



**District of Columbia
Pretrial Services
Agency**

Handbook on Procedure

April 1979

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ACQUISITIONS

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DISTRICT OF COLUMBIA
PRETRIAL SERVICES AGENCY
FOREWORD

Of all the processes that occur from the time of arrest through termination of an arrestee's responsibility to "the system" the Bail setting proceeding is the most vital. The decisions made at these hearings have traditionally been made in a matter of minutes and have been based on little information. They have often resulted in the "punishment" of people who are ultimately never convicted.

New laws and constant changes being made to those laws have focused much more attention on the bail setting hearing. The Agency's role in this proceeding is critical. It supplies the information based upon which rational, informed decisions can be made. Its responsibility to be fast, accurate, and efficient cannot be overstated.

The description of the structure and functions of the District of Columbia Pretrial Services Agency as contained in the following pages is by necessity generic. It is extremely difficult to reduce to writing the operating procedures of any organization let alone one which must adjust almost daily to meet the new "crises" of a constantly changing system.

The procedures and policies described herein reflect the work of many talented people who have assisted the Agency since its inception. The changes since I first began as a law student interviewer for the D.C. Bail Project in 1963 are astounding. It

It is my hope and belief that the future staff members of the D.C. Pretrial Services Agency will carry out their duties with the same dedication and enthusiasm as their predecessors.

April, 1979

Bruce Beaudin
Director

DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

HANDBOOK ON PROCEDURES

Introduction

In the early 1960's a serious look at traditional bail practices in the United States resulted in what has been termed the beginnings of the "bail revolution." An experiment conducted in the Manhattan Borough of New York City demonstrated that alternatives to traditional surety-bail release were not only effective but also less discriminatory of the economically deprived.

In 1963, the Junior Bar Section of the Bar Association of the District of Columbia, published a report on the Administration of Bail.^{1/} That report served as the catalyst for a resolution by the Judicial Conference of the District of Columbia Circuit to support the creation of an experimental program.^{2/} By November of 1963 the Ford Foundation had awarded a grant to Georgetown University Law Center to establish such a program and the D.C. Bail Project was born.

1/ Committee on the Administration of Bail of Junior Bar Section of the Bar Association of the District of Columbia, The Bail System of the District of Columbia (1963) Report.

2/ "Be it Resolved, by the Judicial Conference of the District of Columbia Circuit this 9th day of May 1963 that:

The Committee on Bail Problems of this Conference be re-appointed for an additional term of one year, with authority to organize and supervise, in consultation with the courts and committing magistrates concerned, an experimental program in the area of selective pre-trial release of defendants on their personal bond and that the Committee on Bail Problems report to the 1964 Judicial Conference on the results of such experiment." Adopted: May 9, 1963.

During the two and one-half year life of the Project alternative approaches to traditional financial release were developed and tested. In this period, 5,144 defendants were interviewed, 2,528 were recommended for release on personal recognizance and 2,166 (85% of those recommended) were released on their own recognizance.^{3/}

As the Project drew near its close activities in Congress were already under way to enact into law a bill which would provide for alternatives to money bond. The Bail Reform Act of 1966, Pub. L. No. 89-465, 18 U.S.C. §3146 et seq., was signed into law by the President on June 22, 1966 to take effect 90 days thereafter. It revised the existing bail practices in all federal courts by providing for a presumption of release on recognizance with other alternatives listed as available only in those cases where a magistrate concluded such a release would not "reasonably assure the appearance of the person for trial."^{4/}

The Congress was mindful that the courts of the District of Columbia were federal courts and that the Bail Reform Act would be applicable to that jurisdiction which processed many "state" type crimes (e.g., Robbery, Burglary, etc.) as well as strictly federal crimes. Concurrent with hearings on the new bail bills the Congress also conducted hearings on a little-noticed bill providing for the creation of an agency to assist the courts in the District of Columbia

^{3/} See generally, Bail Reform In The Nation's Capital; Final Report of the D.C. Bail Project; Georgetown University (1966).

^{4/} 18 U.S.C. §3146 (1966).

with the implementation of the Bail Reform Act. On July 26, 1966, the President signed into law the District of Columbia Bail Agency Act to become effective whenever monies were appropriated.^{5/} The statutes applied to persons charged not only under the U.S. Code, but under the D.C. Code as well. On November 7, 1966, the staff of the D.C. Bail Project became the staff of the District of Columbia Bail Agency.

During the next few years the criminal justice system had difficulty adjusting to the new laws governing release. A committee was formed at the direction of the Judicial Council of the District of Columbia to study the operations of the Bail Reform Act in the District of Columbia. For three successive years, 1968, 1969 and 1970, the Committee submitted reports to the Conference. Shortcomings in both the operations of the laws and the agencies who were principally concerned with the implementation of those laws were identified. The Department of Justice and the Congress began to consider amendments both to the Bail Reform Act and the Bail Agency Act.

Finally, on July 29, 1970, after months of extensive hearings on matters involving the entire spectrum of the criminal justice system, the District of Columbia Court Reform and Criminal Procedure Act of 1970^{6/} was signed into law.

5/ P.L. No. 89-519 D.C. Code §23-901 et seq. (1966).

6/ P.L. No. 91-358, D.C. Code §11-101 et seq. (1970).

This new law governing release procedures in the District of Columbia, included a controversial preventive detention section.^{7/} The law also contained other modifications of the original Bail Reform Act. For the first time committing magistrates were directed to consider the potential danger or threat to the safety of the community as well as the prospective risk of failure to appear as criteria for release.^{8/}

Contained in that law was an amendment to the original D.C. Bail Agency Act. It mandated many new services and tripled the size of the Agency staff and budget.^{9/}

Finally, in September of 1978, after two years of extensive hearings on proposed amendments to the D.C. preventive detention statute and as an adjunct to those hearings a new law changing the name of the Agency to the District of Columbia Pretrial Services Agency was signed by the President.^{10/}

Today the Pretrial Services Agency carries out its functions with the assistance of a sophisticated automated system (ABA-DABA), a budget of approximately \$1,250,000 and a staff of approximately 50 professional staff and student interns. The manner of its service delivery is described in the following pages.

^{7/} D.C. Code §23-1321 et seq. (1970).

^{8/} Id.

^{9/} The services are described in the statute which is reproduced as Appendix A.

^{10/} P.L. 95-388, September 27, 1978).

Authority and Purpose

In the District of Columbia two separate court systems (federal and local) responsive to different laws exercise jurisdiction over crimes committed within the District's boundaries. When a person is arrested and charged with an offense the question of release is governed by two separate statutes.^{1/} In order to assist both court systems with implementation of the applicable statutes, the Congress created the D.C. Bail Agency in July of 1966.^{2/}

In 1970, in the Court Reform and Criminal Procedure Act the Agency was given many new functions to perform and its size increased threefold.^{3/} On September 27, 1978 the President signed into law a change of title for the Agency.^{4/}

The Agency functions under the direction of a five member Executive Committee constituted as follows:

- the Chief Judge (or designate) of the United States Court of Appeals for the District of Columbia Circuit;
- the Chief Judge (or designate) of the United States District Court for the District of Columbia Circuit;

1/ For federal offenses pending in the United States District Court for the District of Columbia the provisions of the Bail Reform Act of 1966 (18 U.S.C. §3146 et seq.) apply. For local offenses pending in the Superior Court of the District of Columbia the provisions of the Court Reform and Criminal Procedures Act of 1970 (D.C. Code §23-1321 et seq.) apply.

2/ P.L. 89-519, D.C. Code §23-901 et seq., July 26, 1966.

3/ P.L. 91-358, D.C. Code §23-1301 to 1308, (1970).

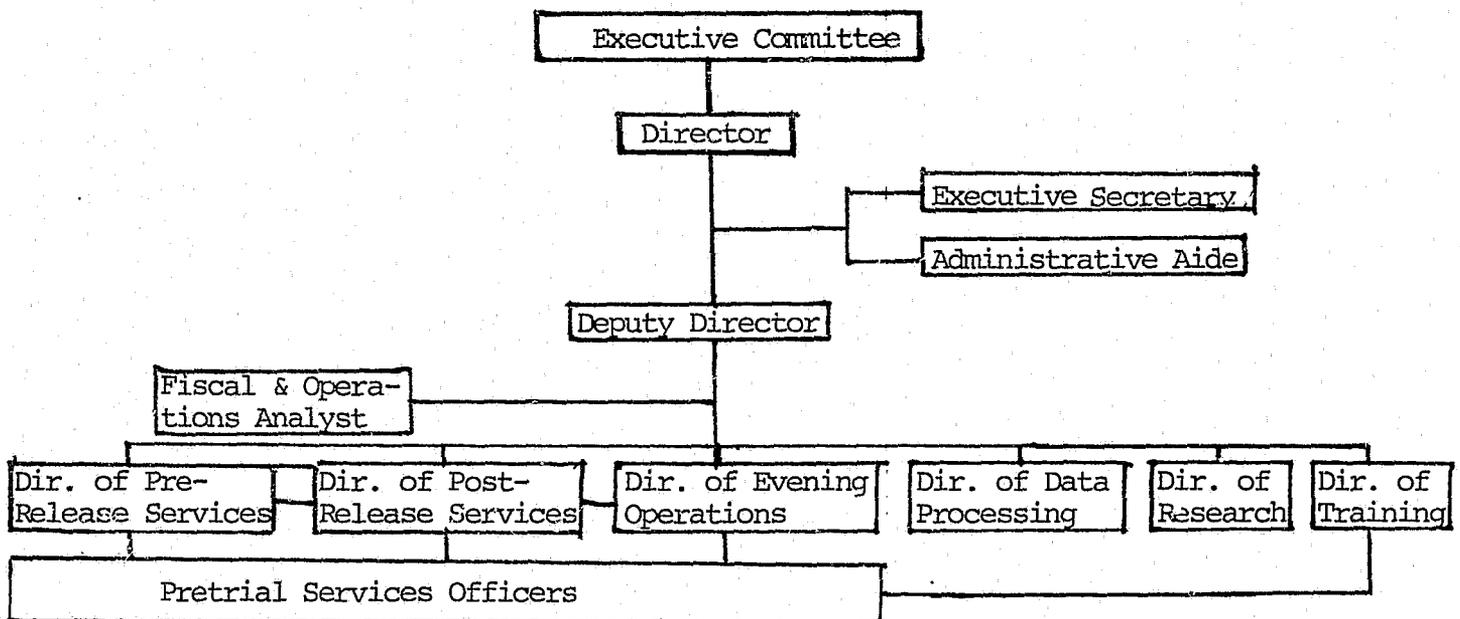
4/ P.L. 95-388, (September 27, 1978). The name of the Agency was changed from D.C. Bail Agency to D.C. Pretrial Services Agency.

- the Chief Judge (or designate) of the District of Columbia Court of Appeals;
- the Chief Judge (or designate) of the Superior Court of the District of Columbia; and
- a fifth member selected by the Judges (at present, the Dean of Georgetown University Law Center who was the initial Director of the D.C. Bail Project).

The Agency receives its funding support from Congress through the appropriation process unique to the District of Columbia. Budget estimates are approved by the Executive Committee of the Agency and submitted to the Mayor and City Council for their consideration.

The daily operations of the Agency are supervised by the Director who is appointed subject to the pleasure of the Executive Committee and who must be a member of the District of Columbia Bar. In Addition, all other Agency personnel also serve at the pleasure of the Committee.

Organizational Chart



Under its present governing statute (D.C. Code §23-1301-1308) the Agency is responsible for providing various services to criminal justice system officials and accused citizens alike. These services include:

1. Providing information to judges to assist them in fashioning appropriate conditions for pretrial release;
2. Providing information to police to assist them in releasing citizens charged with relatively minor offenses on Citation release;
3. Providing information to court officials on the pretrial conduct of releasees (compliance and non-compliance with conditions);
4. Notifying releasees of all court appearances;
5. Assisting releasees in securing various social services;
6. Coordinating the efforts of third party custody organizations; and
7. Providing appropriate support for various additional criminal justice undertakings.

Purpose

In light of the above-listed statutory directives it is the primary mission of the Agency to facilitate the use of appropriate non-financial release alternatives by developing alternatives that will insure appearance as required and the safety of the community. These alternatives, in order to be used with confidence by the judges, must undergo constant evaluation with respect to their efficacy in producing releasees for the many court appearances required of them and in minimizing the incidence of crime committed during the release period. Since the applicable laws provide for presumptive release on

the least restrictive conditions possible it is the task of the Pretrial Services Agency to promote practices and alternatives that will permit judges to implement these laws in a just and equitable manner.

To accomplish its mission - the promotion of the concept of pretrial release on the least restrictive conditions appropriate - the Agency has established the following objectives in the priority in which they are listed:

- (1) Provide the officials of the courts located in the District of Columbia (federal and local) with background data concerning persons charged with crimes to promote fair and just pretrial release determinations;
- (2) Provide law enforcement officials considering Citation releases with background data and recommendations concerning persons charged with minor offenses;
- (3) Provide officials of the courts located in the District of Columbia (federal and local) with appropriate pretrial release recommendations that take into account individual and community rights as well as community tie information;
- (4) Assist pretrial releasees in understanding and complying with court-ordered conditions of release including court appearances and crime avoidance by providing various support services;
- (5) Provide appropriate court officials with information about the pretrial conduct of those persons released on conditional release to enable those officials to apply appropriate sanctions for violations of court-ordered conditions and to permit the fashioning of appropriate alternatives at the time of sentence;
- (6) Maintain and refine an integrated, accurate, and efficient record system which permits the retention, retrieval, and delivery of timely and complete information to court officials and pretrial releasees and at the same time provides the data necessary for effective management decision making;

- (7) Provide an organizational climate that insures continued effectiveness in carrying out statutory and Agency objectives in the most cost effective manner and insures continued development of employee skills;
- (8) Assure the initiative for improving pretrial services in the District of Columbia and promote compliance with the laws.

In order to fulfill these objectives we have established the following goals which we will strive to measure, evaluate, and modify on a regular basis. (The goals to be reached are listed separately under each objective.)

Objective #1. Provide the officials of the courts located in the District of Columbia (federal and local) with background data concerning persons charged with crimes to promote fair and just pretrial release determinations.

- Interview all persons charged with serious crimes and eligible for pretrial release whose cases appear on the Superior Court and U.S. District Court lock-up lists each day. (Eventually, juveniles, and others charged with relatively minor offenses might be included depending upon available resources);
- Interview all Grand Jury Original Cases, all bond review requests, all "walk-ins" and those defendants in jail and the hospital who are brought to court to answer to new charges;
- Verify all pertinent information obtained during the interviews alluded to above;
- Prepare written reports (as a matter of record) for all cases presented to the courts;
- Provide Agency representation in appropriate courts when resources permit.

