



REPORT OF THE D.C. PRETRIAL SERVICES AGENCY

For The Period

January 1, 1979, — December 31, 1979

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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68647

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REPORT OF THE DISTRICT OF COLUMBIA
PRETRIAL SERVICES AGENCY
FOR THE PERIOD
JANUARY 1, 1979 - DECEMBER 31, 1979

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ACQUISITIONS

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I. INTRODUCTION

What follows is a description of the operations and achievements of the District of Columbia Pretrial Services Agency (hereafter PSA or the Agency) during calendar year 1979.

Since our inception in 1967 we had been known as the District of Columbia Bail Agency. In 1978, at our request, Congress officially changed our title to The District of Columbia Pretrial Services Agency and thus it was that 1979 was our first full year of operation under our new name. Old habits are hard to break, however, and many still refer to us as "the old Bail Agency."

We have continued in our resolve to assist the judges in the courts of the District of Columbia in releasing as many persons pretrial as can be safely released on the least restrictive conditions feasible to insure appearance in court and community safety when appropriate. (For a more detailed account of the Agency's goals and objectives see Appendix D.)

During the latter part of 1979 we began an intensive analysis of our recommendation scheme. In addition to looking at our own system, we examined studies carried out at various levels by nationally recognized and funded consultant groups. We collected data concerning failures to appear and the reasons for them. We also looked at the various methods in use in other jurisdictions to minimize these incidents. At the same time we began the frustrating and nearly impossible task of ferreting out those indicators of potential danger and pretrial crime. As the

year drew to its close, we were on the brink of constructing an entirely new recommendation plan that will treat the separate issues of safety and appearance. 1980 will see the finish of this work.

II OPERATIONS DURING 1979

A. Report Preparation

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 arrestee's rights as well as the potential uses of

^{1/} The citation process is one in 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.

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 for presentation at the bail-setting hearing.

During 1979 the Pretrial Services Agency conducted a total of 21,364 interviews of defendants prosecuted by the Office of the United States Attorney ("U.S. Charges") in both D.C. Superior Court 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 quite an increase over the 1978 figure of 17,697. Consistent with the pattern of the past several years, 91% of the interviews conducted were for cases within the jurisdiction of the D.C. Superior Court and 9% were for Federal charges over which the U.S. District Court for the District of Columbia exercises jurisdiction.

The Pretrial Services Agency conducts interviews and supplies information for several types of cases processed through the courts.

