REPORT OF THE D.C. BAIL AGENCY

For The Period

January 1, 1978 — December 31, 1978

REPORT OF THE DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

FOR THE PERIOD

JANUARY 1, 1978 - DECEMBER 31, 1978

D.C. Pretrial Services Agency
400 F Street, N. W.
Washington, D.C. 20001
(202) 727-2911

TABLE OF CONTENTS

I. INTRODUCTION

This annual report describes the operations and summarizes the accomplishments of the Pretrial Services Agency during calendar year 1978. It was a year of many changes for the Agency. After twelve years during which the program was known as the Bail Agency, Congress passed and the President signed an Act changing the name to the D.C. Pretrial Services Agency. While the change may seem merely cosmetic, it was prompted by a recognition that the responsibilities of the Agency encompass a broad range of pretrial services and in fact are only incidentally related to "bail" in the traditional monetary sense.

Along with the change in name, 1978 brought a change in location for the Pretrial Services Agency. With the completion of the new Courthouse, the Administrative offices moved in January to what had been the D.C. Court of Appeals. The interviewing staff was transferred to the new facility in April, coinciding with the move of the entire Criminal Division of the D.C. Superior Court. Thus began a new era for both the Court and the Agency.

Nineteen seventy eight was also the first year the Agency was fully computerized for the entire year. Planning for the automated system had begun as early as 1974. Most of the necessary programming was accomplished during 1976. In January of 1977, the Pretrial Services Agency began the gradual transition from manual to automated records. That year was a period of training, of trial and error, of becoming accustomed to the new technology and the

enhanced capabilities. By 1978, the volumes of paper necessary for tracking thousands of cases, monitoring tens of thousands of release conditions, and typing hundreds of court date notifications were becoming a thing of the past. As a result, new opportunities opened up for the small army of clerical workers that had been necessary to maintain the old system. Throughout the year the clerical staff was reduced from 14 to 2 individuals. To fill vacancies for positions as pretrial services officers, the former clerks were given the opportunity to learn the skills of interviewing and verification and move into the professional level. A new promotional scheme was implemented enabling employees to advance to higher levels as soon as they become proficient in the skills required for that level.

Although the year brought many changes to the Agency, the primary objectives remained the same. The first priority of the Agency continues to be the production of bail reports with recommendations for use in determining appropriate conditions of pretrial release. Second, the Agency continues to provide law enforcement officials with background data and recommendations to facilitate the citation release of persons charged with minor offenses. Third, the Agency remains committed to the goal of assisting pretrial releasees in understanding and complying with court-ordered conditions of release including court appearances and crime avoidance by providing various support services. And finally, the Agency continues to provide appropriate officials with information about the pretrial

conduct of those persons released on conditional release to enable those officials to apply appropriate sanctions for violations of court-ordered conditions and to permit the fashioning of appropriate alternatives at the time of sentence.

The report that follows describes the daily operations of the Agency in attempting to carry out its goals and objectives.

II. OPERATIONS OF THE DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY DURING 1978

Since its inception in 1966 the primary function of the D.C. Pretrial Services Agency has been to serve as a neutral fact-finding organization, assisting judges and magistrates by providing information needed in the pretrial release process. This activity consists of two stages: First, background information is gathered from the arrestees, references and various criminal justice sources. Second, a recommendation is formulated by applying objective standards to the individual circumstances of each arrestee.

The process begins with an interview of the arrestee. In the case of an arrestee charged with a misdemeanor, and otherwise eligible for release on a citation,[1/] the interview will probably be conducted over the telephone from a local police station. For those not eligible for this form of early release, Agency personnel conduct interviews either at the Central Cellblock (the overnight holding facility in the Police Department) or the Court Cellblock. The interview is initiated with a "Miranda[2/] warning," explaining the

---

1/ The citation program is a process by which an arrestee is released by the Police following an investigation and recommendation by the Pretrial Services Agency. The accused is given a Citation Report Form with the date upon which he is to appear before an appropriate prosecutor.

2/ Miranda v. Arizona, 304 U.S. 536 (1966). The defendant is advised that any information he provides will be used in court and that he may talk with his lawyer before he talks with the Agency representative.