Objective #2. Provide law enforcement officials considering Citation releases with background data and recommendations concerning persons charged with minor offenses.

- Interview all persons referred by the police for prospective citation releases;
- Verify all pertinent information obtained during the interviews alluded to above.

Objective #3. Provide officials of the courts located in the District of Columbia (federal and local) with appropriate pretrial release recommendations that take into account individual and community rights as well as community tie information.

- Develop options to meet legal and practical requirements of release and safety, i.e., insuring to the degree possible, return to court and minimization of crime during release consistent with the legal presumption of release on the least restrictive conditions possible;
- Monitor pretrial detainee population and encourage reevaluation of pretrial status in all such cases;
- Advise appropriate officials of any changes in circumstances that might affect pretrial detainee status;
- Identify those defendants who pose substantial threat of danger or flight and seek full scale hearings on pretrial detention according to law;
- Encourage and coordinate third party custody activities by various community groups.

Objective #4. Assist pretrial releasees in understanding and complying with court-ordered conditions of release including court appearances and crime avoidance by providing various support services.

- Conduct a post release review session in every case carefully describing the conditions to be met, the best manner for meeting them, and the services that can be supplied or "brokered" by the Agency;
- Notify all third party custodians (individual or organizational) of the court dates of their respective clients;
- Identify those releasees not in compliance with conditions and make every effort to bring them into compliance;
- Monitor the courts to determine who fails to appear and attempt to persuade them to return voluntarily.

Objective #5. Provide appropriate court officials with information about the pretrial conduct of those persons released on conditional release to enable those officials to apply appropriate sanctions for violations of court-ordered conditions and to permit the fashioning of appropriate alternatives at the time of sentence.

- Identify all rearrest cases and report compliance with conditions both to the original magistrate and the magistrate considering the new case;
- Report violations of conditions to appropriate court officials in accordance with agreed-upon standards;
- Provide Agency representation at all hearings;
- Provide summary compliance reports to judges at Status Hearings in misdemeanor cases, Preliminary Hearings in felony cases, and at Arraignment in felony cases;
- Provide summary compliance reports to presentence writers and to sentencing judges in the cases of those releasees convicted of crimes;
- Assist third party custody organizations with record-keeping design, condition compliance report preparation, explanation of hearing procedures, etc.;
- Identify all failures to appear and report Agency efforts to persuade the defendant to return;
- Provide summary compliance reports to appropriate officials for diversion eligibility considerations;
- Comply with Agency regulations on release of information.

Objective #6. Maintain and refine an integrated, accurate, and efficient record system which permits the retention, retrieval, and delivery of timely and complete information to court officials and pretrial releasees and at the same time provide the data necessary for effective management decision making.

- Maintain and enhance the automated system (ABA DABA);
- Maintain sufficient manual records to provide minimal back up for the automated system;

- Review regularly statistical trends and formats;
- Design programs to provide empirical data to be used in problem analyses such as evaluation and modification of the Agency recommendation standards;
- Design and improve programs that will provide the data necessary to monitor individual program and personnel performance;
- Design programs that will make information used in decision making available for research and evaluation.

Objective #7. Provide an organizational climate that insures continued effectiveness in carrying out statutory and Agency objectives in the most cost effective manner and insures continued development of employee skills.

- Canvass regularly appropriate agencies for their perceptions of Agency program value and ideas for improvement;
- Review regularly organizational information systems to insure the optimal use of resources both Agency and system wide;
- Encourage introspective analysis through the proper use of staff meetings, management meetings, committees, projects, etc.;
- Monitor weekly budget expenditures and personnel allocation;
- Review regularly and evaluate basic organizational goals to meet the changing needs of the system, the Agency, the defendants, and the community;
- Evaluate regularly the performance of all staff personnel on the basis of known and published criteria which effect organizational goals to insure accountability of both staff and management;
- Encourage staff at all levels to participate in creating an atmosphere that is conducive to constructive criticism and candid and open exchange of ideas;

- Develop and provide the training necessary to enable all staff to achieve individual potential;
- Promote opportunities for staff to achieve both professional and personal growth;
- Develop appropriate recruitment programs with local universities to insure implementation of Agency policies in hiring the best qualified applicants;
- Monitor and evaluate implementation of Agency equal opportunity and affirmative action guidelines.

Objective #8. Assume the initiative for improving pretrial services in the District of Columbia and promote compliance with the laws.

- Analyze national and local trends and law revision proposals in light of Agency experience;
- Analyze the quality and propriety of current services in light of empirical data developed by the Agency;
- Participate with sister agencies in improving current pretrial practices and in the planning process of the District's criminal justice system;
- Develop contacts with media, local university programs, and various community groups to promulgate pretrial concerns;
- Support and encourage the development of programs and practices that will improve the pretrial performances of defendants and insure attention to the rights of the accused;
- Support the elimination of compensated sureties and the overbroad use of monetary conditions in the District of Columbia;
- Foster the recognition of Pretrial Services as a distinct discipline in the Criminal Justice System.

Spheres of Operation

The functions assigned to the District of Columbia Pretrial Services Agency by the Court Reform and Criminal Procedures Act of 1970 can be described in three broad categories. First, the Agency is the information arm of the court in the initial bail determination. In that role the Agency interviews all arrestees brought before the Court, evaluates their potential for pretrial release, and submits reports with recommendations to the bail-setting magistrates. Second, the Agency supervises those persons granted a non-surety form of release and reports violations of pretrial release conditions to the Court and the U.S. Attorney or Corporation Counsel. Finally, the Agency assists pretrial releasees in securing employment or necessary medical or social services.

This section will examine the flow of defendants through the pretrial release system and describes briefly the functioning of the various sections within the Agency. Although the process described focuses on Superior Court, it should be remembered that the Agency also serves the U.S. District Court.

A. From Arrest to Presentment

Although arrest procedures vary somewhat depending on place of arrest and charge most arrestees are first brought to the local substation in the district where the arrest occurred. It is there that they are formally "booked." This is usually the first opportunity to secure release. At this time the arrestee may elect to call a bondsman and post what is known as "station-house" bond. "Station-house" bond is simply a list of bail amounts for various charges and is approved by the Board of Judges.

If the arrest was for a crime punishable by less than one year in jail the arrestee may qualify at this point for a "citation" release. A citation to appear in court at a later date may be issued by the arresting officer after an Agency employee interviews the arrestee over the phone.

If the arrestee does not secure release in either of these two ways he is transported to the central holding facility of the particular law enforcement agency involved e.g. the Metropolitan Police Department's Central Cellblock and kept there until transferred to the appropriate court cellblock on the next day that the Court is in session.

In some instances, Agency Pretrial Services Officers (hereafter PSO's) conduct interviews in the police cellblock prior to the transfer of arrestees to the court cellblocks. In most cases the interviews are conducted in the morning in the court cellblocks.

During the morning hours the arrestee is interviewed by a number of organizations. The Agency representative records information concerning community ties and prior court contact. A representative from the Substance Abuse Agency (SAA) passes out bottles, collects urine samples, and interviews all detainees. A representative from the Criminal Justice Act Office (C.J.A.) inquires about the arrestee's financial status to determine eligibility for court-appointed counsel. After the appointments are made late in the morning defense counsel go to the cellblock for a brief discussion with their client. Prior to appointment of counsel

representatives from various third-party custody organizations interview some arrestees who may not otherwise qualify for release.

In another part of the court complex an Assistant U.S. Attorney known as the "Reviewing Assistant" or "Papering Assistant" is going over each case with the arresting officer to decide whether there will be a prosecution and if so, on what charge. In about 20% of the cases the reviewing assistant will decide not to prosecute. Those cases will be "no papered." This simply means that the U.S. Attorney's Office chooses not to charge the arrestee before the Court.

While much of this activity is going on Agency PSO's are verifying information collected earlier in the morning. Verification is accomplished by calling references provided by the arrestee and other criminal justice agencies. If the references cannot be reached by telephone or are not present in court an attempt may be made to contact neighbors who might be able to assist in the verification process.^{1/}

^{1/} For a brief period (1974-1976) with the assistance of a Law Enforcement Assistance Administration grant the Agency was able to keep some Agency staff on the street and verification was often completed by the "Street Unit." Although highly effective, continued funding was not approved by Congress and the Unit was terminated.

Any present involvements with other criminal justice agencies are thoroughly investigated and the results of the investigations are included in the report to the court. This necessitates contacting the probation officer, parole officer, or bondsman, if any, as well as checking the Agency's files to determine compliance with release conditions in pending cases and record of appearances at court proceedings.

When all the data has been gathered it is entered via a terminal into the Agency's automated system. When the information is complete and an appropriate recommendation is formulated the Court Report is generated by computer at the direction of the Pretrial Services Officer. The Report is then ready for presentation in court by early afternoon when presentments begin. A Presentment, also referred to as an "Arraignment,"^{2/} is a brief hearing held for the purpose of setting bond and a trial date in the case of a misdemeanor or a preliminary hearing date in the case of a felony.

B. Pretrial Supervision

Most defendants are granted some form of conditional release at the initial bond setting (presentment) hearing. Following release they are directed to the Agency Office for a "post-release interview." This interview provides an opportunity to review the release conditions and next court date, inform the defendant of services available at the Agency, confirm an address where mail can

^{2/} Technically speaking an "Arraignment" is a formal reading of criminal charges. For a misdemeanor case Arraignment takes place at initial Presentment. For a felony case Arraignment takes place after Indictment by the Grand Jury.

be received, and describe the benefits of building a good record of compliance with release conditions to be used by the sentencing judge.

The pretrial phase typically lasts two to four months. During this time a defendant may have four or five scheduled court appearances. Relatively few defendants actually go to trial. Many plead guilty. Others have their cases dismissed when witnesses cannot be produced or the Government's case is weak. Those that wish to have their day in court will probably experience numerous continuances before the case is actually heard. During this period the defendant has various contacts with the Agency.

For each scheduled court appearance the Agency sends notification letters reminding the defendant of the date and time of the proceeding. Notification letters, generated by the computer, are mailed enough time in advance to permit defendants to acknowledge receipt. The defendant is asked to call the Agency to acknowledge receipt of the letter and to check in at the Agency Office on the date of the court appearance before proceeding to the courtroom. If the defendant has not acknowledged receipt of his notification letter at least one day prior to his appearance date an attempt is made to reach him by phone that evening. It should be noted here that although the cost of mailing a letter is substantially higher than for a post card reminder, in the interest of preserving the confidential nature of the communication between the Agency and the defendant the letter method was selected.

Most releasees are required to telephone the Agency weekly. This contact enables the Agency to check the defendant's understanding of his court date, review compliance with release conditions, and reverify the residence address. When the defendant phones in, the PSO taking the call scans the defendant's file as it appears on the terminal screen. All pending cases, release conditions, and appearances are confirmed as well as residence and other community ties. At the conclusion of the telephone contact the system is automatically updated with the fact, date, and time of the newest contact and any additional information.

If the Agency loses contact with the defendant or the defendant does not comply with certain court imposed release conditions the Post-Release Services Division of the Agency investigates to determine the reason for this failure. An attempt is made to contact the defendant either directly or through friends, relatives, employers, or references given at the initial interview.

The philosophy of the Post-Release Services Division is to encourage compliance with release conditions. Although the Agency is required to notify the court of all violations of release conditions violations are only reported as a last resort either when efforts to locate a non-complying defendant have failed or when it is apparent that the defendant simply refuses to comply.

After a violation notice has been forwarded to the U.S. Attorney's Office the prosecutor may file a motion for modification of conditions of release. If a bail violation hearing is scheduled

a representative from the Post-Release Services Division appears with an updated report containing any information developed since the violation report. Actions taken at bail violation hearings range from rerelease to revocation or use of contempt powers. Furthermore, bail violations are often taken into account in a judge's sentencing decision. Just as a poor record of compliance with release conditions can adversely affect a convicted defendant at time of sentence so can a good record increase the likelihood of probation. On the belief that a defendant's adjustment to pre-trial conditions is predictive of how he or she will perform on probation, the Post-Release Services Division, prepares a summary report of compliance (or noncompliance) with conditions for defendants convicted and awaiting sentence. This summary report is forwarded to the Sentencing Judge, the Probation Officer responsible for writing the Presentence Investigation Report, the Prosecuting Attorney and Defense Counsel to assist in formulating appropriate sentence alternatives.

C. Social Services

By law the Agency is directed to assist releasees in securing employment or necessary medical or social services. Consistent with the Agency's philosophy that existing community organizations should be utilized where possible most of the services provided are of a referral nature. A list of the organizations and the services they provide is maintained and updated regularly.

In carrying out the statutory mandate a high priority is placed on assisting defendants in complying with their release conditions. The assistance most frequently requested is job placement and counselling. Other services frequently requested include psychiatric screening and referrals, placement in General Equivalency Diploma (G.E.D.) programs, locating emergency housing for transients, referrals to alcoholic treatment programs, and referrals to narcotic addiction treatment programs.

Pre-Release Services

"District of Columbia Code §23-1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations

"(a) The agency shall, except when impracticable, interview any person detained pursuant to law or charged with an offense in the District of Columbia who is to appear before a judicial officer or whose case arose in or is before any court named in Section 23-1302(1). The interview, when requested by a judicial officer, shall also be undertaken with respect to any person charged with intoxication or a traffic violation. The agency shall seek independent verification of information obtained during the interview, shall secure any such person's prior criminal record which shall be made available by the Metropolitan Police Department, and shall prepare a written report of the information for submission to the appropriate judicial officer. The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released or detained under any of the conditions specified in subchapter II of this chapter. If the agency does not make a recommendation, it shall submit a report without recommendation. The agency shall provide copies of its report and recommendations (if any) to the United States Attorney for the District of Columbia or the Corporation Counsel of the District of Columbia and to counsel for the person concerning whom the report is made. The report shall include but not be limited to information concerning the person accused, his family, his community ties residence, employment, and prior criminal record, and may include such additional verified information as may become available to the agency."

The Pretrial Services Agency, by direction of Title 23, Chapter 13, of the District of Columbia Code, has the duty of interviewing all persons detained pursuant to law or charged with offenses in the District of Columbia who must appear before a judicial officer. The Agency must secure pertinent data and provide to judicial officers (as well as to police issuing citations) reports with verified information concerning defendants for whom bail or citation determinations are to be made. The cornerstone of its investigation process is a thorough interview with every defendant.

