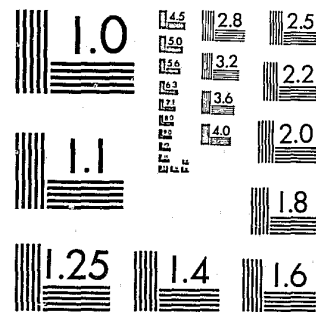


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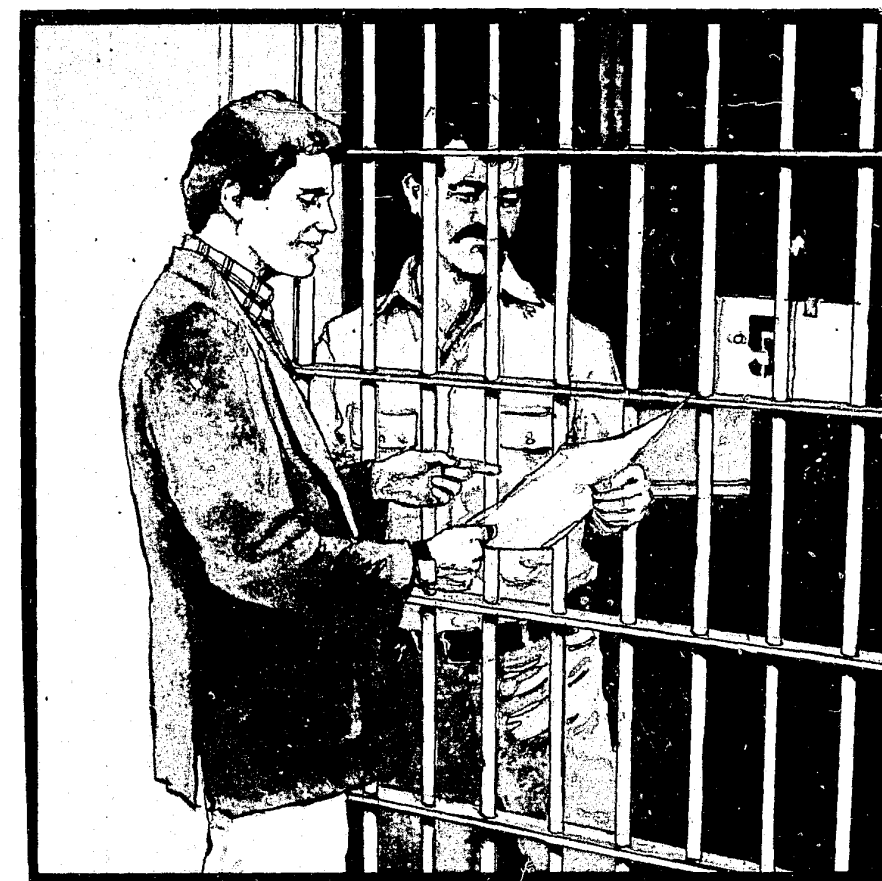
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Exemplary Projects

The D.C. Pretrial Services Agency
Washington, D.C.



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AN EXEMPLARY PROJECT

The D.C. Pretrial Services Agency

Washington, D.C.

by

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National Institute of Justice

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May 1982

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CHAPTER 1: INTRODUCTION AND GUIDE TO THE MANUAL

In past years, many defendants have stayed in jail until trial because they could not make bail or gain release through a bail bondsman. Bail amounts intended to ensure appearance in court were based on such standard criteria as the offense charged, rather than on a rational assessment of what might be required to ensure that an individual defendant would return for trial. Indeed, courts lacked the information needed to assess the risk that a defendant would flee if released.

A movement to reform bail and pretrial release practices gained momentum in the early 1960s. Proponents of reform argued that many defendants could be released without bail, and that such characteristics as community ties and length of employment could be used to assess the risk of failure to appear. In the last decade, many jurisdictions have replaced a strong reliance on money bail with more frequent use of nonfinancial release alternatives, especially release on personal recognizance. A key factor in this shift has been the development of pretrial services agencies to provide information and recommendations to the courts to assist them in setting release conditions.

In 1963, the District of Columbia Bail Agency was launched as a pilot project of the Georgetown University Law Center under a grant from the Ford Foundation. Subsequently, the Agency was permanently established by Congress to assist the District of Columbia courts in implementing the federal Bail Reform Act of 1966. That Act established a presumption in favor of nonfinancial release and set forth the types of background information and individual characteristics that federal judges were to consider in setting release conditions.

From its inception, the D.C. Pretrial Services Agency (as it was later renamed) has been a leader in the pretrial services field. Throughout its history, it has served as a testing ground for Congressional reforms aimed at improving release practices, from statutory presumptions in favor of nonfinancial release to preventive detention. Currently supported by a \$1.26 million Congressional appropriation, the D.C. Pretrial Services Agency is now one of the largest and most well-established agencies of its kind. The Agency provides a wide range of services to the courts and to defendants, including:

- interviewing arrested persons to obtain personal information,
- verifying the information obtained in these interviews,
- making recommendations regarding release to the appropriate authority,
- monitoring released defendants to maintain contact and help assure compliance with release conditions,
- notifying defendants of court dates,
- assisting releasees in securing various social services,
- coordinating the efforts of third-party custodial organizations, and
- providing information to the courts on the pretrial conduct of releasees.

Over the years, the Agency has refined its structure and operations to ensure that it functions smoothly and efficiently. Federal, state, and local legislators as well as professionals in the criminal justice field continue to watch for the outcomes of practices implemented by the D.C. Pretrial Services Agency as debates continue over the release of defendants awaiting trial.

1.1 Overview of Program Operations

The mission of the D.C. Pretrial Services Agency is "to facilitate the use of appropriate nonfinancial release alternatives by developing alternatives that will ensure appearance as required and the safety of the community."¹ To accomplish this mission, the Agency interviews virtually all defendants arrested in the District of Columbia--nearly 22,000 defendants annually--and provides information and recommendations to the courts and law enforcement officers to assist them in making their release decision. The Agency also assists defendants in honoring the terms of their release by referring them for needed services and monitoring their activities during the pretrial period.

¹District of Columbia Pretrial Services Agency Handbook on Procedure, April 1979, p. 3.

These pre-release and post-release services, which form the core of the Agency's day-to-day operations, are handled by three specialized units within the Agency: Evening Operations, which supports the citation release program of the Metropolitan Police; Pre-Release Services, which supports the courts in their pretrial release decisions; and Post-Release Services, which helps to ensure that defendants will appear as scheduled and includes the investigative Failure-to-Appear Unit. Other units provide back-up support for the Agency's operations--staff training, research and analysis, and upgrading and maintaining the automated data processing system. Each component of the Agency's operations is described briefly below.

Citation Release

In the District of Columbia, defendants arrested and charged with a misdemeanor after court hours may be eligible for release on citation by police. When notified by police shortly after a misdemeanor arrest, a Pretrial Services Officer in the Agency's Evening Operations Unit interviews these defendants by telephone to collect information on their community contacts, length of time at their current residence, employment history, and family ties. This information is verified by checking official records and by contacting family members and employers. To receive positive recommendations for citation release, defendants must have a verified Washington, D.C., address and the minimum number of points required by the Agency's release eligibility system. Certain factors--such as prior failure to appear in court, current probation or parole status--result in automatic disqualification. Approximately 12 citation release interviews are completed nightly.

Release by the Court

Defendants who are not released on citation at the police stationhouse are taken to the central lock-up and held until the next court session, which is usually the following day. In the morning, before court sessions begin, Pretrial Services Officers from the Agency's Pre-Release Services Unit interview all detainees, verify the information obtained by contacting family members and employers, run computer checks on prior criminal record, and check court records to learn the disposition of any prior cases involving the defendant. In a typical day, the Pretrial Services Agency interviews about 50 defendants, verifies the information obtained, stores it in the Agency's computer, and then prepares individual reports containing appropriate recommendations for use at the initial court appearance by the judge, the prosecutor, and defense counsel.

In the courtroom, the Pretrial Services Officer presents the Agency's recommendation to the court and provides copies to the prosecutor and defense attorney. The courts have concurred with the Agency's recommendation in

approximately 85 percent of the cases. If release is granted, the Officer prepares the release order for the judge to sign.

Post-Release Services

Officers from the Post-Release Services Unit explain the conditions of release to defendants, except those released on surety bond, as soon as they are released. This Unit monitors released defendants, keeps records of all contacts, assists defendants in obtaining needed medical and social services, and notifies them of upcoming court appearances. Typically, defendants must check in with the Unit weekly, by telephone or in person. At the time of the check-in, computerized information on the defendant, the case, and the next scheduled court appearance is reviewed with the defendant and updated if necessary. The Unit has direct contact with approximately 325 defendants per day.

The D.C. Pretrial Services Agency reports serious violations of release conditions to the courts and the U.S. Attorney. In 1980, the Agency reported a total of 598 violations and participated in 46 violation hearings held by the courts.

Failure-to-Appear Unit

If defendants fail to appear in court as scheduled, the Failure-to-Appear Unit will try to locate them. Established in October 1979 as an experimental program and now a permanent part of the Agency's Post-Release Services Unit, this Unit was designed to:

- decrease the number of warrants issued,
- decrease the number of warrants executed by having defendants voluntarily surrender,
- decrease the length of time it takes the system to clear outstanding warrants,
- decrease the number of outstanding warrants for those persons released on nonfinancial conditions, and
- decrease the warrant workload of the Metropolitan Police Department and the U.S. Marshal's Office.

During October 1980, the Failure-to-Appear Unit investigated 2,095 failures-to-appear. In 20 percent of the cases, the Unit prevented the issuance of a



The Agency's operations center is located next to the arraignment courtrooms it serves in the D.C. Superior Court.

warrant by contacting the defendants and persuading them to return to court that day. In many cases where defendants failed to appear, the Unit was able to contact them and learn the reasons for their absence in court. In 25 percent of the cases investigated, defendants missed their appearances due to a lapse in communication among the various agencies of the court: for example, some defendants had been incarcerated for another offense or placed in a diversion program, but this information was not known to the Agency; others were inadvertently misdirected by human or computer error. In an additional 20 percent of the cases, the defendant missed appearances for personal reasons, such as hospitalization, military duty, or incarceration in another jurisdiction. Only 34 percent of the warrants remained outstanding.

1.2 The Automated Records System

In 1980, the D.C. Pretrial Services Agency interviewed 21,885 individuals. With such a large caseload, the Agency's automated records system is the key to the efficiency of its present operations. For each defendant, this system stores name and address, the present charge, identifiers such as FBI or Social Security numbers, personal background, health information, and other case information. Quick access to this information is critical to virtually all of the Agency's activities.

The data system is used not only by the Agency, but by the police, the courts, the prosecutor's office, the public defender's office, and the Department of Corrections. In addition, the Agency maintains limited hard copy files which provide essential information on defendants if the computerized system becomes temporarily inoperable.

1.3 Program Staff

The D.C. Pretrial Services Agency is governed by an Executive Committee consisting of four judges and a fifth member appointed by those judges. Day-to-day operations are the responsibility of the Agency's director who, by law, must be a member of the District of Columbia Bar. All Agency personnel serve at the pleasure of the Executive Committee.

In 1980, the Agency employed 43 full-time staff; their salaries and benefits comprised approximately three-fourths of the Agency's budget. Thirty are Pretrial Services Officers, two-thirds of whom are law or graduate students. The students work under contracts that expire when they graduate or pass the bar examination, after which they are encouraged to leave the Agency and go on to other work. This policy creates high staff turnover and ensures openings for entry level officers, an approach that keeps personnel costs down and minimizes staff "burn-out."

A full-time director of training gives formal training for entry-level Pretrial Services Officers. Training continues on a regular basis to improve the officers' job performance and to help them acquire new skills and knowledge.

Although the Agency operates outside the District of Columbia Civil Service System, staff positions are graded to parallel that system. All Pretrial Services Officers enter at the same level and must be promoted within a year or leave the Agency. In addition to a good performance record, successful completion of examinations is required for each promotion. These examinations include both written exercises and demonstration tasks, such as conducting an interview, using the computer system, and staging a mock court presentation.

1.4 Agency Achievements

A full-time director of research oversees evaluation of the Agency's operations and impact, whether performed in-house or by researchers from outside the Agency. This research revealed the following Agency accomplishments in 1980:

Release Recommendations and Police or Court Actions. The Agency estimates that in 1980 it interviewed 97 percent of all defendants arrested in the District of Columbia. A total of 3,394 persons were released on citation. Of 14,417 arrestees held for a bail determination, 70 percent (10,090 defendants) were released on personal recognizance. In all, 13,444 defendants, or 75 percent of those arrested and charged in court, were released on citation or personal recognizance.

Monitoring. In 1980, the Agency handled 65,774 telephone calls from defendants checking in and 22,434 check-in visits. The Agency also mailed 55,048 computer-generated letters notifying defendants of scheduled court appearances.

Failure to Appear. Persons released on citation kept 96 percent of their scheduled court appearances; those released on personal recognizance made 94 percent of their required appearances.

Rearrest. Less than 8 percent of the defendants released on nonfinancial conditions were arrested and charged with a serious offense while at liberty on pretrial release.

1.5 New Guidelines for Community Safety

In its continuing effort to improve the services it provides to courts and defendants, the Agency implemented new guidelines for release recommendations in July 1980. Under these guidelines, the Agency explicitly evaluates an individual's potential danger to the community as well as potential risk of flight. District of Columbia statutes require that both safety and flight risks be considered in release decisions. The Agency recognized the difficulty of assessing a defendant's safety risk, but this concern was outweighed by the courts' need for help in making this determination. For each defendant, the Agency recommends some form of nonfinancial release, specifying conditions intended to ensure both the defendant's return to court and the safety of the community; detention hearings are recommended when appropriate. Recognizing the importance of this latest innovation, the National Institute of Justice has awarded a grant to the Pretrial Services Agency to study the effects of these new guidelines.

1.6 Guide to the Manual

After nearly 20 years of experience and research, the Pretrial Services Agency has shown that the courts can grant nonfinancial release to the majority of defendants without increasing rates of rearrest or failure to appear. Although it began as a pilot project, today the Agency is an integral component of the District of Columbia's criminal justice system, nationally recognized as a leader and innovator in the field of pretrial release services. On the strengths of its accomplishments, the National Institute of Justice designated the D.C. Pretrial Services Agency an Exemplary Project, announcing it as a model program for others to emulate. Many aspects of the Agency's operations are adaptable to other jurisdictions, even where the scope of operations and the size of the defendant population are much smaller.

The following chapters explain in detail the Agency's development, operations, and accomplishments. Chapter 2 traces the Agency's history, highlighting events and decisions that may be relevant to other jurisdictions faced with burgeoning crime rates and overpopulated jails.

The Agency is comprehensive in its approach, performing a broad range of services that benefit defendants and the courts alike. Chapter 3 describes these services in detail. Of special interest are the new recommendation guidelines implemented in July 1980 and the Failure-to-Appear Unit, which has greatly reduced the number of warrants executed for non-appearing defendants.

A large, energetic staff is required to carry out the activities of the Pretrial Services Agency. The Agency relies to a large extent on law and graduate students who are deliberately replaced on a routine basis. Chapter 4

presents the Agency's staffing configuration and explains its recruitment, training, and promotion procedures.

The Agency systematically monitors and evaluates its own performance. Its achievements have also been analyzed by independent researchers. Chapter 5 reviews the outcomes of these assessments.

Finally, Chapter 6 analyzes the Agency's costs and identifies several issues that are critical to replicating the Pretrial Services Agency's operations elsewhere.

CHAPTER 2: HISTORY AND DEVELOPMENT

The American bail system has its roots in practices under English common law, where private individuals personally guaranteed they would produce defendants for trial. Originally, these persons, known as sureties, actually offered themselves as a substitute for the defendant should he abscond; later, the sureties simply forfeited property. In America, the commercial bail bonding business largely assumed the function of posting bail. Simply stated, under this system, the defendant pays a non-refundable premium to a bondsman who guarantees to produce the defendant for trial. If the defendant fails to appear, the bondsman loses the full amount of the bond.

Because this practice entails high risk for the bondsman, defendants are often required to post collateral. Some defendants are unable to raise the bondsman's collateral or fee; others are considered unacceptable risks by the bondsman under any conditions. Under such a system, the court might set its terms for release, but, in fact, the bondsman has the final word in many cases. Whether persons are released awaiting trial becomes more a function of their economic situation than any objective determination of their likelihood of flight.

By the early 1960's, detention facilities in many metropolitan areas were severely overcrowded, due to large court backlogs. Many defendants, unable to make bail, were held for months awaiting trial, sometimes longer than the maximum sentence that could be imposed for their offenses. Others pled guilty with the expectation of being sentenced to time already served in detention. Against this background, and with the clear knowledge that money bail discriminated against the poor, a movement to reform the administration of bail in the United States began to take shape.

The move away from total reliance on money bail was based on the premise that individual characteristics of defendants can be used to assess risk of flight

¹For a general discussion of the problems inherent in the bail system, see John S. Goldkamp, Michael R. Gottfredson, and Dewaine L. Gedney, Jr., "Bail After Bail Reform: The Feasibility of a Guidelines Approach," Pretrial Services Annual Journal, Vol. III (Washington, D.C.: Pretrial Services Resource Center, 1980), pp. 3-19.

and to determine the least restrictive conditions which will ensure their appearance in court. In 1961, the Manhattan Bail Project was undertaken in New York by the Vera Foundation as an experiment in the selection of defendants to be released on their own recognizance, that is, on their simple promise to return to court. The selection process focused on the strength of a defendant's ties to the community and prior criminal record.

Encouraged by the apparent success of the Manhattan Project, bail projects soon were established in several other jurisdictions. In the last decade, the courts in many communities have turned to various nonfinancial release alternatives, including release on personal recognizance. A key factor in the courts' shift to nonfinancial release has been the assistance of pretrial services agencies in compiling verified information about defendants to inform the court's release decision. More than 200 pretrial services agencies are now operating nationwide.

Founded in 1963, the District of Columbia Pretrial Services Agency is one of the oldest and largest of its kind in the nation. Its history is closely intertwined with federal bail reform efforts, which used the District of Columbia as a "laboratory" for new ideas. Through four distinct evolutionary stages, the Agency's mission has remained the same--to provide the information critical in making rational decisions concerning the granting of pretrial release. This chapter traces the Agency's history and describes its recent developments.

2.1 Stage 1: The D.C. Bail Project, 1963-1966

In 1962, the Judicial Conference of the District of Columbia established a Committee on Bail Problems "to explore the recognized injustices inherent in the traditional bail system."² Working with the Junior Bar Section of the D.C. Bar Association, the Committee conducted a study of current bail practices in the District, reviewed the experiences of the experimental Manhattan Bail Project, and recommended that a pilot project be undertaken in the District to encourage release on recognizance. The proposed project was to collect and summarize information on arrestees and recommend, where appropriate, release on recognizance to the committing magistrate.

Funded by a three-year grant to Georgetown University from the Ford Foundation, the D.C. Bail Project was supervised in its first year by the Committee

² Much of the historical information contained in this section was taken from R.R. Molleur et al., Bail Reform in the Nation's Capital: Final Report of the D.C. Bail Project (Washington, D.C.: Georgetown University Law Center, 1966).