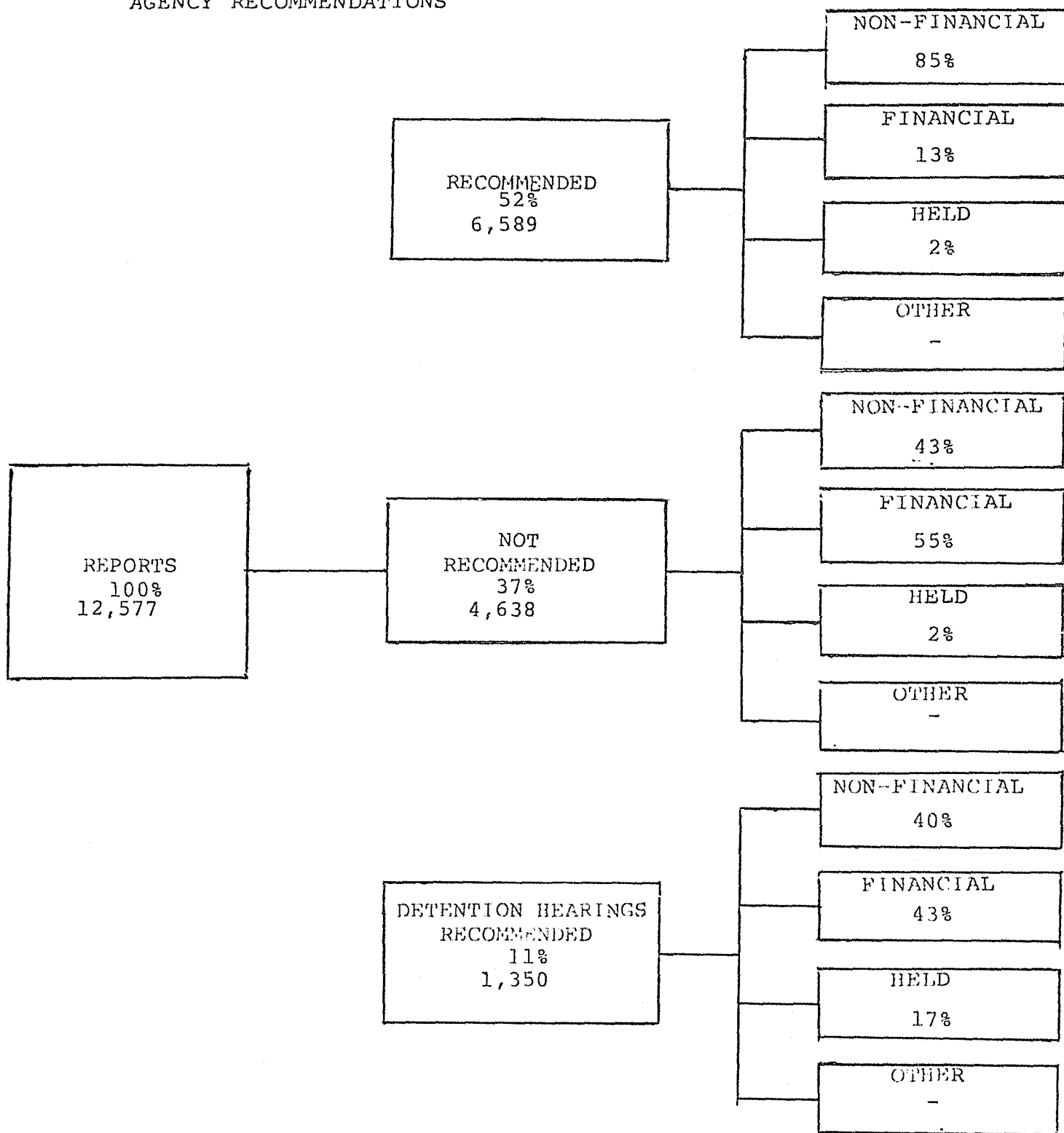
The vast majority are for "lock-up" cases, or defendants who are brought to court in the morning for presentment in the afternoon. In 1979, the Agency interviewed 14,832 individuals in this category, representing 76% of the interview workload.

The next largest category was the citation release program. Most arrestees charged with misdemeanors are eligible for early release from the police station after being given a "Citation To Appear" at a later date. During 1979 the Agency conducted a total of 4,489 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 353 individuals who appeared in court to answer Grand Jury Original indictments, and submitted 333 updated reports for bond review purposes in cases in which defendants had been unable to post the original bail fixed.