To fulfill its statutory obligation the Agency has established three divisions of interviewers. Two of the divisions are assigned to the two District of Columbia courts of general trial jurisdiction, the United States District Court and the Superior Court of the District of Columbia. The remaining division is assigned to interview those persons arrested between the hours of 4:00 p.m. and 8:00 a.m. who are eligible for citation release. Most of the night citation interviews take place in the Agency's Administrative Office and are conducted by telephone. As conditions have changed over the years the number of PSO's assigned to night duty has grown. There is now a separate division operating between 3:00 p.m. and 7:00 a.m. which handles all Citation investigations, interviewing at the Police Central Cellblock and some Condition Supervision functions.

Although there are distinguishing characteristics among the three interviewing divisions, the basic interviewing and verification techniques utilized offer only incidental variation.

The following section highlights the procedures used in Superior Court and discusses interviewing and verification techniques applicable in all three interviewing units. Variations found in the District Court and Night Units will be found in the two succeeding sections.

Superior Court Interviewing Staff

1. Responsibilities of Interviewers

The first responsibility of the interview staff (and indeed the number one priority of the Agency) is the interviewing of arrestees and the preparation of reports for use by the bail-setting judge. The purpose of the report is to provide a basis for the Court to evaluate the practical release potential of each arrestee. In fixing the terms of release, the judge considers (among other things) the arrestee's ties to the community as well as any prior contact with the criminal justice system. Thus the interviewers must elicit complete and accurate information concerning not only the criminal record but residence, employment history and family ties.

In addition, the interviewing staff provides a courtroom representative to present the reports to the court and to be available to explain the nature of the recommendations or the policy behind them.

The unit is also responsible for conducting post-release interviews described in the Post-Release Services Division, as well as performing certain clerical functions necessary to initiate follow-up services for those defendants granted personal recognizance or conditional release.

The staff must be available to interview and prepare reports in a variety of situations including citation referrals, Grand Jury "Originals," bond reviews, and other cases where a judge requests a report. It must also direct defendants returning for court appearances to the appropriate courtroom.

2. The Interview

Interviews are conducted in the basement holding facilities of the courts. The arrestees are generally transferred from the Police holding facility (i.e. Central Cellblock) to the court cellblock between 8:00 a.m. and 9:00 a.m. However, preparations for the day's interviews begin much earlier. A designated Agency interviewer arrives at 7:00 a.m. to prepare an interview folder of each arrestee using information from a list of arrestees. This list is provided by the U.S. Marshall's Office which is responsible for the operation of the cellblocks. The lock-up number, the charge and the Police identification number (PDID) must be written on the folder. Police arrest records and other records or "rap sheets" provided by the Metropolitan Police must be sorted and matched to the interview folder.

The folders are then distributed to the interviewers who begin calling out the names of the arrestees. The interview begins with an introduction of the interviewer to the arrestee, a brief description of the purpose of the interview and a "Miranda warning."^{1/}

^{1/} Miranda v. Arizona, 384 U.S. 436, (1966).

(Miranda warnings were instituted in 1971, when a change in the law removed the complete confidentiality of Agency records.) Since a defendant's statements can now be used for purposes of impeachment, for use in a perjury proceeding, in a bail violation hearing or in a bail jumping prosecution, the Agency began advising arrestees of the right to remain silent and to have an attorney present.^{2/}

Once the preliminaries are completed the interview begins. In the Superior Court of the District of Columbia, the bail-setting Judge must consider both the risk of nonappearance for court as well as the possible danger to the community posed by the release of the accused. (This is not so in the United States District Court where the applicable law /the Federal Bail Reform Act of 1966 requires that the Magistrate consider risk of flight as the only criterion upon which a release decision is to be based.) The purpose of the bail report is to provide accurate information on the arrestee's community ties and criminal record and to assist the judge in setting appropriate release conditions. Thus, the interview consists of questions relating to a person's residence, employment status, family ties, health, and involvement in the criminal justice system. The interview form is printed on a legal size

^{2/} In practice, the right to remain silent presents a dilemma to an arrestee wishing to exercise it. If the arrestee does not wish to talk with the Agency PSO release will not usually be granted, since the judge has no information on which to base a decision.

folder which becomes the official file for all subsequent documents relating to the defendant and changes in release status.

The interview format is designed to ensure the reliability of the interview. Even though the categories relating to community ties are broken up there is sufficient overlap built into the interview to enable a good interviewer to spot inconsistencies in responses. Such inconsistencies must be resolved as they may represent a misunderstanding as to what information was desired or outright lies.

The manner of questioning is very important in developing a reliable picture of the arrestee's community ties. Arrestees give erroneous information for various reasons. Sometimes they tailor their responses to what they think the judge will consider important. For example, an arrestee might give his mother's address as his home address when in fact he is staying with a girlfriend. It is essential to obtain an address where a defendant can be contacted not simply a mailing address. Arrestees may give misleading or erroneous answers if the interviewer is not communicating properly. It is important that the interviewer not build assumptions into the question or suggest a certain answer. For example, if the employment question is phrased "where are you working?" this assumes that the arrestee is working and should be working. The question should be "are you working?", a question which is more open ended with no implicit assumption.

The interview form is designed to offer resources for verification in a number of areas. By drawing out information on the person with whom the arrestee lives, the landlord, employer, source of income, drug counselor, school, probation or parole officer, etc. verification is possible in cases where the arrestee is unable to provide specific references.

The interviewer must be able to control the interview. It must be remembered that it is the interviewer's task to obtain accurate information from the arrestee and this can only be accomplished by asking direct and forceful questions. Should the interviewer be unable to ask questions in this manner (either because of intimidating or disinterested behavior on the part of the arrestee) then the accuracy of the information will suffer.

3. Verification

Verification is the process of corroborating by whatever methods possible the information received from the arrestee. In some cases it means discovering pertinent information not disclosed by the arrestee. The process begins after the interview. The sources of verification are many and often include the following:

- (a) References given by the arrestee;
- (b) Relatives who appear at the Agency court office;
- (c) Arrest records from the Metropolitan Police Department and the F.B.I. (Where dispositions are incomplete court records must be checked);

- (d) Prior files of the Agency. (If the arrestee has been interviewed before, the earlier information is available to check for obvious inconsistencies. Prior conduct while on release, additional verifiers not mentioned in the present case, and other sources of information may also exist.);
- (e) Probation and Parole offices where applicable. (Background information on probation or parole is essential to making viable release recommendations. Interviewers must contact the appropriate officer and in his/her absence, the immediate supervisor in that agency to determine adjustment as well as possible opposition to release. If release is opposed, the Agency generally will not recommend release);
- (f) Third-party custody organizations. (If an arrestee is on release to a custody organization in a pending case the custodian must be contacted to determine the defendant's compliance with release conditions and whether the custodian wishes to surrender custody in that case).

When contacting a reference for verification purposes the interviewer should first identify himself or herself. Verifiers are sometimes suspicious of "officialdom" so it must be made clear to

the reference that verification is needed to help the arrestee. The single exception to this is when verifying employment. Many times the mere notice of arrest will operate to have the arrestee fired. If pressed for information by an employer the interviewer should not lie but should identify himself/herself by name and Agency. He/she should be as evasive about the charge and any other information, beyond the fact of arrest, as possible. At times, it will be necessary to determine whether the arrestee will be allowed to return to work. These cases are usually obvious and the best manner of proceeding is to ask at the interview whether the employer can be called and whether the arrestee thinks he or she can return to work.

Accurate notations of who verified the information must be made on the folder. By writing "verifier" next to the reference's name, problems are avoided. If verification is made by someone other than a reference given by the arrestee, the name should be written down in the reference area and appropriate notes made.

As in the initial interview it is important never to suggest to the verifier what the answer should be. Rather the questions should be open-ended; e.g., "How long has Mr. Jones lived in D.C.?" not "Has Mr. Jones lived in D.C. for five years?" The object is to obtain information not give it out.

If verification information differs from that given in the interview by the arrestee, the difference must be reconciled.

Another talk with the arrestee is usually necessary although a second reference may solve the discrepancy.

Where the arrestee indicates prior hospitalization for a mental disorder the mental institution must be checked for exact dates of admission and discharge.

4. Presentation of Reports in Court

Normally one Agency representative presents the completed reports to the judge. The job is often hectic. As the cases are called the Agency representative distributes copies of the computer-generated report to the judge, prosecutor and defense attorney. As the judge fixes a court date and sets release conditions, the representative must correctly fill out the release order for the judge's signature. Copies must then be distributed to the various parties to the proceeding. The Agency person must be thoroughly familiar with the recommendation policy and the reasons behind the policy and must be prepared to offer an explanation or change a recommendation if new information develops during the bail setting hearing.

5. Saturday and Holiday Procedures

Superior Court, in addition to its normal weekly operations, is in session on Saturdays and holidays. Court business on these days is limited to felony presentments and misdemeanor arraignments.

The Saturday and holiday procedures are essentially the same except that there is considerably less time to accomplish the work of interviewing, verification and report preparation. The

Saturday judge will usually begin the proceedings around 10:30 a.m., three hours earlier than the weekday schedule.

Because not all court-affiliated agencies are in operation on Saturdays and holidays Agency reports may not be as complete as they usually are and recommendations may vary. Since, for example, the Parole Office is not open, compliance information is unavailable to the Court.

U.S. District Court Interviewing Staff

All Federal offenses are prosecuted in U.S. District Court. Prosecutions in these cases may begin either before a U.S. Magistrate prior to indictment or before a magistrate or judge after indictment by the Grand Jury in what is known as an "Original" case. (A Grand Jury Original is a felony case presented by the prosecution directly to the Grand Jury without affording the defendant a preliminary hearing to determine probable cause.)

The cases for bail determinations require much the same general treatment as those presented in Superior Court. However, since the number of arrestees charged with Federal offenses is relatively small only one interviewer is assigned the task of interviewing, verification, report preparation and courtroom representation.

Most bail matters in the District Court are handled by U.S. Magistrates. In addition to setting bail, magistrates hold preliminary

hearings, accept guilty pleas, and sentence those convicted of Federal misdemeanors or petty offenses.

For the Agency the most significant difference between operations in Superior Court and U.S. District Court is that different laws govern pretrial release procedures. In contrast to Superior Court, the Federal system is governed by the Bail Reform Act of 1966 which does not authorize the court to take into account the safety of the community but only the likelihood of appearance. Thus the recommendation scheme is somewhat different from that described in the section on recommendations.

In general, the work day of the District Court office begins later, ends later, and offers a more evenly distributed workload than that in Superior Court. Arrestees begin arriving in the cellblock between 9:00 a.m. and 10:30 a.m. Interviews are conducted in the basement cellblock until 1:30 p.m. Arrestees brought in after 1:30 p.m. are interviewed in the small holding facility behind the magistrate's courtroom.

Since the lock-up is much smaller than that of Superior Court all interviews are usually completed by 11:15 a.m. Once back in the office the information is verified, entered into the Agency's system via computer, and the Court Reports are generated.

Night Division

Members of the Night Division Unit perform their duties during the evening hours and on weekends when the rest of the Agency is not

in operation. The workload is carried out in eight hour shifts from 4:00 p.m. to midnight and from midnight to 8:00 a.m. as well as from 8:00 a.m. to 4:00 p.m. on weekends. The Night Division handles a variety of functions which span the panoply of Agency tasks. They conduct Citation interviews and investigations, conduct interviews of some arrestees in the Police Central Cellblock, prepare violation reports, prepare summary compliance reports at the time of sentence, record check-in phone calls via computer terminal - in short, everything that must be done. The PSO's assigned to this Unit must truly be "utility infielders," capable of handling every Agency function.

1. Citation Interviews

The citation interview process is essentially the same as that utilized in Superior and District Courts except that the interview is conducted by telephone rather than in person. All arrestees not charged with a felony and not arrested on a warrant are eligible for citation release.

The citation procedure is initiated by the arresting officer telephoning the Agency from the police district or substation. Before the interview begins the Agency representative must obtain several items of information from the officer including the officer's name, tour of duty, police district, the arrest number, charge, and the arrestee's name, criminal history and other identifying characteristics.

As with the interviews conducted in court the citation interview begins with an introduction and an explanation of Miranda^{3/} rights. The question and the verification procedures are identical to court procedures previously described. When the information is verified a recommendation is made using the point system described in the Recommendation Section. A verified Metropolitan Washington, D.C. address and a minimum of four points are necessary for a positive recommendation for release. The Metropolitan Police Department then makes a decision on release on personal recognizance or non-release. The recommendation standards used on citations are more stringent than the standards used in court. The tighter standards are necessary in light of the fact that release will be granted by a police officer rather than a judge and that citation release if effected will be release on unconditional personal recognizance. The program does not provide for the setting of release conditions to ensure presence in court for arrestees with weak community ties.

If the arrestee qualifies for a release recommendation, that fact is conveyed to the arresting officer. If the officer agrees to release the individual a court date is arranged within ten days. On that date the police officer presents the case to the

3/ Miranda v. Arizona, 384 U.S. 436, (1966).

prosecutor for "papering" and the citation releasee enters the court process after a formal arraignment.

2. Other Duties Performed by the Night Division

Throughout all hours many calls come to the Agency requiring attention. (PSO's assigned to the Night Division must be particularly knowledgeable since there generally is no one available to consult when a problem or a question arises.) The most frequent type of call comes from defendants on pretrial supervision who are required to report weekly to the Agency. An accurate log of all such calls is made and any address or employment changes are noted. Occasionally releasees call with special problems. A defendant may be unable to appear in court the following day, for example. The PSO must know what information is needed and what must be done with it so that the appropriate parties can handle the situation in the morning.

In addition to handling questions from defendants the PSO must be able to respond to inquiries from the police, judges, other agencies, families of defendants and even reporters from the news media. As spokesperson for the Agency in a variety of situations, the job requires familiarity with the system, understanding of Agency policies, as well as tact and professionalism in dealing with the public.

Post-Release Services

The success of any pretrial release program is measured not only by the number of arrestees released but also by the kinds of follow-up efforts provided by the program after the accused has been released. Experience both in the District of Columbia and nation-wide has shown that a pretrial release program with notification and other follow-up services can expect higher appearance rates than under the traditional practice of release through a bail bondsman. Furthermore, a substantially larger number of arrestees can be released without adversely affecting appearance rates.

Under the District of Columbia Court Reform and Criminal Procedure Act of 1970, the District of Columbia Pretrial Services Agency is specifically directed to notify non-surety releasees of all court appearances, to supervise conditions of release and to inform the court of release condition violations. It must also assist pretrial releasees in securing employment and necessary medical or social services, and coordinate the efforts of community organizations acting as third-party custodians. These wide-ranging responsibilities are carried out by the Post-Release Services Division.