³ Ibid., p. 21.

on Bail Problems. The project staff consisted of a director, a research assistant, a legal secretary, and six interviewers selected from the evening divisions of local law schools. Before beginning their day-to-day operations, project staff visited the Manhattan Bail Project and surveyed officials in the local criminal justice system to learn how Manhattan's procedures could be adapted to the District. Through these initial contacts, the Bail Project staff obtained access to court records and permission from the Department of Corrections to interview defendants at the D.C. Jail. Staff conducted 182 sample interviews to refine their instrument and familiarize themselves with the process. The D.C. Bail Project began full operations on January 20, 1964.

The D.C. criminal justice system is a complex blend of federal and local jurisdictions. At the time of the pilot project, there were two courts handling criminal cases in the District of Columbia: the D.C. Court of General Sessions and the U.S. District Court. While the project initially served only defendants whose cases involved grand jury action in U.S. District Court, within a year the D.C. Bail Project was serving misdemeanor defendants in the Court of General Sessions as well. Also, at the end of the first year, a new Supervisory Committee was appointed as planned. It consisted of representatives from area law schools, civic institutions, the Police Department, and the bench and bar of the District. Thus, the Bail Project was no longer a special project of the Judicial Conference, but an independent project with diverse representation on its advisory panel.

The activities carried on by the project during Stage 1 were different in scope, but not in kind, from those conducted by the D.C. Pretrial Services Agency today. The project's operations were divided between the pre-release screening of cases and the provision of post-release services.

When the project began, the process of interviewing defendants, verifying information, and making release recommendations typically took place after bond had been set at the defendant's initial appearance, usually resulting in a recommendation within a few days. Unfortunately, this procedure meant that defendants who were unable to make bail were detained until the project's report was submitted. Moreover, some defendants who might have gained nonfinancial release had nevertheless posted bond unnecessarily to obtain their release. After March 1965, the recommendation process was accelerated by relying more heavily on telephone verifications and interviews with persons who accompanied the defendants in court. Also, the project eliminated the need for all release recommendations to be first presented at a staff conference, a move which reflected the growing experience of project staff. Now, recommendations could be produced within one day after first appearance, or even within a few hours.

In screening cases, staff interviewers gathered information to determine defendants' suitability for a personal recognizance recommendation. Like the Manhattan Bail Project, the D.C. project used a weighted point scale to

recommend for release those defendants with strong family ties in the area, other local contacts, and residential stability, and those who were receiving welfare or medical care in the District. Negative weights were assigned to factors that were believed to reduce the likelihood that defendants would appear for trial, including prior criminal record, previous appearance problems, and alcohol or drug problems. As the project grew in its experience, the recommendation criteria were refined "to reflect increasing confidence in the binding power of community affiliations."⁴ Data collected during this period showed that the refined recommendation criteria resulted in no significant changes in the number of exclusions or release recommendations. Nor were there significant changes in rearrest or failure-to-appear rates for defendants released on the project's recommendations.⁵

Post-release services provided by the project during Stage 1 centered around notifying defendants of their court dates in writing five days in advance. The project also sent letters to each defendant's closest contact, asking that person to remind the defendant of the appearance date. Felony defendants were told to check in weekly to learn of scheduled court appearances or last minute changes.

From January 1964 to June 1966, the Bail Project interviewed 5,144 defendants (19 percent of all arrestees) and recommended 2,528 of them (49 percent) for release on personal recognizance. The courts released 85 percent of those recommended defendants. Only three percent of those released failed to appear in court, and nine percent were arrested on new charges while on release.

It is important to note that a failure to recommend was not intended to be-- and was not interpreted by the courts as being--a recommendation against release. Judges could, and did, release defendants on their own recognizance who were not recommended by the project. For example, the project policy was not to recommend release when interviewers were unable to reach a defendant's employer or family to corroborate information as to address or employment. Unless there were strong negative factors weighing against the defendant, however, the court often would release the defendant despite the lack of verification.

⁴ Ibid., p. 25.

⁵ Ibid., p. 26.

2.2 Stage 2: The D.C. Bail Agency, 1966-1971

In June 1966, the Bail Reform Act⁷ was signed into law. This Act, which applied to all federal courts, including the U.S. District Court of the District of Columbia, required judges to release defendants on the least restrictive conditions that would ensure their appearance in court. It enunciated a presumption in favor of nonfinancial release and explicitly set forth the criteria that judges were to consider in setting release conditions. These criteria were essentially those that the Manhattan and D.C. Bail Projects had used in formulating release recommendations.

Congress recognized that in order to apply the criteria articulated in the Act, the courts would require assistance in obtaining information on defendants. Thus, in 1967, a bill was passed to establish the District of Columbia Bail Agency.⁸ What had been a privately-funded pilot project was now a federally authorized agency. The legislation that authorized the D.C. Bail Agency also extended the release provisions of the new Bail Reform Act to the D.C. Court of General Sessions. Thus, every defendant in either that court or U.S. District Court was covered under the new release provisions.

A Judicial Council Committee was appointed by the Judicial Conference of D.C. Circuit Court Judges to study the operations of the Bail Reform Act in the District and issued its findings in 1968 and 1969. Among several findings, the Committee reported that the Bail Agency was not being utilized to its fullest capacity due to a budgetary ceiling that prohibited its expansion. Thus, for example, although the Agency had been authorized in 1967 to prepare release recommendations for police "citation release" of arrestees charged with misdemeanors after court hours⁹ (see Section 3.1), the Agency was unable to provide the necessary 24-hour service.

In April 1970, Congress lifted this budgetary ceiling and the Agency's staff was greatly expanded. For the first time the Agency was able to operate 24 hours a day, seven days a week, thus allowing the citation release program to be fully implemented. The Agency began to monitor released defendants by requiring periodic check-ins by telephone or personal visit, and to recommend disciplinary actions for noncompliance with release conditions. It also began to coordinate third-party custody organizations as a means of providing intensive supervision. Finally, the Agency began to computerize some of its records.

⁶ Much of the historical information contained in this section was taken from Bruce D. Beaudin, "Bail in the District: What It Was, Is, And Will Be," 20 *American University Law Review* 432 (1970-1971).

⁷ The Bail Reform Act of 1966, Pub. L. No. 89-465 (June 22, 1966), 80 Stat. 214, 18 U.S.C. §§3146 *et seq.* (Supp. II 1966).

⁸ The District of Columbia Bail Agency Act, Pub. L. No. 89-519 §4(a) (July 22, 1966), 80 Stat. 327, 23 D.C. Code §901 *et seq.* (1967).

⁹ The Omnibus Crime Bill, 81 Stat. 734 (1967).

In its report, the Judicial Council Committee also expressed concern over community safety and recommended that some form of pretrial detention be adopted. This sparked a heated controversy. In a series of hearings on this issue held by the Subcommittee on Constitutional Rights of the U.S. Senate Committee on the Judiciary, proponents of pretrial detention demanded amendment of the Bail Reform Act to authorize its use. In support of this position, they pointed to the perceived prevalence of crimes committed by persons free on pretrial release, apparent problems of failure to appear and trial delay, as well as the demonstrated danger of certain defendants (as reflected in their records). In response, opponents of pretrial detention cited eighth amendment prohibitions on excessive bail (interpreted by them as an absolute right to bail) and the inability to predict which defendants would commit new crimes while on pretrial release. After months of extensive hearings, the District of Columbia Court Reform and Criminal Procedure Act of 1970 (known as the Court Reform Act) was signed into law, authorizing the use of preventive detention in Washington, D.C., for certain defendants meeting carefully prescribed criteria.¹² The 1970 Act also reorganized the D.C. court system, as described below. The enactment of this legislation marked the onset of a third stage in the Bail Agency's development.

2.3 Stage 3: The D.C. Pretrial Services Agency, 1971 to July 1980

The Court Reform Act of 1970 reorganized the D.C. court system so that a defendant charged under the D.C. Code would now be adjudicated in the newly created Superior Court. The Act also created a Court of Appeals for the District of Columbia. With these changes, the District's court system became similar to that of other metropolitan areas, except that the U.S. Attorney was responsible for prosecuting cases in the D.C. Superior Court as well as in the U.S. District Court.

The 1970 Act also amended the Bail Reform Act of 1966, significantly affecting release decisions made for defendants arrested and charged with violations of the D.C. Code. While the new Act maintained a presumption in favor of nonfinancial release, it also directed judges to consider danger, as well as risk of flight, in setting release conditions and allowed for pretrial detention under certain restricted conditions. (It is important to note that defendants arrested on a U.S. Code violation remained under the purview of the Bail Reform Act of 1966, the provisions of which neither admit danger as a criterion for determining release conditions nor allow for pretrial detention on grounds of danger.)

¹⁰ Beaudin, "Bail in the District," *supra*, note 6 at p. 438.

¹¹ The District of Columbia Court Reform and Criminal Procedure Act of 1970, Pub. L. No. 91-358, Ch. XIII, sub. chap. 2; 84 Stat. 642, 23 D.C. Code §1321 (eff. Feb. 1, 1971).

¹² Debates over the constitutionality and feasibility of preventive detention are still ongoing in Congress and in state legislatures.

Thus, the Agency now had three recommendation alternatives for defendants charged with D.C. Code violations: a recommendation for release, no recommendation at all, and, when defendants met certain statutorily prescribed criteria, a recommendation for a preventive detention hearing. Under the statute, three categories of defendants were subject to possible detention hearings:

- (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.¹³

A preventive detention hearing can be initiated only on the motion of the U.S. Attorney, either at presentment or at any time after the defendant has been released. Once the motion is made, the magistrate must hold the hearing immediately. In practice, however, the U.S. Attorney almost never used the preventive detention hearing, for two reasons. First, the statute required the U.S. Attorney to demonstrate a substantial probability that the defendant committed the present offense. This requirement often was difficult to meet at the time the hearing was to be held. Second, a detention order spanned only 60 days, during which time the case was unlikely to come to trial. Nevertheless, the Agency continued to recommend detention hearings whenever a defendant fell into one of the three eligible categories.

Originally, when the Agency recommended a pretrial detention hearing, it made no other recommendations concerning release conditions. Thus, if the U.S.

¹³ D.C. Code Sec. 23-1322. A list of violent and dangerous crimes, as defined in the D.C. Code, appears in Appendix A.

Attorney failed to move for a detention hearing at the initial presentment, the judge was left to set release conditions without benefit of an Agency recommendation. The Agency soon changed its policy and prepared a release recommendation in case the detention hearing was not held. However, the Agency's recommendations for release on personal recognizance (or failures to recommend) were still based solely on considerations of risk of flight, not danger. Likewise, special conditions of release recommended by the Agency, such as weekly check-in calls or visits, were primarily concerned with assuring appearance, not the safety of the community. This exclusion of community safety considerations from the Agency's release recommendations was a conscious policy decision. Based on the Agency's own research and a study commissioned by the U.S. Department of Justice,¹⁴ published shortly after the Court Reform Act of 1970 was enacted, the Agency believed that methods of predicting dangerous behavior were poor. Until the Agency gained confidence in the reliability of such predictions, it would not consider danger in its release recommendations.

Thus, in the absence of a detention hearing to deal directly with the danger issue in most cases, and without benefit of Agency recommendations to assure community safety, the D.C. courts continued to set financial bond for some defendants, a practice that the 1970 Act had sought to abolish. This situation prevailed until the Agency developed a way to address the danger issue in its recommendation, thereby launching Stage 4.

A final event that occurred in Stage 3 was a 1978 Act changing the Agency's name to the D.C. Pretrial Services Agency.¹⁵

2.4 Stage 4: New Recommendation Guidelines, July 1980 to Present

Over the years, the Agency continued to pursue the possibility of making recommendations based on assessments of danger. Since the installation of an automated system in 1977, the Agency has collected and analyzed large amounts of information about defendants and their behavior on release. The Agency has also studied data on pretrial crime in other jurisdictions. Thus, by 1980, the Agency felt it was ready to recommend in each case those nonfinancial conditions that would best assure the safety of the community as well as the defendant's appearance at trial.

Effective July 1980, the Agency implemented new recommendation guidelines reflecting this change in policy. Now, the Agency makes a recommendation in

¹⁴U.S. Department of Commerce, National Bureau of Standards, "Compilation and Use of Criminal Court Data in Relation to Pretrial Release of Defendants: Pilot Study" (Technical Note No. 525, August 1970).

¹⁵Pub. L. No. 95-388.

every case, specifying separately those conditions designed to assure appearance and those designed to assure safety. Pretrial detention hearings are still recommended where appropriate, according to statute, but in cases where the hearing is not conducted, the Agency recommends the imposition of release conditions according to its own guidelines. These guidelines are discussed in greater detail in Section 3.1.3 below.

Under the new recommendation scheme, the Agency hopes to achieve a four-fold purpose: (1) to reduce even further the unnecessary detention of persons who are not too dangerous to release; (2) to reduce the imposition of financial release conditions; (3) to reduce substantially, if not eliminate, the use of surety bonds; and (4) to improve the appearance rates and pretrial conduct of persons released. The National Institute of Justice awarded a grant to the Agency in 1980 to study the implementation and results of these new recommendation policies. The Lazar Institute is under contract to the Agency to conduct that evaluation. Many jurisdictions outside the District will await with interest the outcome of this latest effort by the D.C. Pretrial Services Agency to reform pretrial release practices.



The director, Bruce D. Beaudin, works to ensure that the Agency's goals and objectives are understood by other agencies in the D.C. criminal justice system.

CHAPTER 3: OPERATIONS

The D.C. Pretrial Services Agency has a statutory responsibility to provide specific services to defendants and the criminal justice system, with the ultimate goal of producing defendants in² court as scheduled. These statutorily prescribed duties are as follows:

- | | | |
|---------------------------------|---|--|
| PRE-RELEASE SERVICES | { | 1. Providing information to judges to assist them in fashioning appropriate conditions for pretrial release; |
| | | 2. Providing information to assist police in giving citation release to citizens charged with relatively minor offenses; |
| POST-RELEASE SERVICES | { | 3. Providing information to court officials on the pretrial conduct of releasees (compliance and noncompliance 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 |
| CRIMINAL JUSTICE SYSTEM SUPPORT | { | 7. Providing appropriate support for various additional criminal justice undertakings. |

The Agency's pre-release services include all project activities prior to a defendant's initial court appearance at arraignment or presentment. Post-release services commence when the defendant is released and continue until final disposition of the case. Together, these services provide continual support to the court and to the defendant for the duration of each case. The seventh activity represents the Agency's considerable investment in research on pretrial release and its involvement in local and national pretrial policy

¹ D.C. Code Sec. 1301-1308.

² District of Columbia Pretrial Services Agency Handbook on Procedure, April 1979, p. 3.

development, discussed in Chapters 5 and 2. This chapter describes the daily operations of the D.C. Pretrial Services Agency in providing pre-release and post-release services.

3.1 Pre-Release Services

In the District of Columbia, both police and the courts have authority to grant pretrial release to qualified defendants, and it is the responsibility of the D.C. Pretrial Services Agency to supply them with the necessary information to make a release decision for each defendant. The Agency further assists the court by recommending release conditions that are likely to assure the defendant's appearance at subsequent proceedings, and, in D.C. Superior Court, to assure the safety of the community.

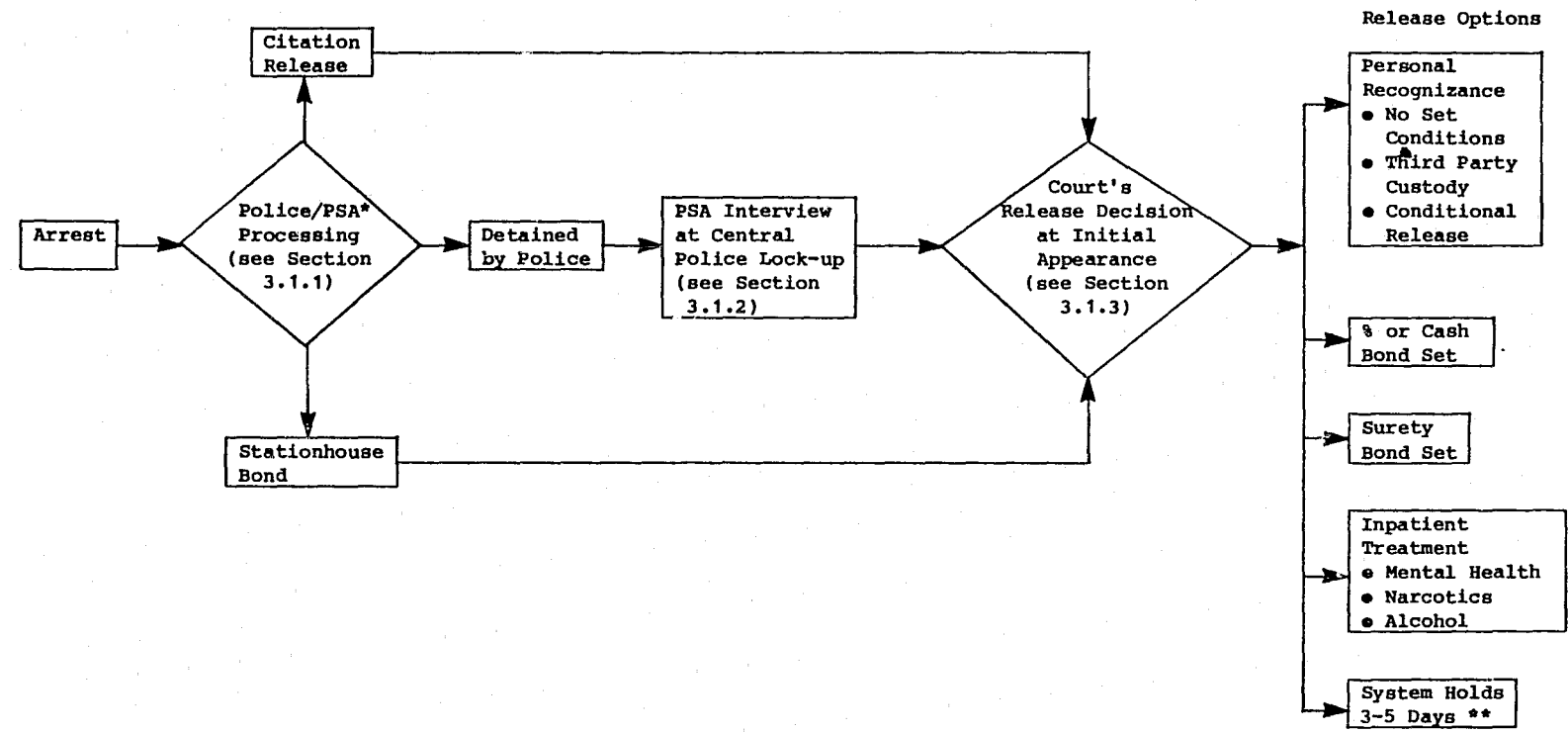
Figure 3.1 illustrates the chain of events in case processing from arrest to the initial release decision. Upon arrest, defendants typically are taken first to the local police substation in the district where the arrest occurred. There, they are formally booked and have their first opportunity to obtain release. Defendants who elect to post stationhouse bond, in cash or through a bondsman, may do so and be released without any contact with the Pretrial Services Agency. This occurs in about one percent of all arrests in the District. All other defendants are interviewed by the Pretrial Services Agency to determine their eligibility for nonfinancial release.