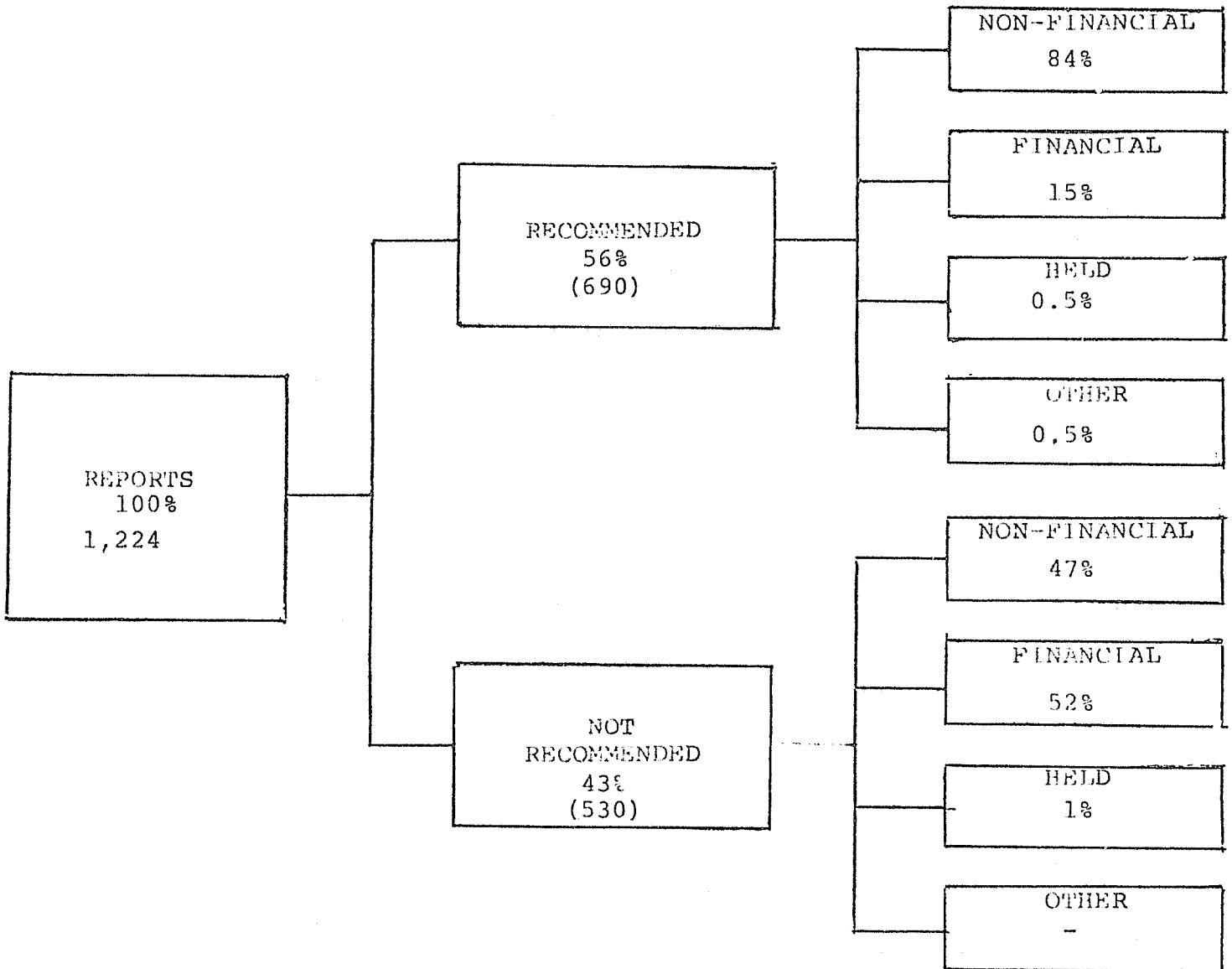
After the interview and verification process is completed, a recommendation is made. The Pretrial Services Agency, depending on the individual case, either: 1) recommends some form of non-financial or conditional release; 2) recommends (in Superior Court only) that a pretrial detention hearing be held 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.

1979
D.C. SUPERIOR COURT'S USE OF
AGENCY RECOMMENDATIONS



1979

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.

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 appearing in court as required.

^{3/} D.C. Code §23-1322.

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.^{4/} 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 Pre-trial Services Officers. The purpose of the interview is to reinforce what the judge said in 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.

^{4/} See D.C. Code §23-1303(h)(4).

During 1979, 35,550 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 1979, the Agency handled 76,719 phone calls in this manner. In addition another 16,135 "in-person" check-in's 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.^{5/} As in previous years, the condition supervision function continues to operate at a staffing level below that necessary for close supervision of all releasees.

^{5/} See D.C. Code §23-1303(h) (6).

Consequently, the Pretrial Services Agency is only able to report the most serious violations of court-ordered conditions of release. Nevertheless, nearly 1,000 violation notices were forwarded to the Office of the United States Attorney during 1979. Most involved violations of third party custody conditions or of narcotics testing and treatment conditions.

In addition to the notices of violation the 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 ordered. The reports are sent to the Probation Departments in both courts as well as to the Sentencing Judges. During 1979 the Agency prepared 830 compliance summaries for use at time of sentencing.

B. Court Appearance

During 1979 the appearance rate for defendants released on non-financial conditions remained stable at 95 percent. That is, for every 100 scheduled appearances only five led to the issuance of a warrant for failure to appear. In reviewing pertinent factors that influence appearance it was found that persons charged with felonies appear slightly more often than those charged with misdemeanors; 96 percent versus 92 percent. Based on the Agency's current recommendation scheme defendants originally recommended and released on non-financial conditions by the courts have better

appearance rates than those who originally received no recommendation. In 1979 the former group's rate of 96 percent contrasts sharply with the latter group's rate of 90 percent. Finally, it is of the utmost significance that people originally recommended by the Agency for a preventive detention hearing but who were ultimately released by the court on non-financial conditions appeared for 97% of their scheduled court appearances.

During the last quarter of 1979 the Agency began to collect information on the reasons people failed to appear. Based on the information we were able to obtain and verify, 57 percent of the warrants issued by the courts were due to system-related problems, e.g. defendants were in jail, in a hospital, or were referred to an incorrect courtroom. In 1980 we will begin to correct this problem by informing the courts of these situations and eliminating the issuance of needless warrants for failure to appear.