1. Post-Release Interview

At the Agency follow-up services begin within minutes of release. All defendants granted personal recognizance or conditional release in Superior Court are required by the Court to go to the Pretrial Services Agency Office for a post-release interview.

Since the initial presentment is a hurried assembly-line type of proceeding, experience has demonstrated that a review of the court date and the release conditions at this stage can avoid misunderstandings later.

The address given by the defendant in the initial interview is double checked to make sure that mail can be received there. Specific conditions of release are reviewed.

It should be explained, for example, that the condition to call the Agency and report address changes was imposed to assure notice of court dates. The defendant is reminded that if convicted a good record of compliance with these conditions may increase the likelihood of probation. On the other hand he or she should be warned that a failure to comply with conditions could increase the severity of sentence if convicted.

The defendant should again be made aware of the penalties for a failure to appear for a court appearance. If convicted of bail jumping the defendant could receive imprisonment and/or a fine. Even if not prosecuted a failure to appear could be a factor in plea bargaining or sentencing.

The community services available through the Agency are also explained to the defendant at the post-release interview. If specific assistance is requested a referral can be made.

2. Notification

Notification of scheduled court appearances is the most basic of the pretrial services provided by the Agency and is provided

to all non-surety releasees. This function is carried out principally by the automated system but many errors that result in return mail may occur. If an address change has been reported since the letter was mailed or if a mistake was made at the time of initial entry of information into the system corrections can be made. If the letter is returned undelivered from the Post Office an investigation is made to determine the reason for nondelivery. An attempt is made to renotify the defendant. A returned letter is often the first indication that the Agency has lost contact with the defendant or that a release condition has been violated.

3. Supervision of Release Conditions

Periodic contact with the Agency is required of most non-surety releasees. At the time of contact emphasis is placed on assisting defendants in understanding and complying with their release conditions. Staff members are instructed to review all release conditions, check for compliance with release conditions, remind callers of future court dates, and answer any questions the defendant might have.

4. Supervision - Recording Information

Two important aspects in supervising release conditions are, first, a convenient and accurate manner of recording information about the defendant, and, second, the ability to maintain this information in such a way that it is useful not only to the defendant

but the Court. In the design of the automated system computer programmers instructed the computer to process in an automated fashion the manual system that had served the Agency well.

In the manual system a Release on Conditions (ROC) form was prepared immediately after a defendant's release and placed alphabetically among all cases under supervision. It contained the release conditions imposed by the judge, the defendant's address, next scheduled court appearance, the name and phone number of the defendant's attorney, space to log-in calls from the defendant and space to record new information. Thus, when a defendant called in, the staff investigator could look up the defendant's record ask questions concerning compliance with specific conditions, and remind the defendant of the next court date. If there were any discrepancies between the information the Agency had and what the defendant supplied - say, for example, there was a difference in understanding as to court dates - the problem could be investigated immediately while the defendant was still on the phone. Since the ROC form contained the Agency's file number and the court docket number a check of other Agency records or court records could be made quickly and the problem cleared up for the defendant.

Any change-of-address was first noted on the ROC form and then transferred to a change-of-address form which was filed in the case folder for future notifications.

Any communication concerning the defendant was noted on the ROC form. Examples of the types of information frequently received included notice from the Narcotics Treatment Administration (now Substance Abuse Agency) concerning compliance with testing or treatment conditions, progress reports from third-party custody organizations, and employment verification. Since this information possibly formed the basis for a violation notice to the Court with potentially serious consequences for the defendant, accuracy and careful attention to detail were essential.

The automated system now in use permits most of the work described above to be carried out in a more efficient and faster manner. A phone call at any location can be answered at once as a nearby terminal permits access to all the data necessary. No longer must calls be referred to a central source since the source is now available to everyone via terminal.

Sound investigative procedures demand that accurate records be kept any time a telephone call is made or received. The important items to record include: the time of call, the name of the person talked to, and any information provided by the person. The fact that a relative or friend has no information as to the defendant's whereabouts may itself be an important piece of information. Likewise, the fact that there is no answer at the defendant's home during certain hours may suggest that the attempts to contact the defendant should be made in the evening. Thus, anytime an

investigator initiates a check of conditions, the fact should be noted whether or not apparently conclusive information is obtained.

5. Pre-Sentence Compliance Reports

Because a defendant's record of compliance with pre-trial release conditions may be a barometer of his behavior patterns should he be placed on probation the Agency began to provide, on a regular basis, compliance information to both the Superior Court and U.S. District Court Probation Departments. These reports are submitted to the assigned probation officer following a conviction of the defendant and prior to sentencing in order to assist the officer preparing his pre-sentence report and in formulating a recommendation to the sentencing Judge as to whether a sentence of probation is appropriate. A copy of the summary compliance report is also sent to the Sentencing Judge, the Prosecutor, and the Defense Attorney.

A list is picked up from the Superior Court Probation Office. This list contains the names of defendants who have either been found guilty of a crime or have pleaded guilty to an offense in Superior Court. The list contains the name of the defendant, the case number, the sentencing date, the sentencing Judge, the probation officer responsible for the report, and the probation officer's supervisor. At present, the Condition Supervision Section submits compliance reports in all cases where the defendant has been

on conditional pretrial release and has been convicted of a felony in that case.

The method of operation between the Agency and the U.S. District Court Probation Office is quite different from the format just described. The Agency receives individual requests for compliance reports from the U.S. District Court Probation Office about twice a week. These reports are processed immediately because of the stricter time constraints in the federal court. Therefore, it is imperative that a report be written and sent to the assigned probation officer within ten (10) days of the conviction date to be of any assistance in the formulation of the probation officer's recommendation.

The report is written in paragraph form and includes all relevant factual information concerning the defendant's compliance with court-imposed pretrial release conditions. All information is verified and updated.

Reactions from Judges and Probation Officers indicate that the efforts of the Agency in making available pretrial compliance information have resulted in more informed sentencing decisions.

RECOMMENDATION CRITERIA

The District of Columbia Pretrial Services Agency has always used objective standards in evaluating the pretrial release potential of arrestees. In the early days of the program, the point system developed by the VERA Institute of Criminal Justice in New York was used. This system utilized weighted values for various ties to the community (residence, employment, and family ties). These values were combined with negative points (reflecting prior criminal records, narcotics addiction or alcoholism) to determine a total "score" upon which a recommendation was based.

Over the years this system has been modified although the Agency still adheres to the principle that subjective opinions should play no part in the recommendation scheme. The evolution of the recommendation criteria resulted from a combination of factors including changes in the law, additional resources in the Agency, the development of a conditional release program, and experience in dealing with various forms of release. Since different laws govern release provisions in the two court systems serviced by the Agency,^{1/} the recommendation standards vary accordingly. Citation release recommendations likewise differ from court recommendations in that court imposed release conditions cannot be used and the recommendation standards must therefore be more stringent.

^{1/} In U.S. District Court, the Federal Bail Reform Act, U.S. Code §18-3146, et seq., controls, while in Superior Court, the Court Reform and Criminal Procedure Act, D.C. Code §23-1321 et seq., controls.

The recommendation criteria used in the Superior Court of the District of Columbia, the U.S. District Court, and the Citation program will each be described separately.

A. Recommendation Criteria Used in Superior Court.

The recommendations used in Superior Court fall into three basic categories:

1. Recommendations for release (includes personal recognizance PR, conditional release, and release to the custody of third parties).
2. Release not recommended (Note: The Agency never recommends a monetary bond. Rather, it abstains from making a recommendation when the defendant fails to qualify for a positive release recommendation. In these cases the Agency merely presents a report of the information it has.)
3. Request for a Pretrial Detention Hearing.

Before an arrestee can be recommended for release it must be determined that the individual does not fall into any category automatically excluded from consideration. Arrestees who may not be recommended are as follows:

1. Any arrestee who has a conviction for violation of the Bail Reform Act (BRA) within the past ten years or a pending BRA charge.

2. Any arrestee presently charged with escape or who has a prior CONVICTION for escape within the past ten years. (Also to include prison breach, elopees, etc.)
3. Any arrestee charged with a Bench Warrant for failure to appear (unless the Agency has verified information that the failure to appear was not willful), violation of conditions of release, probation or parole violation.
4. Any arrestee presently under sentence awaiting parole.
5. Any arrestee whose mental state prevents him or her from rationally completing an interview.
6. Any arrestee with a pending case who has violated a condition of release that may be the basis of an Agency request for a hearing. (Note: Violations are to be verified in all cases with Condition Supervision representative.)
7. Any arrestee who has an outstanding detainer.
8. Any arrestee who is not an area resident (50 mile radius of D.C.) and who does not have any substantial ties to the community (i.e., employment, area family members willing to take custody.) However, release will be recommended if there is a pretrial release agency in that jurisdiction which

is willing to assume supervisory responsibility for release, or a third party custody organization willing to accept responsibility for supervision of the defendant.

9. Any arrestee who is presently on surety bond when the bondsman is going to surrender his bond in the pending case if the reason for surrender is based on fugitivity. If the bondsman cannot be contacted personally, a recommendation for release may be made provided a message is left at the bondsman's office.
10. Any arrestee charged with being A Fugitive From Justice when the underlying charge involves escape, failure to appear while on bond, probation or parole violation, or who is in violation of certain pretrial release conditions.
11. Any arrestee who is on probation or parole whose supervising officer is opposed to release. (Note: Certain agencies will not take a stand concerning release. In those cases, a favorable determination of adjustment must be ascertained before a recommendation for release can be made. If the Agency is unable to contact any representative of

the arrestee's supervisory agency a recommendation will be made providing the arrestee does not appear on the daily warrant list. If an arrest is on unsupervised probation, the judicial officer who sentenced the arrestee should be advised of any new charges. Any recommendation against release by said judicial officer will always be followed.)

If an arrestee does not fall into one of the excluded categories, release can be recommended. The conditions appropriate in any given case will depend on the strength of the arrestee's community ties, the existence of certain problems such as narcotics addiction or alcoholism, and, to a certain extent, the nature of the charges. Common to all recommendations for release is the condition that the defendant report to the Agency office immediately following release. The post-release interview is conducted to review conditions of release, the future court date, and to advise the defendant of the services available at the Agency. In addition, the following general rules apply:

1. For misdemeanor cases, personal recognizance or unconditional release is recommended where the arrestee is an area resident with a verified address.
2. In felony cases a condition to report weekly is recommended. Since the time between Preliminary Hearing and Indictment and subsequent Arraignment is uncertain,

it is critical that there be weekly contact so that the Agency can advise the defendant of any change in the status of his case. In addition, specific conditions to cover specific situations are also recommended e.g., "stay away from the complaining witness," "report to your probation officer," etc.

3. For juveniles charged as adults, release to a suitable third-party custodian will be recommended.
4. For arrestees in the Armed Forces, release will be recommended only when the Armed Forces Police have been contacted and have determined that the arrestee is in good standing with the military and will be given time off to return to court.
5. If the arrestee is charged with a crime of violence involving a complaining witness, a condition that the defendant stay away from the complaining witness will be included in any recommendation for release.
6. A residence condition will be recommended if residence is on an off/on basis or if the present address is less than three months old.
7. A residence condition will be recommended for any arrestee who cannot return to his or her present address, but may reside at another verified address.

8. A condition to report to the probation or parole officer upon release is recommended where the arrestee is under the supervision of these officers.
9. If an arrestee does not have a fixed address (this includes residence in a hotel, motel, YMCA, and the like, for less than one month) release will be recommended if an approved third-party custody organization agrees to assume custody.
10. If an arrestee has an undetermined address, release will be recommended if an approved third-party custody organization agrees to assume custody. (An undetermined address is one where a conflict has arisen between information taken from the arrestee and information obtained from references for verification. It may also occur due to conflicts of information taken from two references in the same case.)
11. An arrestee with an unverified address will be recommended for release in the following situations:
 - (a) If an approved third party custody organization will provide 24 hour-a-day custody; or
 - (b) If an employer of at least 1½ years' duration agrees to allow the defendant to receive mail at the place of employment. (In this situation the Agency will also recommend that the defendant maintain his present employment.)

In addition to the recommendation made by the Agency, a recommendation for narcotics testing and/or treatment will be made where appropriate by the Substance Abuse Agency. These recommendations are based on the results of urinalyses and interviews conducted by that organization. The Agency likewise notes on its report when there are indications that the arrestee is using drugs.

The Court Reform and Criminal Procedure Act of 1970 provides for pretrial detention in certain cases where the defendant is charged with a violent or dangerous crime, and has a prior record of such crimes (see D.C. Code §23-1322). Pretrial detention can be ordered only after a hearing is held and the judicial officer makes certain findings.

The Agency will recommend that a pretrial detention hearing be held in the following four instances:

1. If the arrestee is presently on probation or parole for any offense and is charged with a crime of violence as defined by statute.^{2/}
2. If the arrestee is presently on release for a crime of violence and is arrested and charged with one of the crimes enumerated in the statute.
3. If the arrestee has been convicted of a crime of violence within the past ten years and is arrested and charged with one of the crimes enumerated in the statute.

2/ D.C. Code §23-1331 (3) and (4), (1971).

4. If the arrestee is charged with Obstruction of Justice where the complaining witness is involved in another case pending against the defendant.

The recommendations to be made in each of these instances will follow a set pattern of mentioning first the grounds that seem to exist to qualify the defendant for such a hearing and then an alternative recommendation in the event no hearing is ordered.

B. Recommendation Criteria Used in United States District Court.

The law governing release in all Federal Courts is the Bail Reform Act of 1966.^{3/} Under this law the bail-setting magistrate may only consider the risk of non-appearance in court in setting conditions of release. Unlike the local statute there is no authorization to consider the safety of any member of the community and there is no mechanism for the pretrial detention of arrestees believed to pose such a danger. Accordingly the Agency never recommends a pretrial detention hearing. The remaining recommendation standards are the same in both court systems.

C. Recommendation Criteria for the Citation Release Program.

The recommendation standards applicable to the citation release program are more stringent than the standards used for arrestees processed through the courts. The difference in standards results

^{3/} U.S. Code §18-3146 et seq. (1966).

from the fact that the releasing authority is a police officer rather than a judge and therefore release conditions are not used to strengthen any weaknesses in an arrestee's ties in the community.

The recommendation criteria applicable to citation release candidates is a variation of the original VERA point system. Points are awarded for time in the area, length of residence and employment, and strength of family ties. Points are deducted for prior convictions, pending cases, alcoholism and drug usage. To be recommended, an individual must have a verified address and four points. The point system which follows is footnoted with additional explanations and definitions.