3.1.1 Citation Release

A large percentage of arrests occur during evening hours when the courts in the District are not in session. To avoid having to detain all of these persons until their arraignment, the District instituted a program of citation release, whereby persons arrested and charged with misdemeanor offenses after court hours may be released on police authority with a promise to return to court on a specified date. By statute, persons arrested on felony charges are automatically disqualified from the citation program. Under general police order, five additional categories of defendants are also ineligible for citation release:

- juveniles;
- any person ever convicted of an escape from jail;
- any person who has willfully failed to appear on bond or who has a pending charge of failure to appear;
- any person with an outstanding attachment, warrant, or detainer against him; and

Figure 3.1
 Defendant Processing in the District of Columbia
 From Arrest to Initial Release by the Court



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*Pretrial Services Agency
 **Typically, these are ordered to defendants already on probation or parole pending a decision by the appropriate authorities on possible revocation of probation or parole.

- any person who is presently under the influence of narcotics or alcohol to the extent that an intelligent interview cannot be conducted.

These defendants are detained until arraignment unless they can make bond. Persons arrested on a misdemeanor during court hours (usually before 3:00 p.m.) are arraigned in court that same afternoon and are not considered for release on citation.

A police officer who makes a misdemeanor arrest after court hours contacts the Pretrial Services Agency from the stationhouse so that a Pretrial Services Officer can interview the arrestee by telephone. After reading the Miranda rights to the defendant, the interviewer asks about length of residence at the current address, employment history, and family ties in the community. A typical interview takes about 15 minutes. The information is then verified by contacting family members and employers. The interviewer also checks Agency files and police and FBI arrest records to learn the defendant's criminal history and current status. This process generally requires no more than half an hour. As the information is verified, the Pretrial Services Officer scores it against the Agency's Citation Point System, shown in Figure 3.2. Under this system, a variation of the system developed by the Vera Institute for the Manhattan Bail Project, the defendant is credited for having stable residence, steady employment, and local family ties and debited for having a criminal history or prior failure to appear on bond. To receive a positive recommendation, the defendant must have a verified Washington area address and score a minimum of four points.

The Pretrial Services Officer tallies up the points, decides whether to disqualify, recommend, or fail to recommend the defendant for citation release, and relays this decision to the arresting officer and desk sergeant at the stationhouse. Only these officers are authorized to grant citation release, and they almost always concur with the Agency's recommendation: only one percent of defendants recommended for citation release by the Agency are not released by police, and only two percent of those not recommended are released anyway. (These latter cases include those where key individuals could not be reached to verify the defendants' information, but where no other factors argued for detaining the defendants.) The Pretrial Services Officer then schedules persons released on citation for their arraignment a few days after arrest. Defendants who had been released on citation almost invariably obtain release on personal recognizance at arraignment if their cases are not disposed of at that point.

³The Miranda warnings are required because statements made by defendants to Pretrial Services Officers can be used in subsequent legal proceedings.

Figure 3.2
Citation Point System

POINTS	TIME IN WASHINGTON AREA
1	5 years or more.
	RESIDENCE (In Washington area; NOT on and off)
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 TIES
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 SUBSTITUTES
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.)
	DEDUCTIONS
-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)

Total time in custody for defendants released on citation ranges from one to four hours; the average is two and one-half hours. Citation release has advantages for the criminal justice system as well: the five-day interval before arraignment helps relieve scheduling demands on police officers, who are required to appear at this proceeding. In contrast, defendants who are detained are arraigned the following day, allowing the arresting officer little time to revise his schedule, if necessary. The five-day interval also allows the prosecutor more time to prepare the case.

On a typical day, the Agency conducts 12 citation interviews. In 1980, the Agency interviewed 4,014 persons arrested on misdemeanors; of those, 3,394 were released on citation. This figure represents 19 percent of all defendants arrested and charged in court. In addition, the Agency also conducted several thousand citation interviews with persons arrested on traffic charges and municipal code violations, who are also eligible for citation release, whether arrested during the day or at night.

3.1.2 Interviewing at the Lock-Up

Persons who are not released at the stationhouse on bond or citation are transported to the central police lock-up to await arraignment (for misdemeanors) or initial presentment (for felonies), on the next day the court is in session. For most defendants, the maximum period of detention prior to the first court appearance is two days because D.C. Superior Court holds Saturday and holiday sessions. Pretrial Services Officers are on duty at the central lock-up until the early hours of the morning to interview arrestees. Other Officers are stationed in the court cellblocks during morning working hours to interview defendants who are transferred there for arraignment that afternoon. As with citation interviews, the purpose of lock-up and cellblock interviews is to obtain information concerning the defendant's residence, employment status, family ties, and prior involvement in the criminal justice system. Unlike the citation interview, however, these interviews are conducted in person.

The verification process for lock-up interviews is more extensive than for citation interviews. Still, because the Agency has ready access to police and court records and its own files (via computer terminal), the verification process can be completed within a few hours. The Officer typically consults some or all of the following sources:

⁴Since June 1981, the police have conducted interviews of traffic and code violators using the Agency's point scale. If the person is eligible for release on citation, the police call the Agency, where a Pretrial Services Officer assigns a court date as for other defendants released on citation.



Pretrial Services Officers interview defendants at the central lock-up soon after arrest. Photo by Jay Carver, D.C. Pretrial Services Agency.

- references given by the arrestee;
- relatives who appear at the Agency court office on behalf of the arrestee;
- arrest records from the Metropolitan Police Department and the FBI;
- court records (where arrest dispositions are not available through the police or FBI);
- prior Agency files;
- probation and parole offices, where applicable; and
- third-party custody organizations.

In addition to corroborating the information received from the defendant, the Pretrial Services Officer may discover previously undisclosed information, for example, Officers may discover that the defendant had been free on pretrial release for a prior arrest. All the verified information is entered into the Agency's automated data system, and the Pretrial Services Officer prepares the recommendation to be presented in court.

3.1.3 The Recommendation Report

The recommendation report presented to the court contains the information obtained and verified by the interviewer, the release recommendation, and a set of conditions that the Officer believes should be attached to the release order. The release conditions that are submitted to the court are intended to assure each defendant's appearance in court and, as of July 1980, in D.C. Superior Court cases, to assure the safety of the community.

To arrive at an appropriate set of conditions, the Pretrial Services Officer consults a written guide developed by the Agency from its own experience and research, reproduced in Figure 3.3. Factors in a defendant's background or present circumstances that are associated with an appearance, rearrest, or safety problem (left column) are matched to factors designed to minimize the risks posed by those problems (right column). For example, the Officer may recommend that a defendant with no fixed residence be required to live in a halfway house and report to the Agency once a week; if the defendant has an alcohol or drug problem, the Officer may recommend enrollment in a substance abuse treatment program. The Officer also recommends pretrial detention

⁵ Chapter 5 describes the research efforts that helped to shape this form. For historical background, see Richard R. Mollieur et al., Bail Reform in the Nation's Capital (Washington, D.C.: Georgetown University Law Center, 1966), pp. 24-26.

Figure 3.3
Guide for Recommending
Pretrial Release Conditions

Factors that indicate appearance problems:	Factors that have a positive effect on appearance:
No fixed residence.	Halfway house - work release.
Illegal alien.	Residential third party custody.
Fugitive charge - if the underlying charge is BRA, FTA, Escape, Probation or Parole violation related to <u>contact</u> requirements.	Commitment to a mental institution for evaluation.
Stated Intent to flee.	Third party custodial intensive contact supervision.
Negative military status (AWOL).	Once a week "in person" reporting to the PSA.
Non-area resident with no verifiable ties in the area of residence.	Establishing phone contact with a person or employer willing to assist with notification.
Serious mental problem.	Temporary custody to PSA of such documents as visa, passport, driver's license, etc.
Poor Parole or Probation adjustment where a revocation hearing has been scheduled.	Establishing a mail contact with a person or employer willing to assist with notification.
Conflicting information concerning identification, i.e., gives an alias as a deliberate attempt to mislead.	Priority on the trial calendar.
Soliciting charge coupled with a prior history of arrests or convictions.	PSA-initiated phone call <u>and</u> written notice one week and again one day prior to due date.
Present charge or prior conviction of failure to appear within 5 years. <u>Note:</u> this characteristic may be totally disregarded if we have positive knowledge it is in error such as hospitalization or incarceration as the reason.	Follow-up post release interview sometime after release.
Present charge or prior conviction of BRA within 5 years. <u>Note:</u> subject to same provision as in #11.	Agency-initiated phone contact once a week.
Condition violator if the condition is related to "contact."	Enrollment in drug, alcohol, or mental health program.
Poor Probation or Parole adjustment if no hearing scheduled and if poor adjustment relates to "contact."	Phone notification initiated by PSA where defendant is required to acknowledge court date.
Unverified residence or notification address.	Individual custodian or reference agreement to notify defendant - PSA provides notice to them.
Alcohol or drug use where the defendant is <u>not</u> presently enrolled in a program or is enrolled but not in compliance.	Specific place to live today with an obligation to report "permanent" residence to PSA.
Conflicting information concerning residence.	Phone reporting once a week.
2 open charges (today's is the second) where Prosecutor mentions an outstanding warrant from a foreign jurisdiction he does not intend to execute.	Travel restriction unless the PSA is notified in advance.
3 open charges (today's is the third).	Maintain present alcohol/drug/mental treatment.
Defendant ignorance, i.e., can't read or write.	Referral to outpatient mental facility.
No address to return to today due to nature of charge.	
Alcohol/drug use - if enrolled in a program and in compliance.	
Non-area resident with verified ties in the area of residence.	
Some indication of mental instability.	

Figure 3.3 (cont.)

<u>Factors that indicate rearrest potential:</u>	<u>Factors that may have a positive effect on rearrest rates:</u>
On Probation, Parole, or Pretrial Release for any offense not classified as "violent" or "dangerous."	Trial within 60 days.
Charged with Soliciting.	Curfew - 11:00 p.m. to 6:00 a.m.
Charged with Petit Larceny.	Diversions.
Charged with Unauthorized Use of a Vehicle.	
Charged with Forgery.	
Charged with Fraud.	
Charged with "property" crimes, e.g., Unlawful Entry, Burg. II, D.P.P., etc.	
Any prior charge not defined as "violent" or "dangerous" or included in 2, 3, 4 & 5.	

Threats to Personal Safety
(for defendants in D.C. Superior Court only)

<u>Factors that indicate possible threats to personal safety:</u>	<u>Factors that may have a positive effect on reducing suspected threats to personal safety:</u>
Serious prior juvenile record. (Cases are of "violent" or "dangerous" nature.)	Detention hearings as directed in the statute.
Prior convictions of "dangerous" or "violent" crimes as defined by statute.	Confinement to an address coupled with daily check by PSA with both defendant and a "house" custodian.
A condition violator if the condition was designed to protect personal safety.	24 hour, residential, third party custody.
A prior conviction of "violence" or "danger" and not free from system ties for a minimum of a year.	Commitment to a mental institution.
On Probation or Parole for a "violent" or "dangerous" offense.	Curfew - 11:00 p.m. to 6:00 a.m. coupled with twice a week check by PSA.
Weapon involved.	Weekly sign-in at local police precinct.
Present drug or alcohol use if not in a program or not in compliance.	Alcohol/drug/mental treatment in a recognized program.
Presently on conditional pretrial release for an offense defined as "violent" or "dangerous."	Stay away from the prosecution witnesses.
Present charge is a "dangerous" or "violent" offense and there is a prior history of arrests or convictions.	Intensive follow-up to initial Post-Release interview.
Presently on Probation, Parole, or Pretrial Release for any offense not defined as "dangerous" or "violent."	Third Party Custody intensive contact, supervision, and/or support services.
Controlled drug or alcohol use - in a program and in good compliance.	Maintain present drug/alcohol/mental program.
	Referral to outpatient mental program.

hearings for defendants in Superior Court who meet the statutory criteria (see Chapter 2, Section 2.3); even for these defendants, the Officer recommends conditions for release in the event that a detention hearing is not held. Agency statistics show that defendants who had been recommended for detention hearings, but who were ultimately released on nonfinancial conditions, achieved a 97 percent appearance rate in 1979.⁶ To date, rearrest data have not been available, but the Agency is improving its computer software to compile this information.

Factors selected from the recommendation guide are entered onto the defendant's information form (see Appendix B), and all the information, including the Officer's release recommendation, is fed into the computer. The computer then produces the release recommendation report (a sample appears in Appendix C). When the case is called at arraignment court, the Officer distributes copies of the report to the judge, the prosecutor, and the defense attorney, and remains at the bench to fill out the release order as the judge sets the conditions of release.

In 1979, the Pretrial Services Agency presented 12,577 recommendation reports for nonfinancial release to D.C. Superior Court. The court concurred with the Agency's recommendations in 84 percent of the cases. The Agency also presented 1,124 recommendation reports to the U.S. District Court in 1979. Again, the rate of concurrence was high, at 85 percent. These figures reflect release recommendations based only on the defendant's likelihood of appearance; assessments of danger were not implemented until July 1980. Under the aegis of a grant from the National Institute of Justice, a study of 1980 release data is currently underway.

3.2 Post-Release Services

As defendants leave the courtroom, they are directed next door to the Pretrial Services Agency's court office, where Agency staff review with them their release conditions and scheduled court dates. This post-release interview is essential, for it ensures that defendants understand what is required of them--e.g., checking in, complying with special conditions, staying out of trouble--as well as the consequences of noncompliance. The Agency then provides services to support defendants both in meeting those conditions and keeping their court appearances. These services include monitoring the defendants' behavior while on pretrial release, referring them for social services, coordinating services with third-party custody organizations, notifying defendants of court appearances, and tracking those who are not in court as scheduled via the innovative Failure-to-Appear Unit (discussed in Section 3.2.5).

⁶ Report of the District of Columbia Pretrial Services Agency for the Period January 1, 1979-December 31, 1979, D.C. Pretrial Services Agency, Washington, D.C., p. 12.



Pretrial Services Officers explain the Release Order to defendants and their lawyers minutes after it is signed in the courtroom.

3.2.1 Monitoring

The Agency cannot monitor the day-to-day behavior of all releasees. However, the majority of defendants released by the courts on nonfinancial conditions are required, at a minimum, to check in periodically (typically once a week) with the Agency either by telephone or in person. In 1980, the Agency handled 65,774 telephone calls and 22,434 in-person check-ins. When a defendant checks in, his record with the Agency is displayed on a computer terminal. The Pretrial Services Officer reviews the information and upcoming court dates with the defendant and enters changes into the system if necessary. If the Agency's record reveals condition violations (often reported by a third-party custody organization), the Officer will inform the defendant. The record may also reveal an outstanding bench warrant for a missed court appearance, which may have resulted from an error in notification or change in court scheduling. The Agency claims it is often possible to persuade these defendants to return immediately to surrender or to have the warrant quashed.

The Agency reports serious violations of conditions to the court or to the U.S. Attorney's Office. Recognizing that neither the Agency nor the court can respond to all violations of conditions, the Agency has a written agreement with the judges of the Superior Court and with the U.S. Attorney. This agreement identifies three types of serious condition violations which are to be reported for cases before the Superior Court: 1) the defendant violates a condition to stay away from the complaining witness; 2) the defendant violates the provisions of third-party custody; and 3) the defendant violates conditions to curtail drug use or participate in drug treatment. The Agency reports that in 1980 it forwarded nearly 600 violation notices to the U.S. Attorney's Office and participated in 46 violation hearings.

3.2.2 Referrals for Social Services

Frequently, the conditions of release set by the court will require that a defendant participate in a treatment program for drug or alcohol abuse or seek psychological counseling or other types of medical and social services.

The Agency maintains lists of medical and social services agencies that have been identified through local directories and screened by Agency staff to ascertain the programs' eligibility requirements, fees for services, and whether criminal justice clients are acceptable. In making a referral, the Agency matches the defendant's characteristics with the referral agency's eligibility requirements and calls the Agency to determine whether there is space for a new client. The Agency's computer prints out lists of defendants assigned to the various social services agencies so that Pretrial Services Officers can maintain follow-up contact as necessary.

3.2.3 Coordination of Third-Party Custodial Organizations

Some individuals who otherwise might be detained may be released to the custody of a third party who can provide intensive supervision. The Court Reform and Criminal Procedure Act of 1970 named the Agency to coordinate "other agencies and organizations which serve or may be eligible to serve as custodians for persons released under supervision" At first, the Agency performed this function rather informally, by "brokering" the services of several such agencies. But in 1978, the Congress appropriated \$100,000 to the Agency explicitly for procuring and coordinating third-party custody services. Since then, these funds have been awarded to D.C. social service agencies through a competitive process.

Each custodial organization provides slightly different services. One is a residential treatment program for drug, alcohol, and substance abusers. Another offers both residential and out-client supervision along with various types of counseling, job placement, and limited financial assistance. Three are strictly out-client programs; one provides only alcohol treatment, and the others provide several rehabilitative services such as employment counseling, personal and family counseling, and emergency assistance. As with referrals to social services agencies, the Agency attempts to match the defendants' needs to the services offered.

Custodial organizations are required by the courts to contact their clients at least three times a week; their contracts with the D.C. Pretrial Services Agency require monthly reports on defendant progress. The Agency also occasionally assigns defendants to noncontractual custodial organizations and takes responsibility for frequent follow-up contacts with these groups.

3.2.4 Notification of Court Appearances

In addition to reviewing the next court date each time the defendant checks in, the Agency sends computer-generated notices to all defendants released under its supervision, to persons released on citation by the police, and to those who post cash or percentage deposit in court. The only persons excluded from the Agency's notification service are those in detention and those released on surety or stationhouse bond. In 1980, the Agency mailed 55,048 computer-generated notification letters. Defendants are required to call the Agency to verify receipt. If they do not call, the Agency attempts to reach them by telephone or through relatives or employers. This proactive measure allows the Agency to target possible failures to appear and to forestall the issuance of bench warrants, particularly in situations where the defendant

⁷ D.C. Code Sec. 23-1303(h)(3).

had not received the notification due to change of address, hospitalization, or incarceration. The Agency attributes its high appearance rates (95 percent in D.C. Superior Court, 97 percent in U.S. District Court in 1980) to the effectiveness of its court date notification system.⁸

3.2.5 Failure-to-Appear Unit

Even though the courts in the District were enjoying relatively high appearance rates, the Pretrial Services Agency recognized that nonappearances were extremely disruptive to the courts, prosecutors, and police officers. Moreover, execution of bench warrants for failure to appear was a costly endeavor. Thus, in October 1979, the Agency established a Failure-to-Appear Unit, in an attempt to reduce the nonappearance rate even further. Initially an experiment, but now a permanent part of the Agency, the Failure-to-Appear Unit was designed to: 1) decrease the number of warrants issued; 2) increase the number of defendants who voluntarily appear in response to a warrant; 3) decrease the length of time it takes the system to clear a warrant from outstanding status;⁹ 4) decrease the number of outstanding warrants for those persons released on nonfinancial conditions; and 5) decrease the warrant workload of the Metropolitan Police Department and the U.S. Marshal's Office.

The Unit focuses on two courtrooms in D.C. Superior Court: the courtroom used for misdemeanor status hearings and trials, and the courtroom used for preliminary hearings in felony cases. Unit staff monitor the proceedings in each court, and when defendants fail to respond when their case is called, the Unit attempts to contact them immediately to encourage them to come to court, even though late, in order to prevent the court from issuing a warrant. If the defendant does not appear and a warrant is issued, the Unit tries to reach the defendant's friends, family, or employers, or mails a letter recommending that the defendant contact the Agency immediately.

