(b), added par. (12) and redesignated former par. (12) as (13).

1990—Par. (1). Pub. L. 101-647 substituted “community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release.” for “community” and all that followed through end of par. (1).

1984—Par. (1). Pub. L. 98-473, § 203(b)(1), which directed the amendment of par. (1), by striking out “and recommend appropriate release conditions for each such person” and inserting in lieu thereof “and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release” could not be executed because such language did not appear. See 1990 Amendment note above.

Par. (2). Pub. L. 98-473, § 203(b)(2), substituted “section 3145” for “section 3146(e) or section 3147”.

1982—Pub. L. 97-267 substituted “relating to pretrial services” for “of pretrial services agencies” in section catchline, in par. (1) struck out provisions relating to agency files concerning the pretrial release of persons charged with an offense, the establishment of regulations concerning the release of such files, and the access to and admissibility of these files, in par. (4) struck out provision relating to the cooperation of the Administrative Office of the United States Courts and the approval of the Attorney General and provision not limiting this paragraph to those facilities listed thereunder, in par. (5) inserted provisions that pretrial services may provide the United States Attorney as well as the court with information described under this paragraph and that such information also includes any danger that a person released to the custody of pretrial services may come to pose to any other person or the community, in par. (9) substituted provisions that pretrial services shall develop and implement a system to monitor and evaluate bail activities, provide information on the result of bail decisions, and prepare periodic reports to assist the improvement of the bail process for provisions that pretrial services agencies would perform such other functions as the court might assign, and added pars. (10)–(12).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Jan. 1, 1993, see section 1101 of Pub. L. 102-572, set out as a note under section 905 of Title 2, The Congress.

DEMONSTRATION PROGRAM FOR DRUG TESTING OF ARRESTED PERSONS AND DEFENDANTS ON PROBATION OR SUPERVISED RELEASE

Pub. L. 100-690, title VII, § 7304, Nov. 18, 1988, 102 Stat. 4464, provided that:

“(a) ESTABLISHMENT.—The Director of the Administrative Office of the United States Courts shall establish a demonstration program of mandatory testing of criminal defendants.

“(b) LENGTH OF PROGRAM.—The demonstration program shall begin not later than January 1, 1989, and shall last two years.

“(c) SELECTION OF DISTRICTS.—The Judicial Conference of the United States shall select 8 Federal judicial districts in which to carry out the demonstration program, so that the group selected represents a mix of

districts on the basis of criminal caseload and the types of cases in that caseload.

“(d) INCLUSION IN PRETRIAL SERVICES.—In each of the districts in which the demonstration program takes place, pretrial services under chapter 207 of title 18, United States Code, shall arrange for the drug testing of defendants in criminal cases. To the extent feasible, such testing shall be completed before the defendant makes the defendant’s initial appearance in the case before a judicial officer. The results of such testing shall be included in the report to the judicial officer under section 3154 of title 18, United States Code.

“(e) MANDATORY CONDITION OF PROBATION AND SUPERVISED RELEASE.—In each of the judicial districts in which the demonstration program is in effect, it shall be an additional, mandatory condition of probation, and an additional mandatory condition of supervised release for offenses occurring or completed on or after January 1, 1989, for any defendant convicted of a felony, that such defendant refrain from any illegal use of any controlled substance (as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]) and submit to periodic drug tests for use of controlled substances at least once every 60 days. The requirement that drug tests be administered at least once every 60 days may be suspended upon motion of the Director of the Administrative Office, or the Director’s designee, if, after at least one year of probation or supervised release, the defendant has passed all drug tests administered pursuant to this section. No action may be taken against a defendant pursuant to a drug test administered in accordance with this subsection unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Secretary of Health and Human Services may determine to be of equivalent accuracy.

“(f) REPORT TO CONGRESS.—Not later than 90 days after the first year of the demonstration program and not later than 90 days after the end of the demonstration program, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the demonstration program and include in such report recommendations as to whether mandatory drug testing of defendants should be made more general and permanent.”

§ 3155. Annual reports

Each chief pretrial services officer in districts in which pretrial services are established under section 3152(b) of this title, and each chief probation officer in all other districts, shall prepare an annual report to the chief judge of the district court and the Director concerning the administration and operation of pretrial services. The Director shall be required to include in the Director’s annual report to the Judicial Conference under section 604 of title 28 a report on the administration and operation of the pretrial services for the previous year.

(Added Pub. L. 93–619, title II, § 201, Jan. 3, 1975, 88 Stat. 2088; amended Pub. L. 97–267, § 5, Sept. 27, 1982, 96 Stat. 1138.)

AMENDMENTS

1982—Pub. L. 97–267 substituted provisions that each pretrial services officer or chief probation officer shall prepare an annual report to the chief judge of the district court and to the Director concerning the administration and operation of pretrial services and that the Director must include in the Director’s annual report to the Judicial Conference a report on the administration and operation of the pretrial services for the previous year for provisions relating to the Director’s annual report to Congress, the contents of the Director’s fourth annual report, and that on or before the expiration of the forty-eighth-month period following July 1, 1975, the Director would file a comprehensive report

with Congress concerning the administration and operation of the amendments made by the Speedy Trial Act of 1974, including his views and recommendations with respect thereto.

§ 3156. Definitions

(a) As used in sections 3141–3150 of this chapter—

(1) the term “judicial officer” means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to detain or release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court of the District of Columbia;

(2) the term “offense” means any criminal offense, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress and is triable in any court established by Act of Congress;

(3) the term “felony” means an offense punishable by a maximum term of imprisonment of more than one year;

(4) the term “crime of violence” means—

(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another;

(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; or

(C) any felony under chapter 109A, 110, or 117; and

(5) the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(b) As used in sections 3152–3155 of this chapter—

(1) the term “judicial officer” means, unless otherwise indicated, any person or court authorized pursuant to section 3041 of this title, or the Federal Rules of Criminal Procedure, to detain or release a person before trial or sentencing or pending appeal in a court of the United States, and

(2) the term “offense” means any Federal criminal offense which is in violation of any Act of Congress and is triable by any court established by Act of Congress (other than a Class B or C misdemeanor or an infraction, or an offense triable by court-martial, military commission, provost court, or other military tribunal).

(Added Pub. L. 93–619, title II, § 201, Jan. 3, 1975, 88 Stat. 2088; amended Pub. L. 98–473, title II, §§ 203(c), 223(h), Oct. 12, 1984, 98 Stat. 1985, 2029; Pub. L. 99–646, § 55(i), Nov. 10, 1986, 100 Stat. 3610; Pub. L. 103–322, title IV, § 40501, Sept. 13, 1994, 108 Stat. 1945; Pub. L. 104–294, title VI, § 607(i), Oct. 11, 1996, 110 Stat. 3512; Pub. L. 105–314, title VI, § 601, Oct. 30, 1998, 112 Stat. 2982.)

AMENDMENTS

1998—Subsec. (a)(4)(C). Pub. L. 105–314 added subpar. (C) and struck out former subpar. (C) which read as fol-