RECOMMENDATION CRITERIA FOR THE CITATION RELEASE PROGRAM

NOTE: The following people cannot be recommended even though they may have the required number of points.

1. Any person who is charged with a felony.¹
2. Any person who is a juvenile (unless he or she is between the ages of 16 years and 18 years and is charged with a traffic offense).²
3. Any person who has ever been convicted of escape from jail.³
4. Any person who has willfully failed to appear while on bond (BRA conviction) or who has a pending charge of willfully failing to appear while on bond (pending BRA).
5. Any person who has an outstanding attachment, warrant or detainer against him.
6. Any person who is presently under the influence of narcotics or alcohol to the degree that an intelligent interview cannot be conducted.

To be recommended an arrestee needs:

1. A verified Washington area address where he or she can be reached.⁴
- AND
2. A total of four (4) verified points from the following:

POINTS

TIME IN WASHINGTON AREA

- 1 5 years or more.⁵
- RESIDENCE (In Washington area; NOT on and off)⁶
- 3 Present address 1 year OR present and prior addresses 1 1/2 years.
- 2 Present address 6 months OR present and prior addresses 1 year;
- 1 Present address 4 months OR present and prior addresses 6 months.
- *Add 1 extra point if the arrestee is buying his home
- *Add 1 extra point if the arrestee has a verified operable telephone listed in his own name.

FAMILY TIES⁷

- 4 Lives with family AND has contact with other family member(s).
- 3 Lives with family.
- 2 Lives with non-family friend whom he gives as a reference AND has contact with family member(s).
- 1 Lives with non-family friend whom he gives as a reference OR lives alone and has contact with family member(s).

EMPLOYMENT OR SUBSTITUTES⁸

- 4 Present job 1 year where employer will take back OR homemaker with children in elementary school.
- 3 Present job 1 year or more OR homemaker with children.
- 2 Present job 3 months OR present and prior jobs 6 months or full-time student other than secondary school student.
- 1 (a) Present job; OR
- (b) Unemployed 3 months or less with 9 months or more single job from which not fired for disciplinary reasons; OR
- (c) Receiving unemployment compensation, welfare, pension, disability, alimony, etc.; OR
- (d) Full-time secondary student; OR
- (e) In poor health (under a doctor's care, physically impaired, etc.)

DEDUCTIONS⁹

- 5 On Bond on pending felony charge OR on probation or parole for a felony.
- 2 On Bond on pending misdemeanor charge OR on probation or parole for a misdemeanor; OR knowledge of present drug use or alcoholism.
- 1 Prior negligent no show while on Bond; OR knowledge of past drug use.

PRIOR CONVICTIONS

NOTE: Use the chart below for single offenses and for combination of offenses.

Code: One adult felony = 7 units
 One adult misdemeanor = 2 units

Circle total record units

Units	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	19	20	21
Points	0				-1					2								3			4

RECOMMENDATION CRITERIA FOR TRAFFIC CASES (other than DWI, Negligent Homicides, Hit and Run) 10

POINTS

- 4 Present Address 1 month (No Deductions)
- TRAFFIC CASES (DWI, Negligent Homicide, Leaving the Scene of an Accident, Hit and Run)
- Complete Interview and Regular Point Tabulation
- (Only Deduction: -2 for Probation, Parole or Bond on misdemeanor or felony)

FOOTNOTES TO POINT SYSTEM

1. Although the Agency cannot recommend an arrestee charged with a felony, the interviewer should indicate to MPD that regardless of our recommendation they make the final decision on release. MPD does have the power to break down the charge to a misdemeanor or to release the arrestee on an unsecured appearance bond. In the past where MPD has felt that the arrestee will appear voluntarily at the station house the next morning they have informally released the arrestee. The interviewer should encourage MPD to release the arrestees but the approach should be low-keyed with no pressure.
2. The Statute does not preclude citation release of juveniles. This may be an area into which the citation program can expand. Until that time, however, this provision should apply unless the interviewer can get MPD to agree to release and can arrange initial appearance procedures for juveniles.
3. This includes an escapee conviction, prison breach conviction, but not a fugitive conviction.
4. "A verified Washington area address where he or she can be reached" includes not only residential address, but also employment address provided that the employer verifies the employment address. However, where residence is undetermined, as opposed to unverified, an employment address will not suffice.
5. The 5 years must include a minimum of 2 years of steady residence and a total of 5 years within the past 10 year period. N.B. Time outside the area due to military service, incarceration, or university student residence should be considered neither inside nor outside the area, as long as present residence of 6 months in Washington can be established.

The exclusions above for those in military service and incarceration are being made to rule out the inequities involved for persons residing in areas outside D.C. due to circumstances beyond their immediate control. The university student exception is an arbitrary exclusion based on the probability that residence of university students outside D.C. is not normally a permanent residence and, to some extent, is beyond the control of students who are interested in a college education. The six month provision is being added to ensure some commitment to resume permanent residence in the D.C. area. The practical effect of excluding time spent in these situations would be to extend

the ten-year period by the number of years spent in the military, incarceration or college. E.g., A spent 2 years outside the D.C. area (in the service, prison or college). If he lived in the D.C. area prior to that for 2 years steadily and 5 years of the last 12, he is awarded 1 point.

6. Residence may include concurrent addresses in the D.C. area, and in that sense, on and off residence is acceptable. Both addresses must be verified, however, unless the arrestee resides at least 5 days a week at one address, and this fact is verified.

"Prior Address" may include the two prior addresses immediately preceding the present address.

One point should be added in the category for arrestees who are buying (or have bought) their own homes.

Rationale: Although this patently discriminates against those whose financial status precludes purchasing a home, it still must be considered a sound community tie.

One point should be added if the arrestee has a verified operable telephone listed in his own name.

In both of these situations, the extra point(s) should be added only if necessary to make a recommendation for release. I.e., these points should be added only if needed to attain 4 points.

7. For purposes of this category "lives with" means for a minimum of 30 days. The "lives with" situation, as opposed to merely visiting, should be verified by the reference.

"Family" includes common-law wife or a girlfriend (or boyfriend) where they have been living together for one year or more.

The non-family friend who is given as a reference need not be contacted for verification in order to award points provided that the fact that the arrestee and friend live together is verified by some reference.

"Contact with" means contact on a once-a-week basis. In this category, when there are concurrent addresses, full family tie points should be awarded in situations where the arrestee spends the bulk of his "residence" (i.e., five days a week) with family (for 4 or 3 points) or non-family friend (for 2 or 1 point(s)), and that fact is verified.

8. For purposes of this category "employed" includes self-employed if the arrestee works full time and has a legitimate business venture.

To award 4 points in this category the interviewer must contact the employer to verify employment and the fact that the arrestee may return to his job.

Points may be awarded for part-time work, but the interviewer must determine whether it is bona-fide part-time work. Factors to be considered in determining this are the amount of time on the job and regularly scheduled work. The number of points awarded for part-time work should be determined by the number of hours worked per week. I.e., if an arrestee works part-time (20 hours per week) regularly, and this is verified by the employer he will receive 2 points (one-half the maximum for full-time employment).

The provisions for homemakers with children have been added to eliminate the discriminatory nature of the old scheme. They have also been added on the basis that an arrestee in this category is less likely to flee because of strong community ties.

"Full-time student other than secondary school student" includes university students and students in vocational training programs. E.g., students at Washington Technical Institute.

Catch-out labor is not considered employment for purposes of this category.

Points in this category cannot be "doubly" awarded, i.e., a homemaker with children in elementary school who also works full-time can only receive 4 points.

9. Since the present point schedule has been expanded to provide for release of a larger group of arrestees the deductions must be strictly adhered to.

For arrestees who are currently on bond the interviewer must always check on compliance with conditions of release.

"Knowledge of present drug use or alcoholism" is determined by the arrestee's admissions and not by the nature of the charge against him. "Present" for purposes of deductions means within 6 months. No deductions are made in this category if the arrestee has been on a methadone maintenance program, SAA abstinence program or detox for 4 months or more provided that the information has been verified. Also

no deduction for alcoholism is to be made if the arrestee is being treated at RCA or other similar institution for a period of 4 months or more.

For arrestees on probation or parole no added deduction is made for conviction.

"Prior negligent no show" involves only bench warrants executed with no BRA conviction, but not bench warrants which are quashed.

"Past Drug Use" means drug use within a year with no present usage.

No deduction should be made for probation or parole where the Probation/Parole Officer is contacted, and he indicates that the arrestee's adjustment is good and release is not opposed.

10. For traffic cases other than DWI, negligent homicide, hit and run, or leaving the scene the interviewer must obtain only a verified present address, a prior address when present address is less than 1 month, and more than one verifier although only one is needed to award points. No deductions are made in these cases.

For DWI, negligent homicide, leaving the scene, and hit and run, the interviewer must go through the entire interview. The only deduction in these cases is -2 for arrestees on bond, probation, or parole for either a felony or a misdemeanor.

Automated System

As the District of Columbia Pretrial Services Agency's workload expanded, keeping pace with increased responsibilities and a constantly rising crime rate, a need to explore the possibility of total or partial automation developed. The conduct of over 25,000 interviews annually, supervision of more than 4,000 pretrial releasees at any one time, the distribution of nearly 50,000 notices of court appearances, the monitoring and reporting of compliance of the nearly 60,000 conditions imposed by the courts on pretrial releasees, and the myriad other tasks associated with tracking the activities of pretrial releasees suggested that an automation study be conducted.

In 1974, with the aid of a Law Enforcement Assistance Administration (LEAA) grant, a feasibility study was conducted. As a result of that study, because of the potential benefits that appeared certain for the Agency, the people it serves and the other agencies that work in the Criminal Justice System, a decision was made to automate all of the Agency's functions.

Under contract and with federal financing received from LEAA, representatives of the Federal Systems Division of the International Business Machines Corp., working with staff of the Agency, other agencies, and other "systems" people designed a system for the Agency. Known by the acronym ABA DABA (Automated Bail Agency Data Base) the system was designed using the latest technology and was specifically created for user convenience. A substantial investment

of Administrative time (nearly all of the Deputy Director's time for two years and nearly a quarter of the Director's time for a year) was deemed essential to insure that the system would be responsive and useable.

As the design phase neared its end and system implementation began all staff members were given the chance to familiarize themselves with system functions. The day the system was "turned on," despite the initial problems - some expected and some unexpected - virtually the entire staff of the agency was capable of using the system.

In essence, ABA DABA is a set of computer programs whose purpose it is to permit the collection, retrieval, and dissemination of information vital to the Agency's daily operations in an automated fashion. It is an "on-line" system. These programs are run on an IBM System 370 model 158 which is physically housed in the Metropolitan Police Department. The system is shared with other users and is available 24 hours a day.

Agency personnel manipulate the system through the use of visual display terminals located at the various offices. Printers, terminals, and associated equipment have replaced file cabinets and boxes but most important, the data collected and stored by the Agency is available almost immediately to any staff member at any location.

In order to maintain the system, insure adequate service, and to see to it that it remains a useful aid for Agency staff a new

division - the data processing division - was created in early 1977. The division is responsible for designing program enhancements to meet the changing needs of the Agency and the criminal justice community in general, maintaining the operation of the system in its present state and insuring the necessary quality control so vital to the conduct of the Agency's business.

It should be noted that while the data processing division is responsible for keeping the system alive it is the staff that makes that life worthwhile. From the beginning, a conscious decision was made to require all data entry to be carried out by those who collected it rather than to have clerical staff input the data. Unlike most automated systems that permit entry to be accomplished by persons at least once removed from the original source of the information, the Agency's system was designed to be used by all personnel. Thus, all personnel, including the professional Pretrial Services Officers, are required to be fascile with the use of the system. Time and experience have proved this to have been a sound decision as the accuracy of records has indicated.

While there are many subsystems of ABA DABA that are available and while other automated systems to which Agency personnel have access are many, it is not appropriate to list them all here. (A separate manual with detailed instructions about how to use all the systems and subsystems is available.) Key subsystems include:

- BANE - This subsystem permits a name search of all Agency cases;
- BACE - The case entry system by which initial interview and verification information is entered;
- BAIR - The Release Order entry system by which court ordered conditions of release are entered;
- BACR - The Court Records entry system by which docket numbers, charges, etc. are entered (and these are mostly entered via court "tapes");
- BACK - The Defendant Contact entry system by which all phones, personal, visit, letter, and court contacts of each releasee are entered;
- BASS - The Supervision and Support entry system by which all condition compliances, messages, outside reports, etc., concerning a releasee's pretrial conduct are entered;
- BAPC - The prior contacts retrieval system by which a report containing a history of all prior contacts with the Agency and the court is generated; and
- BART - The information retrieval system by which the present status of any releasee can be accurately determined within seconds.

The system has enabled the Agency to eliminate ten clerical positions formerly required for follow-up work; to process its court reports by automation rather than typing individual reports; to identify and contact potential condition violators and bring them back into compliance; to generate and mail notification letters; to provide compliance summaries on the status of all releasees at sentence; and to generate needed statistics in a reliable and rapid fashion. In addition, the system has enabled the administrators of the Agency to use the information in ABA DABA to evaluate and shape individual Agency objectives.

APPENDIX A

"Chapter 13.--PRETRIAL SERVICES AND PRETRIAL DETENTION

SUBCHAPTER I--DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

"Sec.

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- "23-1302. Definitions.
- "23-1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations.
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- "23-1305. Duties of Director; compensation; tenure.
- "23-1306. Chief assistant and other agency personnel; compensation.
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"SUBCHAPTER II--RELEASE AND PRETRIAL DETENTION

- "23-1321. Release in noncapital cases prior to trial.
- "23-1322. Detention prior to trial.
- "23-1323. Detention of addict.
- "23-1324. Appeal from conditions of release.
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- "23-1330. Contempt.
- "23-1331. Definitions.
- "23-1332. Applicability of subchapter.

"SUBCHAPTER I--DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

"§23-1301. District of Columbia Pretrial Services Agency

"The District of Columbia Pretrial Services Agency (hereafter in this subchapter referred to as the "agency") shall continue in the District of Columbia and shall secure pertinent data and provide for any judicial officer in the District of Columbia or any officer or member of the Metropolitan

Police Department issuing citations, reports containing verified information concerning any individual with respect to whom a bail or citation determination is to be made.

