

# INITIAL DETENTION AND SUBSEQUENT RELEASE IN THE DISTRICT OF COLUMBIA REPORT OF FINDINGS FY 2013-2014



Pretrial Services Agency for the District of Columbia  
Published November 2015  
Clifford T. Keenan, Director  
[PretrialServices.gov](http://PretrialServices.gov)





**INITIAL DETENTION AND SUBSEQUENT RELEASE  
IN THE DISTRICT OF COLUMBIA**

**FY 2013-14 REPORT OF FINDINGS**

Published by  
Pretrial Services Agency for the District of Columbia  
Clifford T. Keenan, Director

Prepared by  
Office of Strategic Development  
Spurgeon Kennedy, Director  
Michael Kainu, Program Analyst

November 2015

## TABLE OF CONTENTS

From the Director .....	iii
Summary of Findings.....	1
D.C. Superior Court FY 2013 and FY 2014 Findings.....	1
U.S. District Court FY 2013 and FY 2014 Findings.....	2
Methodology.....	4
Preventive Detention Overview.....	5
D.C. Superior Court Case Review .....	6
Statutory Basis for Detention.....	6
Subsequent Releases.....	7
Time to Subsequent Release.....	8
Subsequent Release by Release Type and PSA Release Program.....	10
Detention Cases Disposed of within Seven Days .....	11
U.S. District Court Case Review .....	13
Statutory Basis for Detention.....	13
Subsequent Releases.....	13
Time to Subsequent Release.....	14
Subsequent Release by Release Type and PSA Release Program.....	18
Cases Disposed of within Seven Days .....	19
Conclusion.....	20

## FROM THE DIRECTOR

The Pretrial Services Agency for the District of Columbia (PSA) is an independent federal entity within the Court Services and Offender Supervision Agency. PSA has served the Nation's Capital for almost 50 years in the Superior Court of the District of Columbia and the United States District Court for the District of Columbia.

The D.C. criminal justice system and PSA are in the forefront of achieving the national standards for pretrial services programs set forth by the American Bar Association and the National Association of Pretrial Services Agencies (NAPSA). Foremost among these standards is that the judicial officer imposes the least restrictive conditions of release that reasonably assure the defendant's appearance in court and protecting community safety.

On average in the District of Columbia, approximately 90% of all persons arrested and charged with a crime are released to the community, either on personal recognizance or with supervised release conditions. While our data show a financial bond being imposed in a small number of cases, the rest remain detained under one of several preventive detention statutes that afford the defendant full due process rights.

The District of Columbia Code and United States Code require the court to review all initial detention decisions, including statutory safety and appearance-based detentions, as well as those that result from imposition of a financial bond.

This report examines the rate at which defendants are being detained at their initial appearance, as well as the rate at which some of these defendants are being released prior to the case being disposed. As you will see, more than half of the defendants initially detained were subsequently released prior to case disposition; in addition, approximately 70% of those who were released secured it within seven days of that initial detention.

As recently noted in a comprehensive report about our nation's jail population prepared by the Vera Institute of Justice:

Although most defendants admitted to jail over the course of a year are released within hours or days, rather than weeks or months, **even a short stay in jail is more than an inconvenience.** . . . Just a few days in jail can increase the likelihood of a sentence of incarceration and the harshness of that sentence, reduce economic viability, promote future criminal behavior, and worsen the health of those who enter—making jail a gateway to deeper and more lasting involvement in the criminal justice system at considerable costs to the people involved and to society at large. These costs are also borne by their families and communities, depressing economies, contributing to increased crime, and breaking familial and social bonds. For the disproportionately high number of those who enter jails from minority communities, or who suffer from

mental illness, addiction, and homelessness, time spent in jail exacerbates already difficult conditions and puts many on a cycle of incarceration from which it is extremely difficult to break free. (Emphasis added.)<sup>1</sup>

The statistics reported herein should compel stakeholders in the D.C. criminal justice system to examine what changes should be made in the application of the D.C. preventive detention statutes.

PSA remains committed to fulfilling its mission of promoting pretrial justice and enhancing community safety. We will work with our criminal justice partners to ensure that even a brief period of incarceration is being used in only the most appropriate of circumstances.