During 1980, the Failure-to-Appear Unit investigated 2,095 warrants. In 20 percent of these cases, the Unit prevented the issuance of a warrant by contacting the defendants and persuading them to appear in court that day. Through persistent attempts to reach defendants for whom warrants ultimately were issued, the Agency learned the reasons for their nonappearance. In 25 percent of the cases, defendants missed appearances due to communication

⁸ Report of the District of Columbia Pretrial Services Agency for the Period January 1, 1980-December 31, 1980, D.C. Pretrial Services Agency, Washington, D.C., p. 11.

⁹ A warrant can be cleared when a defendant is located and his inability to appear in court (because, for example, he has been hospitalized) is verified.

breakdowns: the Agency had not been informed of intervening actions, such as a change in the scheduled courtroom, incarceration of the defendant for another offense, or placement of the defendant in a diversion program. In an additional 20 percent of the cases, defendants had been hospitalized, called to military duty, or incarcerated in another jurisdiction. Thirty-four percent of the warrants remained outstanding, with no further information about the defendants' reasons for not appearing.

CHAPTER 4: ORGANIZATION AND STAFFING

4.1 Organization

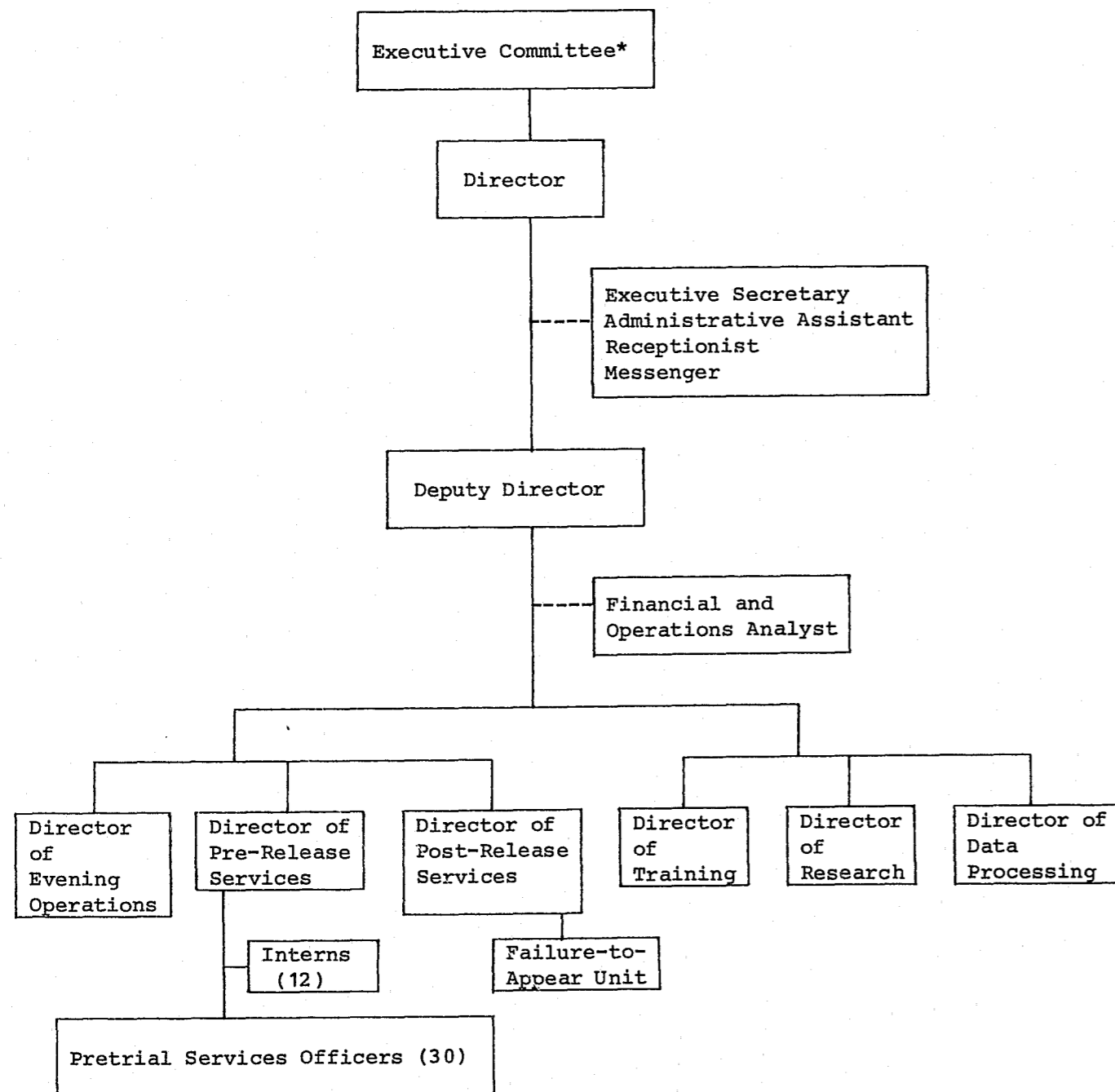
The District of Columbia Pretrial Services Agency operates as an independent public agency of the D.C. municipal government and receives its funding from the U.S. Congress as part of the District's municipal appropriation. The Agency is governed by a five-member Executive Committee consisting of the four chief judges of the federal and local courts (or their designates) and a fifth member selected by the judges. The Committee's primary role is to approve the Agency's operational policies, personnel procedures, and annual budgets. The organization of the Agency is presented in Figure 4.1.

Day-to-day operations are supervised by a director who is required, by law, to be a member of the D.C. Bar. The current director has held that post for 14 years and has overseen the growth of the Agency both in size and scope of operations. His primary responsibility is to foster the Agency's relationship with the rest of the criminal justice system, the municipal government, and Congress. As one example of his liaison activities, the director conducted individual briefings with each Superior Court Judge assigned to arraignment court¹ to explain the new release recommendations that were implemented in July 1980. The director testifies each year at budget hearings before the City Council and Congress. He has testified at Congressional hearings on matters related to pretrial issues and helped to develop the Standards for Pretrial Release of the National Association of Pretrial Services Agencies. The Agency's director is a member of the Mayor's Criminal Justice Coordinating Board and the D.C. Task Force on Pretrial Alternatives, and Chairman of the Board of Directors for the Pretrial Services Resource Center.

The deputy director is the immediate supervisor of the six operations and support Units within the Agency (see Figure 4.1). He conducts weekly operations meetings and assures that Unit directors adhere to the Agency's short- and long-term goals. He also supervises fiscal matters within the Agency and prepares the annual budget.

¹Arraignment court assignments are rotated among criminal court judges.

Figure 4.1
PROJECT ORGANIZATION



*Current Executive Committee:

- Chief Judge, U.S. Court of Appeals for the D.C. Circuit
- Chief Judge, U.S. District Court for D.C.
- Chief Judge, D.C. Court of Appeals
- Chief Judge, D.C. Superior Court
- Dean of Georgetown University Law Center

The Agency's pre-release, post-release, and support services are performed by the six operations units. Three deal directly with defendants and the release process; the others provide support and direction to the Agency as a whole.

• Evening Operations. The primary function of the Evening Operations Unit is to conduct telephone interviews with persons who may be eligible for citation release. In 1981, this Unit had a staff of 10 (mostly part-time)² working two eight-hour shifts each night (4 p.m. to midnight and midnight to 8 a.m.) and from 8 a.m. to 4 p.m. on weekends. An average of 12 citation interviews are completed nightly by telephone from the Agency's Administrative Office. In addition, the evening operations staff performs any Agency functions necessary during those hours when the regular daytime staff is not available. These include recording check-ins, responding to defendant questions, and answering inquiries from other criminal justice agencies. The director of this Unit acts as the Agency's spokesman during evening and weekend hours and processes requests from desk sergeants and arresting officers of the Metropolitan Police Department to conduct citation release interviews.

• Pre-Release Services. This is the largest of the operations units, consisting of 15 staff members in 1981. This Unit has responsibility for interviewing defendants transferred from the police lock-up to the court cellblock for arraignment that afternoon in D.C. Superior Court, verifying the information and checking prior records, formulating release recommendations, and presenting the reports in court. Every morning an Agency Pretrial Services Officer obtains from the U.S. Marshal's Office (which maintains the cellblock), the list of arrestees to be arraigned that day. The Officer prepares an interview folder for each arrestee (containing the questionnaire and "rap" sheets, if any), and distributes the folders among the other interviewers. The Unit handles an average of 50 defendants each day the court is in session, which includes Saturdays and holidays. Normally, one staff member is assigned to the courtroom to present recommendation reports to the judge as each case is called, and to prepare release orders for the judge's signature. (In the U.S. District Court, the caseload is small enough to allow a single Officer to perform the functions of interviewing, verification, report preparation, and courtroom representation.) The director of the Pre-Release Services Unit supervises preparation of all court reports, approves all third-party custody referrals, and meets with judges as necessary to answer questions about Agency procedures or particular recommendations.

²As is discussed in Section 4.2 below, the full- vs. part-time status of many staff members changes frequently, making it difficult to assign a total number of staff to each unit.

o Post-Release Services. The Post-Release Services Unit is responsible for conducting post-release interviews in an office adjacent to the D.C. Superior Court courtrooms, notifying releasees (except those released on stationhouse or surety bond) of all court appearances, monitoring the defendant check-in process, informing the court when conditions of release are violated, providing information at show cause and violation hearings, and investigating failures to appear. It is also responsible for assisting releasees in obtaining employment and needed medical and social services and coordinating with third-party custodial organizations. This Unit, comprised of eight staff members in 1981, has direct contact with approximately 325 defendants per day. The Failure-to-Appear Unit is a subgroup of one to three Officers assigned to Post-Release Services.

o Data Processing. The Data Processing Unit, staffed by five systems analysts and data clerks, maintains the Agency's computer system, updates defendant records, and produces notifications of court dates to be mailed to defendants. The D.C. Pretrial Services Agency has one of the most comprehensive on-line criminal justice computer systems in the country. The system stores information, including final case disposition, on all defendants interviewed by the Agency since 1977. Defendant record information is updated daily on the Agency's computer through an interface with the courts' automated information system. The director of the Data Processing Unit oversees the operation of the system and is responsible for developing new software as needed, as when the new recommendation system was implemented in July 1980. In addition, the director coordinates the Unit's operations with those of the data processing department of the Metropolitan Police (where the computer is physically housed), and the data processing department of the courts. Agency personnel gain access to the system to review or update defendant information through visual display terminals located in the Agency's offices. The system was designed to be used by all personnel, so that training in the use of the system is provided to all new Pretrial Services Officers by the Agency's Director of Training and Personnel (see Section 4.4).

o Research and Evaluation. The Agency has a full-time director of Research and Evaluation who maintains statistics on operations and conducts research on questions of importance to the Agency. With the assistance of the Data Processing Unit, the research director prepares monthly statistical reports (see Chapter 5 and Appendix D) for submission to the Executive Committee. He is also involved in ongoing research to improve the Agency's ability to predict defendant performance on release. Two of the studies conducted by this Unit and later published are discussed in Chapter 5.

o Training and Personnel. The director of Training and Personnel is responsible for developing training programs for both experienced and new employees. She also screens all job applicants, chairs the hiring committee, and coordinates the certification process for employee advancement and promotion. She maintains liaison with area law and graduate schools for recruitment purposes. It is also her responsibility to maintain and update Agency docu-

ments, including the Job Description Register, the Personnel Policies and Practices Manual, the Unit Duties Description Manual, and the Agency's Handbooks on Operations and the Automated System. The training program is discussed in Section 4.4.

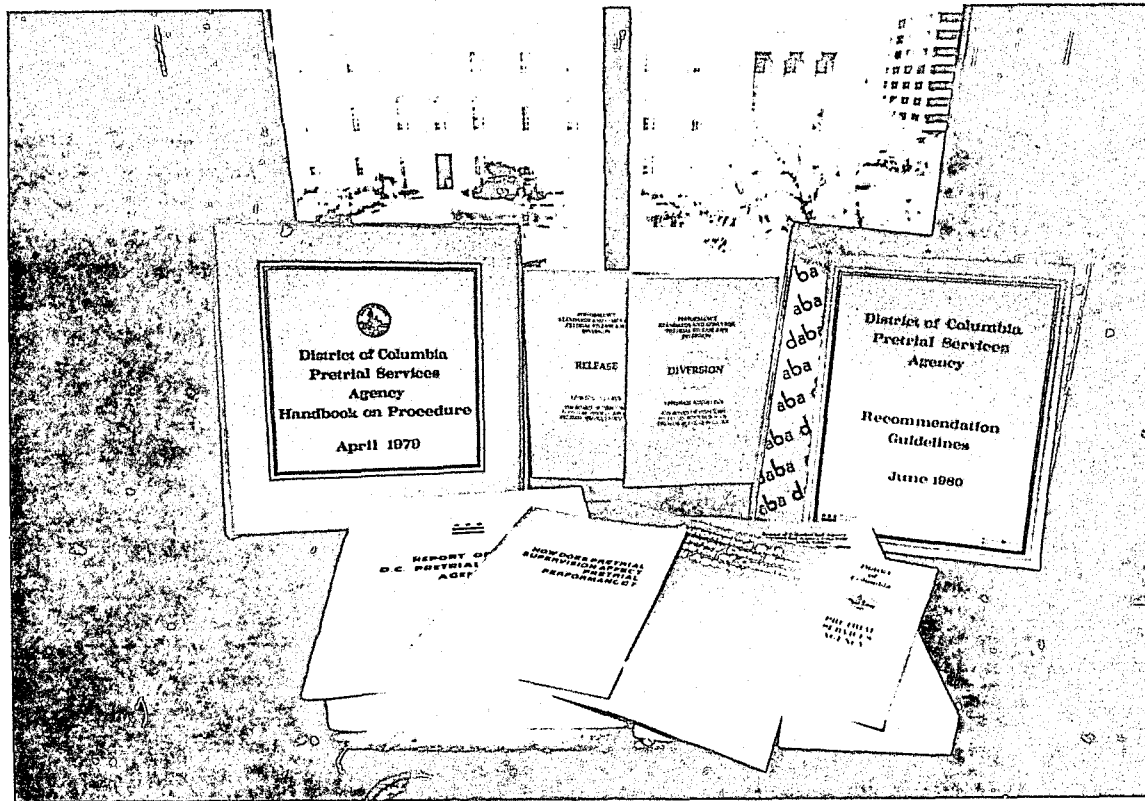
4.2 Staffing

The Agency employs approximately 45 full-time staff. As mandated by the Agency's enabling statute, two-thirds of the staff are law students and graduate students who fill nearly all of the 30 Pretrial Services Officer positions. Consequently, the mix of full-time and part-time staff changes periodically as students revise their work schedules to fit their class schedules. The students work under a contract with the Agency that expires six months after they pass the bar exam (for law students) or graduate (for graduate students). Generally, Pretrial Services Officers are encouraged to leave the Agency at the expiration of their contracts and go on to other work. This ensures frequent openings for entry level officers, a practice that keeps personnel costs down and motivation high. However, a few do remain with the Agency as Pretrial Services Officers and may advance to administrative positions.

The use of students as Pretrial Services Officers dates back to the Agency's origins as a pilot project sponsored by the Georgetown University Law Center. Project administrators have found over the years that there are distinct advantages to student-employees: in addition to the cost savings in reduced salaries, students are available and willing to work during the summer and holiday periods when permanent staff prefer to take vacations and the workload is typically heavier. Moreover, the calibre of the student employees may often exceed that of persons accepting employment at that level as a permanent position. From the students' perspective, employment with the Agency is desirable because the pay is good--comparable to that of a law clerk in local Washington law firms--and the work experience is an asset when they begin their professional careers.

Each Pretrial Services Officer performs a range of functions within the Agency:

- using the automated data system;
- interviewing defendants;
- verifying information;
- investigating criminal histories;
- preparing reports for court;



Numerous publications serve as references both for Agency staff and interested observers of the Agency's history and current operations.

- o providing information in the courtroom;
- o recording and logging phone calls;
- o preparing and submitting violation reports;
- o monitoring defendant compliance with conditions;
- o preparing reports of compliance with conditions for use at sentencing; and
- o providing information at show cause and violation hearings.

Officers rotate between Pre-Release, Post-Release, and Evening Operations Units so that all have an opportunity to perform every function.

Although the Agency is independent of the municipal government, it is directed by statute to use the District of Columbia civil service grading system. There are five grades of Pretrial Services Officer, D.S. 5 through 9. All officers enter at the D.S. 5 level and within a year must earn promotion to D.S. 6 or leave the Agency.

Tests for promotion are given four times a year and include both written tests and demonstrations of tasks. For example, the test for the D.S. 6 level includes conducting a mock interview (the "defendant" is the director of the Pre-Release Services Unit), using the computer, checking the criminal history of the "defendant," verifying the information, and making a proper recommendation. Advancement to D.S. 7 requires demonstrating an understanding of all Agency functions and the ability to prepare violation reports and conduct failure-to-appear investigations. D.S. 8 requires a knowledge of applicable laws and the ability to articulate Agency policy and rationale in a formal courtroom setting. Advancement to D.S. 9 requires a minimum of three years experience with the Agency and at least one year's experience at the D.S. 8 level. In addition, the candidate must be interviewed and evaluated by the director and deputy director of the Agency.

While there are written job descriptions for each D.S. level, the actual differences in day-to-day activities are minimal. Officers at D.S.-8 and -9 levels are more likely than those at D.S.-5 or -6 to participate in certain court proceedings, but officers at all levels are equally responsible for conducting interviews, handling inquiries, and using computer terminals.

4.3 Intern Program

The Agency operates an intern program in conjunction with a number of universities, mostly in the Washington area. The Agency's director of training, who manages the intern program, maintains contact with professors in criminal justice and community service departments in several universities. The training director interviews undergraduate student candidates and selects new interns each semester. Students from the University of Massachusetts and from the Washington Center for Learning Alternatives devote a semester to full-time internship and work a 40-hour week. Students from six local universities³ work a minimum of two days per week, eight hours per day, for a full semester. Currently, there are 12 interns in the program; they receive academic credit for their service instead of salary.

Interns receive 40 hours of training at the beginning of their term with the Agency. They are taught to conduct interviews and to verify the information obtained. In addition, they learn to assist Agency representatives at presentments and arraignments, where they witness signatures, hand out copies of documents to appropriate court officials, and conduct post-release interviews. Interns do not work with the computers or generate reports for the court.

Both Agency staff and interns find the program valuable and rewarding. The training director attributes the success of the intern program to its focus on interviewing and verification. While the Agency has experimented with having interns perform other functions, the interns seem to find the contact with arrestees and the courtroom to be the most stimulating. In addition, by limiting the range of functions they perform, the interns can learn to execute them well and take pride in their performance.

4.4 Training

All incoming employees are given two weeks of training before starting on the job. Since all Pretrial Services Officers must enter at the same level, the training and orientation are standard for all. The two-week training program includes an orientation to the D.C. criminal justice system and the pretrial process, as well as lectures and demonstrations to teach necessary job skills. Background topics covered in the initial training include the history and mission of the Agency, an overview of the court process, professional ethics, the Agency's role in the courtroom, and the effect of legislation on the Agency's mission. The more specific, task-oriented training deals with criminal records, computer training, and the mechanics of the various

³Georgetown University, George Washington University, American University, Howard University, Catholic University, and the University of Maryland.



An ongoing inservice training program, conducted in an unused courtroom, ensures that all Agency staff are up-to-date on changes in policies or procedures.

pre- and post-release tasks. Interspersed with classroom presentations are periods for observation in the courtroom and the Agency's courthouse operations center, practice at the computer terminals, and practice with interview and verification procedures. After completing the training course, new employees are evaluated by the director of training who alerts their immediate supervisors to particular deficiencies or weaknesses. For the first month after the completion of training, employees are closely monitored and assisted by the training director.

