

A high-angle photograph of a pretrial interview taking place in a jail cell. Two men are seated at a round wooden table. The man on the left is wearing a dark suit and tie, while the man on the right is wearing an orange inmate jumpsuit and has a white face mask pulled down to his chin. On the table are several stacks of papers, a laptop, and a smartphone. The background consists of light-colored cinder block walls. A red fire alarm pull station is visible on the wall to the left. A black stand with a light or camera is positioned to the right of the man in the orange jumpsuit.

# The Pretrial Interview

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AN ESSENTIAL FUNCTION FOR  
PRETRIAL SERVICES AGENCIES



Spurgeon Kennedy  
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Courts

## Standard 4.1 (a). Purposes of a Pretrial Services Agency

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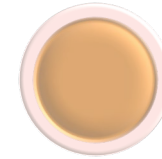
### Assist

Judicial officers make prompt, fair, and informed bail decisions that encourage pretrial release, promote future court appearance, and enhance public safety



### Provide

The Court with practical, individualized monitoring, supervision, and support options for persons that require oversight while on pretrial release.



### Measure

Track and report pretrial outcome and performance measures to gauge the behavior of persons released pretrial and identify areas for improvement in the pretrial system.

# Standard 4.1 (b). Core Functions



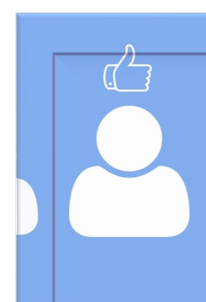
Collect and verify individual background and criminal history information for all individuals eligible for pretrial release



Monitor and supervise release individuals in accordance with court-imposed conditions. Those options may include behavioral health services.



Assess an individual's likelihood of future court appearance and crime-free behavior while on pretrial release, using valid outcome assessments shown by research to predict the likelihood of pretrial success.



Notify the Court, prosecution, and defense of an individual's compliance with release conditions and recommend appropriate changes to pretrial release status.



Use an individual's background interview and investigation, criminal history, outcome assessment results, and other information to recommend appropriate conditions of pretrial release.



Review the status of detained individuals to determine their eligibility for pretrial release.



4.1 (b)(i): The pretrial services agency should complete investigations on all individuals charged with a criminal offense who are in custody at the time of their initial court appearance and eligible for bail consideration according to controlling statute... At a minimum, the investigation should include a pretrial interview with the individual, verification of the information given in the interview, and a complete criminal history (national, state, and local) check.

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Purposes of the pretrial interview:

- 1) provide information needed for the agency's validated outcome assessment ;
- 2) gather information on mitigating or aggravating factors relevant to the agency's bail recommendation and the court's bail decision; and
- 3) obtain demographic and other information about the individual for effective supervision.

*Commentary, Standard 4.3(a)*



Interview

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*“The interview provides context to information found in an arrest record or provided by a screening tool or risk assessment instrument. The interview also provides an opportunity to gather essential facts such as contact information. Information obtained in an interview may also help identify opportunities for diversion/problem-solving courts, and an interview may be required by statute or as part of a specific risk assessment tool.”*

National Institute of Corrections (2017). *A Framework for Pretrial Justice: The Essential Elements of an Effective Pretrial System and Agency*. (p. 36).



Interview

# Why NAPSA Endorses the Pretrial Interview

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1. Identifies mitigating and aggravating circumstances that can inform the agency's recommendation and court's bail decision.
2. Encourages the adjusted actuarial assessment model the Standards encourage (Standard 4.1 (b) (iii)).
3. Required by most outcome assessments.
4. Identifies pro-social activities (like employment) that should not be obstructed by supervision conditions. (4.6 (b)).





## Why NAPSA Endorses the Pretrial Interview

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5. Encourages the supportive services model of supervision.
6. Offers time and opportunity to complete brief screens designed to identify key areas for support (e.g. CAGE, Columbia Suicide risk screening, AC-OK screen for MH, SUD, trauma).
7. Offers a well-trained interviewer a jumping off point to engage in Motivational Interviewing techniques to assist and empower the interviewee in identifying resources that may assist with health and well-being.



## Why NAPSA Endorses the Pretrial Interview

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8. Allows instruction about individual rights pretrial and presumption of innocence in the pretrial phase.
9. Offers agencies the chance to explain informed consent and explore releases of information targeted to enhance information gathering and aid in resource linkages.
10. Allows identification of barriers (not just risk factors) people face and discussion of how barriers can be overcome through services/support.



## Why NAPSA Endorses the Pretrial Interview

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11. In jurisdictions using sequential bail review, provides a record of pertinent information that may inform pretrial staff of "material change" of circumstance so that bail may be reviewed.
12. Provides an opportunity to express humanity and offer appropriate linkages for assistance. This can foster better outcomes related to procedural fairness and justice.
13. Creates an avenue for individuals to request help from pretrial agencies.



# Excuses for not Conducting the Pretrial Interview

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1. My outcome assessment doesn't require one.
2. Logistical issues getting to individuals before the bail hearing.
3. "It takes too long."
4. Verification of interview information is hard to accomplish before bail setting.
5. Lack of staff.
6. Lack of services discourages an identification of needs.
7. "My court doesn't want the information."



- Inform individuals that the interview is voluntary and that they can decline the interview or not answer specific questions.
- Do not ask about the current charge or the circumstances of the individual's arrest (except arrest location).
- Share interview information with the Court, prosecution, and defense for the purpose of pretrial decision-making.
- Use interview information to develop a bail recommendation to the court.
- Do not preclude individuals from a recommendation because they opted out of the pretrial interview or decline to answer certain questions.
- Secure the individual's written consent before sharing interview information with other stakeholders.





# The Pretrial Interview: An Essential Function for Pretrial Services Agencies