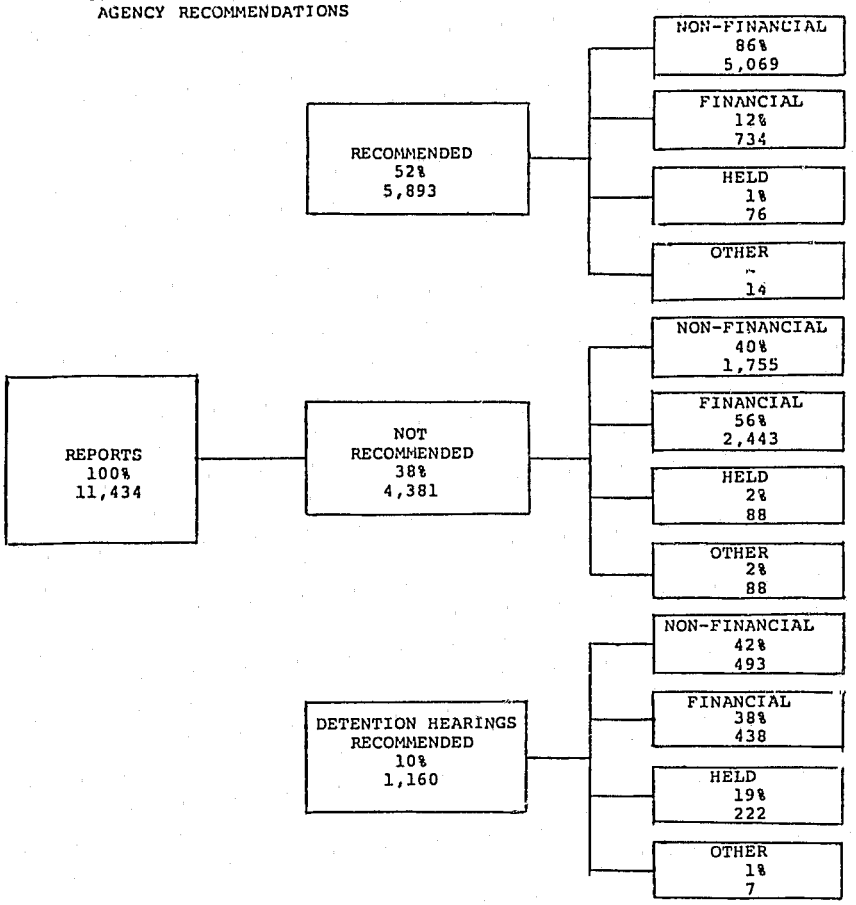
arrestee's rights as well as the potential uses of the information, followed by a series of questions regarding community ties and pending or prior involvement with the criminal justice system. Following the interview an attempt to verify the information is made through references provided by the arrestee. Calls are made, when appropriate, to probation or parole officers. A "criminal history" is compiled using police arrest records, computer inquiries, court and Pretrial Services Agency records. Finally, the information together with a recommendation is entered on-line into the Automated Bail Agency Data Base (Aba Daba) via computer terminals. When requested, a printed report summarizing this information can be generated by the computer to be presented at the time the bail-setting hearing.

During 1978 the Pretrial Services Agency conducted a total of 17,697 interviews of defendants prosecuted by the Office of the United States Attorney ("U.S. Charges") in both D.C. Superior and U.S. District Court. In addition, the Agency conducted several thousand additional interviews of persons charged with traffic offenses and municipal code violations ("D.C. Cases"). This represents a slight increase over the 1977 figure of 17,509. Consistent with the pattern of the past several years, 90% of the interviews conducted were for cases brought to the D.C. Superior Court and 10% were for Federal charges, brought in the U.S. District Court for the District of Columbia.

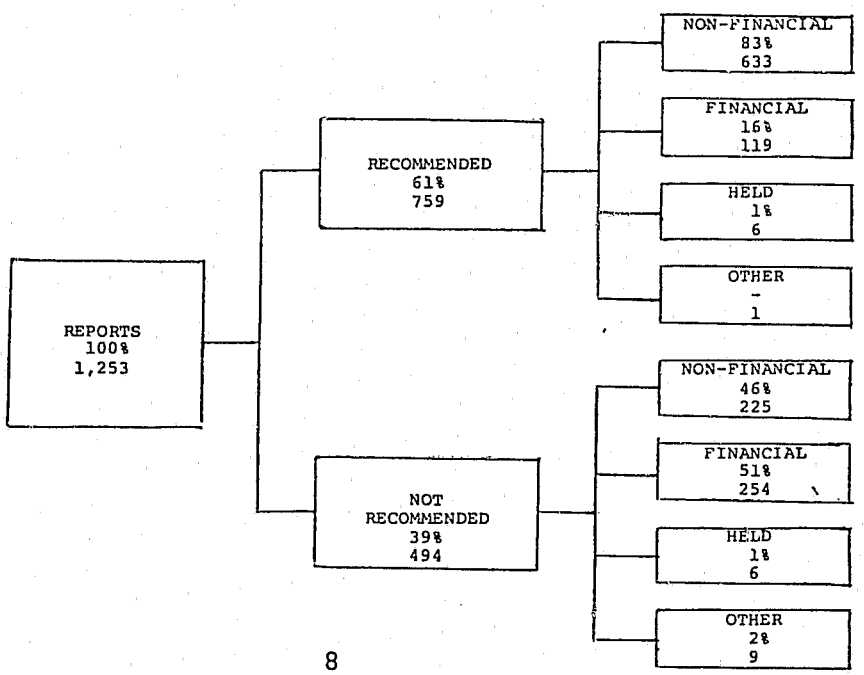
The Pretrial Services Agency conducts interviews and supplies information for several types of cases processed through the courts. The vast majority are for "lock-up" cases, or defendants who are brought to court in the morning for presentment in the afternoon. In 1978, the Agency interviewed 13,252 individuals in this category, representing 75% of the interviewing workload. The next largest category was the citation release program. Most arrestees charged with misdemeanors are eligible for early release from the police station, with a citation to appear at a later date. During 1978 the Agency conducted a total of 3,570 interviews of arrestees charged with U.S. offenses in connection with the citation program. Several thousand additional interviews were conducted of persons charged with offenses prosecuted by the D.C. Corporation Counsel's Office (traffic charges and municipal code violations). The Agency also interviewed 269 individuals who appeared in court to answer Grand Jury Original indictments, and conducted 401 "bond review" interviews.