Clifford T. Keenan

---

<sup>1</sup> *Incarceration's Front Door: The Misuse of Jails in America*. Ram Subramanian, Ruth Delaney, Stephen Roberts, Nancy Fishman, Peggy McGarry. Vera Institute. 2015.

## SUMMARY OF FINDINGS

This report presents findings from a study done by the Pretrial Services Agency for the District of Columbia (PSA) which examines the rates for cases after a defendant's initial appearance in the Superior Court of the District of Columbia (DCSC or Superior Court) or the United States District Court for the District of Columbia (USDC or District Court) and the rates at which these cases result in subsequent release prior to disposition. This is an annual analysis that has been conducted, with the first results having been published for Fiscal Year (FY) 2007. The study was completed by PSA's Office of Strategic Development (OSD).

For DCSC, OSD compared initial and subsequent release data from FY 2013 and FY 2014 to similar data from FYs 2007-2012 to identify trends in rates of release and detention. FY 2011 was the first year for which OSD analyzed initial detention and subsequent release information from USDC, and this report contains a comparison of the FYs 2011-2012 and FY 2013 and FY 2014 data. Since the detention statutes vary between the two courts, OSD did not compare the data between DCSC and USDC.

It should be noted the analysis in this report is looking at the results from each case filed rather than for each defendant as some defendants may have had multiple cases filed on the same day or within the same fiscal year.

### D.C. Superior Court FY 2013 and FY 2014 Findings

There were 3,456 cases which resulted in initial detention in FY 2013 and 3,035 cases in FY 2014. The two year combined total was 6,491 cases. There were just under 40,000 cases initially brought before the court during the two year period meaning a little over 16% of all cases resulted in initial detention.

- ✓ Almost 90% of detentions at initial appearance were based on statutory provisions that allow pretrial detention when the defendant is charged with a dangerous/violent offense<sup>2</sup>, has an existing pending case<sup>3</sup>, or is currently on probation/parole supervision<sup>4</sup>. There were 194 cases in which a defendant was initially held for Murder I, Murder II or Assault with Intent to Kill (AWIK) while armed<sup>5</sup> in FY 2013-14, accounting for just under 3% of the detained population.
- ✓ In FY 2013 more than 58% of initial detention cases were subsequently released, and almost all of those (95.5%) were released to conditional pretrial supervision. In FY 2014, the subsequent release rate dropped to 56.5%, the first

---

<sup>2</sup> D.C. Code § 23-1322 (b)(1)(A)

<sup>3</sup> D.C. Code § 23-1322(a)(1)(A)

<sup>4</sup> D.C. Code § 23-1322(a)(1)(C)

<sup>5</sup> D.C. Code § 23-1325

year PSA observed a lower rate from the prior year since this analysis was first conducted. As was the case the in FY 2013, most of those cases (94.8%) resulted in conditional release.

- ✓ For defendants with cases subsequently released after initial detention, approximately 70% were released within seven days during the combined two year period.
- ✓ Subsequent release rates were highest (78.0%) in cases for which defendants were initially detained because they were on probation/parole supervision at the time of the new arrest. Release rates were lowest for defendants held under D.C. Code § 23-1325 (8.2%) and financial bonds (33.9%) during FY 2013-14.
- ✓ Approximately 84% of subsequent releases were placed into a supervision program, 11% into a treatment program and 5% were released on personal recognizance in FY 2013-14.
- ✓ Just over 5% (149) of the cases in which defendants were never released before disposition (2,763 in FY 2013-14) were disposed (i.e., dismissed, sentenced) within seven days of the initial detention.
- ✓ Less than 6% of cases in which defendants were initially detained involved a financial bond during the two-year period. Less than 2% of all cases filed included a financial bond.

## **U.S. District Court FY 2013 and FY 2014 Findings**

Of the 825 cases filed in FY 2013-14 in USDC, 485, or 59%, resulted in detention at initial appearance.

- ✓ Ninety percent (90%) of all detentions resulted from four statutory provisions that allow for defendants to be held while awaiting trial. More than half (51.8%) were due to defendants being charged with crimes that carry a maximum sentence of 10 years or more if convicted<sup>6</sup>. About 17.5% were due to defendants charged with crimes of violence<sup>7</sup>, 11.1 % for defendants charged with a firearm, destructive device, or any other dangerous weapon<sup>8</sup> and 9.5% were due to defendants declared serious risks of flight<sup>9</sup>.