The Agency also requires its employees to attend monthly sessions of continuing education. Each session focuses on a job-related topic, such as presentation in court, the new recommendation scheme, or confidentiality of information. Each topic is offered twice so that staff from both day and evening shifts can attend. Individual training is also provided to employees when they receive new assignments, and both individual and group training take place when there is a change in the Agency's policies or procedures.

Other monthly training sessions are designed to broaden the employees' knowledge of the general field of pretrial services. Examples of topics for these sessions are prosecutorial discretion, sentencing alternatives, and the functions of the medical examiner. Films and outside speakers are often used. Unlike the more specific job-related training sessions described above, attendance at these general training sessions is voluntary.

CHAPTER 5: MONITORING, RESEARCH, AND EVALUATION

In striving to achieve its stated goal of facilitating the release of defendants on nonfinancial conditions while ensuring their appearance in court and the safety of the community, the D.C. Pretrial Services Agency has made monitoring and research an integral part of its activities. By doing so, the Agency has had available the information needed to perform its primary function of preparing release recommendations, formulate policy, and refine day-to-day operations. Since its early days as an experimental project, the Agency has continually assessed its own needs for improvements and has used its findings to make significant changes. For example, the present recommendation guidelines are the product of many years of close analysis of the outcomes of the Agency's recommendations to the courts and of the defendants' performance on release. The Agency has also welcomed independent research on the effectiveness of its operations and evaluations of its impact on pretrial release in the District of Columbia. Findings from the Agency's own statistical reports and outside research efforts demonstrate the degree to which the Agency has succeeded in achieving its goals:

- The courts have concurred with the Agency's recommendations for nonfinancial release in 85 percent of the cases.
- Failure-to-appear rates for defendants released on nonfinancial conditions range from a low of 4.7 percent for persons released on their own recognizance, to 7.3 percent for persons released to a third party. The average for all defendants who obtained nonfinancial release is 5.6 percent.
- Fewer than one-fourth of the defendants released on nonfinancial conditions were rearrested on any charge during the pretrial period.

This chapter describes the monitoring process and the types of research activities which have helped to shape the Agency's development. Section 5.1 describes in detail the statistical reports which are used to monitor Agency operations and discusses specific analyses which have been performed to improve Agency operations. Section 5.2 looks at how the Agency is able to use its routine statistics to assess its goal achievement and also describes the contributions of outside research efforts. Section 5.3 presents alternative ways to evaluate the impact of a pretrial services agency's activities.

5.1 Monitoring of Agency Operations

The D.C. Pretrial Services Agency uses its automated data system to produce regular statistical reports that enable the staff to monitor the entire range of Agency operations. In addition to routine reports, the Agency uses the computerized data base to perform studies aimed at improving specific aspects of operations. The foundation of the Agency's data base is files of verified information on every defendant interviewed for release on citation or release by the court. The Agency's records also contain information on release recommendations and court decisions, court appearances that are kept or missed, and the information obtained through weekly check-ins by released defendants. While most of this information had been collected and maintained manually before the Agency's records were computerized, the number of records soon grew too large for manual analysis. The introduction of an automated data system has substantially broadened the Agency's analytic capabilities.

5.1.1 Routine Statistical Reports

The D.C. Pretrial Services Agency's automated data system is programmed to produce monthly statistical reports for the staff to monitor Agency operations. The monthly statistics cover initial court actions on release in criminal cases, workload trends, post-release activities, third-party custody workload and performance, court appearances, and the results of bench warrant investigations. The Agency's monthly report for June 1980 appears in Appendix D. The content and purpose of the report's seven sections are described briefly below.

Section I, "Pre-Release Services: Initial Action," presents in a table the number and percentage of total defendants obtaining any of the several release alternatives (e.g., citation, personal recognizance, third-party custody, bond, surety, or detention). For comparison purposes, the table also shows the percentage distribution for the previous month and for the same month in the previous year. With this report, Agency staff can see at a glance if patterns in the court's actions are stable or changing.

The "Workload Trends" section of the report (Section II) shows the average number of citation interviews, Superior Court and U.S. District Court interviews, report-in calls, and court check-ins recorded for each day of the week during the month. It also provides an overall daily average for each activity. As will be shown below, the Agency uses these data to assign working hours and locations of staff to meet changing needs.

The statistics on "Post-Release Activities" in Section III show the monthly total and average daily workload for the Post-Release Unit during the current and previous months, plus the overall monthly workload average for the previous year. The types of information entered on this table include a daily

average of defendant check-in telephone calls, court check-ins, general information calls, and court date notification letters. The table also shows total numbers of violation notices sent and hearings attended, third-party custody reports received, notification letters returned undelivered, and presentence investigation reports prepared.

Data are presented in Section IV, "Third-Party Custody," on the number of new assignments to each of nine third-party custodial organizations, along with the court appearance rates for their clients. These statistics, which are based on data obtained through the Agency's access to the courts' data system, are presented for both contractual and noncontractual organizations (see discussion in Section 3.2.3 above).

Section V presents "Court Appearance" statistics for several different categories of defendants. The measure used is an appearance-based rate calculated by dividing the total number of appearances made by the total number scheduled, thus taking into account multiple appearances by the same defendant. The rates are shown first for defendants obtaining various forms of nonfinancial release (citation, personal recognizance, third-party custody). Appearance rates are also shown for the two courts which the Agency serves, and are further broken out by offense classification (misdemeanor vs. felony). In addition, appearance rates are provided for three groups of defendants defined by the nature of the Agency's recommendation and the court's action: (1) defendants recommended for release on personal recognizance who were so released; (2) defendants not recommended for release on personal recognizance who did obtain such release; and (3) defendants for whom the Agency recommended a pretrial detention hearing, but who were released on their own recognizance.

Section VI of the monthly report, "Bench Warrant Investigations," presents data on the activities of the Agency's Failure-to-Appear Unit. Workload figures are given for the month, broken out by the three courtrooms that the Unit monitors in D.C. Superior Court. Data are presented on the conditions under which investigated defendants were released (citation, nonfinancial, or financial) and the outcome of the Unit's investigations (defendant surrender, warrant executed or outstanding). The table also identifies the reasons for the defendants' failure to appear, such as personal problems, inaccurate information, or willful nonappearance.

Section VII, "Use of Recommendation Scheme," displays the Agency's recommendations and the release outcomes for defendants interviewed for citation release and for nonfinancial release in D.C. Superior Court and U.S. District

¹Because defendants typically have a number of scheduled appearances, this calculation provides more information about defendant performance than a "defendant-based" rate which is calculated by dividing the number of defendants who missed any court appearance by the total number of defendants.

Court. (An annual tabulation of the Agency's recommendations and court actions is presented in Section 5.2 below.)

With these monthly and yearly tabulations, the Agency keeps track of its workload, its recommendations, the court's initial release decisions, and the appearance record of defendants released on nonfinancial conditions. As demonstrated in the following section, these data help inform the Agency in its continual efforts to improve its services to defendants and the courts.

5.1.2 Analysis of Data to Improve Operations

The monthly reports contain important and valuable information which can be utilized in a number of ways. The Agency also maintains records on defendant characteristics which are not routinely compiled but can be tapped to enhance the research possibilities. The task of analyzing these data has been greatly simplified by the availability of a computer, although the Agency's research director performed numerous manual analyses before the computer was installed. Two ways in which the Pretrial Services Agency has benefitted from periodic analyses of routine data are discussed below.

- Resource Allocation

As was noted above, one section of the Agency's monthly report displays a tabulation of workload by day of the week. The Agency has derived substantial benefits from analyzing these data. For example, staff training sessions are scheduled for Tuesdays because it was found to be the slowest day of the week. Also, the Agency instructs defendants to try to call on weekends rather than Mondays, which are the busiest days, and to call in the afternoon whenever possible, rather than in the morning. In fact, because telephones in the Agency's three offices (the administrative offices and the two court locations) can be arranged to ring wherever staff are available, most changes in the pattern of check-in call volume detected through the workload analyses can be addressed simply by shifting one or more lines to a less busy location. Occasionally, staff are reassigned as necessary to respond to long-term changes in interviewing or check-in needs.

- Refinement of Recommendation Guidelines

As was discussed in some detail in Chapter 2, the Agency's release recommendation scheme has undergone several alterations over the years. Each change was predicated upon careful analysis of data routinely collected on defendants processed by the Agency. While the data for these analyses are largely



The computer prints out the case information and recommendations to be presented in court.

drawn from the monthly compilations, additional information, e.g., defendant age, residence, and employment, is also retrieved from Agency files.

The Agency collaborated with the District of Columbia's Office of Criminal Justice Plans and Analysis to conduct a study of the case processing of 20,109 defendants arrested on felonies and misdemeanors in the District in 1975.² The study examined defendants' background characteristics and criminal justice status at the time of arrest, the type and seriousness of the current offense, the initial bail determination, and the final case disposition. It also analyzed relationships between defendant and case characteristics on the one hand, and conditions of release, release performance, and final disposition on the other. The findings were used to refine the existing eligibility criteria for release recommendations. It is important to note that this study, and the study of intensive supervision discussed below in Section 5.3.4, were accomplished using manual records; indeed, the collection and compilation of data for the case processing study served as a pilot demonstration for the computerized data system that was permanently installed two years later.

A study conducted in 1979 and 1980 provides another example of how the Agency uses its own data to refine the recommendation guidelines. The Agency relied on an extensive analysis of its own 1978-1979 data on failure to appear in developing new guidelines for assessing risk of nonappearance and assigning release conditions designed to reduce that risk. Specifically, the study looked at:

- recommendation rates, the content of those recommendations, and the courts' response to them;
- rates of failure to appear and noncompliance with conditions, related to the type of personal recognizance recommended and the types of conditions actually imposed;
- failure-to-appear rates of persons released after a non-recommendation from the Agency, related to the Agency's original reason for failing to recommend; and
- failure-to-appear rates related to charge.

The new recommendation guidelines for assessing and minimizing failure to appear resulted from these analyses.

² Daniel J. Welsh and Deborah Viets, The Pretrial Offender in the District of Columbia: A Report on the Characteristics and Processing of 1975 Defendants (Washington, D.C.: D.C. Bail Agency and Office of Criminal Justice Plans and Analysis), 1976.

Similarly, the Agency studied its own data as well as that from other jurisdictions as it developed its pioneering guidelines for assessing danger in individual cases and formulating recommendations aimed at ensuring the safety of the community (see Sections 2.4, 3.1, and 5.3).

5.2 Goal Achievement

Of critical importance to the Agency are periodic assessments to determine if it is, indeed, accomplishing its goals. As stated in the Agency's Handbook on Procedure,

"...it is the primary mission of the Agency to facilitate the use of appropriate nonfinancial release alternatives by developing alternatives that will insure appearance as required and the safety of the community. These alternatives...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."³

Given this mission, the most relevant outcome measures to assess the Agency's achievements are nonfinancial release rates, failure-to-appear rates, and rearrest rates.

The Agency routinely collects and analyzes data to monitor release and failure-to-appear rates; the director of research is currently finalizing a system for retrieving and compiling rearrest data. Rearrest rates for a sample of defendants released in the District of Columbia in 1977 were measured by an independent evaluator.⁴ The Agency's analyses of release and failure-to-appear rates for 1979⁴ are presented below, followed by a discussion of the findings of the independent evaluation.

Release Rates. In 1979, the D.C. Pretrial Services Agency interviewed 13,701 defendants prior to initial court appearance for the setting of release conditions.⁵ Table 5.1 shows the Agency's recommendations and the courts' actions. The center column shows the recommendations made in each of the

³ District of Columbia Pretrial Services Agency Handbook on Procedure, April 1979, p.3.

⁴ Comparable data cannot be reported for 1980 because the new recommendation guidelines were implemented in July of that year.

⁵ It is important to recall that in 1979 the D.C. Pretrial Services Agency's policy was to abstain from making a recommendation in some cases, but that a failure to recommend for nonfinancial release was not intended as a recommendation for money bond or detention (see discussion in Chapter 2, Section 2.1).

Table 5.1
D.C. PRETRIAL SERVICES
AGENCY RECOMMENDATIONS FOR
DEFENDANTS INTERVIEWED IN 1979

Court*	Agency Recommendation For Release	Type of Release Set by Court**
D.C. Superior Court 92% (12,577)	Recommended for non-financial release 52% (6589)	Nonfinancial 85%
		Financial 13%
		Held 2%
		Other --
	No recommendation 37% (4638)	Nonfinancial 43%
		Financial 55%
		Held 2%
		Other --
	Detention Hearings Recommended 11% (1350)	Nonfinancial 40%
		Financial 43%
		Held 17%
		Other --
U.S. District Court 8% (1,124)	Recommended for non-financial release 56% (690)	Nonfinancial 84%
		Financial 15%
		Held 5%
		Other .5%
	No recommendation 43% (530)	Nonfinancial 47%
		Financial 52%
		Held 1%
		Other --

= court and project agree

*Totals exclude 1,031 defendants interviewed whose charges were dropped before initial court appearance.

**When nonfinancial conditions are set, the defendant is released. When a defendant is held without bond, he is not released. When financial conditions of release are set, the defendant may or may not actually post bond and obtain release.

two courts (D.C. Superior Court and U.S. District Court). The column on the right shows the breakdown of the courts' release actions within each recommendation group.

In 1979, the Agency recommended some form of personal recognizance for a little more than half of the defendants in the two courts. The courts concurred in 85 percent of these cases and set nonfinancial conditions of release. Nearly 40 percent of the defendants not recommended by the Agency for personal recognizance were released on some type of nonfinancial conditions by the courts. For reasons explained in Chapter 3, the U.S. Attorney avoids the use of pretrial detentive hearings; in 1979, just 17 percent of the defendants for whom the Agency recommended a hearing in D.C. Superior Court were ultimately detained as a result of such a hearing.

Failure-to-Appear Rates. The data presented in Tables 5.2 and 5.3 describe the failure-to-appear rates of defendants released on nonfinancial conditions in 1979. (As noted before, failure-to-appear rates are computed by dividing the total number of missed appearances--defined as scheduled court dates on which the defendant does not appear by the close of the court session--by the total number of scheduled appearances.) Table 5.2 shows total appearances and failure-to-appear rates for defendants who obtained any of three forms of nonfinancial release: citation, personal recognizance, and third-party custody. Defendants released to the custody of a third party experienced a higher rate of failure to appear compared to defendants released on other forms of personal recognizance. This finding may be due to the higher risk posed by defendants released to third-party custody; in fact, a substantial portion of this group did not receive a positive recommendation for nonfinancial release from the Agency.

Table 5.3 shows failure-to-appear rates for defendants released on personal recognizance, broken out by the nature of the Agency's recommendation. Defendants released on personal recognizance despite the Agency's failure to recommend them, excluding those recommended for a detention hearing, had more than double the rate of failure to appear of the recommended releasees. This finding tends to confirm the veracity of the Agency's judgment. However, it may also reflect the fact that when the court chose to release a defendant on personal recognizance in the absence of a recommendation from the Agency, the court also lacked the Agency's recommendation as to conditions of release. As was discussed in Chapter 2, the Agency now recommends appropriate release conditions for every defendant interviewed.

Rearrest Rates. A 1977 study by The Lazar Institute followed 442 cases from arrest to disposition and provided estimates of overall release patterns and defendant performance on release in the District of Columbia. The find-

⁶Mary A. Toborg, et al., Pretrial Release: An Evaluation of Defendant Outcomes and Program Impact. Volume I. Release Practices and Outcomes: A Cross-Sectional Analysis of Eight Jurisdictions (Washington, D.C.: The Lazar Institute, 1981).

Table 5.2
 FAILURE-TO-APPEAR RATES FOR DEFENDANTS
 RELEASED ON NONFINANCIAL CONDITIONS
 BY TYPE OF RELEASE, D.C. SUPERIOR
 COURT AND U.S. DISTRICT COURT (1979)

<u>Type of Release</u>	<u>Total Appearances</u>	<u>Failure-to-Appear Rate</u>
Citation	8,846	5.4%

Total Personal Recognizance	20,599*	5.5%
Non-Custody Personal Recognizance	13,709	4.7%
Third-Party Custody Personal Recognizance	6,890	7.3%

Total Nonfinancial Release	29,445	5.6%

Table 5.3
 FAILURE-TO-APPEAR RATES FOR DEFENDANTS
 RELEASED ON PERSONAL RECOGNIZANCE
 BY TYPE OF AGENCY RECOMMENDATION,
 D.C. SUPERIOR COURT AND U.S. DISTRICT COURT (1979)

<u>Agency Recommendation</u>	<u>Total Appearances</u>	<u>Failure-to-Appear Rate</u>
Personal Recognizance	15,031	4.5%
No Recommendation	4,041	10.2%
Pretrial Detention Hearing	1,495	3.3%

Total Recommendations	20,567*	5.5%

*The difference in the total number of appearances for defendants released on personal recognizance shown in the two tables is due to the fact that a small number of defendants are released on personal recognizance by the courts without having been interviewed by the Pretrial Services Agency (e.g., defendants in cases originating with the grand jury). These defendants are counted in Table 5.2 but not in Table 5.3.

ings were as follows:

- 74.2 percent of these defendants were released on non-financial conditions and 13.6 percent were released on financial conditions, producing an overall release rate of 87.8 percent;
- the overall pretrial rearrest rate (on any charge) for defendants released on nonfinancial conditions was 22.9 percent;
- the overall pretrial rearrest rate for defendants released on money bond was 18.3 percent; and
- the rate of rearrest on a serious charge⁷ was less than 8 percent for defendants released on nonfinancial conditions.

Whether such rates of release, failure to appear, or pretrial arrest are perceived as high or low is a matter of local interpretation. Still, by monitoring these outcome measures periodically, a program can ascertain trends which may inform future operations. For example, if failure-to-appear rates increase substantially from one year to the next, the program may wish to tighten its post-release supervision practices. Alternatively, a sharp increase in rearrest rates may cause the program to reassess its recommendation guidelines.

One of the most rigorous tests of goal achievement is an experimental design wherein subjects (defendants) are randomly assigned to various conditions and statistical tests are used to determine whether there have been significant differences in outcome among the experimental and control groups. The Lazar Institute's experimental study of pretrial release practices and outcomes is presented in Section 5.3.3 below.

5.3 Approaches to Impact Evaluation

There are several ways in which an individual pretrial services program can assess the degree to which its activities have affected the administration and results of pretrial release. Some evaluation techniques are more rigorous than others. For example, the formal experimental designs offer the most conclusive statements about program impact. Many pretrial services agencies may lack the resources necessary to conduct this kind of evaluation, but some

⁷ A "serious" charge is defined as any Part I crime in the FBI Uniform Crime Report.

may be able to implement less costly, yet valuable, variations. Several alternative options, presented below, may offer useful insight into program effectiveness.

5.3.1 Comparison to Other Agencies

One approach to evaluating overall project impact is to compare a program's operations and outcome performance to that of other pretrial services agencies. However, there are a number of problems in attempting such comparisons. Each pretrial services agency operates in a local context defined by the statutory provisions for release, the capacity of detention facilities, the political milieu, the incidence of crime, and the particular characteristics of defendants. In order to understand what impact the agency has had (or could possibly have), the operations and performance of each agency must be interpreted within that context. Because of the complexity and diversity of local conditions, few program elements are directly comparable. There are also a number of problems in definition and measurement of outcome variables which further limit the comparisons that can be made between agencies. For example, jurisdictions vary in how they define a failure to appear--e.g., one may count late appearances as failures, while another may only count missed appearances resulting in the issuance of a warrant.