After the interview and verification process is completed, a recommendation is made. The Pretrial Services Agency, depending on the individual case, either: 1) recommends some form of non-financial or conditional release; 2) recommends (in Superior Court only) that a pretrial detention hearing be held pursuant to D.C. Code §23-1322; or 3) makes no recommendation concerning release. The correlation between the Agency's recommendation and Court action can be seen in the following tables, depicting the release practices in both D.C. Superior and U.S. District Courts.

1978
D.C. SUPERIOR COURT'S USE OF
AGENCY RECOMMENDATIONS



1978
U.S. DISTRICT COURT'S USE
OF AGENCY RECOMMENDATIONS



The percentage of positive recommendations remained very close to the level of the previous several years. The only significant change was in the percentage of cases recommended for detention hearings. The number rose from 5% in 1977 to 10% in 1978. It is the policy of the Pretrial Services Agency to alert the Court to all cases in which the defendant meets the statutory requirements for treatment under the detention provisions of the Court Reform and Criminal Procedure Act of 1970.[3/] This policy is premised on the belief that the potential danger to the safety of the community posed by the release of an individual is an issue that should be faced openly and on the record in the setting of pretrial release conditions. The mechanism of imposing high money bond as a means of assuring the safety of the community (through the defendant's incarceration in lieu of bond) is not permitted by law and should not be used. Therefore, the Agency notifies the Court of all cases in which the defendant is eligible for a detention hearing.

Recognizing that it is a prosecutorial function to evaluate the circumstances of the charge and the pattern of conduct of a given defendant, the Agency makes an alternate recommendation should the U.S. Attorney conclude that danger to the community is not a factor, and that a detention hearing is not warranted. In such a case, the Pretrial Services Agency makes a recommendation based solely on the defendant's community ties and his/her likelihood of

---

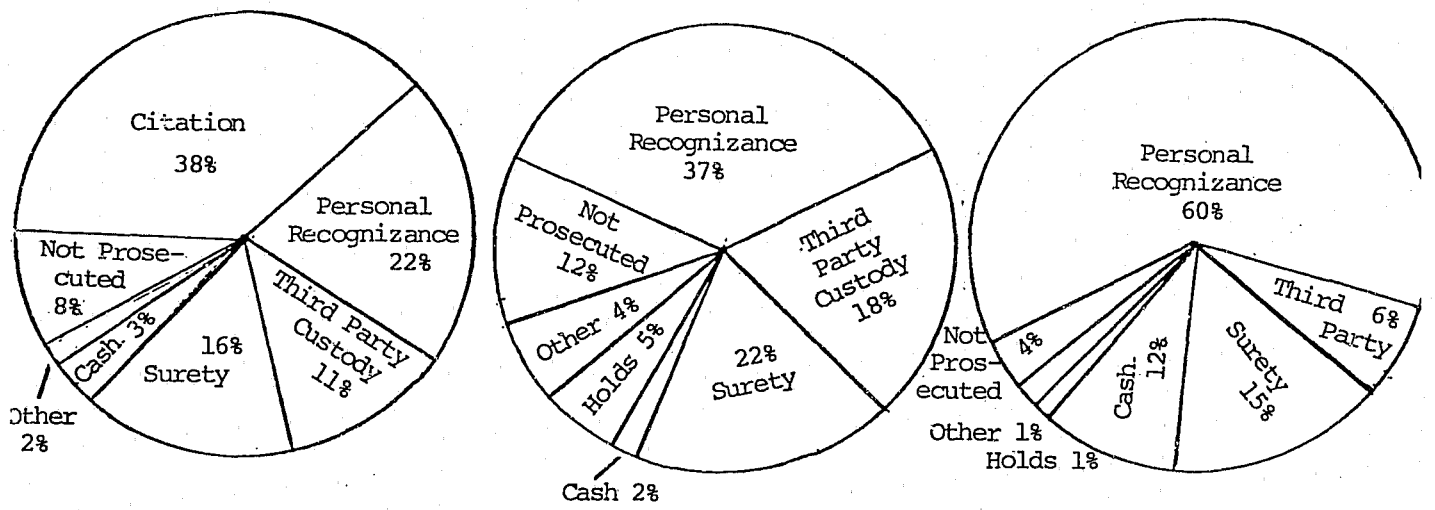
3/ D.C. Code §23-1322.

appearing in court as required.