"§23-1302. Definitions

"As used in this chapter--

"(1) the term 'judicial officer' means, unless otherwise indicated, the Supreme Court of the United States, United States Court of Appeals, United States District Court for the District of Columbia, the Superior Court of the District of Columbia or any justice or judge of those courts or a United States commissioner or magistrate; and

"(2) the term 'bail determination' means any order by a judicial officer respecting the terms and conditions of detention or release (including any order setting the amount of bail bond or any other kind of security) made to assure the appearance in court of --

"(A) any person arrested in the District of Columbia,
or

"(B) any material witness in any criminal proceeding in a court referred to in paragraph (1)

"§23-1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations

"(a) The agency shall, except when impracticable, interview any person detained pursuant to law or charged with an offense in the District of Columbia who is to appear before a judicial officer or whose case arose in or is before any court named in section 23-1302(1). The interview, when requested by a judicial officer, shall also be undertaken with respect to any person charged with intoxication or a traffic violation. The agency shall seek independent verification of information obtained during the interview, shall secure any such person's prior criminal record which shall be made available by the Metropolitan Police Department, and shall prepare a written report of the information for submission to the appropriate judicial officer. The report to the judicial officer shall, where appropriate, include a recommendation as to whether such person should be released or detained under any of the conditions specified in subchapter II of this chapter. If the agency does not make a recommendation, it shall submit a report without recommendation. The agency shall provide copies of its report and recommendations (if any) to the United States attorney for the District of Columbia or the Corporation Counsel of the District of Columbia, and to counsel for the person concerning whom the report is made. The report shall include but not be limited to information

concerning the person accused, his family, his community ties, residence, employment, and prior criminal record and may include such additional verified information as may become available to the agency.

"(b) With respect to persons seeking review under subchapter II of this chapter of their detention or conditions of release, the agency shall review its report, seek and verify such new information as may be necessary, and modify or supplement its report to the extent appropriate.

"(c) The agency, when requested by any appellate court or a judge or justice thereof, or by any other judicial officer, shall furnish a report as provided in subsection (a) of this section respecting any person whose case is pending before any such appellate court or judicial officer or in whose behalf an application for a bail determination shall have been submitted.

"(d) Any information contained in the agency's files, presented in its report, or divulged during the course of any hearing shall not be admissible on the issue of guilt in any judicial proceeding, but such information may be used in proceedings under section 23-1327, 23-1328, and 23-1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceeding.

"(e) The agency, when requested by a member or officer of the Metropolitan Police Department acting pursuant to court rules governing the issuance of citations in the District of Columbia, shall furnish to such member or officer a report as provided in subsection (a).

"(f) The preparation and the submission by the agency of its report as provided in this section shall be accomplished at the earliest practicable opportunity.

"(g) A judicial officer in making a bail determination shall consider the agency's report and its accompanying recommendation, if any. The judicial officer may order such detention or may impose such terms and set such conditions upon release, including requiring the execution of a bail bond with sufficient solvent sureties as shall appear warranted by the facts, except that such judicial officer may not order any detention or establish any term or condition for release not otherwise authorized by law.

"(h) The agency shall --

"(1) supervise all persons released on nonsurety release, including release on personal recognizance, personal bond, nonfinancial conditions, or cash deposit with the registry of the court;

"(2) make reasonable effort to give notice of each required court appearance to each person released by the court.

"(3) serve as coordinator for other agencies and organizations which serve or may be eligible to serve as custodians for persons released under supervision and advise the judicial officer as to the eligibility availability, and capacity of such agencies and organizations;

"(4) assist persons released pursuant to subchapter II of this chapter in securing employment or necessary medical or social services;

"(5) inform the judicial officer and the United States attorney for the District of Columbia or the Corporation Counsel of the District of Columbia of any failure to comply with pretrial release conditions or the arrest of persons released under its supervision and recommend modifications of release conditions when appropriate;

"(6) prepare, in cooperation with the United States marshal for the District of Columbia and the United States attorney for the District of Columbia, such pretrial detention reports as are required by Rule 46 (h) of the Federal Rules of Criminal Procedure; and

"(7)" perform such other pretrial functions as the executive committee may, from time to time assign.

"§23-1304 Executive committee; composition; appointment and qualifications of Director

"(a) The agency shall function under authority of and be responsible to an executive committee of five members of which three shall constitute a quorum. The executive committee shall be composed of the respective chief judges of the United States Court of Appeals for the District of Columbia Circuit, the United States District Court for the District of Columbia, the District of Columbia Court of appeals, the Superior Court, or if circumstances may require the designee of any such chief judge, and a fifth member who shall be selected by the chief judges.

"(b) The executive committee shall appoint a Director of the agency who shall be a member of the bar of the District of Columbia.

"§23-1305. Duties of Director; compensation; tenure

The Director of the agency shall be responsible for the supervision and execution of the duties of the agency. The Director shall receive such compensation as may be set by the executive committee but not in excess of the compensation authorized for GS-16 of the General Schedule contained in section 5332 of title 5, United States Code. The Director shall hold office at the pleasure of the executive committee.

"§23-1306. Chief assistant and other agency personnel; compensation

"The Director, subject to the approval of the executive committee, shall employ a chief assistant and such assisting and clerical staff and may make assignments of such agency personnel as may be necessary properly to conduct the business of the agency. The staff of the agency, other than clerical, shall be drawn from law students, graduate students, or such other available sources as may be approved by the executive committee. The chief assistant to the Director shall receive compensation as may be set by the executive committee, but in an amount not in excess of the amount authorized for GS-14 of the General Schedule contained in section 5332 of Title 5, United States Code, and shall hold office at the pleasure of the executive committee. All other employees of the agency shall receive compensation, as set by the executive committee, which shall be comparable to levels of compensation established in such chapter 53. From time to time, the Director subject to the approval of the executive committee, may set merit and longevity salary increases.

"§23-1307. Annual reports to executive committee, Congress and Commissioner

"The Director shall on June 15 of each year submit to the executive committee a report as to the agency's administration of its responsibilities for the previous period of June 1 through May 31, a copy of which report will be transmitted by the executive committee to the Congress of the United States, and to the Commissioner of the District of Columbia. The Director shall include in his report, to be prepared as directed by the Commissioner of the District of Columbia, a statement of financial condition, revenues, and expenses for the past June 1 through May 31 period.

"§23-1308. Budget estimates

"Budget estimates for the agency shall be prepared by the Director and shall be subject to the approval of the executive committee.

SUBCHAPTER II--RELEASE AND PRETRIAL DETENTION

"§23-1321. Release in noncapital cases prior to trial

"(a) Any person charged with an offense, other than an offense punishable by death, shall, at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required or the safety of any other person or the community. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above methods of release impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or the safety of any other person or the community, or, if no single condition gives that assurance, any combination of the following conditions:

"(1) Place the person in the custody of a designated person or organization agreeing to supervise him.

"(2) Place restrictions on the travel, association, or place of abode of the person during the period of release.

"(3) Require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 percentum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release.

"(4) Require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

"(5) Impose any other condition, including a condition requiring that the person return to custody after specified hours of release for employment or other limited purposes.

No financial condition may be imposed to assure the safety of any other person or the community.

"(b) In determining which conditions of release, if any, will reasonably assure the appearance of a person as required or the safety of any other person or the community, the judicial officer shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, the weight of the evidence against

such person, his family ties, employment, financial resources, character and mental conditions, past conduct, length of residence in the community, record of convictions, and any record of appearance at court proceedings, flight to avoid prosecution, or failure to appear at court proceedings.

"(c) A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any, shall inform such person of the penalties applicable to violations of the conditions of his release, shall advise him that a warrant for his arrest will be issued immediately upon any such violation, and shall warn such person of the penalties provided in section 23-1328.

"(d) A person for whom conditions of release are imposed and who, after twenty-four hours from the time of the release hearing, continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is thereupon released on another condition, the judicial officer shall set forth in writing the reasons for continuing the requirement. In the event that the judicial officer who imposed conditions of release is not available, any other judicial officer may review such conditions.

"(e) A judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release, except that if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection (d) shall apply.

"(f) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(g) Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court.

"(h) The following shall be applicable to any person detained pursuant to this subchapter:

"(1) The person shall be confined to the extent practicable, in facilities separate from convicted persons awaiting or serving sentences or being held in custody pending appeal.

"(2) The person shall be afforded reasonable opportunity for private consultation with counsel and, for good cause shown, shall be released upon order of the judicial officer in the custody of the United States marshal or other appropriate person for limited periods of time to prepare defenses or for other proper reasons.

"§23-1322. Detention prior to trial

"(a) Subject to the provisions of this section, a judicial officer may order pretrial detention of--

"(1) a person charged with a dangerous crime, as defined in section 23-1331(3), if the Government certifies by motion that based on such person's pattern of behavior consisting of his past and present conduct and on other factors set out in section 23-1321 (b), there is no condition or combination of conditions which will reasonably assure the safety of the community;

"(2) a person charged with a crime of violence, as defined in section 23-1331(4), if (i) the person has been convicted of a crime of violence within the ten-year period immediately preceding the alleged crime of violence for which he is presently charged; or (ii) the crime of violence was allegedly committed while the person was, with respect to another crime of violence on bail or other release or on probation, parole, or mandatory release pending completion of a sentence; or

"(3) a person charged with any offense if such person, for the purpose of obstructing or attempting to obstruct justice, threatens, injures, intimidates, or attempts to threaten, injure, or intimidate any prospective witness or juror.

"(b) No person described in subsection (a) of this section shall be ordered detained unless the judicial officer --

"(1) holds a pretrial detention hearing in accordance with the provisions of subsection (c) of this section;

"(2) finds --

"(A) that there is clear and convincing evidence that the person is a person described in paragraph (1), (2), or (3) of subsection (a) of this section;

"(B) that --

"(i) in the case of a person described only in paragraph (1) of subsection (a), based on such person's pattern of behavior consisting of his past and present conduct, and on other factors set out in section 23-1321 (b), or

"(ii) in the case of a person described in paragraph (2) or (3) of such subsection, based on factors set out in section 23-1321 (b),

there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

(C) that except with respect to a person described in paragraph (3) of subsection (a) of this section, on the basis of information presented by proffer or otherwise to the judicial officer there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(c) The following procedures shall apply to pretrial detention hearings held pursuant to this section:

"(1) Whenever the person is before a judicial officer, the hearing may be initiated on oral motion of the United States attorney.

"(2) Whenever the person has been released pursuant to section 23-1321 and it subsequently appears that such person may be subject to pretrial detention, the United States attorney may initiate a pretrial detention hearing by ex parte written motion. Upon such motion the judicial officer may issue a warrant for the arrest of the person and if such person is outside the District of Columbia, he shall be brought before a judicial officer in the district where he is arrested and then shall be transferred to the District of Columbia for proceedings in accordance with this section.

"(3) The pretrial detention hearing shall be held immediately upon the person being brought before the judicial officer for such hearing unless the person or the United States attorney moves for a continuance. A continuance granted on motion of the person shall not exceed five calendar days, unless there are extenuating circumstances. A continuance on motion of the United States attorney shall be granted upon good cause shown and shall not exceed three calendar days. The person may be detained pending the hearing.

"(4) The person shall be entitled to representation by counsel and shall be entitled to present information by proffer or otherwise, to testify, and to present witnesses in his own behalf.

"(5) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

"(6) Testimony of the person given during the hearing shall not be admissible on the issue of guilt in any other judicial proceeding, but such testimony shall be admissible in proceedings under sections 23-1327, 23-1328, and 23-1329, in perjury proceedings, and for the purposes of impeachment in any subsequent proceedings.

"(7) Appeals from orders of detention may be taken pursuant to section 23-1324.

"(d) The following shall be applicable to person detained in this section:

"(1) The case of such person shall be placed on an expedited calendar and, consistent with the sound administration of justice, his trial shall be given priority.

"(2) Such person shall be treated in accordance with section 23-1321-

"A) upon the expiration of sixty calendar days, unless the trial is in progress or the trial has been delayed at the request of the person other than by the filing of timely motions (excluding motions for continuances): or

"(B) whenever a judicial officer finds that a subsequent event has eliminated the basis for such detention.

"(3) The person shall be deemed detained pursuant section 23-1325 if he is convicted.

"(e) The judicial officer may detain for a period not to exceed five calendar days a person who comes before him for a bail determination charged with any offense, if it appears that such person is presently on probation, parole, or mandatory release pending completion of sentence for any offense under State or Federal law and that such person may flee or pose a danger to any other person or the community if released. During the five-day period, the United States attorney or the Corporation Counsel for the District of Columbia shall notify the appropriate State or Federal probation or parole officials. If such officials fail or decline to take the person into custody during such period, the person shall be treated in accordance with section 23-1321, unless he is subject to detention under this section. If the person is subsequently convicted of the offense charged, he shall receive credit toward service of sentence for the time he was detained pursuant to this subsection.

"§23-1323. Detention of addict

"(a) Whenever it appears that a person charged with a crime of violence, as defined in section 23-1331 (4), may be an addict, as defined in section 23-1331 (5), the judicial officer may, upon motion of the United States attorney, order such person detained in custody for a period not to exceed three calendar days, under medical supervision, to determine whether the person is an addict.

"(b) Upon or before the expiration of three calendar days, the person shall be brought before a judicial officer and the results of the determination shall be presented to such judicial officer. The judicial officer thereupon (1) shall treat the person in accordance with section 23-1321, or

(2) upon motion of the United States attorney, may (A) hold a hearing pursuant to section 23-1322, or (b) hold a hearing pursuant to subsection (c) of this section.

"(c) A person who is an addict may be ordered detained in custody under medical supervision if the judicial officer--

"(1) holds a pretrial detention hearing in accordance with subsection (c) of section 23-1322"

"(2) finds that--

"(A) there is clear and convincing evidence that the person is an addict;

"(B) based on the factors set out in subsection (b) of section 23-1321, there is no condition or combination of conditions of release which will reasonably assure the safety of any other person or the community; and

"(C) on the basis of information presented to the judicial officer by proffer or otherwise, there is a substantial probability that the person committed the offense for which he is present before the judicial officer; and

"(3) issues an order of detention accompanied by written findings of fact and the reasons for its entry.

"(d) The provisions of subsection (d) of section 23-1322 shall apply to this section.

"§23-1324. Appeal from conditions of release

"(a) A person who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, after review of his application pursuant to section 23-1321(d) or section 23-1321(e) by a judicial officer, other than a judge of the court having original jurisdiction over the offense with which he is charged or a judge of a United States court of appeals or Justice of the Supreme Court, may move the court having original jurisdiction over the offense with which he is charged to amend the order. Such motion shall be determined promptly.

"(b) In any case in which a person is detained after (1) a court denies a motion under subsection (a) to amend an order imposing conditions of release, (2) conditions of release have been imposed or amended by a judge of the court having

original jurisdiction over the offense charged, or (3) he is ordered detained or an order for his detention has been permitted to stand by a judge of the court having original jurisdiction over the offense charged, an appeal may be taken to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, the court may remand the case for a further hearing, or may, with or without additional evidence, order the person released pursuant to section 23-1321(a). The appeal shall be determined promptly.

