



REPORT OF THE D.C. BAIL AGENCY

For The Period

January 1, 1975—December 31, 1975

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REPORT OF THE DISTRICT
OF COLUMBIA-BAIL AGENCY -

FOR THE PERIOD

JANUARY 1, 1975 - DECEMBER 31, 1975

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ACQUISITIONS

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INTRODUCTION

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

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

During the two and one-half year life of the Project, alternative approaches to traditional financial release were

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

^{2/} Be It Resolved, by the Judicial Conference of the District of Columbia Circuit this 9th day of May 1963 that:

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

developed and tested. In this period, 5,144 defendants were interviewed, 2,528 were recommended for release on personal recognizance and 2,166 (85% of those recommended) were released on their own recognizance.^{3/}

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

The Congress was mindful that the courts of the District of Columbia were federal courts and that the Bail Reform Act would be applicable to that jurisdiction which processed many "state" type crimes (e.g. Robbery, Burglary, etc.) as well as strictly federal crimes. Concurrent with hearings on the new bail bills the Congress also conducted hearings on a little-noticed bill providing for the creation of an agency to assist the courts in the District of Columbia with the implementation of the Bail Reform Act. On July 26, 1966,

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

4/ 18 U.S.C. §3146 (1966).

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

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

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

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

6/ Pub. L. No. 91-350, D.C. Code §11-101 et. seq. (1970).

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

Contained in the same law is a totally amended version of the first Bail Agency statute. Aside from a number of small procedural changes, the new statute mandates many new services.^{9/} With an increase in the Agency's workload came an increase in the size of its staff and budget. Today the D. C. Bail Agency operates with a budget of nearly \$900,000 and a staff of 61. The manner of its service delivery is described in the pages that follow.

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

^{8/} Id.

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

CURRENT OPERATIONS

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

Bail Investigations

The initial bail investigation is one of the most important functions of the Agency. It is designed to assist the judicial officer in the formulation of meaningful pretrial release conditions. This service is also provided to the Metropolitan Police Department for those arrestees qualifying for pre-arraignment release through the Citation Program.

The investigation begins with an interview with the arrestee in which information pertaining to the individual's residence, family, and employment is collected. Following this interview

the information is verified through references given by the arrestee. Finally, the Bail Agency capsulizes the individual's criminal history, using information from FBI records, Metropolitan Police arrest records, Bail Agency files, court records, and the arrestee himself.

In cases where the arrestee is on probation, parole or pre-trial release, the appropriate supervising agency is contacted and the arrestee's adjustment, with the evaluation by that agency, is communicated to the bail-setting magistrate.

The Agency, having completed the interview and verification process, measures this information and the arrestee's criminal history against a set of objective standards and makes a recommendation concerning release.

During 1975, 27,839 interviews and investigations were conducted by the Agency. This represents a 12% increase over 1974. The bulk of these interviews, 14,730 or 53% of the total, represented Superior Court lock-up cases. Another 1,806, or 7% represented interviews conducted in the United States District Court. The remaining interviews, 11,303, or 43% of the total, were interviews taken pursuant to the Metropolitan Police Department's Citation Program.^{10/}

^{10/} Of the 11,303 citation interviews, 5,613 were U. S. Misdemeanor offenses and 5,690 were Traffic or D. C. Code Violations prosecuted by the Corporation Counsel.

Upon completion of the interview, verification, and investigation of any criminal history, the Bail Agency takes one of three actions: (1) does not recommend release on personal recognizance or conditional release; (2) recommends release on personal recognizance or with non-financial release conditions; or (3) recommends that a preventive detention hearing be held.

The following examples represent a few of those situations in which the Bail Agency will not recommend release: (1) information cannot be verified; (2) there is some pending legal difficulty to be resolved such as an outstanding bench warrant or detainer, or a violation of release conditions in a pending case; or (3) a probation or parole officer makes an unsatisfactory report.

The Agency was able to make a positive recommendation for release in 61% of those cases papered by the prosecutor. In almost every case where release was recommended, it was also recommended that the defendant be required to telephone the Agency on a weekly basis. Experience both in Washington and nationally has shown that such periodic contact between the supervising agency and the defendant is crucial in minimizing the number of persons failing to appear on any scheduled court date.