As the table on page 8 indicates, 19% of those recommended for a detention hearing were actually held for such hearings. Most of these cases involved "5-day holds"[4/] to determine probation or parole status.

Court action at the initial bail hearing for both misdemeanor and felony charges is illustrated below:

INITIAL RELEASE CONDITIONS SET IN THE DISTRICT OF COLUMBIA - 1978



4/ Pursuant to D.C. Code §23-1322(e) a judicial officer may order a person detained for up to 5 days if he is on probation, parole or mandatory release pending completion of sentence to permit those authorities time to initiate appropriate action. Thus the expression "5-day hold."

The Pretrial Services Agency not only prepares reports for use at the initial bail hearing, but provides a number of other interviewing services as well. Occasionally, a surety bond is set and the defendant is detained because the judge does not have sufficient verified information to justify release on non-financial conditions. Often subsequent reports can be prepared either at the request of a judge in the form of a bond review, or at the initiative of the Agency when it appears that additional information can be verified or that the defendant can be placed in 24-hour supervision of a third party custodian. During 1978 the Agency submitted 401 updated reports for bond review purposes, an increase of one third over the number submitted the previous year.

A major objective of the Pretrial Services Agency is to assist pretrial releasees in understanding and complying with release conditions and to assist them with medical, social and employment services.[5/] The most important release condition is the obligation to return to Court. Many of the Agency's post release services are directed to the goal of producing defendants for court appearances. These follow-up services begin immediately following release with a "post-release interview". In Superior Court, after defendants are granted release they are directed to the Agency's Office for a brief discussion with one of the Pretrial Services Officers. The purpose of the interview is to reinforce what the judge said in

---

5/ See D.C. Code §23-1303(h)(4).

court by reviewing release conditions and reminding the defendant of the penalties for failing to appear in court or for violating court-ordered release conditions. The interview also provides an opportunity to review the court date, clear up any misunderstandings, and double check the address to make sure that mail can be received there.

An accurate address where the defendant can be reached is essential for the Agency to carry out its objective of assisting defendants in appearing in court as required. Although pretrial releasees are generally told of their next court date before leaving the courtroom, the Agency sends notification letters as an additional reminder to all releasees under its supervision. During 1978 21,933 computer-generated notification letters were sent.

Letters are not the only method by which the Agency reminds defendants of upcoming court appearances. Most defendants granted non-financial release are required, at a minimum, to report periodically to the Agency either by phone or in person. When a defendant calls, his/her name is entered into the on-line computer system, and various pertinent information concerning the defendant's pretrial status is displayed on a terminal. The current address is reviewed and changes made if appropriate. Release conditions and future court dates are also reviewed for any and all pending cases, whether in D.C. Superior Court or U.S. District Court. Any bench warrants that have been issued are also displayed and arrangements can often be made for the defendant to return immediately to court to surrender himself or have the warrant quashed. During 1978, the Pretrial Services Agency handled 54,627 phone calls in this manner.

In addition another 5,203 "in-person" check-ins were processed.

Although the focus of the activities of the Post Release Services Division is assisting releasees in complying with conditions, the Agency is required by law to report violations to appropriate court officials.[6/] As in previous years, the condition supervision function continues to operate at a staffing level below that necessary for close supervision of all releasees. Consequently, the Pretrial Services Agency is only able to report the most serious violations of court-ordered conditions of release. Nevertheless, over 900 violation notices were forwarded to the Office of the United States Attorney during 1978. Most involved violations of third party custody conditions or of narcotics testing and treatment conditions.

In addition to the notices of violation the Pretrial Services Agency provides summaries of condition compliance of convicted defendants to be used by the sentencing judge. This information is made available in the belief that a defendant's record of compliance with pretrial release conditions may be a barometer of his/her behavior patterns should probation be granted. The reports are sent to the Probation Departments in both courts as well as the sentencing judge. During 1978 the Agency prepared 226 compliance summaries for use at time of sentencing.

6/ See D.C. Code §23-1303(h)(6).

III. AGENCY ACTIVITIES

A. Third Party Custody

The District of Columbia was one of the earliest jurisdictions to use third party custody as a release option. During the late Sixties, several programs were initiated to provide this service to the Courts. Third Party Custody has traditionally been viewed as a means of placing closer supervision on defendants thought to pose a risk of flight or danger. More strictly supervised in its approach than release on personal recognizance, it can be an attractive and cost effective alternative to incarceration.

With the passage of the Court Reform and Criminal Procedure Act of 1970[7/] Congress revised the role of the Pretrial Services Agency, mandating numerous new functions and responsibilities. Among these new duties was a definition of the Agency's role with respect to third party custody organizations:

> "The Agency shall ... 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..."[8/]

In the past, the Agency has implemented its duties in regard to the above through a rather informal arrangement, assisting the courts and custody agencies where it could. It has made space, phones,

---

7/ D.C. Code §23-1301 et seq.