Keeping such points in mind, however, certain limited comparisons may be instructive. Table 5.4 presents data on four large cities that are somewhat comparable. Washington, D.C., Philadelphia, Baltimore, and New York City all are large urban areas with well-established pretrial programs; all four pretrial programs interview 97 to 100 percent of the arrestees in their jurisdiction, and none has excludable categories of defendants. (Additional information on selected program features is provided in Chapter 6.) In Washington, D.C., the courts released a greater percentage of defendants on personal recognizance at initial appearance than in the other three cities. At the same time, the failure-to-appear rate in the District was quite low, second only to Baltimore's. It should be noted, however, that in Baltimore, 21 percent fewer defendants were granted release on personal recognizance than in Washington.

5.3.2 Before-After Program Comparison

Alternatively, an agency's achievements can be assessed by performing a pre-test/post-test evaluation, in which release outcomes for defendants processed by the agency are compared to outcomes for similar defendants processed in the same jurisdiction prior to the agency's inception. While such an approach may be ideal in jurisdictions where a pretrial services agency is relatively new or soon to be implemented, it is impossible for the D.C. Pretrial Services Agency due to the project's longevity. Also, many jurisdictions will lack reliable data on defendants processed in the pre-project period.

Table 5.4
PRETRIAL SERVICES AGENCIES:
CROSS-JURISDICTIONAL COMPARISONS

Outcome Measure*	Washington	Baltimore	NYC	Philadelphia
Number of arrestees interviewed	21,364	40,869	105,430	33,732
Percent of interviewed arrestees released on personal recognizance**	65%	44%	57%	36%
Failure-to-appear rate for arrestees released on personal recognizance***	5.6%	4.8%	8.2%	9.1%

*Rearrest data were not available in the comparison jurisdictions.
**Does not include defendants released on citation. Washington, New York City, and Philadelphia have citation release programs; Baltimore does not.

***Includes all defendants released on personal recognizance, whether or not recommended by the agency.

SOURCE: Washington data are based on annual data for 1979; New York data are estimated from the semi-annual report for the latter half of 1979 (New York City Criminal Justice Agency, Semi-Annual Report, July-December, 1979); Baltimore and Philadelphia data were provided by staff of the respective projects in telephone conversations with the author.

5.3.3 The National Evaluation of Pretrial Release: An Experimental Design

The National Institute of Justice funded a three-year National Evaluation of Pretrial Release, conducted by The Lazar Institute and completed in 1981. Although Washington, D.C. was not among the four jurisdictions in which the experiment was conducted, the experimental design and, of course, the findings, are instructive for potential replicators.

The purpose of the study was to evaluate the impact of pretrial release programs on release, court appearances, and pretrial arrest outcomes. In each of the four sites, eligible defendants were randomly assigned to an experimental group of defendants processed by the pretrial services program, or to a control group of defendants not processed by the program. To create a control group without denying services, each program was temporarily expanded by increasing the program's staff or by lengthening the program's hours of operation. This technique enlarged the potential caseload so that, even after a non-treatment group was created through random assignment, the programs were processing the same number of defendants as they did before the experiment.

The evaluation then proceeded in two parts: first, an evaluation of the impact of the program's interview, verification, and recommendation procedures on the court's release decisions; and, second, an evaluation of the impact of the program's post-release notification and supervision activities on defendant appearance and pretrial arrest rates. The results of these two study components are briefly described below.

Pre-Release: Impact on Release Decisions

For this component of the evaluation, the four pretrial services programs continued to prepare release recommendations only for defendants assigned to the experimental group; no reports were prepared for the control group.

⁸ For a more detailed synopsis see Pretrial Release: A National Evaluation of Practices and Outcomes, Summary and Policy Analysis (Washington, D.C.: The Lazar Institute, August 1981).

⁹ In one site, this approach was not feasible because the pretrial services program interviews virtually all arrestees (as does the D.C. Pretrial Services Agency), so that there is no overflow to constitute a control group. Instead, the experiment involved an extension of program services to defendants previously considered ineligible for release recommendations because they scored too low on the program's point scale. For purposes of the experiment, half these defendants were randomly assigned to receive release recommendations from the pretrial services program; the other half were processed as before.

Program impact on release outcomes was analyzed by comparing the experimental and control groups' outcomes for rate of release (percentage of defendants obtaining any form of pretrial release), speed of release (time elapsed between arrest and release), type of release (nonfinancial vs. financial), and equity of release (the effects of ethnicity and employment status).

In three of the four sites, defendants in the experimental groups (i.e., those who received program services) were significantly more likely than defendants in the control groups to obtain pretrial release. Only in one site did experimental group defendants demonstrate significant improvements over control group defendants in the amount of time elapsed between arrest and release, the likelihood of obtaining nonfinancial release, and the effects of ethnicity or employment status on the release decision. Thus, while in three of the four sites, the pretrial services programs demonstrated a positive impact on release rates, their effects on the speed, type, and equity of pretrial release are less conclusive.

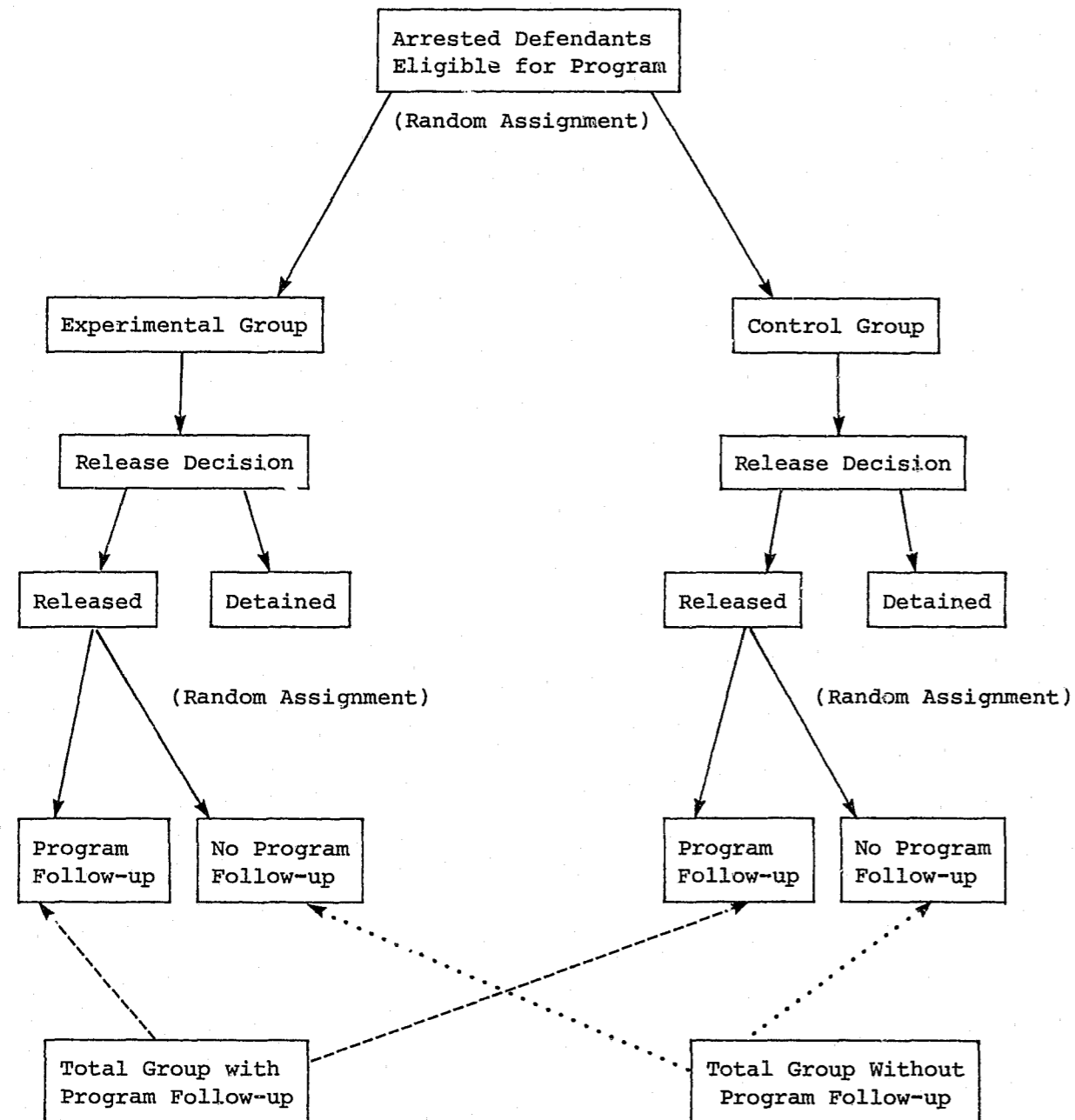
Post-Release: Impact on Appearance Rates and Pretrial Criminality

This component of the impact evaluation entailed a second random assignment procedure. Rather than compare the release experiences of the original experimental and control groups, the evaluators began with all released defendants, regardless of whether their release was pursuant to a program recommendation, and randomly assigned them to receive either program follow-up or receive no follow-up at all.¹⁰ Figure 5.1 portrays the two-stage random assignment procedure, which was implemented in two sites. In the third site, the new control group received "minimal" follow-up (weekly telephone calls to verify address but no reminder of court dates), while the new experimental group received at least two telephone calls each week and, in some cases, referral for supervised release, treatment, or diversion programs. In the fourth site, local officials would not allow evaluators to implement the second random assignment.

In the two sites where the second-stage random assignment was fully implemented, the evaluators found no significant differences in appearance or rearrest rates between defendants who received follow-up services and those who did not. The evaluators caution that these experimental tests were "quite limited in scope," and suggest that further research is necessary before concluding that post-release services are ineffective.

¹⁰ The evaluators reasoned that defendants from the original experimental group who obtained release pursuant to a program recommendation may have had different characteristics than defendants from the original control group who obtained pretrial release (i.e., without benefit of a program recommendation). Any differences in appearance and rearrest rates between those groups, therefore, could not be attributed solely to the presence or absence of program services.

Figure 5.1
SUMMARY OF EXPERIMENTAL APPROACH WITH
TWO-STAGE RANDOM ASSIGNMENT



SOURCE: Pretrial Release: A National Evaluation of Practices and Outcomes, Summary and Policy Analysis (Washington, D.C.: The Lazar Institute, August 1981), p. 29.

5.3.4 Evaluation of Program Components

There may be discrete elements of a program's operations that can be evaluated within the program's budget and without disrupting the daily functions of the staff. For example, in 1975, the D.C. Pretrial Services Agency conducted an experimental study on the effects of the intensity of supervision on release performance. The study randomly assigned 300 felony defendants to three different levels of supervision. The outcome measures were court appearance, compliance with the conditions of release, and rearrest. The results indicated that more intense supervision could improve appearance rates and compliance with release conditions, but that it did not appear to affect the likelihood of rearrest.¹¹ Partly on the basis of these findings, the Agency elected not to provide intensive supervision itself, but to coordinate the services of other third-party custody organizations.

The Agency has also succeeded in securing additional funds to support independent evaluation of program components. In 1981, the Agency was awarded a grant from the National Institute of Justice to study the implementation and impact of the new release recommendation guidelines effective July 1980. These guidelines have two goals: (1) to reduce further the pretrial detention of misdemeanants and non-dangerous felons, and (2) to decrease the risk to the community posed by dangerous felons presently released without special conditions to minimize risk. If proven to be effective in achieving these goals, this new recommendation policy could have a major impact on the pretrial services field and the administration of bail. The impact evaluation, currently being conducted by The Lazar Institute, will make a significant contribution to the ongoing debate over predictions of pretrial criminality and the need for preventive detention.

5.4 Summary

The above discussion of The Lazar Institute's evaluation techniques is presented with the full realization that many pretrial services agencies lack the resources to replicate such an experiment. Indeed, the results appear to suggest that there is no need for projects to evaluate their impact on release outcomes; three of the four programs studied did, indeed, demonstrate significant impact on pretrial release decisions and, due to the rigor of the experiment, these findings should be generalizable to other pretrial services programs performing a similar function.

¹¹ How Does Pretrial Supervision Affect Pretrial Performance (Washington, D.C.: D.C. Bail Agency, 1978).

Instead, the continuing need is to refine our knowledge of the effectiveness of pretrial supervision, both in producing defendants for court appearances and in containing pretrial rearrest rates. The National Institute of Justice is now supporting experiments on supervised release practices in three jurisdictions, and the results should be available late in 1982. Again, because these evaluations also employ rigorous evaluation techniques, their findings should be generalizable to virtually any setting.

In sum, given limited resources for data analysis and research, most pretrial services programs would derive greatest benefit from maintaining the kind of statistics that the D.C. Pretrial Services Agency collects and reports on a routine basis to monitor ongoing practices.

CHAPTER 6: REPLICATION AND COSTS

The D.C. Pretrial Services Agency provides a comprehensive array of services to defendants and the courts in the District of Columbia. Although the Agency is unusual in some ways--e.g., its Congressional mandate, complex jurisdiction, and large caseload--many of its features are replicable in other environments. This chapter identifies important features of the D.C. Pretrial Services Agency and, drawing on the information contained in the Directory of Pretrial Services, 1979/1980 Edition,¹ places them in a national context. Planners and administrators in the field of pretrial release should consider the potential benefits of each program element, and combination of elements, in fashioning a pretrial services program best suited to their own communities. The chapter contains three sections: program structure, scope of services, and costs.

6.1 Program Structure

Three major factors help shape the structure of a pretrial services program: the legal authorization that governs the administration of pretrial release and, in many jurisdictions, the operations of the program itself; the organizational sponsor of the pretrial services program; and the manner in which the program is organized and staffed.

Authorization

In many jurisdictions, as in the District of Columbia, the pretrial services agency itself is authorized or mandated by statute. Other common forms of

¹Compiled and edited by Donald E. Pryor of the Pretrial Services Resource Center, 918 F Street, N.W., Suite 500, Washington, D.C. 20004. The Directory contains standardized information on 119 pretrial services agencies (plus 133 diversion programs and 29 mediation/arbitration programs) identified by staff of the Pretrial Services Resource Center. The foreword to the Directory notes that there may be some pretrial services agencies unknown to the Center, as well as programs providing pretrial services without the appellation of "pretrial services agency," that are not represented.

authorization include court rule or a local government administrative decision. Clearly, the specific language of the law, court rule, or decision may dictate much about the agency's structure and operations. For example, many pretrial services programs are authorized to release certain defendants on their own authority, i.e., with no need for the court's approval. At the other extreme, some programs lack even the authority to present recommendations for release to the judge; the results of these programs' interview and verification procedures are presented to the court for purposes of information only. As was described in Chapter 3, the statute governing the D.C. Pretrial Services Agency is quite detailed in describing the Agency's responsibilities; the text of that statute appears in Appendix E.

Other statutes may affect a program's operations. For example, statutory provisions for release may allow or prohibit release on nonfinancial conditions or the use of citation release. In addition, they may or may not provide for the detention of dangerous defendants or the consideration of community safety in setting release conditions. The nature of the release provisions will affect various program decisions, including the agency's target population, the types of recommendations made, and the criteria for release recommendations.

Organizational Sponsor

Often, a program's authorizing statute, rule, or decision will stipulate its status within the local government. Typically, pretrial services programs are located within other government departments. Table 6.1 shows the organizational affiliation of programs listed in the Directory of Pretrial Services. Affiliation with the courts is most common. The advantages of a close relationship with the courts are clear: it may be easier to gain greater cooperation from judges in actually following release recommendations, expedited access to court records, and a good chance of permanent financial support for the program. Although the D.C. Pretrial Services Agency is an independent agency, the courts in the District of Columbia provide space and utilities at no cost. Furthermore, it is largely the cooperation and support of the chief judges that has made possible the major role that the Agency plays in the pretrial process in the District.

Affiliation with other public agencies, such as a probation or corrections department, also may offer advantages in terms of program support and access to records. Of course, affiliation with any governmental agency, including the courts, may compromise the pretrial agency's ability to pursue independent goals.

Private programs offer the advantage of independence from other criminal justice agencies, but with no official status within the local government, they may experience problems with access to defendants and records. In

Table 6.1
ORGANIZATIONAL AFFILIATION OF 118
PRETRIAL SERVICES PROGRAMS, 1979

<u>Organizational Affiliation</u>	<u>No. of Programs</u>	<u>Percent (of 118)</u>
Courts	49	41%
Probation Department	27	23
Private Nonprofit Agency	11	9
Corrections Department	8	7
Commission/Board of Directors	7	6
Separate County Department*	5	4
Governor's Office	4	3
Sheriff	3	3
Prosecutor	2	2
Other (Bar Association, Dept. of Rehabilitation)	3	3
	<u>119**</u>	

*Although not strictly comparable as an independent public agency, the D.C. Pretrial Services Agency would most closely resemble this category.

**One program reported a dual affiliation.

SOURCE: Donald E. Pryor, Directory of Pretrial Services, 1979/1980 Edition (Washington, D.C.: Pretrial Services Resource Center, October 1979).

addition, funding may be a perennial difficulty for private programs, though this problem may be ameliorated through a contractual arrangement with a city or a criminal justice agency. A number of private pretrial services agencies in New York State operate under such contracts, including the New York City Criminal Justice Agency, which operates under contract to the City of New York.

Pretrial services agencies that are independent government agencies offer the dual advantages of a large degree of autonomy and strong public support. The D.C. Pretrial Services Agency falls into this category. Unaffiliated with any governmental entity, the Agency is legally independent and autonomous. The value of the Agency's autonomy is illustrated in the history of the new recommendation guidelines incorporating an assessment of danger in the release decision. Although the consideration of danger was written into law in 1970, the Agency declined to include it in release recommendations until in-house research suggested that assessments of danger could be made with confidence--a full ten years later. Years of careful testing and consideration have earned the Pretrial Services Agency the highest regard in the District of Columbia criminal justice system. Without this foundation of respect and autonomy, the Agency might have been coerced into making danger assessments without the benefit of sound research and experience.

The degree to which the D.C. Pretrial Services Agency has become an integral part of the District of Columbia criminal justice system may be the Agency's most noteworthy feature. The Agency has excellent working relationships with the Public Defender's Office, the U.S. Attorney's Office, the Metropolitan Police Department, and, of course, the courts (by statute, four of the five members of the Executive Committee which governs the Agency are chief judges in the trial and appellate courts in the District). The Agency also provides direct services to these agencies, such as access to basic defendant information through protected entry to its computerized records. To ensure continued cooperation and communication, the upper level staff, especially the director, are in frequent contact with representatives of other criminal justice agencies in an ongoing effort to improve the D.C. criminal justice system. Because of its statutory authorization, the composition of its Executive Committee, and the perception among other criminal justice agencies that the Agency is making a positive contribution, the Agency's position is secure. This integration of the pretrial services function into the overall criminal justice system is an aspect of replication that can be easily neglected, but its importance cannot be underestimated.

Organization and Staffing

The work of the D.C. Pretrial Services Agency is divided among six operational units, three of which perform primarily defendant- and court-related functions (Evening Operations, Pre-Release, and Post-Release Units), and three of which are supportive to the Agency as a whole (Training, Research,

and Data Processing). Clearly, the size of the Agency's caseload warrants a division of labor among discrete units; its extensive reliance on computers requires data processing staff; its staffing arrangement (described below) requires a full-time training function; and its commitment to research must be guided by a knowledgeable specialist.