The following table indicates the various options exercised by Superior Court Judges or United States Magistrates:

RELEASE PATTERNS
AT INITIAL BAIL-SETTING HEARING

Court Action	Superior Court Misdemeanor Charges	Superior Court Felony Charges	U.S. Magistrate Cases
Number of Cases "No Papered"	975 (13%)	1,175 (16%)	111 (6%)
Number of Cases Where PR or Conditional Release Granted	3,822 (51%)	3,228 (44%)	981 (54%)
Number of Cases Where Cash Bond Set	578 (8%)	465 (6%)	69 (4%)
Number of Cases Where Surety Bond Set	1,198 (16%)	1,563 (22%)	225 (13%)
Other Actions ^{11/}	882 (12%)	844 (12%)	420 (23%)
Total Number Of Interviews	7,455 (100%)	7,275 (100%)	1,806 (100%)

^{11/} "Other Actions" include cases referred to St. Elizabeth's Hospital for mental observations, fugitive cases where the defendant returns to the demanding state, or cases referred to Traffic Court.

The following table indicates the Bail Agency recommendation and release patterns for the Citation Program, operated in conjunction with Metropolitan Police Department. As it does in court release procedures, the Agency only makes recommendations in citation cases where the background information of the defendant can be verified. Although the decision whether to release rests with the police, this table illustrates the high degree of concurrence with the Agency's recommendation.

RECOMMENDATION AND RELEASE PATTERNS FOR
CITATION CASES

	U.S. Misdemeanor Charges	Traffic or D.C. Code Offenses
Number Recommended and Released	4,500 (80%)	4,782 (84%)
Number Recommended but Not Released	6 (--)	5 (--)
Number Not Recommended and Not Released	1,082 (19%)	772 (14%)
Number Not Recommended but Released	13 (--)	7 (--)
Number of Cases Withdrawn by Police From Citation Eligibility	13 (--)	141 (2%)
Total Number of Interviews	5,613 (100%)	5,690 (100%)

During 1975 the Bail Agency continued its policy of recommending that pretrial detention hearings be held in certain cases pursuant to D. C. Code §23-1322. One hundred thirty (130) cases were recommended for treatment under the detention provisions. Such recommendations do not represent a judgement that a particular individual be detained. Rather they are based on the view that a hearing should be held to determine, based on the factors set out in the statute, whether the defendant should be detained.

The Agency, in deciding the appropriate release conditions to recommend, looks at the individual's pending as well as prior criminal record. As part of its investigation, the Bail Agency checks the name of every arrestee against several sources of information in order to identify those persons with either a pending charge or those on probation or parole at the time of arrest. In the case of a rearrest while on pretrial release, the Agency informs the bail-setting magistrate in the new case of the arrestee's pending charge, docket number, status of the case, and a summary of compliance with any release conditions. In addition, both the U. S. Attorney and the Judge having jurisdiction in the initial case are notified that the defendant has been arrested on new charges. In the case of a rearrest of a probationer or parolee, the supervising authority is contacted, and the individual's adjustment is checked before a recommendation is made. This

information is communicated to the bail-setting Judge or Magistrate.

During 1975 there were 4,032^{12/} cases involving a rearrest of someone at liberty on pretrial release, 1,692^{13/} cases involving a rearrest of someone on probation, and 1,194^{14/} cases involving a rearrest of someone on parole. These figures represent cases, not individuals, and to the extent that some individuals had more than one pending criminal involvement, the figures are somewhat inflated.

Among the 4,032 cases representing a rearrest while on pretrial release, 3,547 were rearrests while at liberty on personal recognizance or conditional release, and 485 were rearrests while on surety release.

An analysis of how these rearrest cases were handled can be seen in the following table:

ACTION TAKEN AT INITIAL BAIL-SETTING HEARING
FOR DEFENDANT REARRESTED WHILE ON BOND.

Type of Bail Set In Rearrest Case	Type Of Bond In Initial Case	
	Non-Financial Or Cash Bond	Surety Bond
PR Or Case Bond Set	964 (36%)	118 (19%)
Surety Bond Set	1,181 (44%)	349 (57%)
Held, No Bond	100 (4%)	27 (4%)
Cases "No Papered"	448 (16%)	122 (20%)
Total	2,697 (100%)	608 (100%)

^{12/} Of the 4,032 cases of rearrest while on pretrial release, 526 were "no papered" at the time of presentment.