It should be noted that the overall level of nonappearance by persons under Agency supervision is remarkably low. The District of Columbia court systems releases a very large proportion of the pretrial population on some form of non-financial conditions (over 70%). Given this high release rate the accompanying high appearance rate is very encouraging. Based on previous studies in the field and analysis of our own data the single most important factor predictive of court appearance seems to be an effective notification system. Uniformly, the District of Columbia courts release large numbers of pretrial defendants that in many jurisdictions.

would be held in lieu of ability to post financial bond. The Agency's ability to provide timely and accurate information on future court dates, along with procedures to insure that the defendant receives notice, insures high appearance rates.

C. Failure to Appear Unit Experiment

In October, 1979, on a trial basis, the Agency dedicated resources to attempt to facilitate the return of defendants who had failed to appear for scheduled court hearings.

After considerable discussion and planning we designed an experimental approach for the Unit. Calendar control courtrooms (15 & 16) of Superior Court are being monitored regularly. Although defendants fail to appear at all stages of the court process previous research has shown that a large number of the "no-show" population fail to appear at one of these points.

The Unit obtains information about all persons for whom warrants are issued (or are to be issued) in either courtroom 15 or courtroom 16. It then makes every effort to encourage the defendant to come to court, even though late, so that the issuance of the warrant can be prevented. If the Unit is unable to prevent the issuance of the warrant it then continues to investigate the case for a period of one week. During this time the Agency mails a form letter to all "no-show's" advising them of their warrant status and strongly recommending that they contact our office immediately in order to surrender themselves to the court.

All defendants with outstanding warrants who report to the Agency are escorted to the proper courtroom and the Agency files a report at that time with pertinent information concerning the defendant's missed appearance.

We have established five goals for this experiment:

- To decrease the number of warrants issued by the court by returning defendants on the same day the warrant is issued;
- To decrease the number of warrants executed by the Metropolitan Police Department by having defendants voluntarily surrender to our office;
- To decrease the length of time it takes the system to clear a warrant from the outstanding status;
- To decrease the number of outstanding warrants for those persons released on non-financial conditions; and
- To decrease the warrant workload of the Metropolitan Police Department and the U.S. Marshal's Office and effect attendant cost reductions in those offices.

We hope to achieve the above goals in the first six months of the program's operation. If this phase of the program proves successful the Agency plans to expand the Unit's focus to include investigating bench warrants that are issued in other courtrooms.

D. 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 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..."6/

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, 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.

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,

6/ D.C. Code §23-1303(h) (3).

after a competitive bidding process, awarded the funds to community based organizations offering varying service plans. In 1979, this process was continued.

The new responsibilities have had a major impact on the Pretrial Services Agency. A substantial investment of Agency time and resources has been devoted to the entirely new functions of soliciting bids, evaluating proposals, negotiating contracts and monitoring compliance with those contracts. Since these funds became available the Agency has funded eight organizations.

E. The Automated System

During 1977 the Agency began using computer technology to assist in the processing of information and the preparation of reports for use by the criminal justice system. The steps culminating in the implementation of this system began in 1974 with a grant from the Law Enforcement Assistance Administration.

Most defendants are granted some form of conditional release at the initial hearing. The pretrial phase typically lasts from two to four months. During this time, the defendant may have four or five scheduled court appearances. For each scheduled court appearance, the Agency sends out notification letters reminding the defendant of the date and time of the proceeding. Since anywhere from 4,500 to 5,500 releasees are at liberty at any given time, many having a minimum of three or four different court appearances required, the more than 35,000 notification letters required were handled easily by the automated system.

Most releasees are required to telephone the Agency weekly. This contact enables the Agency to check the defendant's understanding of his court date, review compliance with release conditions, and reverify the home address. Using the automated system, when the defendant calls in, the operator enters the individual's name and date of birth to review the case information. The date and time of the check-in is recorded automatically in the data base. The operator can then remind the defendant about future court dates and check compliance with release conditions. All this is done in minutes.

The automated system is a set of computer programs written to assist the Agency in the collection, retrieval, and dissemination of information to the courts. We share the resources of an IBM System/370 Model 158 with the Washington, D.C. Metropolitan Police Department. In addition, we have twenty five visual display terminals and three hard-copy printers located in strategic areas of operation. The system is available and used 24 hours-a-day.

The on-line system transactions are part of the Washington Area Law Enforcement System (WALES). This means that, in addition to functions written especially for the Agency, operators using WALES transactions may retrieve other police information.