In contrast, other agencies with smaller caseloads, manual records, permanent staff, and fewer resources for independent research will not need such a complex structure. Rather, they may be managed by a team of "generalists" who provide pre- and post-release services with the assistance of the clerical staff in maintaining the files. In fact, most existing agencies fall within this latter category. The vast majority of pretrial services programs operate with a full-time staff of fewer than ten persons (79 percent of the 119 programs listed in the Directory of Pretrial Services).

Thirty-two programs reported that they supplement their full-time staff with students and/or volunteers, as does the D.C. Pretrial Services Agency. The Agency's main work is executed largely by law and graduate students who serve as Pretrial Services Officers only until their studies are completed. Under this arrangement, which is mandated by the Agency's enabling legislation, the Agency is able to attract Pretrial Services Officers of high calibre and strong commitment, but it is understood that, with rare exceptions, they will eventually leave the Agency. Thus, there is no need to provide advancement opportunities beyond the position of Pretrial Services Officer, an arrangement that greatly reduces the cost of labor over time.

However, the high staff turnover created by this staffing policy requires a continuous training program in order for the Agency to maintain coherent operations and execution of policies. As discussed in Chapter 4, initial training on the Agency's activities and its relation to the D.C. criminal justice system is provided to all incoming Pretrial Services Officers. Additional training is provided on an ongoing basis to ensure that all staff are aware of new policies or procedures. Promotions to higher grades of Pretrial Services Officer are based in large part upon formal examination. An extensive in-house training program is clearly appropriate for an agency of this size, complexity, and staffing composition. It may also be necessary for programs that need to minimize personnel costs by utilizing a large complement of student interns or volunteers.

In contrast to the D.C. Pretrial Services Agency, other major urban pretrial services agencies operate with predominantly permanent professional staff. The use of professional staff reduces the amount of initial training which must be provided on a regular basis. In addition, reliance on permanent professional staff may help to insure that policies and patterns of operation are consistently followed. However, professional staff command higher salaries than students, interns, or volunteers, and they may be prone to "burn-out" as their tenure lengthens.

Many programs with permanent staff and infrequent turnover may be able to rely primarily on written documentation of policy and procedures, coupled with close supervision of new personnel, to accomplish their training needs. The D.C. Pretrial Services Agency's Handbook on Procedures is a good example of a comprehensive training document. It sets forth the Agency's mission, reviews its history and development, discusses the guidelines on formulating recommendations for release, and presents the statutes that govern the D.C. Pretrial Services Agency and the courts of the District of Columbia. A second handbook, D.C. Pretrial Services Agency Recommended Guidelines (June 1980), explains the new guidelines for setting conditions to address possible danger to the community and risk of flight for defendants in D.C. Superior Court. These handbooks are not only used in training, but as references and as a means of familiarizing outsiders with the Agency's goals, policies, and procedures. They are available on request to interested agencies.

6.2 Scope of Services

The core of the D.C. Pretrial Services Agency's operations is interviewing defendants, verifying the interview information, and presenting release recommendation reports to the court. These are functions of virtually every pretrial services agency. Other functions that an agency can perform will depend on local conditions, including the mandates of any applicable statutes. Thus, for example, certain services performed by the D.C. Agency, such as the investigation of failures to appear and the coordination of third-party custodial organizations, might not be performed by other pretrial services agencies in different jurisdictions. Even though an agency must work within local constraints, however, there may be opportunities to expand the scope of services.

Population Served

The D.C. Pretrial Services Agency defines as its target population all adult defendants arrested in the District of Columbia. Some pretrial services agencies restrict their target population by excluding certain categories of defendants; some do not handle misdemeanants, others do not handle felons. While this may be necessary in some jurisdictions due to limited resources or statutory restrictions, the D.C. Agency and other large agencies have demonstrated that the entire criminal defendant population can be served without compromising the jurisdiction's standards for failure to appear.

Programs listed in the Directory of Pretrial Services also vary widely in the number and types of courts served, depending, of course, on the local court structure. Some agencies serve only the municipal court, while others serve every court with authority in their jurisdictions (except federal courts, which are served by their own pretrial services agencies). The number of

courts served has obvious implications for the agency's caseload; in addition, a state court may have different release requirements than a municipal or county court. Obviously, such differences will affect the agency's operations: for example, the D.C. Agency has two sets of release criteria because community safety is considered in D.C. Superior Court release decisions but not in those of the U.S. District Court.

Operating Hours

The hours of operation of any pretrial services program must be scheduled to meet the needs of the jurisdiction it serves and to minimize lock-up time for defendants. In Philadelphia, where the courts operate around-the-clock, the Pretrial Services Division likewise operates on a 24-hour basis. While there is no "night" court in the District of Columbia, the D.C. Pretrial Services Agency instituted a night shift when the D.C. Police implemented a citation release program. Officers in the Evening Operations Unit are available to interview eligible defendants shortly after their arrest, regardless of the time, so that those who qualify can be released immediately on police authority.

Types of Supervision

The D.C. Pretrial Services Agency provides supervised release for some defendants by allocating \$100,000 annually to the support of five third-party custodial organizations. Because these organizations also receive funds from other sources, the \$100,000 contributes to the supervision of more defendants than the Agency itself could supervise with the same money. For the D.C. Pretrial Services Agency, this arrangement is both expedient and cost-effective. Elsewhere, however, third-party custodial organizations may be unavailable or too costly. Under such circumstances, some pretrial services programs have chosen to provide supervised release themselves (as does the Pretrial Release Services Division in Baltimore, Maryland), but most smaller agencies exclude such supervision from their programs altogether.

Some pretrial services agencies also have incorporated into their programs supervision of defendants who are diverted from formal adjudication pending the outcome of their compliance with certain conditions over a specified period. Agencies offering diversion supervision services typically make referrals to appropriate social service or treatment programs and monitor the defendants' compliance with these and other conditions, e.g., to maintain employment. While the referral and monitoring functions of these diversion programs closely resemble the D.C. Agency's post-release services, the Agency does not supervise defendants in diversion programs.

Investigation of Failure-to-Appear

Many of the pretrial services programs listed in the Directory of Pretrial Services reported a range of responses to failures to appear. The most common responses were telephone calls (to the defendants, their families, friends, or other references), letters, assistance to police in locating defendants, and visits to the defendants' homes. In D.C., the Pretrial Services Agency's Failure-to-Appear Unit provides this kind of follow-up response. Fifteen agencies reported that their officers are empowered to arrest fugitive defendants; 18 indicated that they can recommend bench warrants or request revocation of the defendants' release status. Of course, the level of effort expended by an agency in retrieving failures to appear depends largely on the level of resources available to support these activities.

Research Activities

The D.C. Pretrial Services Agency's research activities have helped to keep it in the forefront of the pretrial services field. As noted in Chapter 5, the latest developments in recommendation guidelines are a product largely of the Agency's internal research program. While ambitious research may be beyond the scope of smaller agencies, all pretrial service agencies should, at a minimum, keep statistics on caseload, recommendations, release decisions, and court appearances to aid in management decisions and policymaking. Appendix D presents a typical monthly report prepared by the D.C. Agency's research director, and Chapter 5 contains a full discussion of how the Agency uses its statistics.

Recordkeeping

An outstanding feature of the D.C. Pretrial Services Agency is its computerized information system. Agency staff use computers to verify certain defendant information, to generate recommendation reports for court, to display information when defendants call in, to maintain updated records of defendant information, and to develop a data base for in-house and outside researchers. Other agencies in the District of Columbia which have limited access to the Agency's information system regard the verified information it contains to be extremely valuable to the local criminal justice system.

Clearly, not all pretrial services agencies can afford, nor will they need, a sophisticated computerized data system. However, all agencies do need accurate, readily retrievable records concerning both active and closed cases. The longer it takes to prepare a release recommendation report, the longer a defendant may remain in detention. Also, as the D.C. Agency itself experi-



The computer system allows a defendant's file to be displayed instantaneously when the defendant calls for his weekly check-in.

enced early in its history, when recommendations require more than a few hours to develop, many defendants will post bond unnecessarily to obtain release quickly (see Chapter 2). Manual files, such as those maintained by the Agency as back-up, can suffice, but they can be costly, too. The manual system used by the Agency prior to computerization required a clerical staff of 12, which was eliminated, at an annual savings of over \$120,000, when the transition to the computerized system was made.

6.3 Costs

Annual Budget

The total budget for the D.C. Pretrial Services Agency in fiscal year 1981 was \$1,172,500. Compared to the annual budgets of other pretrial services agencies listed in the Directory of Pretrial Services, the D.C. Pretrial Services Agency falls within the top ten percent (see Table 6.2). As is true for most programs, salaries comprise the largest proportion of the Agency's budget. Again, the D.C. Pretrial Services Agency, with a full-time (equivalent) staff of about 45, ranks among the largest existing programs in terms of staff size. Another indicator of size is caseload: the Agency conducted more than 21,000 interviews in 1979, placing it in the top six percent of agencies reporting caseload data. In sum, the Agency's large budget is commensurate with its size.²

Table 6.3 presents the D.C. Pretrial Services Agency's budget for fiscal year 1981. The total does not include any cost of rent or basic utilities, e.g., heat and electricity, as these are provided to the Agency by the courts at no charge. The Agency has space in both the new District of Columbia Superior Court Building and the U.S. District Court Building; the Agency's administrative offices are located in an old D.C. court building. Such an arrangement is not unusual for pretrial services agencies; frequently overhead costs or direct services, such as data processing, are provided at no charge by a department of the local government.

Not all of the costs shown in Table 6.3 would necessarily be budgeted for other pretrial services agencies. For example, the D.C. Pretrial Services Agency allocates \$100,000 for third-party custody organizations that provide intensive supervision for certain defendants; other agencies may choose to provide various forms of supervised release themselves or not to provide it at all.

² Cost per case comparisons are inappropriate because pretrial services agencies vary so widely in the type and scope of services they offer.

Table 6.2
ONE-YEAR FUNDING, STAFFING LEVEL, AND
CASELOAD OF 118 PRETRIAL SERVICES PROGRAMS, 1979

<u>Annual Budget</u>	<u>No. of Programs</u>	<u>Percent</u>
Less than \$50,000	18	20%
\$50,000-\$99,99	21	24
\$100,000-\$499,999	41	46
\$500,000 or more	9	10
TOTAL	89	
Unspecified	29	
<u>Full-time (Equivalent) Staff</u>		
5 or less	63	53%
6-10	31	26
11-15	9	8
16-20	4	3
More than 20*	11	9
TOTAL	118	
<u>Number of Interviews</u>		
499 or less	9	12%
500-999	11	14
1,000-9,999	46	60
10,000-19,999	6	8
20,000 or more*	5	6
	77	
Not available	39	

*Includes the D.C. Pretrial Services Agency.

SOURCE: Donald E. Pryor, Directory of Pretrial Services, 1979/1980 Edition (Washington, D.C.: Pretrial Services Resource Center, October 1979).

Table 6.3
D.C. PRETRIAL SERVICES AGENCY
FISCAL YEAR 1981 BUDGET BY EXPENSE CATEGORY

Expense Category	FY 1981 Budget	
	Amount	Percent
Personnel	\$827,560	70.6
Fringe Benefits	76,740	6.5
Computer Rental (equipment & time-sharing)	80,000	6.8
Office & Reproduction Equipment Rental	40,500	3.5
Telephone	20,000	1.7
Office Supplies	3,600	0.3
Printing	10,000	0.9
Mailing Costs	8,000	0.7
Travel	2,500	0.2
Third-Party Custody Programs	100,000	8.5
Other	3,600	0.3
TOTAL	\$1,172,500	100.0

SOURCE: D.C. Pretrial Services Agency.

Another major component cost of the Agency's costs which might be unnecessary elsewhere is the \$80,000 spent for computer rental. Small jurisdictions may not have a need for automated recordkeeping, but they may need a larger clerical staff to maintain a manual system. Where computer services are essential, it may be possible to obtain them at low or no cost, depending on the organizational affiliation of the pretrial program. Programs operating within a larger governmental agency may be able to make use of the parent agency's data processing capabilities.

As was noted above, computerization has increased the Agency's efficiency, allowing it to reduce its costs and staff size. Tasks which previously required clerical staff time are now performed rapidly on the computer terminals by the Pretrial Services Officers. The cost of monitoring and supervision is down from \$95 per case prior to computerization to \$10.38 per case

in fiscal year 1981 (computed as number of cases divided by number of Post-Release Services staff).

Table 6.4 disaggregates the Agency's personnel costs, first by staff unit, then by function. Nearly 29 percent of the Agency's salary expenditures are attributable to administrative personnel who comprise less than 20 percent of the staff. These top positions are occupied by professionals with many years of experience in the Agency. Nearly 70 percent of the staff, accounting for 60 percent of the salary costs, are graduate and law student Pretrial Services Officers whose salaries are relatively low.

To assist those interested in incorporating any of the Agency's activities into a new or operating program, the lower half of Table 6.4 presents costs per unit of provided services. These per unit costs were calculated by dividing the staff costs of a particular function by the caseload for that activity. A share of administrative expenses or general overhead was not assigned to each function. Thus, the figures do not represent total costs of the operations, but only personnel costs.

As shown in the table, citation interviews have a high per unit cost compared to court interviews. The citation program is managed by the Evening Operations Unit, which operates through the night to conduct interviews as needed and to perform other Agency functions in the absence of regular staff. This high cost figure reflects both the higher wage paid for night and weekend duty and the relatively small number of interviews conducted. The Agency believes that the high cost of its citation program is warranted: the program is an effective form of nonfinancial pretrial release for persons arrested on minor charges and helps to maintain the overnight jail population at a manageable level.

Although citation release under police authority is gaining in popularity, it is rare for a pretrial services program to be involved in citation release decisions. Like the D.C. Pretrial Services Agency, the New York City Criminal Justice Agency conducts abbreviated interviews with arrestees being considered for release under a "desk appearance ticket," comparable to citation release. However, in many other jurisdictions police departments are successfully implementing citation release without any input from a pretrial services program. In such locales, pretrial services personnel can direct their limited resources exclusively to those arrestees charged with offenses too serious to qualify for citation release.

Table 6.4
D.C. PRETRIAL SERVICES AGENCY
BUDGET DISTRIBUTION BY UNIT AND FUNCTION
FISCAL YEAR 1981

Component	Total Salary	Number of Staff (Full-Time Equivalent) ⁶
Total	\$803,483	43
Citation Program Staff ¹	\$ 82,525	5.5
Pre-Release Services Staff ²	255,951	17
Post-Release Services Staff ³	143,784	9
Computer System Staff ⁴	83,575	3.5
Administration ⁵	237,501	8

Function	Number	Personnel Costs Per Unit ⁷
Citation Interviews	4,014	\$20.56 ⁸
Court Interviews	17,871	\$14.32
Monitoring & Supervision	13,852	\$10.38 ⁹
Notification	55,048	\$ 1.00 ⁹ (estimate)

¹ Operates from 4 p.m. to 8 a.m. on weeknights and 8 a.m. to 4 p.m. on weekends to supervise releasees, provide information, and schedule court dates for citation releasees.

² Conducts interviews and verifies information, provides reports to court, represents Agency at initial hearings, conducts a post-release interview with all releasees, and provides reports for bond reviews.

³ Monitors and supervises releasees, provides compliance reports to probation departments, submits violation reports, refers defendants for community-based services, provides information, testifies in court, conducts failure-to-appear investigations.

⁴ Maintains and enhances computer system, updates records on defendants, notifies defendants of court dates.

⁵ Administration's functions include management and program planning, development and implementation of training programs, recruitment and development of intern programs, development and implementation of an information gathering and research system, evaluation and assessment of the effectiveness of its functions, budget development and monitoring contracts with third-party custodians, and secretarial and support services.

⁶ When this table was prepared, the Agency had 43 full-time persons and 4 part-time staff. Total staff does not include student interns; normally, the Agency uses approximately three interns at any one time.

⁷ Costs per unit do not include a share of administrative expenses or general overhead.

⁸ The staff conducting citation interviews also perform monitoring and supervision functions on nights and weekends.

⁹ This cost is not monitored separately from other computer costs. However, it is estimated that the cost is around \$1 per notification letter sent.

SOURCE: D.C. Pretrial Services Agency.

Funding Sources

As shown in Table 6.5, pretrial services programs were most commonly funded, at least in part, at the county level. Other, less frequent, sources of support were state funds, Law Enforcement Assistance Administration block and discretionary grants, and city or municipal budgets. Several programs, including the Baltimore City project, relied rather heavily on CETA funds which, like LEAA funds, have since been curtailed. The Pretrial Services Resource Center reports that many such agencies have successfully replaced these sources with county or city monies.

Table 6.5
SOURCE OF FUNDS, 118
PRETRIAL SERVICES PROGRAMS, 1979

Funding Agency	No. of Programs	Percent (of 118)*
LEAA	21	18%
Federal**	10	8
State	22	19
County	75	64
City/municipal***	14	12
Fees/fines	6	5
CETA	7	6
Court	2	2
Charities, individuals	6	5
Other (VISTA, TASC, Bar Association)	5	4
Unspecified	2	2

*Total exceeds 100% because many programs had multiple funding sources.

**The Directory includes the ten regional U.S. Pretrial Services Agencies which process federal defendants eligible for pretrial release.

***Although its funds are appropriated by the U.S. Congress, the Directory describes the D.C. Pretrial Services Agency as a municipally-supported program.

SOURCE: Donald E. Pryor, Directory of Pretrial Services, 1979/1980 Edition, (Washington, D.C.: Pretrial Services Resource Center, October 1979).

A few programs reported that they contribute to their own support by collecting fees or fines from the defendants they process. Thus, for example, the Harris County (Texas) pretrial services program reported that 20 percent of its 1979 budget of \$640,000 came from such service fees.³ Still other programs have successfully approached private foundations, charities, and bar associations. Given that local pursestrings are likely to tighten in coming years, pretrial services programs must explore a wide variety of potential funding sources.

6.4 Conclusion

The D.C. Pretrial Services Agency can serve as a model for agencies in other jurisdictions. While certain features of its structure and operations would not be appropriate in all jurisdictions, its basic operations, its standards for recordkeeping, its training methods, and its efforts to monitor operations can be replicated almost anywhere. The most outstanding feature of the D.C. Pretrial Services Agency, its integration into the criminal justice system, is not easily replicated, but must be achieved by each agency over a period of time. However, other pretrial services agencies can learn from the D.C. Agency's experience. If there is a single key to achieving such integration, it is the provision of reliable services to other criminal justice agencies.

³ Directory of Pretrial Services, p. 623.