^{13/} Of the 1,692 cases of rearrest on probation, 206 were "no papered" at the time of presentment.

^{14/} Of the 1,194 cases of rearrest while on parole, 147 were "no papered" at the time of presentment.

In addition to the rearrests while on pretrial release, the Bail Agency also notified the Courts of 2,886 instances of re-arrest of persons while on probation or parole. The following is a breakdown of these cases and the type of bail set:

ACTION TAKEN AT INITIAL BAIL-SETTING HEARING
FOR REARRESTS ON PROBATION OR PAROLE

Type Of Bail Set In REARRESTED CASE	PROBATION	PAROLE
PR or Cash Bond Set	700 (41%)	419 (35%)
Surety Bond Set	573 (34%)	416 (35%)
Held, No Bond	213 (13%)	212 (18%)
Cases "No Papered"	206 (12%)	147 (12%)
Total	1,692 (100%)	1,194 (100%)

Supervision Function

The bail interview and investigation process is only the first of numerous contacts between the Bail Agency and those defendants granted a non-surety form of release. By law, the Agency monitors compliance of defendants with release conditions imposed by the Court. Violations of these conditions or arrests of persons under supervision are reported to the Court and the United States Attorney, and recommendations for modification of release conditions are made when appropriate.

During 1975, the Bail Agency supervised over 12,000 persons released from the Superior and U. S. District Courts and from the Citation Program. At any given time the Agency has under active supervision approximately 3,500 persons. The type of supervision appropriate for an individual case will depend on the number of release conditions imposed as well as any special needs of a defendant.

One aspect of pretrial supervision applicable to all defendants is notification of court dates. This statutory responsibility is accomplished primarily by sending reminder letters prior to the court date. In addition, the supervision records are arranged in such a way that whenever a defendant calls the Bail Agency, the next appearance date is readily accessible and the defendant can be further reminded. In cases where notification letters are returned from the Post Office undelivered, or where there is simply not enough time to send a letter, defendants can frequently be reached by telephone or by dispatching a field investigator to the home. During 1975 the Bail Agency sent a total of 33,072 notification letters, of which 29,364 were for Superior Court appearances and 3,708 for District Court appearances.

Most of the nearly 3,500 individuals on pretrial release at any given time have several conditions which must be monitored on a continuing basis from the time of release to final disposition.

In addition, to monitoring the degree of compliance with court-imposed conditions, effective supervision necessitates the compilation of information from many sources. This information typically includes court dates for all pending cases, status at a narcotics treatment or third party custody program, employment and residence information, and probation or parole adjustment.

When violations of conditions are discovered, the U. S. Attorney is notified and a bail violation hearing is recommended. In 1975 the Agency forwarded 508 notices involving violations of release conditions to the Court or the U. S. Attorney. Additionally the Agency notified the Courts and the U. S. Attorney's Office of the 3,547 instances of rearrests of individuals at liberty on pretrial release.

Among the various options open to a judicial officer in considering the pretrial release of an accused is release to a third party custodian. Under the statute, if a judge determines that release on personal recognizance will not reasonably assure the appearance of the defendant or the safety of any other person, he or she may impose certain conditions of release including the release of the person to "the custody of a designated person or organization agreeing to supervise him."^{15/}

^{15/} D. C. Code §23-1321 (a) (1) (1970).

During 1975 the Bail Agency continued its program of meeting regularly with third party custodians to discuss areas of mutual concern. By law the Bail Agency serves as coordinator of custody organizations and is responsible for advising the judicial officer of the "eligibility, availability and capacity of such agencies and organizations."^{16/} To carry out this statutory responsibility the Bail Agency has developed minimal standards to advise custodians of the informational needs of the courts and the Bail Agency. Recognizing that community-based custody programs should be better situated to maintain contact with their caseload, the Agency provides assistance to any custodian requesting it by making available court appearance data for persons released to the organization.^{18/}

The Agency continues to encourage the development of new and innovative approaches in the field of third party custody release.