Security precautions limit access to this information. Each individual authorized to use the system is assigned a three-character operator ID, which must be entered with each transaction. In addition,

data in sensitive areas requires the entry of a password. These security measures prevent the access and dissemination of personal information by unauthorized personnel and prevents them from changing information in the data base. (For example, lawyers cannot get into the system to modify information prejudicial to their clients.)

F. Research

In its role as an information arm of the courts the 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 also includes a complete, detailed criminal history, information about residence, family ties, education, and health or narcotics problems. This information is routinely entered into the Agency's computer information banks thus becoming available to many users of the system.

The Agency's computerized records system benefits not only the Pretrial Services Agency, but the entire Criminal Justice System.

Developed as part of the District of Columbia's Offender Based Tracking and Statistics System (OBTS), data from the Pretrial Services Agency forms a major component of the City's unified criminal justice information system.

The use to which the information is put, however, is beyond the control of the Agency. The bail setting process is an adversarial one with the ultimate decision fixed at an individual judge's discretion. We hope that the research capabilities we have gained as the result of automation will improve the decision-making process by exposing those factors that are suspect. We should be able to define some parameters for such concepts as "recidivism," "pre-trial crime," "flight," and the like. Not only should the information be more accurate but the use or inadvertent misuse of it should be more apparent.

The purchase and adaptation of a statistical package permitted the development of a management information system by which the Agency can monitor and adjust its resources based on a variety of information. The package permits internal movement of staff based on daily, monthly, and seasonal changes in the processing of defendants and the changing needs of the Agency. The Agency is able to monitor the release patterns of the courts and the police citation program. The Agency can pinpoint when and where defendants fail to appear and at which stages of the court process defendants need additional supervision and monitoring of conditions of release. Aside from analysis of defendant characteristics the Agency can determine changing residential patterns of the defendant population. Finally, because the system constantly updates court appearances and dispositions, the Agency can anticipate when court delay is a problem and take steps to insure that there is timely notification of future court dates.

In the near future the Agency will have the capability of monitoring rearrest and recidivism trends within the jurisdiction. We will be able to measure performance in terms of rearrest for such defendant

groups as probationers, parolees, and persons on work-release.

G. Training and Staff Policies

During the period of transition from that of a totally manual system to one totally dependent on automation, the Agency faced the problem of what to do with the clerical personnel. We permitted them to apply for and become Pretrial Services Officers - positions reserved by statute for law and graduate students.^{7/}

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

Under this system, the position of Pretrial Services Officer encompasses 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 and a "test" 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 (s)he feels ready. The system thus creates an incentive among the employees themselves to perform at their greatest potential and become increasingly proficient

^{7/} See D.C. Code §23-1306.

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 devoted entirely to training.

The new system has proved 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 certification process exposes it, and the employee has additional opportunities to learn the required skills.

In addition, the Training Officer conducts regular, continuing education programs. These sessions are mandatory for all employees and treat such subjects as legal and constitutional rights, new policies and procedures, and other subjects tangential to criminal justice administration.

H. Extra Agency Activities

In addition to carrying out the normal work day tasks that sustain the Agency's programs, staff members participate regularly in many community activities. From lecturing at local universities, law, and graduate schools to participating in neighborhood meetings, staff members further the goals of the Agency during off-duty hours as well.

Membership and participation in special Mayoral Task Forces, various Public Safety groups and the local Law Enforcement Assistance Administration Supervisory Board insures that our activities are responsive to the needs of the system and the community.

At the national level, several staff members are members of the National Association of Pretrial Services Agencies and participate in various efforts sponsored by that group. Some serve, and have served, as elected members of the Board of Directors. Agency staff members also work with such groups as the Pretrial Services Resource Center, the American Bar Association, the Administrative Office of the U.S. Courts, the Federal Judicial Center, and many others. We have worked with the National College of Trial Judges in Reno, and the National Colleges of Defense and District Attorneys in Texas. In addition, many staff members have served as consultants to other jurisdictions attempting to implement programs such as ours.

We have been called upon by the Senate and House Judiciary Committees to provide testimony concerning and assistance with the drafting of S. 1722 and HR. 6233 (The Criminal Code Reform Bill) and with a bill designed to expand and continue the 10 pilot federal agencies created in Title II of the Speedy Trial Act of 1974. We have also been called upon to testify before legislatures in other states debating the issues of release and detention.