8/ D.C. Code §23-1303(h)(3).

photocopy services, information, and other similar services available to custody agencies. It has assisted these groups in brokering their services to the courts and it has assisted the courts by working with these agencies to insure receipt and transmittal of information vital to the process of fixing appropriate pretrial release conditions.

For a number of years, these organizations operated with funds from private, religious, or Federal Government sources. The Law Enforcement Assistance Administration was a major source of funding for many years. As some of these programs demonstrated their value to the Criminal Justice System, City policy-makers, including the Mayor and the City Council decided that the District of Columbia should continue the support of these organizations. Given the Pretrial Services Agency's statutory responsibilities in this area, it was decided that the Agency would be the best conduit for these funds to the various community groups providing custody services.

In 1978, for the first time, Congress appropriated $100,000 as a new line item in the Pretrial Services Agency budget for use in providing third party custody services. While such services can be provided both by organizations and individuals, the Agency, after a competitive bidding process, awarded the funds to three organizational custodians offering varying service plans.

The new responsibilities have had a major impact on the Pretrial Services Agency. A substantial investment of Agency time and

resources has gone into the entirely new functions of soliciting bids, evaluating proposals, negotiating contracts, and monitoring compliance with those contracts.

B. Personnel Changes

With the advent of the Agency's computer system, a number of personnel changes were made during 1978. Although the computer became operational in 1977, the first year of operation was one of transition from manual to automated records and training of staff in new skills. Many of the clerical tasks associated with maintaining and indexing a manual filing system were made obsolete with the computerized system. Most of the traditional jobs of the clerical staff were simply eliminated. In fact, the need for clerical employees was reduced from 14 to two positions. Rather than terminate the employees who had filled these positions, the Agency embarked upon a major retraining effort in order to provide new opportunities for these employees. They were given the opportunity to become Pretrial Services Officers, positions traditionally reserved by statute[9/] for law students and graduate students. As these positions become vacant through normal attrition, members of the clerical staff were gradually "moved up" to become Pretrial Services Officers.

As part of this process of providing additional training and upward mobility for Agency employees, a new promotional scheme was adopted. Under the old policy (which is still followed in most other D.C. and Federal Government Agencies) employees become eligible for promotion after a specified period of time. The Pretrial Services Agency replaced this system with a promotional policy based on

---

9/ See D.C. Code §23-1306.

demonstrated ability to perform at a higher level.

Under this system, the position of Pretrial Services Officer can encompass Civil Service Grades five through nine. The higher the grade, the more that is expected from the employee. Job descriptions were written for each grade, detailing the skills needed and the expectations for each of these grades. Promotions are determined by an objective process, based on prior evaluations (weighted 60%) and a "test", (weighted 40%), designed to measure proficiency in the skill areas necessary to advance to the next level. The process by which an employee can be "certified" to the next level is initiated by the employee when he/she feels ready. The system thus creates an incentive among the employees themselves to perform at their greatest potential and become increasingly proficient in all aspects of the Agency's operations.

In order to provide the support necessary to meet the needs of the Pretrial Services Officers, one full time position has been dovoted entirely to training.

The new system has proven worthwhile from several viewpoints. First, it identifies areas where additional training is required. By so doing, the quality of the work product has been improving. Second, it enables each employee to advance at his or her own pace. Finally, and perhaps most importantly, the promotional system is perceived to be a more fair and equitable means of determining appropriate levels of compensation. The Pretrial Services Officers

know exactly what is expected to permit their certification to the next grade. If there are deficiencies in one's knowledge in a particular area, the testing process will so indicate, and the employee will have additional opportunities to learn the required skills. He or she may then reapply for certification. The new system appears to contribute a great deal toward furthering the goal of the Agency to make the field of pretrial services a discipline in its own right. We have been advised that other large agencies in other jurisdictions across the country have adopted the certification plan. Indeed, in its review of the Federal Agencies created under Title II of the Speedy Trial Act of 1975, Congress will be considering the D.C. agency's staffing and promotional patterns.

C. Task Force on Pretrial Alternatives.

The Pretrial Services Agency has always taken an active role in the administration of criminal justice in the District of Columbia. As a member of the Mayor's Criminal Justice Coordinating Board, Agency personnel have worked for improvements in the system. The Agency has also been an active participant in the Criminal Justice Information System User Advisory Group. The major responsibility of this group has been to oversee the development of the District's Offender Based Tracking and Statistics System (OBTS), and to review policy issues in the development of computerized information systems.

During 1978 the Pretrial Services Agency was asked to serve on the D.C. Task Force on Pretrial Services and Procedures. The Task Force was organized by the Office of Criminal Justice Plans and Analysis at the request of the Senate Appropriations Committee with a mandate to study pretrial release alternatives, and the extent to which pretrial incarceration could be reduced. Composed of judges, agency heads, community leaders, and individuals from research and technical assistance disciplines, the Task Force has considered such topics as the use of diversion as an alternative to prosecution, the abolition of the surety bond as a means of pretrial release or detention, and the use of the D.C. Detention Statute. The recommendations of the Task Force will be available some time during 1979.