Community Services

By law, the Bail Agency is directed to assist those persons at liberty on pretrial release in securing employment or necessary medical or social services."^{17/} In light of the

^{16/} D.C. Code §23-1303 (h) (3) (1970)

^{17/} D.C. Code §23-1302 (h) (4) (1970)

^{18/} There are presently fewer than 10 large organizations that provide different third party custody services. In addition, there are many individuals into whose custody defendants are released. The Agency provides the Courts with information about both types of custodians.

philosophy of the staff that existing community agencies should be utilized where possible, most of the services provided are of a referral nature. To this end, a list of organizations and the services they provide is maintained and regularly updated.

During the past year, several organizations have evolved to fill the need for a middle ground between detention on the one hand and unconditional release on the other. The concept of custody release offer advantages to both the defendant and the court system. Programs can be designed to provide specialized counseling for particular needs such as narcotics addiction. Further, community-based custody programs can provide a different type of supervision than that provided by the Bail Agency. They are often able to maintain more frequent contact with the defendant and can assist in the notification of court dates. The Agency encourages the growth and development of community-based custody programs and the decentralized supervision and service delivery that they can offer.

In carrying out the statutory mandate, a high priority is placed in assisting defendants in complying with their release conditions. The assistance most frequently requested is in the area of job counseling and placement. During 1975, 446 individuals sought employment assistance.

Other services frequently requested include psychiatric screening and referrals, placement in General Equivalency Diploma (G.E.D.) programs, locating emergency shelter for transients, and referrals to alcoholic treatment programs.

In 1975, the Agency continued the program begun in 1973 to provide probation officers with information developed by the Bail Agency for use in their presentence reports. This service is provided to the Offices of both U.S. and Superior Court Probation.

The program is premised on the belief that since pretrial release conditions often approximate post-conviction conditions used by probation officers, a defendant's record of compliance (or non-compliance) during the pretrial period is useful in predicting his or her adjustment to probation and should be considered by the sentencing judge. Therefore, in those cases where a defendant is convicted and where a pattern of compliance has developed, a report is prepared and sent to the presentence writer.

Our report consists of two sections: an objective section setting out the facts of a defendant's response to conditions, and, in certain appropriate cases, a subjective evaluation by the Bail Agency investigator who was responsible for the case.

The objective section typically includes such information as the regularity with which the defendant reported to the Agency, the narcotics treatment history in the case of a defendant with that condition, efforts made by a defendant to secure employment and the record of appearance at scheduled court hearings.

Any subjective evaluation is usually reserved for those cases where the case supervisor has had an opportunity to form an opinion of the defendant after a period of frequent contact, where, for example, the defendant received job placement assistance.

During 1975, the Agency forwarded 1058 compliance summaries for use by presentence writers. Of these 460 were sent to the U.S. Probation Office and 598 to the Superior Court Probation Office. This is more than double the number sent during the previous year. While many factors must be considered in a recommendation for probation, the information developed during the pretrial period is particularly relevant.

GRANT ACTIVITIES

Street Investigation Unit

During 1975 the Bail Agency was awarded a continuation grant from the Law Enforcement Assistance Administration (LEAA) for the operation of the Street Investigation Unit. The program is designed to provide an automobile and investigators to overcome the limitations of the telephone and the Postal Service in the release and supervision of pretrial releases.

The Bail Agency Street Investigation Unit provides an effective method for verifying information where telephonic communication was inadequate. This additional avenue for verification enables the Bail Agency to present more complete reports and recommendations to the bail-setting magistrate and thus, in some cases, reduce needless detention of arrestees.

The Street unit also supplements orthodox means of notification, where mail service has proved inadequate, by on-the-scene notification of court dates. In addition, this unit is used to increase the effectiveness of condition supervision. A personal visit to the defendant and his home not only ensures that the defendant understands his conditions of release, but also gives the Agency an opportunity to determine compliance with these conditions as well.

Finally, in an effort to reduce the disruptive and costly effects caused by a failure to appear for a scheduled court appearance, the Street unit is sent out to locate "no-shows." The unit having located the defendant, encourages him to surrender voluntarily which, if effected, can lead to the avoidance of arrest, incarceration and new charges.