"(c) In any case in which a judicial officer other than a judge of the court having original jurisdiction over the offense with which a person is charged orders his release with or without setting terms or conditions of release, or denies a motion for the pretrial detention of a person, the United States attorney may move the court having original jurisdiction over the offense to amend or revoke the order. Such motion shall be considered promptly.

"(d) In any case in which--

"(1) a person is released, with or without the the setting of terms or conditions of release, or a motion for the pretrial detention of a person is denied, by a judge of the court having original jurisdiction over the offense with which the person is charged, or

"(2) a judge of a court having such original jurisdiction does not grant the motion of the United States attorney filed pursuant to subsection (c),

the United States attorney may appeal to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not supported, (A) the court may remand the case for a further hearing (B) with or without additional evidence, change the terms or conditions of release, or (C) in cases in which the United States attorney requested pretrial detention pursuant to section 23-1322 and 23-1323, order such detention.

"§23-1325. Release in capital cases or after conviction

"(a) A person who is charged with an offense punishable by death shall be treated in accordance with the provisions of section 23-1321 unless the judicial officer has reason to believe that no one or more conditions of release will

reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained.

"(b) A person who has been convicted of an offense and is awaiting sentence shall be detained unless the judicial officer finds by clear and convincing evidence that he is not likely to flee or pose a danger to any other person or to the property of others. Upon such finding, the judicial officer shall treat the person in accordance with the provisions of section 23-1321.

"(c) A person who has been convicted of an offense and sentenced to a term of confinement or imprisonment and has filed an appeal or a petition for a writ of certiorari shall be detained unless the judicial officer finds by clear and convincing evidence that (1) the person is not likely to flee or pose a danger to any other person or to the property of others, and (2) the appeal or petition for a writ of certiorari raises a substantial question of law or fact likely to result in a reversal or an order for new trial. Upon such finding, the judicial officer shall treat the person in accordance with the provisions of section 23-1321.

"(d) The provisions of section 23-1324 shall apply to persons detained in accordance with this section, except that the finding of the judicial officer that the appeal or petition for writ of certiorari does not raise by clear and convincing evidence a substantial question of law or fact likely to result in a reversal or order for new trial shall receive de novo consideration in the court in which review is sought.

"§23-1326/ Release of material witness

"If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpoena, a judicial officer shall impose conditions of release pursuant to section 23-1321. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules Criminal Procedure.

"§23-1327. Penalties for failure to appear

"(a) Whoever, having been released under this title prior to the commencement of his sentence, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari prior to commencement of his sentence after conviction of any offence, be fined not more than \$5,000 and imprisoned not less than one year and not more than five years, (2) if he was released in connection with a charge of misdemeanor, be fined not more than the maximum provided for such misdemeanor and imprisoned for not less than ninety days and not more than one year, or (3) if he was released for appearance as a material witness, be fined not more than \$1,000 or imprisoned for not more than one year, or both.

"(b) Any failure to appear after notice of the appearance date shall be prima facie evidence that such failure to appear is willful. Whether the person was warned when released of the penalties for failure to appear shall be a factor in determining whether such failure to appear was willful, but the giving of such warning shall not be a prerequisite to conviction under this section.

"(c) The trier of facts may convict under this section even if the defendant has not received actual notice of the appearance date if (1) reasonable efforts to notify the defendant have been made, and (2) the defendant, by his own actions, has frustrated the receipt of actual notice.

"(d) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§23-1328. Penalties for offenses committed during release.

"(a) Any person convicted of an offense committed while released pursuant to section 23-1321 shall be subject to the following penalties in addition to any other applicable penalties:

"(1) A term of imprisonment of not less than one year and not more than five years if convicted of committing a felony while so released; and

"(2) A term of imprisonment of not less than ninety days and not more than one year if convicted of committing a misdemeanor while so released.

"(b) The giving of a warning to the person when released of the penalties imposed by this section shall not be a prerequisite to the application of this section.

"(c) Any term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment.

"§23-1329. Penalties for violation of condition of release

"(a) A person who has been conditionally released pursuant to section 23-1321 and who has violated a condition of release shall be subject to revocation of release, an order of detention, and prosecution for contempt of court.

"(b) Proceedings for revocation of release may be initiated on motion of the United States attorney. A warrant for the arrest of a person charged with violating a condition of release may be issued by a judicial officer and if such person is outside the District of Columbia he shall be brought before a judicial officer in the district where he is arrested and shall then be transferred to the District of Columbia for proceedings in accordance with this section. No order of revocation and detention shall be entered unless, after a hearing, the judicial officer finds that--

- "(1) there is clear and convincing evidence that such person has violated a condition of his release; and
- "(2) based on the factors set out in subsection (b) of section 23-1321, there is no condition or combination of conditions of release which will reasonably assure that such person will not flee or pose a danger to any other person or the community.

The provisions of subsections (c) and (d) of section 23-1322 shall apply to this subsection.

"(c) Contempt sanctions may be imposed if, upon hearing and in accordance with principles applicable to proceedings for criminal contempt, it is established that such person has intentionally violated a condition of his release. Such contempt proceedings shall be expedited and heard by the court without a jury. Any person found guilty of criminal contempt for violation of a condition of release shall be imprisoned for not more than six months, or fined not more than \$1,000, or both.

"(d) Any warrant issued by a judge of the Superior Court for violation of release conditions or for contempt of court, for failure to appear as required, or pursuant to subsection (c)(2) of section 23-1322, may be executed at any place within the jurisdiction of the United States. Such warrants shall be executed by a United States Marshal or by any other officer authorized by law.

"§23-1330. Contempt

"Nothing in this subchapter shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.

"§23-1331. Definitions

"As used in this subchapter:

"(1) The term 'judicial officer' means, unless otherwise indicated, any person or court in the District of Columbia authorized pursuant to section 3041 of Title 18, United States Code, or the Federal Rules of Criminal Procedure, to bail or otherwise release a person before trial or sentencing or pending appeal in a court of the United States, and any judge of the Superior Court.

"(2) The term 'offense' means any criminal offense committed in the District of Columbia, other than an offense triable by courtmarshal, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress.

"(3) The term 'dangerous crime' means (A) taking or attempting to take property from another by force or threat of force, (B) unlawfully entering or attempting to enter any premises adapted for overnight accommodation of persons or for carrying on business with the intent to commit an offense therein, (C) arson or attempted arson of any premises adaptable for overnight accommodations of persons or for carrying on business, (D) forcible rape, or assault with intent to commit forcible rape, or (E) unlawful sale or distribution of a narcotic or depressant or stimulant drug (as defined by any Act of Congress) if the offense is punishable by imprisonment for more than one year.

"(4) The term 'crime of violence' means murder forcible rape, carnal knowledge of a female under the age of sixteen, taking or attempting to take immoral improper, or indecent liberties with a child under the age of sixteen years, mayhem, kidnaping, robbery burglary, voluntary manslaughter, extortion or blackmail accompanied by threats of violence, arson, assault with intent to commit any offense, assault with a dangerous weapon, or an attempt or conspiracy to commit any of the foregoing offenses, as defined, by any Act of Congress or any State law, if the offense is punishable by imprisonment for more than one year.

"(5) The term 'addict' means any individual who habitually uses any narcotic drug as defined by section 4731 of the Internal Revenue Code of 1954 so as to endanger the public morals, health, safety, or welfare.

"§23-1332. Applicability of subchapter

"The provisions of this subchapter shall apply in the District of Columbia in lieu of the provisions of section 3146 through 3152 of title 18, United States Code.

APPENDIX - B
BAIL REFORM ACT (1966)
18 U.S.C. §3146-3151

§3146. Release in noncapital cases prior to trial

(a) Any person charged with an offense, other than an offense punishable by death, shall at his appearance before a judicial officer, be ordered released pending trial on his personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer, unless the officer determines, in the exercise of his discretion, that such a release will not reasonably assure the appearance of the person as required. When such a determination is made, the judicial officer shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or, if no single condition gives that assurance, any combination of the following conditions:

(1) place the person in the custody of a designated person or organization agreeing to supervise him;

(2) place restrictions on the travel, association, or place of abode of the person during the period of release;

(3) require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 percentum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release.

(4) require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof;
or

(5) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

(b) In determining which conditions of release will reasonably assure appearance, the judicial officer shall, on the basis of available information take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, financial resources, character and mental condition, the length of his residence in the community, his record of convictions, and his record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

(c) A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of conditions imposed, if any, shall

inform such person of the penalties applicable to violations of the conditions of his release and shall advise him that a warrant for his arrest will be issued immediately upon any such violation.

(d) A person for whom conditions of release are imposed and who after twenty-four hours from the time of the release hearing continues to be detained as a result of his inability to meet the conditions of release, shall, upon application, be entitled to have the conditions reviewed by the judicial officer who imposed them. Unless the conditions of release are amended and the person is thereupon released, the judicial officer shall set forth in writing the reasons for requiring the conditions imposed. A person who is ordered released on a condition which requires that he return to custody after specified hours shall, upon application, be entitled to a review by the judicial officer who imposed the condition. Unless the requirement is removed and the person is thereupon released on another condition, the judicial officer shall set forth in writing the reasons for continuing the requirement. In the event that the judicial officer who imposed conditions of release is not available, any other judicial officer in the district may review such conditions.

(e) A judicial officer ordering the release of a person on any condition specified in this section may at any time amend his order to impose additional or different conditions of release: Provided, That, if the imposition of such additional or different conditions results in the detention of the person as a result of his inability to meet such conditions or in the release of the person on a condition requiring him to return to custody after specified hours, the provisions of subsection (d) shall apply.

(f) Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(g) Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security where such disposition is authorized by the court. Added Pub.L. 89-465, § 3(a), June 22, 1966, 80 Stat. 214.

Codification. Former section 3146, derived from Act Aug. 20, 1954, c. 772, § 1, 68 Stat. 747, which prescribed penalties for jumping bail, was stricken out by Pub.L. 89-465, § 3(a), June 22, 1966, 80 Stat. 214. The subject matter is now covered by sections 3150 and 3151 of this title.

§ 3147. Appeal from conditions of release

(a) A person who is detained, or whose release on a condition requiring him to return to custody after specified hours is continued, after review of his application pursuant to section 3146 (d) or section 3146 (e) by a judicial officer, other than a judge of the court having original jurisdiction over the offense with which he is charged or a judge of a United States court of appeals or a Justice of the Supreme Court, may move the court having original jurisdiction over the offense with which he is charged to amend the order. Said motion shall be determined promptly.

(b) In any case in which a person is detained after (1) a court denies a motion under subsection (a) to amend an order imposing conditions of release, or (2) conditions of release have been imposed or amended by a judge of the court having original jurisdiction over the offense charged, an appeal may be taken to the court having appellate jurisdiction over such court. Any order so appealed shall be affirmed if it is supported by the proceedings below. If the order is not so supported, the court may remand the case for a further hearing, or may, with or without additional evidence, order the person released pursuant to section 3146(a). The appeal shall be determined promptly. Added Pub. L. 89-465, § 3(a), June 22, 1966, 80 Stat. 215.

§3148. Release in capital cases or after conviction

A person (1) who is charged with an offense punishable by death, or (2) who has been convicted of an offense and is either awaiting sentence or sentence review under section 3576 of this title or has filed an appeal or a petition for a writ of certiorari, shall be treated in accordance with the provisions of section 3146 unless the court or judge has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, or if it appears that an appeal is frivolous or taken for delay, the person may be ordered detained. The provisions of section 3147 shall not apply to persons described in this section: Provided, That other rights to judicial review of conditions of release or orders of detention shall not be affected. Added Pub.L. 89-465, §3(a), June 22, 1966, 80 Stat. 215, and amended Pub.L. 91-452, Title X, §1002, Oct. 15, 1970, 84 Stat. 952.

§3149. Release of material witnesses

If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpoena, a judicial officer shall impose conditions of release pursuant to section 3146. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.

§3150. Penalties for failure to appear

Whoever, having been released pursuant to this chapter, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari after conviction of any offense, be fined not more than \$5,000 or imprisoned not more than five years, or both, or (2) if he was released in connection with a charge of misdemeanor, be fined not more than maximum provided for such misdemeanor or imprisoned for not more than one year, or both, or (3) if he was released for appearance as a material witness, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.
Added Pub.L. 89-465, §3 (a), June 22, 1966, 80 Stat. 216.

§3151. Contempt

Nothing in this chapter shall interfere with or prevent the exercise by any court of the United States of its power to punish for contempt.
Added Pub.L. 89-465, §3(a), June 22, 1966 80 Stat. 216.