D. Development of National Standards.

For many years the D.C. Pretrial Services Agency has provided key support to the National Association of Pretrial Services Agencies. Its Director served as the principal incorporator and first President and is now Co-Chairman of the Association's Advisory Board. The Association, made up of individuals from release, diversion, mediation and arbitration, court administration, police, corrections, courts, and other criminal justice related agencies has as its main focus the development of professionalism for those working in the pretrial services area.

During the years of 1977 and 1978 the Association, in conjunction with an award from the Law Enforcement Assistance Administration, developed a set of Performance Standards for Release and Diversion. As project director for that effort, the Director of the D.C. Pretrial Services Agency relied heavily upon the experiences of this Agency and the District of Columbia. Approved by the Board of Directors in August of 1978 the Standards have already been cited by the United States Supreme Court and referred to extensively in the most recent revision of the American Bar Association's Standards on Criminal Justice: Standards on Pretrial Release.

E. Research

In its role as an information arm of the courts the Pretrial Services Agency gathers a great deal of data on each defendant who comes into contact with the Criminal Justice System. This data includes social or demographic information used by the Court in evaluating the pretrial release potential of the accused. It includes not only detailed criminal history information, but social factors such as employment history, residence and family ties, educational level, and health or narcotics problems. This information is routinely entered into the Agency's computer information banks for a multitude of operational uses.

During 1978, the Agency developed the capability of extracting this information for research and statistical purposes as well. Through the enhanced quality of information becoming available, the Agency is better equipped to channel its resources more effectively. Specifically, in the months ahead, the Agency plans to take a more systematic look at the failure-to-appear problem, with the aim of reducing the no-show rate.

The Agency's computerized records system benefits not only the Pretrial Services Agency, but the entire Criminal Justice System as well. Developed as part of the District of Columbia's Offender Based Tracking and Statistics System (OBTS), data from the Pretrial Services Agency is a major component of the City's unified criminal justice information system.

During 1977, two research studies were completed by the Agency. These projects were summarized in last year's Annual Report. However,

since a limited number of copies are still available, the summaries are reprinted here. Copies of the complete studies may be obtained by writing to the Pretrial Services Agency.

"The Pretrial Offender In The District of Columbia".

Some Highlights

This report presents a wide variety of information on the pretrial offender who was processed through the District of Columbia's court systems in 1975. By focusing on the pretrial process, this research provides empirical data on the characteristics of a very large offender group that affects the operations of every component in the system. Information covers demographic and socio-economic characteristics of the offender, type and seriousness of the offenses filed against the accused, criminal justice status of the defendant at the time of arrest, initial bail determination, and information on the final outcome of the case.

In 1975, over 20,000 persons were arrested for offenses that ranged from FBI index crimes to less serious misdemeanors such as possession of marijuana and soliciting for prostitution. Nine out of ten persons arrested in the District of Columbia were brought before a judicial officer in the court of local jurisdiction, D.C. Superior Court, while the remainder were processed through the U.S. District Court for possible violation of a federal offense. Five general offense categories account for 57 percent of the total cases processed by the courts in 1975: drug, larceny, assault, robbery and burglary offenses. One out of every four persons was charged with an

offense that, in this jurisdiction, is classified as violent in nature.

One out of every two persons charged with a crime in the District of Columbia in 1975 was under the age of twenty-five. Eighty-five percent of the total population were male, and ninety percent were black. Women tended to be slightly younger than males at the time of arrest. Overall, the pretrial offender population were predominantly lifetime residents of the Washington metropolitan area.

Forty-six percent of the pretrial population were unemployed at the time of arrest, with the jobless rate highest among those under the age of twenty-five. The levels of unemployment reported were largest among blacks and women. Seventy percent of the unemployed gave their major source of support as either family or a government asssitance program. Data on the employed population do not reveal strong employment ties: less than half of those employed had worked at their current job for more than one year. Persons employed were more likely to be working in occupations of an unskilled nature and reported salary levels reflect this finding: 50 percent of those employed earned less than three dollars per hour.

The educational achievement level of the pretrial population was low, particularly among those defendants who were unemployed. Fifty-seven percent of the pretrial population as a whole had not attained a twelfth grade education or its equivalent. Of the unemployed, two out of three had not advanced beyond the eleventh grade.

Fifty-two percent of the pretrial population had no history of adult convictions or current supervisory ties with the criminal justice system at the time of arrest. Fourteen percent did have a prior record but no ties with the system. Finally, thirty-three percent were on some form of conditional release when arrested. Defendants in this category were on some form of pretrial release, probation, parole or on work-release status at the time of arrest. Persons on conditional release were on the average charged with more serious crimes than those with no current ties to the system. From another perspective, 37 percent of all 1975 papered cases involved defendants who entered the judicial process two or more times in the year of study.

Seventy percent of the pretrial population who had formal charges filed with the courts in 1975 were released into the community on some form of non-financial conditions pending trial. A comparison of the release conditions imposed by the two courts found that persons processed through the U.S. District Court were released with non-financial conditions more often than those initially brought to D.C. Superior Court.