As an adjunct to the Street Investigation unit, a unit was created to deal with the in-court surrender of persons who have failed to appear at scheduled court dates and who choose to surrender voluntarily through the Bail Agency. This unit known as the Failure to Appear Unit attempts to locate defendants with outstanding bench warrants either by phone or through the efforts of the Street Investigation Unit. Should the defendant subsequently appear at the Bail Agency Office, arrangements are made to take the defendant before the judge who issued the warrant. The unit's staff presents verified information to the judge concerning the defendant's compliance and current status. Any other assertion as to why the defendant failed to appear is only made by the defendant or his attorney.

The Failure to Appear Unit, during 1975, investigated 2,250 cases where defendants were not present for a scheduled court appearance. Of this group, 702 voluntarily returned to court through the efforts of the Agency. The unit also returned 236 defendants for whom bench warrants would have been issued but for the voluntary appearance arrangements made by the Bail Agency. This represents a 42% return rate for nonappearing defendants.

Automation of Bail Agency Records

An LEAA grant of \$53,000 was awarded to continue the development of the Automated Bail Agency Data Base (ABA DABA) begun in 1974. The grant provides assistance for both consultant service and equipment rental. The entire system will be operational in November 1976.

The automated system will greatly enhance the Bail Agency's ability to deliver quality services to the Criminal Justice System and to defendants. The following briefly describes the capabilities of the computer system.

At the beginning of each work day, the Agency will get a list of all persons in the lock-up. The Metropolitan Police Department Identification Number, PDID, on each defendant will be entered into ABA DABA. For each defendant who has had previous contact with the Bail Agency, a report will be generated to assist the interviewer in the interview and verification process.

Defendant interviews will be conducted as they are now. However, the collected information will be entered into the computer. Interviewers' comments and recommendations will be entered. Information also will be entered based on telephone conversations with parole/probation officers, MPD, third party custodians, etc. At the same time that all of this information is being entered at the Bail Agency Court Office, activity will be taking place at the Bail Agency Administrative Office to gather any available information on pending cases, prior convictions, compliance with conditions, etc., and enter this information into the system through a Bail Agency display terminal.

Upon command, the system will prepare the Bail Agency Report, which is the release recommendation sent to the arrangement/presentation judge.

After the release hearing is concluded, the interviewer will enter information about the disposition of the defendants release, e.g., cash bond, surety bond, no release, release on

personal recognizance, etc. along with any release conditions set by the judge. At this time, ABA DABA will have a complete up-to-date set of information about the defendant and the instant case.

Defendants released pending further court action often have release conditions which require them to check in with the Bail Agency in person by phone. When a check-in occurs, the defendant's records will be updated so that a log of the check-in is kept; the check-in applies to all of the defendant's open cases. In addition the Bail Agency maintains contact with custodians and other outside agencies which are dealing with the defendant. ABA DABA will be used to log incoming and outgoing reports, non-compliance with conditions of release, bench warrant and street investigations, return mail investigations, violation hearings, and any other types of information which apply to the case

As a case progresses through the court system, its status will change. ABA DABA will accept and process magnetic tapes from the Superior Court to track the cases. Information not available from these tapes, as well as District Court information, will be entered manually from a display terminal. When a case is finally closed, a summary record will be generated in ABA DABA, and the detail records may be purged when the Bail Agency desires.

A utility function will be available for purging from the data base old or obsolete information on a case or a person. A merge utility will be available to merge data base information when it is determined that unrelated information applies to the same person.

A series of management reports and letters will be available from ABA DABA. These will allow the Agency to better monitor its defendants and will automate some of the functions currently being performed manually.

FUTURE OPERATIONS

Due to the financial crisis facing the District of Columbia the future of the Bail Agency will be one of service cutbacks and program reductions.

Funds were not approved to continue the work of the Street Investigation Unit and Failure to Appear Unit begun in 1974 under an LEAA grant. Given the success of this effort as described in this report, the elimination of this service will hamper the Agency's ability to provide accurate information to the court.

With a reduction of positions, other services will have to be reduced. The Bail Agency will attempt to maintain its high standards during the difficult times ahead.