APPENDIX A VIOLENT AND DANGEROUS CRIMES

Appendix A

A List of Violent and Dangerous Crimes

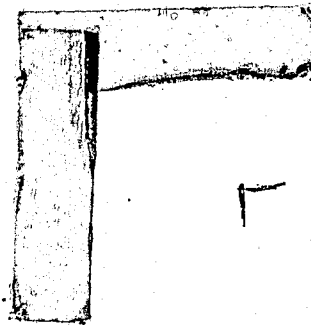
1. Violent (D.C. Code 23-1331(4))

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
Kidnapping
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
Attempt or Conspiracy to commit any of the foregoing offenses

2. Dangerous (D.C. Code 23-1331(3))

Taking or Attempting to take property from another by force or threat
of force
Unlawfully entering or attempting to enter any premises adapted for over-
night accommodation of persons or for carrying on business with the
intent to commit an offense therein
Arson or attempted arson of any premises adaptable for overnight accommo-
dation of persons or for carrying on business
Forcible Rape, or assault with intent to commit forcible rape
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 im-
prisonment for more than one year

APPENDIX B
DEFENDANT INFORMATION FORM



MPID# _____ SS# _____ Time of Arrest _____ Date _____ CIT
 Date of Arrest _____ PNTS

CHARGE _____ Race: B C O Sex: M F

NAME: _____ (first) (middle) (last) (Jr Sr)

Aliases: _____

Interviewer: ___Y N DOB _____ POB _____ Height _____ Weight _____ Education _____ P/V

___Y N AREA RESIDENT: _____ Steadily _____ off/on. Alien Y N Status _____ AREA

Verifier: ___Y N MARRIED: Y N Lives w/Spouse: Y N Lives w/ Children: Y N Number of Children _____

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

Case Entry PRESENT ADDRESSES:

___Y N 1) Street: _____ Apt. # _____ City: _____

___Y N State: _____ Zip: _____ Buy/Rent Length of Res: _____ MAIL Y N CARE OF Y N

___Y N Lives With: _____ Rel: _____ CW Lives W/Def: Y N

___Y N Telephone: _____ Listed: Y N Whose Name: _____ Last Stayed: _____

Landlord: _____ Remarks _____

___Y N 2) Street: _____ Apt. # _____ City: _____

___Y N State: _____ Zip: _____ Buy/Rent Length of Res: _____ MAIL Y N CARE OF Y N

___Y N Lives With: _____ Rel: _____ CW Lives W/Def: Y N

___Y N Telephone: _____ Listed: Y N Whose Name: _____ Last Stayed: _____

Landlord: _____ Remarks _____

___Y N PRIOR ADDRESS: _____ Length of Res: _____

___Y N Lived With: _____ Rel. _____ Phone # _____ RES

Remarks: _____

___Y N EMPLOYED: Y N If no How Long: _____ How Supported: _____

___Y N If yes NAME OF EMP: _____ ADDRESS: _____

___Y N Supervisor: _____ Phone: _____ Can Contact: Y N Income: _____

___Y N Occupation: _____ How Long: _____ FT PT O/O Last Worked: _____

FORMER OR CONCURRENT EMPLOYMENT STATUS: FORMER CONCURRENT (Circle One)

___Y N Employed: Y N If no How Long: _____ How Supported: _____

___Y N If yes NAME OF EMP: _____ ADDRESS: _____

___Y N Supervisor: _____ Phone: _____ Can Contact: Y N Income: _____

___Y N Occupation: _____ How Long: _____ FT PT O/O Last Worked: _____ EMP

Remarks: _____

___Y N STUDENT: Y N Where: _____ How Long: _____ FT PT

Veteran: Y N Type of Discharge _____

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

Mental Hosp: _____ Entered: _____ Length of Stay: _____

NARCOTICS: Y N Last Used _____ Type: _____ ALCOHOL: Y N Drinking When Arrested Y N

Treatment: Y N When: _____ Where _____ Treatment: Y N When: _____ Where _____

Remarks: _____

BOND: Y N Type: _____ Custodian: _____ Charge: _____ Due: _____ Where: _____

Y N Type: _____ Custodian: _____ Charge: _____ Due: _____ Where: _____

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

Y N Charge: _____ P.O.: _____ Phone #: _____ Where: _____

WARRANT OUTSTANDING: Y N Criminal Convictions: Y N (See back) DEDUC

REFERENCES: Name Address Rel Telephone In CT

1. _____

2. _____

3. _____

4. _____

5. _____

NAME AND ADDRESS OF PERSON TO ASSIST IN NOTIFICATION OR POSSIBLE CUSTODY

NAME: _____ Address: _____ Phone: _____

Rel: _____ Work Phone: _____

___PR ___COND. ___SURETY _____10 ___PDH ___M.O. ___OTHER _____

REVIEWED

PRI _____

BAIR _____

BANE _____

BART _____

TARN _____

TNUM _____

USAO _____

DNAM _____

DMAA _____

PARL _____

NCIC _____

PDID _____

BAID _____

BACE _____

DOWN: _____

CONTINUED

1 OF 2

CASES PENDING:

File Date	Docket #	BA Case #	Charge(s)	Due Back	Judge	Release

Case log:

--	--	--	--	--	--	--

Case log:

--	--	--	--	--	--	--

Case log:

--	--	--	--	--	--	--

Case log:

Contact log:

PROB/PAROLE:

Charges	Juris.	Dates on & off	PO/Ph #	Spoke w/	Adjustment/Rec.

Remarks:

--	--	--	--	--	--

Remarks:

CRIMINAL CONVICTIONS: MPD Record Furnished Y N Call MPD Y N Spoke with

D. C. Convictions Source

.....
.....
.....
.....
.....
.....
.....
.....
.....

Juv./Other

.....
.....

WARNING

I UNDERSTAND THAT:

- THE INFORMATION I GIVE WILL BE USED TO SET MY CONDITIONS OF RELEASE AND WILL BECOME PART OF A PUBLIC RECORD.
- I HAVE THE RIGHT TO SPEAK WITH A LAWYER BEFORE I ANSWER ANY QUESTIONS.
- A LAWYER WILL BE PROVIDED TO ME IF I CANNOT AFFORD ONE.
- I MAY REFUSE TO ANSWER ANY OR ALL QUESTIONS ASKED OF ME.
- IF I LIE OR EVEN MAKE A MISTAKE IN ANSWERING ANY QUESTIONS, THIS FACT MAY BE USED AGAINST ME IN COURT.

DEFENDANT

REFUSED TO SIGN WITNESS Time

DEFENDANT GIVEN WARNING FOR CITATION INTERVIEW Time

PSA Representative

APPENDIX C
SAMPLE RELEASE RECOMMENDATION REPORT

Appendix C

District of Columbia Pretrial Services Agency

The following information is submitted for use in determining conditions of release.

Lockup No. 5

01-26-81

United States of America vs. John Doe

Charges: Una-Herdon

Date of Birth: 03-27-50

Also known as:

John Doe Sr.
Jack Doe

Residence:

Present Address: 1100 Anywhere Street, NW
Washington, DC 20011

Lives With: Parents

Length of Residence: 25 years

Verified by Father

D.C. Area Resident for: Life Steadily
Verified by Father

Employment/School/Support:

Present Status: Unemployed

How Long: 1-1/2 years

Income Source: Parents

Years Education: 012

Verified by Father

Family:

Marital Status: Divorced

Number Children: 01

Lives with Children: No

Other Family in Area Not Living with Defendant:

Sisters

Brothers

Aunts

Verified by Father

Health History:

Present Status: Physical Problem

Pretrial Services Case No.: 00000000 BAID: 00000000 TIME: 04:52 PM

District of Columbia Pretrial Services Agency

Lockup No. 5 (continued)
John Doe

01-26-81
Page 02

Remarks: Defendant has wounded right eye

Present Status: Drug Problem

Detail: Methadone

How Long: 18 months

Remarks: Def indicates present enrollment in SAA

Pending Cases:

File Date: 01-14-81

Docket No.: 0000000-81

Release Date 01-14-81 Type: Cit

Open Charges:

0000000-81 A Petit Larceny

Pending Appearance: 02-02-81

Pretrial Conference

File Date: 01-08-81

Docket No.: 0000000-81

Release Date: 01-08-81 Type: PR/C

Release Conditions:

Avoid prosecution witnesses

Maintain drug SAA

Other condit. Seek employment W/I 30 days

Live at 1100 Anywhere Street, N.W.

Other condit. Maintain contact w/attorney

Summary of release condition compliance for this case as of
01-26-81:

The PSA has received no information regarding the defendant's
stay away from prosecution witnesses condition and drug treatment
condition at SAA.

According to information verified today the defendant continues
to reside at the 1100 Anywhere Street, N.W. address.

The defendant indicated today that he is still unemployed.

Open Charges:

0000000-81 A Simple Assault

Pending Appearance: 02-02-81

Status Hearing

Prior Convictions:

No prior convictions according to MPD records

Pretrial Services Recommendation:

Pretrial Services Case No. 00000000 BAID: 00000000 TIME: 04:52 PM

District of Columbia Pretrial Services Agency

Lockup No. 5 (continued)
John Doe

01-26-81
Page 03

Based upon the information known to the Pretrial Services Agency
the Agency recommends that the defendant be released on personal
recognizance with the following conditions designed to minimize
potential failure to appear:

That the defendant maintain participation in a drug
treatment program at SAA

Based upon the information known to the Pretrial Services
Agency the Agency recommends no conditions in the safety
category.

Pretrial Services Representative:

Ann Smith

Pretrial Services Case No.: 00000000 BAID: 00000000 TIME: 04:52 PM

APPENDIX D
MONTHLY STATISTICAL REPORT, JUNE 1980

Appendix D
D.C. Pretrial Services Agency
Monthly Operations Report, June 1980
Section I: Pre-Release Services: Initial Action

	JUNE '80		MAY '80	JUNE '79
	#	%	%	%
Citation	251	17	20	21
Personal Recognizance	600	41	38	30
Third Party Custody	204	14	15	22
Percentage Bonds Set	83	6	8	5
Cash Bonds Set	59	4	1	1
Cash or Surety Set	37	2	2	2
Surety	187	13	12	17
Preventive Detention Hold	8	-	-	-
5-Day Hold	20	1	1	2
Mental Observation or Rehab. Center for Alcoholics	-	-	-	-
Other	24	2	3	-
Sub-Total*	1,473	100%	100%	100%
Fugitives Returned	25	1%	2%	1%
Cases No Papered (charges dropped)	259	15%	14%	12%
TOTAL**	1,757		-2%	+1%
			(1,791)	(1,741)

*Total defendants considered for initial pretrial release.

**Total defendants brought to court on new charges.

Section II: Workload Trends

	M	T	W	T	F	S	Su	Average
Superior Court (Lock-Up's)	59	42	58	67	54	40	8	55
Citations (US Cases)	10	8	12	13	9	7	7	10
U.S. District Court (All Cases)	5	3	4	4	2	1	1	4
Report-In Calls	313	260	226	196	217	74	70	194
Court Check-Ins	71	63	79	74	44	-	-	66

Section III: Post-Release Activities

		<u>JUNE '80</u>	<u>MAY '80</u>	<u>Monthly Average 1979</u>
Report-In Calls	5,809	<u>194/DY</u>	<u>210/DY</u>	<u>210/DY</u>
Court Check-Ins	1,395	<u>66/DY</u>	<u>75/DY</u>	<u>37/DY</u>
Other Log Entries (e.g. defendant calls for information)		<u>13/DY</u>	<u>13/DY</u>	<u>15/DY</u>
Notifications	4,470	<u>149/DY</u>	<u>174/DY</u>	<u>97/DY</u>
Substance Abuse Administration Violations Sent		<u>37</u>	<u>17</u>	<u>45/DY</u>
Custody Violations Sent		<u>32</u>	<u>25</u>	<u>33</u>
Other Violations Sent		<u>5</u>	<u>-</u>	<u>-</u>
Incoming Reports Received (e.g. third-party custody reports, violation reports, official requests for information)		<u>729</u>	<u>601</u>	<u>588</u>
Violation Hearings		<u>2</u>	<u>2</u>	<u>15</u>
Return Mails Recorded (Notifications returned by the Post Office)		<u>135</u>	<u>167</u>	<u>101</u>
Pre-Release		<u>1</u>		
Post-Release		<u>127</u>		
Night Staff		<u>7</u>		
Pre-Sentence Investigation Reports		<u>39</u>	<u>48</u>	<u>-</u>
Day Staff		<u>39</u>		
Night Staff		<u>-</u>		
Changes of Address Recorded:		<u>161</u>	<u>164</u>	<u>135</u>
Total Open Cases		<u>12,856</u>	<u>12,860</u>	<u>15,300</u>
Total Nonfinancial		<u>8,790</u>	<u>8,774</u>	<u>10,583</u>

Section IV: Third-Party Custody

	<u>Intake</u>	<u>Appearance Rate</u>
Blackman's	--	98%
Bonabond	96	93%
Bureau of Rehabilitation	38	97%
CIRO	13	98%
DC Half-Way House	--	--
Private Person	23	99%
RAP, Inc.	3	100%
RCA	6	100%
Stepping Stones	31	90%
Other Programs	--	--
<u>TOTAL</u>	<u>210</u>	<u>95%</u>

Section V: Court Appearance (Appearance-Based)

	<u>Appearance Rate</u>
Citation Population	<u>97%</u>
Personal Recognizance (P.R.)	<u>96%</u>
P.R. Non-Custody	<u>97%</u>
P.R. Custody	<u>95%</u>
TOTAL Nonfinancial	<u>96%</u>

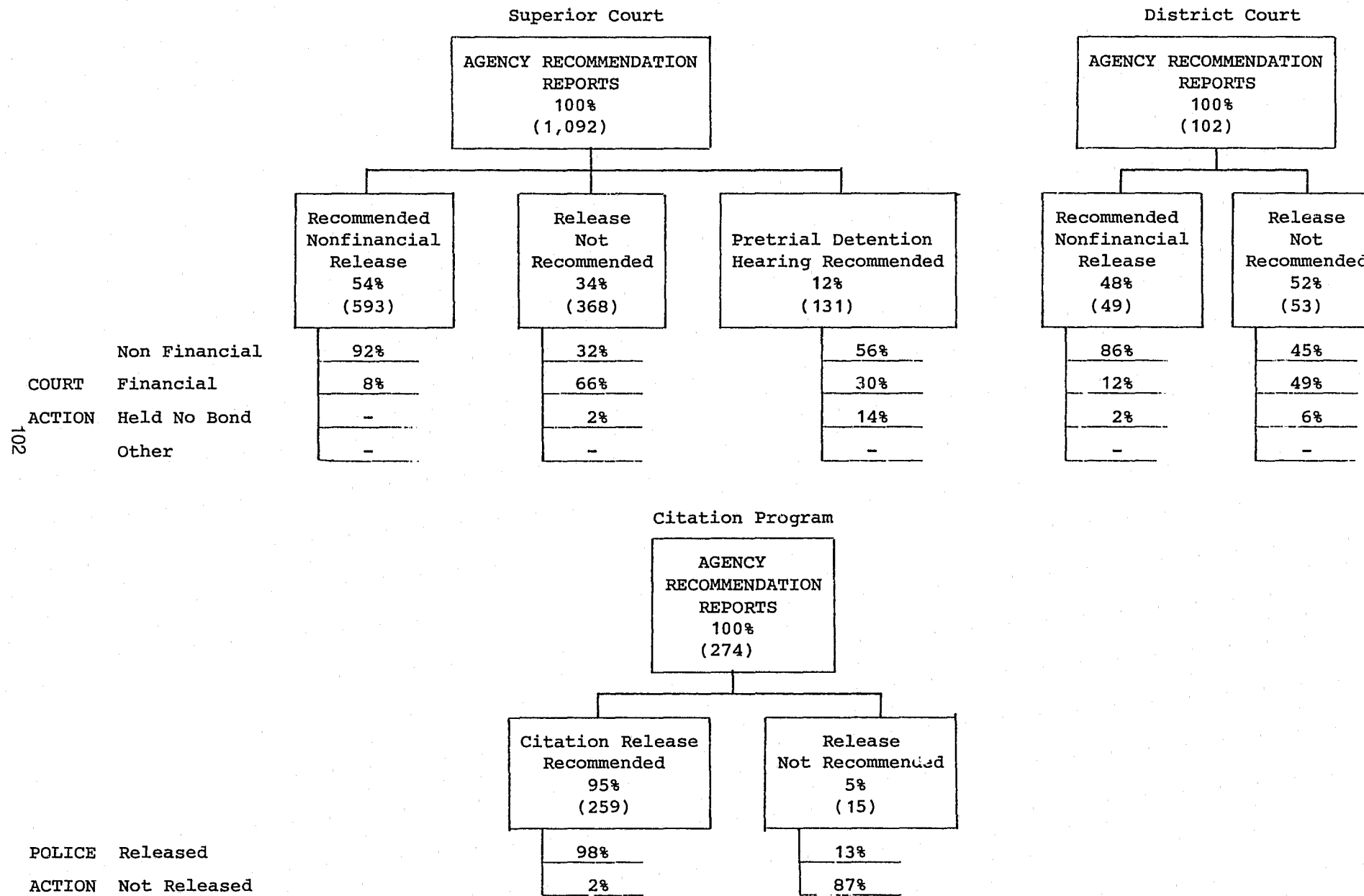
U.S. District Court	<u>99%</u>
D.C. Superior Court	<u>96%</u>
P.R. Misdemeanor (excludes citations)	<u>96%</u>
P.R. Felony (excludes citations)	<u>96%</u>

Recommended & Released P.R.	<u>97%</u>
No Recommendation & Released P.R.	<u>93%</u>
Pretrial Detention Hearing & Released P.R.	<u>96%</u>

Section VI: Bench Warrant Investigations

Total Investigations	<u>231</u>
Nonfinancial/Courtroom 15	<u>154</u>
Nonfinancial/Courtroom 16	<u>27</u>
Citation/Courtroom 17	<u>3</u>
Nonfinancial/Other	<u>1</u>
Financial	<u>40</u>
Other	<u>6</u>
Investigation Results:	
Agency Surrender	<u>22</u>
Agency Prevention	<u>43</u>
Other Surrender	<u>14</u>
Hospital, Jail, Military	<u>13</u>
Warrant Executed	<u>25</u>
Warrant Outstanding	<u>84</u>
Unknown	<u>6</u>
Other	<u>24</u>
Reason for Failure to Appear:	
System Related Problem (e.g., wrong courtroom)	<u>49</u>
Personal Problem (e.g., sick, transportation problem, etc.)	<u>41</u>
Willful	<u>2</u>
Unknown	<u>101</u>
Under Investigation	<u>-</u>
Other	<u>38</u>

Section VII: Use of Recommendation Scheme*



*June 1980 was the last month in which the old recommendation policies were followed in D.C. Superior Court.

APPENDIX E
LEGISLATION AUTHORIZING
D.C. PRETRIAL SERVICES AGENCY

APPENDIX E

"Chapter 13.--PRETRIAL SERVICES AND PRETRIAL DETENTION

SUBCHAPTER I--DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

- "Sec.
"23-1301. District of Columbia Pretrial Services Agency.
"23-1302. Definitions.
"23-1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations.
"23-1304. Executive committee; composition; appointment and qualifications of Director.
"23-1305. Duties of Director; compensation; tenure.
"23-1306. Chief assistant and other agency personnel; compensation.
"23-1307. Annual reports to executive committee, Congress and Mayor.
"23-1308. Budget estimates.

"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.
"23-1325. Release in capital cases or after conviction.
"23-1326. Release of material witnesses.
"23-1327. Penalties for failure to appear.
"23-1328. Penalties for offenses committed during release.
"23-1329. Penalties for violation of conditions of release.
"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 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.

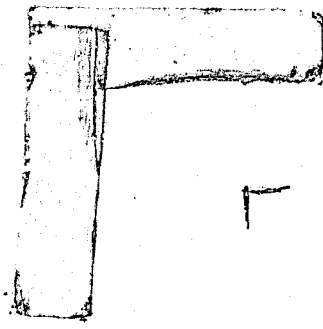
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