

**Testimony of Clifford T. Keenan, Director  
Pretrial Services Agency for the District of Columbia**

**Public Hearing to Examine Proposed Criminal Justice Reforms**

Good afternoon, Councilman Jones, other Council Members, and members of the Special Committee on Criminal Justice Reforms. I am Clifford Keenan, the Director of the Pretrial Services Agency for the District of Columbia, also known as PSA. It is my pleasure to be with you this afternoon to discuss the pretrial release process used in DC. We believe our system to be a model that effectively promotes the fair administration of justice, while supporting the goal of keeping the Nation's Capital a safe place for people to live, work, and visit.

PSA was created by an act of Congress, the *District of Columbia Bail Agency Act*, in 1967. It is now an independent Agency within the federal executive branch, but it originated as an entity within the government of the District of Columbia. PSA has its origins in the National Conference on Bail and Criminal Justice, which was convened by then United States Attorney General Robert Kennedy in 1964. The purpose of that conference was to "to promote awareness that prevailing bail practices were unfair and that new methods had been developed for handling the problem of pretrial release in criminal cases . . . [and] to assist courts, communities and organizations in developing systems to eliminate unnecessary detention of accused persons and provide fairer and less costly ways of enforcing their appearance in court . . ."

Attorney General Kennedy's words at that time reminded attendees of the key inequity in the monetary bail system: its disparate impact on poor people. He put it this way, "usually only one factor determines whether a defendant stays in jail before he comes to trial. That factor is not guilt or innocence. It is not the nature of the crime. It is not the character of the defendant. That factor is, simply, money. How much money does the defendant have?"

In many ways, it is remarkable, and sad, that in 2016, more than 50 years later, the discussion on this very topic is ongoing.

The Conference led to the passage of the *1966 Federal Bail Reform Act*, which was the first major reform of the federal bail system since the *Judiciary Act of 1789*. The Act applied to both the federal court system, as well as the District of Columbia itself. Among its chief provisions were the following: a presumption in favor of release on their own recognizance for non-capital defendants; conditional pretrial release with conditions imposed to reduce the risk of failure to appear; restrictions on money bail bonds, which the court could impose only if non-financial release options were not enough to assure a defendant's appearance; and review of bail bonds for defendants detained for 24 hours or more.

In 1992, the DC City Council enacted the *Bail Reform Amendment Act*, which greatly expanded the potential for preventive detention for the highest risk arrestees, while virtually eliminating the use of financial conditions that resulted in a person's pretrial detention.

I am proud to say that, for nearly 50 years, PSA has utilized an effective system of non-financial release to promote the fair administration of justice, while also recognizing the need for public safety.

3. A statutory presumption of nonfinancial release and the availability of detention without bail
4. Speedy criminal case screening
5. Defense counsel at initial appearance.
6. Universal screening of all bail-eligible defendants
7. A dedicated pretrial program
8. Use of a validated risk assessment
9. Continuing review of release/detention eligibility
10. Risk-based supervision
11. Performance measurement

I am pleased to say that the District of Columbia adheres to these practices, and has a track record to validate its success in doing so. We pride ourselves on striking the appropriate balance between individual liberties and community safety and the reliance upon evidence-based practices and data-driven approaches to maintain this equilibrium.

Thank you for the opportunity to provide this overview. I am happy to answer any questions that you have regarding our system at this time.