**APPENDIX C
PRETRIAL SERVICES AGENCY INTERVIEW FORM**

LOCKUP # _____
Interviewer _____
Verifier _____

CW Lives W/Def. Y N MPID # _____ Time of Arrest _____ Date _____

Charge _____ MS FL M L.U. C/L
Type of File TR DC S CIT OTH

FIRST AND MIDDLE NAME _____ LAST NAME _____

Aliases _____

Race: N C O Sex: M F DOB: _____ Birthplace: _____ Height: _____ Weight: _____

AREA RES For: _____ Steadily: Y N Transient: Y N Alien: Y N

STREET ADDR: _____ Apt. # _____ City: _____

State: _____ Zip: _____ Buy/Rent Length of Res: _____ Steadily: Y N

Landlord: _____ Lives With: _____ Rel: _____

Care of: Y N Telephone: _____ Listed in Whose Name: _____

CONCUR ADDR: _____ Apt. # _____ City: _____

State: _____ Zip: _____ Length of Res: _____ Telephone: _____

Lives With: _____ Rel: _____

PRIOR ADDRESS: _____ Length of Res: _____

Lived With: _____ Rel: _____

EMPLOYED: Y N PRESENT EMPLOYMENT OR SUBSTITUTE: _____

Length of Empl: _____ Full-time: Y N Type: _____ Income: _____

Supervisor: _____ Telephone: _____ Can Contact: Y N

FORMER OR CONCURRENT: F C Employment: _____

Length of Empl: _____ Full-time: Y N Type: _____ Income: _____

Supervisor: _____ Telephone: _____ Can Contact: Y N

Student At: _____ Education In Years: _____ Student ID #: _____

Remarks: _____

Phys Prob: _____ Treat: _____ Med: Y N Type: _____

Mental Hospital: _____ Entered: _____ Length of Stay: _____

Narcotics: Y N Treatment: _____ Alcoholic: Y N Treatment: _____

BOND: Y N \$ _____ Bondsman _____ Charge _____ Due _____ Where _____

Y N \$ _____ Bondsman _____ Charge _____ Due _____ Where _____

PROB/PAROLE: Y N Charge _____ P.O. _____ Phone #: _____

PROB/PAROLE: Y N Charge _____ P.O. _____ Phone #: _____

WARRANT OUTSTANDING: Y N Remarks: _____

MARRIED: Y N Lives W/Spouse: Y N Lives W/Children: Y N Number of Children: _____

OTHER FAMILY In Area Not Living With Defendant: 1. _____ 2. _____ 3. _____ 4. _____ 5. _____

REFERENCES: Name _____ Address _____ Rel _____ Telephone _____ In CT/AT MPD _____

(Present 1. _____

Address) 2. _____

3. _____

4. _____

5. _____

REMARKS: _____

CITATIONS: MPD District: _____ Arr Off: _____ Ref Off: _____

Shift: _____ Arrest #: _____ Time of Inter: _____

S M T W T F S Citation #: _____ Total Points: _____

VERIFICATION AND RECOMMENDATION:

POINTS Area Length of RES Fam Ties Employment Deductions Total

POSSIBLE: 1 5 4 3 2 1 4 3 2 1 4 3 2 1 -1-2-3-4-5-6-7

VERIFIED: 1 5 4 3 2 1 4 3 2 1 4 3 2 1 -1-2-3-4-5-6-7

PR Cond. Prevent Deten Hear No Rec

Custody Report Live Employ Study Narc CW Area Curfew at

FINAL ACTION: CITATION: Rel Due: U.S.A. _____ Due: CC _____ Not Rel

COURT: PR Cond. Surety _____ Cash _____ No Bond M.O. Other

Conditions: Custody Report Live Employ Student Narc. C.W. Area Curfew Other

Appearance Date: Due: _____ CTRM: _____

CONTINUED

1 OF 2

**APPENDIX D
SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA**

United States of America
v.

Case No. _____

Defendant's name _____ Defendant's address _____ Defendant's phone no. _____
**YOU ARE HEREBY RELEASED ON THE CONDITIONS INDICATED BELOW:
THESE CONDITIONS WILL BE IN EFFECT UNTIL YOUR CASE IS DISPOSED OF OR UNTIL
THEY ARE CHANGED OR AMENDED BY A JUDGE.**

<input type="checkbox"/>	PERSONAL PROMISE	PERSONAL RECOGNIZANCE. Your personal recognizance, provided that you promise to appear at all scheduled hearings, trials, or otherwise as required by the Court.
<input type="checkbox"/>	\$ _____	UNSECURED APPEARANCE BOND. Your personal unsecured appearance bond, to be forfeited should you fail to appear as required by the Court.
<input type="checkbox"/>	SUPERVISORY CUSTODY	<p>You hereby agree to be placed in the custody of _____ who agrees (a) to supervise you in accordance with the conditions below, (b) to use every effort to assure your appearance at all scheduled hearings, trials, or otherwise, and (c) to notify the D.C. Pretrial Services Agency immediately in the event you violate any condition of release or disappear. Agency telephone — 727-2800.</p> <p align="right">Custodian's name _____ Custodian's address _____ Custodian's phone no. _____ SIGNATURE OF CUSTODIAN _____</p>
<input type="checkbox"/>	YOU ARE TO STAY	<input type="checkbox"/> away from the complaining witness. <input type="checkbox"/> within the D.C. area <input type="checkbox"/> at _____ address _____ phone no. _____ <input type="checkbox"/> with _____ name and relationship to defendant _____ phone no. _____ <input type="checkbox"/> at _____ address _____ phone no. _____ being in at night by _____ P.M. time
<input type="checkbox"/>	YOU ARE TO LIVE	<input type="checkbox"/> seek to obtain employment and report your progress to the D.C. Pretrial Services Agency every _____ days at 727-2800. <input type="checkbox"/> maintain your present employment at _____ employers name and address _____ or notify the D.C. Pretrial Services Agency at 727-2800 of any change in employment.
<input type="checkbox"/>	YOU ARE TO STUDY	<input type="checkbox"/> by enrolling in school at _____ name and address _____ <input type="checkbox"/> by maintaining your student status at _____ name and address _____
<input type="checkbox"/>	NARCOTICS	<input type="checkbox"/> You are to submit to an immediate urinalysis and if positive <input type="checkbox"/> You are to report for testing and treatment at _____
<input type="checkbox"/>	YOU ARE TO REPORT TO	<input type="checkbox"/> D.C. Pretrial Services Agency <input type="checkbox"/> Weekly <input type="checkbox"/> Other _____ <input type="checkbox"/> By Phone <input type="checkbox"/> In Person <input type="checkbox"/> Probation Officer <input type="checkbox"/> Weekly <input type="checkbox"/> Other _____ <input type="checkbox"/> By Phone <input type="checkbox"/> In Person <input type="checkbox"/> Parole Officer <input type="checkbox"/> Weekly <input type="checkbox"/> Other _____ <input type="checkbox"/> By Phone <input type="checkbox"/> In Person
<input type="checkbox"/>	REVIEW	You are to report to the D.C. Pretrial Services Agency at room 1235 immediately upon release for a review of conditions.
<input type="checkbox"/>	OTHER	
<input type="checkbox"/>	MONEY BOND OF _____ \$ _____	<input type="checkbox"/> CASH BOND. Upon execution of appearance bond, to be forfeited should you fail to appear as required by the Court, secured by a deposit, such deposit to be returned when the Court determines you have performed the conditions of your release. You will deposit in the registry of the Court _____ %. <input type="checkbox"/> SURETY BOND. Upon execution of appearance bond with approved surety.

YOU ARE NOT TO COMMIT ANY CRIMINAL OFFENSE.

VIOLATIONS OF CONDITIONS: You are further instructed that a warrant for your arrest will be issued immediately upon any violation of a condition of this release. Any violation of these conditions shall subject you to revocation of release, an order of detention, and prosecution for contempt of court (a fine of not more than \$1000 or imprisonment not more than 6 months or both).

FAILURE TO APPEAR: For any failure to appear as required before a judge or other judicial officer, you shall be subject to prosecution and subject to the following penalties:

(IF FELONY CHARGE) A fine of not more than \$5000 and imprisonment for not less than one year and not more than 5 years;
(IF MISDEMEANOR CHARGE) A fine of not more than the maximum provided for the offense for which you are presently charged and imprisonment for not less than ninety days and not more than one year.

Any failure to appear after conviction of any offense (felony or misdemeanor) while awaiting sentence or pending appeal or certiorari prior to commencement of sentence shall subject you to a fine of not more than \$5000 and imprisonment for not less than one year and not more than 5 years.

OFFENSES COMMITTED DURING RELEASE: You are further instructed that if you are convicted of an offense committed while released, you shall be subject to the following penalties in addition to any other applicable penalties: imprisonment of not less than one year and not more than 5 years if convicted of committing a felony while released; and imprisonment of not less than 90 days and not more than one year if convicted of committing a misdemeanor while released; such to be consecutive to any other sentence of imprisonment.

NEXT DUE BACK	on _____ in Courtroom _____ at _____ AM. PM.	YOUR ATTORNEY
	If you have any questions about the date, time, or location CALL THE D.C. PRETRIAL SERVICES AGENCY AT 727-2800.	_____ address _____ phone no. _____

DEFENDANT'S SIGNATURE _____

I understand the penalties which may be imposed on me for willful failure to appear or for violation of any condition of release and agree to comply with the conditions of my release and to appear as required.

WITNESSED BY _____ (title or agency)

IMPORTANT: YOU ARE TO NOTIFY IMMEDIATELY THE D.C. PRETRIAL SERVICES AGENCY, 500 INDIANA AVE., N.W., FIRST FLOOR, TELEPHONE NUMBER 727-2800, OF ANY CHANGE OF ADDRESS, EMPLOYMENT, OR CHANGE IN STATUS OF ANY RELEASE CONDITIONS. ANY REARREST FOR ANY OFFENSE BASED ON PROBABLE CAUSE MAY BE GROUNDS FOR REVOCATION OF THIS ORDER.

SO ORDERED

Date _____ Signature of Judge _____ J-84541

WHITE — TO COURT PAPERS YELLOW — TO DEFENSE ATTORNEY
GREEN — TO D.C. PRETRIAL SERVICES AGENCY GOLD — TO CUSTODIAN
BLUE — TO DEFENDANT PINK — TO U.S. ATTORNEY

APPENDIX E

Federal Pretrial Services Agency
18 U.S.C. §3152-3157

"§3152. Establishment of pretrial services agencies

"The Director of the Administrative Office of the United States Courts shall establish, on a demonstration basis, in each of ten representative judicial districts (other than the District of Columbia), a pretrial services agency authorized to maintain effective supervision and control over, and to provide supportive services to, defendants released under this chapter. The districts in which such agencies are to be established shall be designated by the Chief Justice of the United States after consultation with the Attorney General, on the basis of such considerations as the number of criminal cases prosecuted annually in the district, the percentage of defendants in the district presently detained prior to trial, the incidence of crime charged against persons released pending trial under this chapter, and the availability of community resources to implement the conditions of release which may be imposed under this chapter.
Added Pul.L. 93-619, Title II, §201, Jan. 3, 1975, 88 Stat. 2086.

§3153. Organization of pretrial services agencies

"(a) The powers of five pretrial services agencies shall be vested in the Division of Probation of the Administrative Office of the United States Courts. Such Division shall establish general policy for such agencies.

"(b) (1) The powers of each of the remaining five pretrial services agencies shall be vested in a Board of Trustees which shall consist of seven members. The Board of Trustees shall establish general policy for the agency.

"(2) Members of the Board of Trustees shall be appointed by the chief judge of the United States district court for the district in which such agency is established as follows:

(A) one member, who shall be a United States district court judge;

(B) one member, who shall be the United States attorney;

(C) two members, who shall be members of the local bar active in the defense of criminal cases, and one of whom shall be a Federal public defender, if any;

(D) one member, who shall be the chief probation officer; and

(E) two members who shall be representatives of community organizations.

"(c) The term of office of a member of the Board of Trustees appointed pursuant to clauses (C) (other than a public defender) and (E) of subsection (b)(2) shall be three years. A vacancy in the Board shall be filled in the same manner as the original appointment. Any member appointed pursuant to clause (C) (other than a public defender) or (E) of subsection (b)(2) to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(d) (1) In each of the five demonstration districts in which pretrial service agencies are established pursuant to subsection (a) of this section, the pretrial service officer shall be a Federal probation officer of the district designated for this purpose by the Chief of the Division of Probation and shall be compensated at a rate not in excess of the rate prescribed for GS-16 by section 5332 of title 5, United States Code.

"(2) In each of the five remaining demonstration districts in which pretrial service agencies are established pursuant to subsection (b)(1) of this section, after reviewing the recommendations of the judges of the district court to be served by the agency, each such Board of Trustees shall appoint a chief pretrial service officer, who shall be compensated at a rate to be established by the chief judge of the court, but not in excess of the rate prescribed for GS-15 by section 5332 of title 5, United States Code.

"(3) The designated probation officer or the chief pretrial service officer, subject to the general policy established by the Division of Probation or the Board of Trustees, respectively, shall be responsible for the direction and supervision of the agency and may appoint and fix the compensation of such other personnel as may be necessary to staff such agency, and may appoint such experts and consultants as may be necessary, pursuant to section 3109 of title 5, United States Code. The compensation of such personnel so appointed shall be comparable to levels of compensation established under chapter 53 of title 5, United States Code.
Added Pub.L. 93-619, Title II, §201, Jan. 3, 1975, 88 Stat. 2086.

"§3154. Functions and powers of pretrial services agencies

"Each pretrial services agency shall perform such of the following functions as the district court to be served may specify:

"(1) Collect, verify, and report promptly to the judicial officer information pertaining to the pretrial release of each person charged with an offense, and recommend appropriate release conditions for each such person, but such information as may be contained in the agency's files or presented in its report

or which shall be divulged during the course of any hearing shall be used only for the purpose of a bail determination and shall otherwise be confidential. In their respective districts, the Division of Probation or the Board of Trustees shall issue regulations establishing policy on the release of agency files. Such regulations shall create an exception to the confidentiality requirement so that such information shall be available to members of the agency's staff and to qualified persons for purposes of research related to the administration of criminal justice. Such regulations may create an exception to the confidentiality requirement so that access to agency files will be permitted by agencies under contract pursuant to paragraph (4) of this section; to probation officers for the purpose of compiling a presentence report and in certain limited cases to law enforcement agencies for law enforcement purposes. In no case shall such information be admissible on the issue of guilt in any judicial proceeding, and in their respective districts, the Division of Probation or the Board of Trustees may permit such information to be used on the issue of guilt for a crime committed in the course of obtaining pre-trial release.

"(2) Review and modify the reports and recommendations specified in paragraph (1) for persons seeking release pursuant to section 3146(e) or section 3147.

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

"(4) With the cooperation of the Administrative Office of the United States Courts, and with the approval of the Attorney General, operate or contract for the operation of appropriate facilities for the custody or care of persons released under this chapter including, but not limited to, residential halfway houses, addict and alcoholic treatment centers, and counseling services.

"(5) Inform the court of all apparent violations of pre-trial release conditions or arrests of persons released to its custody or under its supervision 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 attorney 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) Perform such other functions as the court may, from time to time, assign.

Added Pub.L. 93-619, Title II, §201, Jan. 3, 1975, 88 Stat. 2087.

"§3155. Report to Congress

"(a) The Director of the Administrative Office of the United States Courts shall annually report to Congress on the accomplishments of the pretrial services agencies, with particular attention to (1) their effectiveness in reducing crime committed by persons released under this chapter; (2) their effectiveness in reducing the volume and cost of unnecessary pretrial detention; and (3) their effectiveness in improving the operation of this chapter. The Director shall include in his fourth annual report recommendations for any necessary modification of this chapter or expansion to other districts. Such report shall also compare the accomplishments of the pretrial services agencies operated by the Division of Probation with those operated by Boards of Trustees and with monetary bail or any other program generally used in State and Federal courts to guarantee presence at trial.

"(b) On or before the expiration of the forty-eighth-month period following July 1, 1975, the Director of the Administrative Office of the United States Courts shall file a comprehensive report with the 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.

Added Pub.L. 93-619, Title II, §201, Jan. 3, 1975, 88 Stat. 2088.

"§3156. Definitions

"(a) As used in sections 3146-3150 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 bail or otherwise 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; and

(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.

"(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 bail or otherwise 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 petty offense as defined in section 1(3) of this title, 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.

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