Finally, our Agency has served as a host site for visiting Judges, program administrators, planners, and other criminal justice personnel who are seeking assistance in designing and implementing programs such as ours. From Canada to the Virgin Islands and from Hawaii to Germany,

France and England, we have shared with our neighbors our experiences - both successes and failures. We believe it to be an important part of our overall purpose to assist others in reducing needless pre-trial detention in their own jurisdictions as we have pledged ourselves to try to reach this goal in the District of Columbia.

III. FUTURE DIRECTIONS

We face the 1980's fully aware that economic conditions portend ill for any notion of crime reduction. We also recognize that the austerity of the late 70's may carry into the 80's and prohibit any expansion of Agency services. Despite these potentially hampering conditions, we believe that if we continue to analyze our programs and methods of operations, allocating resources to areas of greatest need, we will be able to improve our work.

A. Short Range

In the short range category we believe that with implementation of our new recommendation plan we can stimulate a process that will reduce the average daily jail population. We know, for example, that during one quarter of 1979, the City spent over \$250,000 to support the pretrial incarceration of misdemeanants. By presenting adequate options to the court we believe we can reduce this problem by at least half, with consequent dollar savings so critical to the City at this time.

In the area of court appearance we believe that we can reduce the failure to appear level to less than 5%; or, to state it more positively, expect to be able to increase appearance rates to 95% or better.

We believe that our new two-pronged recommendation plan will encourage the system to account for its bail conditions strictly according to the risks perceived - appearance and safety - and that no longer will inability to post surety bond account for such a large percentage of the pretrial detainee population.

At the same time we recognize the need to sharpen and define the concepts inherent in protecting community safety. For example, is true recidivism to be defined simply as rearrest while at liberty on pretrial release? As conviction for a crime committed while on release? Does the community concern for its safety reach such offenses as soliciting for prostitution and petit larceny - the two crimes having by far the highest rate of recidivism no matter how the word is defined? Or need we be concerned only with a community concern for personal safety - the violent offenses which threaten personal harm?

As has been mentioned, the bail setting process is adversary in nature. It is the proper role of the defense and government counsel to use the information we provide as it suits their respective purposes. Yet, if the information we can provide includes accurate appraisals of the potential for various conduct the ultimate decisions made can be honed to reflect the specific problems posed.

We believe that as a result of our new recommendation policies that will become effective in June of 1980, the participants in the bail process will be in a much more knowledgeable position concerning community concerns for appearance and safety than has been the case until now. If the policies prove to be correct we should see reductions not only in overall pretrial incarceration but also in pretrial crime.

One cautionary note is in order, however. To date, studies that predict crime with any accuracy are non-existent. Many experts believe one thing or another but the paucity of empirical research to prove any of the theories is troubling to any attempt to establish policies to deal with potential danger. Again, the best we can do is to test our plan, evaluate it according to the things that happen and provide the information garnered to the bail setter.

We hope to reduce by at least 50% the number of warrants needlessly issued for failures to appear. Achieving this goal will mean the saving of countless man-hours in preparing issuing, and serving warrants that we now know are often issued erroneously in the first instance.

Finally, we hope to provide sufficient alternative options of release that reliance on surety bail as a condition will disappear from this City. We have reached the point where other options - such as an automatic 10% deposit condition - when coupled with appropriate supervision are more than adequate replacements for the surety option. The states of Illinois and Oregon have eliminated surety bail with no ill effects. Surety bond for profit has been made a criminal offense in the Commonwealth of Kentucky, and, according to its former Governor Julian Carroll, has resulted in a better system of justice. The Supreme Court of the Commonwealth has sustained the legality of the law. Many other jurisdictions are considering abolishing sureties and D.C. should be among them.

B. Long Range

There are four areas of concern that we feel have yet to be addressed:

- o continued use of bond schedules;
- o prompt presentment following arrest;
- o alternatives to adult prosecution such as dispute resolution, mediation/arbitration, and diversion; and
- o alternatives to pre-adjudication detention in the juvenile system.

1. Bond Schedule.

In Washington D.C., with only rare exceptions, most people arrested must wait a minimum of 12 hours and as much as 48 hours before seeing a judge. To provide a means of release pending the presentment hearing a "bond schedule" has been authorized by the Board of Judges. This schedule, which fixes the bond amounts solely according to the type of crime charged, is probably of questionable validity in light of the United States Supreme Court's opinion in the landmark case of Stack v. Boyle, 324 U.S. 1 (1951). The shrinking availability of professional bondsmen willing to leave home at night, drive to a police precinct and sign a bond, when coupled with a lack of ability to post a percent deposit under the terms of the present schedule, exacerbates the situation even more. We view it as a long range goal to urge the courts to reconsider the terms of the present Bond Schedule and amend, modify, or eliminate it altogether.