Defendants charged with less serious crimes, those with fewer convictions, and those not on some form of conditional release received non-financial conditions of pretrial release more often than other offenders. Conversely, persons on some form of conditional release, those who had violated a criminal justice order, or those with extensive records of prior convictions and/or failures to appear

were more likely to receive some form of financial conditions of release or were held without bond in some manner.

In 1975, one out of every five persons whose cases were brought before the court had no charges filed by the government at the initial hearing. Of the cases "papered" by the courts, 55 percent did not lead to a conviction. A significantly higher proportion of defendants were found not guilty in Superior Court (57 percent) than in District Court (34 percent). Sentencing outcomes for 1975 defendants who were ultimately convicted disclose that 51 percent were placed on probation, 32 percent were sentenced to a period of incarceration, and 17 percent received suspended sentence or fine. The average length of time from arrest through final disposition for all 1975 cases were 84 days or 12 weeks.

"How Does Pretrial Supervision Affect Pretrial Performance?"

Some Highlights

In 1975, the year of this study, 70% of the pretrial population was initially released on some form of non-financial release under Pretrial Services Agency supervision. This relatively high proportion of conditional releases raised the question of whether the setting and monitoring of so many conditions was accomplishing anything. It was suspected that the setting and enforcement of conditions should reduce pretrial crime and insure a high appearance rate. With nearly 4,000 persons at liberty on pretrial release at any given time the cost of supervision (depending on the intensity) could be high.

To test the hypothesis, an experiment using random assignment procedures was conducted in Washington by the Pretrial Services Agency.

to determine whether increased levels of supervision improved pretrial performance. Three levels of supervision were compared: "Passive Supervision" -- supervision which consisted of defendant-initiated contact; "Moderate Supervision" -- supervision which consisted of the Agency's initiating contact with the defendant; and "Intensive Supervision" -- supervision which included contact with the defendant in the community.

The impact of supervision was examined using the following outcome measures: court appearance, rearrest during the pretrial period, and compliance with court-ordered conditions of release. In all cases the Agency provided the service of notification by mail of court dates in addition to the other levels of supervision described.

The Pretrial Services Agency confronted the task of designing a study that would permit random assignment of cases to test for the risk factors of both appearance and danger, and to examine the relationship of different levels of supervision to the two risk factors. Such a design was conceived: The 300 cases selected for random assignment to one of the three groups were all felonies -- those charges which seemed to cause the most concern to the public.

The study results were at once expected in some instances and surprising in others.

- The defendants in the most closely supervised group made 98% of their required appearances. The other groups had rates of 95% and 96%.
- Pretrial crime -- as measured by rearrest during the pretrial period -- was not significantly different ranging from 19.6% (least intensive) to 19.8% (more intensive) and 19.5% (most intensive).

- Of the total number of those rearrested 80% were originally charged with crimes of robbery, burglary, auto theft, forgery, and larceny.

- 71% of the defendants in the most closely supervised group complied with all their conditions of release. By contrast only 52% of those in the group with the least supervision and 62% of the other group complied with all conditions of release.

In short, the study seems to bear out the premise that more intensive supervision improves appearance rates but does not affect rearrest rates.

IV. DIRECTIONS FOR THE FUTURE

Having assumed a central role in the development of standards for release and diversion on a nationwide level it follows that the Agency should serve as a catalyst in its own jurisdiction to foster the development and use of additional pretrial alternatives. Much can be done in the way of developing alternatives to prosecution, i.e. diversion, mediation, dispute resolution, etc. Speedier release in appropriate cases as well as alternative conditional releases can be developed and implemented. Suggestions made by the Task Force on Pretrial Alternatives cover both of these areas.

In addition to its work in the adult area, it may well be approaching time for the Agency to invest some of its resources in the area of juvenile justice. Many of the same pretrial release and diversion problems that plague the adult system face the juvenile courts and the situations that arise there are often more critical.

Finally, the Agency has, for some time, advocated the establishment of a 24-hour a day presentment program. Spurred by the Court's Interim Order in Lively v. Cullinane, Civil Action No. 75-0315, U.S. District Court for the District of Columbia, the Agency will renew its efforts in this regard. The availability of round-the-clock presentments would eliminate many of the problems associated with surety release. No longer would "Bond schedules" that seem to be in violation of the spirit of the individualized release considerations mandated in Stack v. Boyle, 342 U.S. 1 (1951) be necessary. Bonding for profit would disappear here as it has in other jurisdictions. In short, people would be able to secure release

in a more timely, less costly fashion and one more in keeping with the principles that underlie the Bail Reform legislation of 1966 and 1971.