APPENDIX A

"Chapter 13.--BAIL AGENCY AND PRETRIAL DETENTION

SUBCHAPTER I--DISTRICT OF COLUMBIA BAIL AGENCY

- "Sec.
- "23-1301. District of Columbia Bail Agency
- "23-1302. Definitions
- "23-1303. Interviews with detainees; investigations and reports; information as confidential; consideration and use of reports in making bail determinations.
- "23-1304. Executive committee; composition; appointment and qualifications of Director.
- "23-1305. Duties of Director; compensation; tenure.
- "23-1406. Chief assistant and other agency personnel; compensation.
- "23-1307. Annual reports to executive committee, Congress and Commissioner.
- "23-1308. Budget estimates.

"SUBCHAPTER II--RELEASE AND PRETRIAL DETENTION

- "23-1321. Release in noncapital cases prior to trial.
- "23-1322. Detention prior to trial.
- "23-1323. Detention of addict.
- "23-1324. Appeal from conditions of release.
- "23-1325. Release in capital cases or after conviction.
- "23-1326. Release of material witnesses.
- "23-1327. Penalties for failure to appear.
- "23-1328. Penalties for offenses committed during release.
- "23-1329. Penalties for violation of conditions of release.
- "23-1330. Contempt.
- "23-1331. Definitions.
- "23-1332. Applicability of subchapter.

"SUBCHAPTER I--DISTRICT OF COLUMBIA 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 set by the executive committee, which shall be comparable to levels of compensation established in such chapter 53. From time to time, the Director subject to the approval of the executive committee, may set merit and longevity salary increases.

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

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

"§23-1308. Budget estimates

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

SUBCHAPTER II--RELEASE AND PRETRIAL DETENTION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§23-1322. Detention prior to trial

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

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

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

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

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

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

"(2) finds --

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

"(B) that --

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§23-1323. Detention of addict

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

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

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

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

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

"(2) finds that--

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

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

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

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

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

"§23-1324. Appeal from conditions of release

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

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

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

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

"(d) In any case in which--

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

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

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

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

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

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

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

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

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

"§23-1326/ Release of material witness

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

"§23-1327. Penalties for failure to appear

"(a) Whoever, having been released under this title prior to the commencement of his sentence, willfully fails to appear before any court or judicial officer as required, shall, subject to the provisions of the Federal Rules of Criminal Procedure, incur a forfeiture of any security which was given or pledged for his release, and, in addition, shall, (1) if he was released in connection with a charge of felony, or while awaiting sentence or pending appeal or certiorari prior to commencement of his sentence after conviction of any offense, 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 actions may be imposed if, upon hearing and in accordance with principles applicable to proceedings for criminal contempt, it is established that such person has intentionally violated a condition of his release. Such contempt proceedings shall be expedited and heard by the court without a jury. Any person found guilty of criminal contempt for violation of a condition of release shall be imprisoned for not more than six months, or fined not more than \$1,000, or both.

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

"§23-1330. Contempt

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

"§23-1331. Definitions

"As used in this subchapter:

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

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

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

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

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

"§23-1332. Applicability of subchapter

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

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

§3146. Release in noncapital cases prior to trial

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

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

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

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

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

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

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

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

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

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

§ 3147. Appeal from conditions of release

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

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

§3148. Release in capital cases or after conviction

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

§3149. Release of material witnesses

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

§3150. Penalties for failure to appear

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

§3151. Contempt

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

APPENDIX C

FINANCIAL REPORT (DOLLAR AMOUNTS IN THOUSANDS)

	Allotted by Appropriation	Expended & Obligated through June	Total FY 1975	Estimate of Unused FY 1975 Appropriations
Personnel Compensation and Personnel Benefits	694.1	702.5	702.5	- 8.4
Communication, Printing, Supplies, Travel, Other Services	50.4	37.5	37.5	12.9
TOTAL	744.5	740.0	740.0	4.5

The Bail Agency received two grants in 1975 from the Law Enforcement Assistance Administration. Fifty-three thousand two hundred dollars (\$53,200) was awarded for the purpose of continuing the development of an automated records system. Eighty-six thousand dollars (\$86,000) was awarded for continuing the Bail Agency Street Investigation Unit which was established in 1974.

END

1/25/50