2. Prompt Presentment.

As mentioned, procedures in this jurisdiction contribute to an aggregate of thousands of days of needless pretrial detention solely because of the lack of resources to provide for twenty-four-hour presentments. From a cost perspective, other jurisdictions have concluded that the detention costs far outweigh the costs of the alternatives that might eliminate them. Such alternatives as 24-hour-a-day magistrates, the Central Intake Concept in use in other jurisdictions, delegation of authority to release to non-judicial personnel, and others are some possibilities that should be considered.

3. Alternatives to Adult Prosecution.

Again, in a City as progressive as Washington, it is surprising to realize that many alternatives to prosecution, which have been in effect in other federal and state jurisdictions for years are practically non-existent. The U.S. Attorney's First Offender Treatment (FOT) Program, Project Crossroads, and the Rehabilitation Center for Alcoholics (RCA) Program, fall woefully short of providing alternatives that have proved effective at reducing court backlogs, reducing crime, and "rehabilitating" certain offenders without the necessity for formal prosecution in other places. We have many community programs to which many defendants could be "diverted" in lieu of prosecution. After all, in those cases for which Probation is a "mortal lock" and for which there is no need to produce a conviction and criminal record with its consequent myriad problems, why use the scarce resources of prosecution, defense, and the court?

At another level, there exists in the District of Columbia the skeletal framework onto which can be grafted Dispute Resolution and Mediation/Arbitration programs that have proved successful elsewhere. The Advisory Neighborhood Councils provide the ideal organizations with which such programs can be associated. Again, resolution of problems at an early, grass-roots level, should reduce the ultimate burden placed on the courts.

4. Alternatives to Juvenile Pre-Adjudication Detention.

With increasing regularity the judges who are rotated into the Family Court call us to request background information and

recommendations for juveniles facing criminal charges. Certainly the problems posed by the release of juveniles pre-adjudication are substantially different from those posed by the pretrial release of adults charged with crime. At the same time, it is probably appropriate that the Agency begin to consider what role it might play in the juvenile arena.

The programs we have laid out for ourselves are ambitious. They will be costly and will be difficult to achieve. We believe, however, that beyond our immediate goal - to foster a system that results in the safe release of pretrial defendants on the least restrictive conditions possible - we have an obligation to assist in fostering that ever elusive principle of "equal justice for all." We are pledged to attempt to achieve these goals and appreciate the support of the Criminal Justice System, the Community, the City Government, and the Congress in our quest to reach them.

APPENDIX A

"Chapter 13.--BAIL AGENCY AND PRETRIAL DETENTION

SUBCHAPTER I--DISTRICT OF COLUMBIA BAIL AGENCY

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"SUBCHAPTER I--DISTRICT OF COLUMBIA BAIL AGENCY

"§23-1301. District of Columbia Bail Agency

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

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

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

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

"(2) finds --

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

"(B) that --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§23-1323. Detention of addict

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

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

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

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

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

"(2) finds that--

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

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

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

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

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

"§23-1324. Appeal from conditions of release

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

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

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

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

"(d) In any case in which--

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

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

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

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

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

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

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

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

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

"§23-1326/ Release of material witness

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

"§23-1327. Penalties for failure to appear

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

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

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

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

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

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

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

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

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

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

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

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

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

"(1) there is clear and convincing evidence that such person has violated a condition of his release; and

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

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

"(c) Contempt 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 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.

FINANCIAL REPORT (DOLLAR AMOUNTS IN THOUSANDS)

FISCAL YEAR 1979

	Alloted By Appropriation	Expended And Ob- ligated Through September	Total FY '79	Balance - End of FY
Personnel Compensation and Personnel Benefits	810.1	786.9	786.9	+23.2
Communication, Printing, Supplies, Travel, Other Services, Third Party Custody Contracts, Com- puter Costs	310.1	324.6	324.6	-14.5
TOTAL	1,120.2	1,111.5	1,111.5	+ 8.7

DIVISION LOCATIONS AND PHONE NUMBERS

Building B
400 F Street, N. W.
Washington, D. C. 20001

Administrative (202) 727-2911
Citations 727-2921
Data Processing 727-2916
Personnel 727-2921
Research 727-2914
Training 727-2914