---

<sup>6</sup> 18 USC § 3142 (f)(1)(C)

<sup>7</sup> 18 USC § 3142 (f)(1)(A)

<sup>8</sup> 18 USC § 3142 (f)(1)(E)

<sup>9</sup> 18 USC § 3142 (f)(2)(A)



- ✓ Of the 485 initial detentions in FY 2013-14, 106 (21.9%) were subsequently released. All but two cases were released to conditional supervision.
- ✓ For cases resulting in subsequent release after initial detention, 45 (42.5%) were released within seven days.
- ✓ Subsequent release rates were highest for defendants that were initially held due to being charged with crimes that carry a minimum sentence of 10 years (32.7% during the two year period), followed by defendants charged with an offense involving a firearm, destructive device, or any other dangerous weapon (16.7%).
- ✓ There were 99 (93%) subsequently-released defendants placed into a supervision program, five were released to a treatment program and two on personal recognizance.

## METHODOLOGY

OSD reviewed the patterns of release for defendants held in cases after initial appearance in DCSC using data from FYs 2007-2014. The data set included 32,600 cases identified in PSA's information management system, the Pretrial Real-time Information System Manager (PRISM), as having a statutory or administrative hold or financial bond ordered at initial appearance. For USDC, OSD first collected data in FY 2011 and this report includes a review for 1,005 cases filed from FYs 2011-2014.

For both D.C. Superior Court and U.S. District Court, this review:

- ✓ Identified the most common statutory holds following initial court appearance;
- ✓ Determined the number of cases in which defendants were initially detained and subsequently released;
- ✓ Reviewed the percentage of cases in which initially detained defendants were released within 7 days of their initial detention;
- ✓ Examined subsequent release types as well as the PSA programs to which defendants were released; and
- ✓ Identified the number of cases in which defendants were not released before disposition, but the case was subsequently disposed of within seven days of initial detention.

This report outlines these findings for FY 2013 and FY 2014 and compares DCSC cases to data from FYs 2007-2012<sup>10</sup> and USDC cases to data from FY 2011-2012.

It should be noted that, in both DCSC and USDC, the court can order a defendant held under more than one statutory hold provision. However, PRISM and the court's data management systems can record only one release/detention record per case. As a result, these data may underreport the frequency of each detention type.

---

<sup>10</sup> The DCSC FY 2007 review included only a portion of defendants who were initially detained, whereas the review for FY 2008-13 included all defendants in DCSC initially detained under a statutory hold or financial bond.

## PREVENTIVE DETENTION OVERVIEW

On average in the District of Columbia, about 90% of persons arrested and charged with a crime are released to the community, either on personal recognizance or with supervised release conditions, while their cases are pending disposition. The rest are detained at their initial hearing or released or held on financial bond.<sup>11</sup>

The city operates under relevant provisions of the District of Columbia Code and United States Code, which contain presumptions of pretrial release on personal recognizance (PR), as well as rebuttable presumptions of pretrial detention for certain defendants, including those charged with crimes of violence, those already awaiting trial on another charge, and those currently under probation or parole supervision. This type of detention often is referred to as “preventive detention.”

Financial bond is rarely used as a bail condition in the District of Columbia. Since 2007, there have been about 3,700 cases in which defendants had a financial bond imposed out of more than 150,000 criminal cases.

PSA adheres to provisions of the D.C. Code and U.S. Code to interview and conduct risk assessments on persons detained or charged with offenses and are scheduled to appear before a judicial officer. From this interview, PSA prepares a report to the court that identifies each defendant’s eligibility, if any, for preventive detention and conditions, if any, under which the defendant could be released that would reasonably assure community safety and the defendant’s return to court. During the defendant’s initial appearance, the judicial officer uses information provided by PSA to make a decision regarding release or detention. Defendants who are detained after this first appearance are referred to as “initially detained” for purposes of this report.

For cases heard in DCSC, the D.C. Code requires judges to review release conditions set for defendants who remain incarcerated 24 hours after initial appearance if the detention is due to an inability to meet the conditions of release.<sup>12</sup> For persons held under the statute’s preventive detention provisions, the Code requires a hearing within three to five days of initial appearance to determine whether there are conditions of release that will reasonably assure the defendant’s future court appearance and public safety.