APPENDIX A

"Chapter 13.--PRETRIAL SERVICES AND PRETRIAL DETENTION

SUBCHAPTER I--DISTRICT OF COLUMBIA PRETRIAL SERVICES AGENCY

"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 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 alledgedly committed while the person was, with respect to another crime of violence on bail or other release or on probation, parole, or mandatory release pending completion of a sentence; or

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

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

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

"(2) finds --

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

"(B) that --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§23-1323. Detention of addict

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

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

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

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

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

"(2) finds that--

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

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

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

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

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

"§23-1324. Appeal from conditions of release

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

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

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

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

"(d) In any case in which--

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

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

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

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

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

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

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

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

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

"§23-1326/ Release of material witness

"If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpena, 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 sactions 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 assualt 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.

§3146. Release in noncapital cases prior to trial

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

(1) place the person in the custody of a designated person or organization agreeing to supervise him;
(2) place restrictions on the travel, association, or place of abode of the person during the period of release;
(3) require the execution of an appearance bond in a specified amount and the deposit in the registry of the court, in cash or other security as directed, of a sum not to exceed 10 percentum of the amount of the bond, such deposit to be returned upon the performance of the conditions of release.
(4) require the execution of a bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof; or
(5) impose any other condition deemed reasonably necessary to assure appearance as required, including a condition requiring that the person return to custody after specified hours.

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

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

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

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

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

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

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

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

§ 3147. Appeal from conditions of release

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

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

§3148. Release in capital cases or after conviction

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

§3149. Release of material witnesses

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

§3150. Penalties for failure to appear

Whoever, having been released pursuant to this chapter, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari after conviction of any offense, be fined not more than $5,000 or imprisoned not more than five years, or both, or (2) if he was released in connection with a charge of misdemeanor, be fined not more than maximum provided for such misdemeanor or imprisoned for not more than one year, or both, or (3) if he was released for appearance as a material witness, shall be fined nor more than $1,000 or imprisoned for not more than one year, or both.
Added Pub.L. 89-465, §3 (a), June 22, 1966, 80 Stat. 216.

§3151. Contempt

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

APPENDIX B

FINANCIAL REPORT (DOLLAR AMOUNTS IN THOUSANDS)

FISCAL YEAR 1978

	Alloted By Appropriation	Expended And Obligated Through September	Total FY '78	Balance - End Of FY
Personnel Compensation and Personnel Benefits	738.9	725.4	725.4	+ 13.5
Communication, Printing, Supplies, Travel, Other Services, Third	154.9	158.6	158.6	- 3.7
TOTAL	893.8	884.0	884.0	+ 9.8

FINANCIAL REPORT (DOLLAR AMOUNTS IN THOUSANDS)

LEAA Grant - Development of Offender Based Tracking System (OBTS)

Second Year Funding

Grant Period: February 12, 1978 through November 5, 1978

A.	Personnel: Programmer	$ 18,300.00
B.	Benefits	1,800.00
C.	Contractual: Reimbursement to MPD - Computer	91,000.00
D.	Equipment Rental:	33,900.00
	TOTAL	$145,000.00

APPENDIX C

STATUTORY REPORT OF THE D.C. PRETRIAL SERVICES AGENCY FOR
Period June 1, 1978 to May 31, 1979

Public Law 91-358 (D.C. Code §23-1307) provides that on June 15 of each year the Director of the Pretrial Services Agency shall submit to the Executive Committee a report of the Agency's administration of its responsibilities for the period June 1 to May 31 of the previous year. Copies of the report are to be transmitted to the Congress of the United States and the Mayor of the District of Columbia.

Traditionally the Pretrial Services Agency has prepared statistical summaries of its operations not only for the period mandated by statute, but also on a fiscal year basis for budget preparation purposes and on a calendar year basis for planning and comparison purposes. This year's statutory report is respectfully submitted with the calendar year report. A description of the Agency's responsibilities and workload can be found in the preceding pages. Although the Agency recently computerized its operations, it does not yet have a full statistical and research capability to provide accurate workload statistics for the statutory reporting period. However, the workload has remained relatively stable and the statistics compiled for the calendar year report give a good approximation of the activities of the Agency during the statutory reporting period.

Financial Condition

During fiscal year 1978, ending September 30, 1978, $893,800 was appropriated for the Pretrial Services Agency. This figure essentially maintained the level of personnel and services at the level of the previous fiscal year with the exception of $100,000 appropriated for the purpose of contracting for third party custody services. This money did not become available until August of 1978, through a supplemental appropriation. Although little time remained in the fiscal year, the Agency was able to complete the competitive bidding and contract negotiation processes and obligate the funds before the September 30 deadline.

In addition, on February 1, 1978, the Agency was awarded $145,000 from the Law Enforcement Assistance Administration. This represented the Agency's share of a $600,000 grant to the District of Columbia for second year funding of an Offender Based Tracking and Statistics System (OBTS). The funds were exhausted in November of 1978, and the Agency expects to receive additional funds via a supplemental appropriation to cover costs associated with the operation of the computer system for the remainder of the fiscal year.

For Fiscal Year 1979 (October 1, 1978 through September 30, 1979) the Pretrial Services Agency was appropriated $916,700. An additional $46,000 is anticipated to cover the mandatory October 1, 1978 pay raise. As for FY 1978, $100,000 is earmarked for third party custody services.