Superior Court
500 Indiana Avenue, N. W.
Washington, D. C. 20001

Check-in (202) 727-2800
Pre-Release Services 727-2937
Post-Release Services 727-2943

U.S. Courthouse
Washington, D. C. 20001

U.S. District Court (202) 727-2946

DISTRICT OF COLUMBIA
PRETRIAL SERVICES AGENCY
400 F STREET, N.W.
3RD FLOOR
WASHINGTON, D.C. 20001

District of Columbia



PRETRIAL SERVICES AGENCY

APPENDIX C
AGENCY BROCHURE

400 F STREET, N.W.
WASHINGTON, D.C. 20001

AUTHORITY

The District of Columbia Pretrial Services Agency is an organization created by Congress in 1966 and known originally as the D.C. Bail Agency. (P.L. 89-519, D.C. Code § 23-901 *et seq.*, July 26, 1966.) Its sole purpose was to provide Judges with information about community ties of those defendants appearing for bail setting.

In 1970, the Agency tripled in size as amendments to its enabling legislation significantly increased its responsibilities. (P.L. 91-358, D.C. Code § 23-1301 *et seq.*, July 29, 1970.)

Finally, in 1978, the name of the Agency was changed to the D.C. Pretrial Services Agency. (P.L. 95-388, September 27, 1978.)

The Agency is governed by an Executive Committee composed of five members: The Chief Judge (or designate) of the U.S. Court of Appeals for the District of Columbia Circuit; the Chief Judge (or designate) of the U.S. District Court for the District of Columbia Circuit; the Chief Judge (or designate) of the District of Columbia Court of Appeals; the Chief Judge (or designate) of the Superior Court of the District of Columbia; and a fifth member selected by them who, at present, is the Dean of Georgetown University Law Center.

PURPOSE

Since 1963 when Georgetown University Law Center in cooperation with the Ford Foundation, the Young Lawyers Section of the D.C. Bar Association, and the Judicial Conference of the District of Columbia Circuit sponsored the D.C. Bail Project the problems posed by the pretrial release and detention of those accused of crime in the District have received both local and national attention. It was the primary mission of the Bail Project, and, indeed, is the primary mission of the D.C. Pretrial Services Agency, to facilitate the use of appropriate release

alternatives that will insure both court appearances and community safety.

In order to achieve this purpose the Agency has established the following objectives:

- Provide the officials of the courts located in the District of Columbia (federal and local) with background data concerning persons charged with crimes to promote fair and just pretrial release determinations;
- Provide law enforcement officials considering Citation releases with background data and recommendations concerning persons charged with minor offenses;
- Provide officials of the courts located in the District of Columbia (federal and local) with appropriate pretrial release recommendations that take into account individual and community rights as well as community tie information;
- Assist pretrial releasees in understanding and complying with court-ordered conditions of release;
- Provide officials of the courts with information about the pretrial conduct of those persons released to enable those officials to apply appropriate sanctions for violations of court-ordered conditions and to assist in the fashioning of appropriate alternatives at the time of sentencing;
- Maintain and refine an integrated, accurate, and efficient record system which permits the retention, retrieval, and delivery of timely and complete information to court officials and pretrial releasees and at the same time provides the data necessary for effective management decision-making;
- Maintain an organizational climate that insures continued efficiency in carrying out

statutory and Agency objectives in the most cost effective manner and also insures continued development of employee skills; and

- Provide the initiative for improving pretrial services in the District of Columbia and promote compliance with the law.

OPERATIONS

The daily operations of the Agency are carried out by a staff of approximately forty (40) law and graduate students and other professionals under the supervision of the Director, who, by statute, must be a member of the District of Columbia Bar. An annual appropriation of approximately \$1,000,000 finances the Agency programs.

Under its governing statute (D.C. Code § 23-1301 to 1308) the Agency provides the following services:

- Reports containing community tie information to Judges setting pretrial release conditions;
- Community tie information to police to assist in releasing citizens charged with minor offenses on Citation;
- Reports about compliance and non-compliance with release conditions to Court Officials;
- Notifications of required court appearances to pretrial releasees;
- Referrals to various social service agencies for those pretrial releasees with special needs;
- Coordination of Third Party Custody activities;
- Information to pretrial releasees about various aspects of their cases; and
- Data and facilities for various research efforts.

APPENDIX D
AGENCY GOALS AND OBJECTIVES

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

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

Purpose

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

END