Similarly, for cases heard in the U.S. District Court, the U.S. Code requires judicial officers to hold a hearing to determine whether any condition or combination of release conditions can be imposed that will reasonably assure the community safety and the defendant’s return to

---

<sup>11</sup> While financial bonds are rarely used in DCSC, they may be appropriate to use in fugitive cases and cases in which a person will be detained on another case (and may seek “jail credit” for the time they are held).

<sup>12</sup> D.C. Code § 23-1321 (c)(4)

court.<sup>13</sup> Defendants released after this type of hearing are considered to have been “subsequently released” for purposes of this report.

Based on the information presented in this report, during FY 2013-2014 2,622 initially detained defendants were subsequently released within seven days. According to officials from the D.C. Jail, the average daily cost to house a defendant under pretrial detention is about \$205 per day. Based on these figures, the cost to detain the defendants who had been held as few as one or as many as seven days was about \$2,465,330 for DCSC defendants and just over \$38,000 for USDC cases, for a total cost of just over \$2,500,000.

## **D.C. SUPERIOR COURT CASE REVIEW**

In FY 2013, there were 3,456 cases in which defendants were detained at initial court appearance. That number decreased to 3,035 cases in FY 2014 for a two year total of 6,491. Of these, 3,728 (57.4%) cases resulted in a subsequent release of the defendant on personal recognizance or conditional supervision. The two year total represents the highest percentage of subsequent release since PSA first conducted this analysis in FY 2007, and continues a trend of annual increases in the percentage of subsequent releases. It should be noted the observed rate for FY 2013 was 58.3% and slightly lower (56.5%) in FY 2014. When the data initially were reviewed following FY 2007, the release rate was 45.7%. In FY 2008, that rate rose to 49.3%, 49.6% in FY 2009, 51.9% in FY 2010 55.5% in FY 2011 and 56.0% in FY 2012. Subsequent releases tended to occur within seven days after initial detention. In addition to a larger percentage of cases resulting in a subsequent release prior to disposition, the overall trend also shows fewer cases in which defendants were initially detained.

### **Statutory Basis for Detention**

In FY 2013-2014, defendants were detained in DCSC using one of three statutory holds in 5,807 (89.5%) of 6,491 cases. These holds were for persons charged with a dangerous or violent offense, persons currently on probation or parole, and persons with a pending criminal charge. From FYs 2007-2012, these holds were used in 81.1% of all detention cases (N=26,109). The statutory hold for murder charges was used in 3% of cases in FY 2013-2014, which is the same as the observed rate during FY 2007-2012. Financial bonds were ordered in 5.9% of FY 2013-2014 cases, significantly lower than 12.5% from FYs 2007-2012.

Table 1 provides a breakdown of the number and percentage of cases for which defendants were held under each statutory provision in FY 2013 and FY 2014, as well as the cumulative totals for FYs 2007-2012.

---

<sup>13</sup> 18 USC § 3142 (f)

Description	Total FY 2007-12		FY 2013		FY 2014	
	Number	Percent	Number	Percent	Number	Percent
Current dangerous/ violent offense <sup>14</sup>	10,097	38.7	1,715	49.6	1,513	49.9
Current probation/ parole status <sup>15</sup>	5,784	22.2	759	22.0	564	18.6
Pending criminal charge <sup>16</sup>	5,305	20.3	620	17.9	636	21.0
Bond Cases*	3,255	12.5	198	5.7	182	6.0
Murder/AWIK charge <sup>17</sup>	788	3.0	95	2.7	99	3.7
Pending Sentencing or appeal <sup>18</sup>	427	1.6	46	1.3	26	0.9
Other Holds**	453	1.7	23	0.7	15	0.5
<b>TOTAL</b>	<b>26,109</b>	<b>100</b>	<b>3,456</b>	<b>100</b>	<b>3,035</b>	<b>100</b>

\* Includes cases with initial release designated in PRISM as: cash, surety, cash/surety with conditions, deposit bond and bond cases.

\*\* Includes holds designated in PRISM as: 24-hour Gerstein Perfection, Forensic Screening, Held/Detainer, Held for Mental Observation, Stet Agreement and Other Undesignated Holds.

## Subsequent Releases

In FY 2013-2014, almost all defendants released after initial detention (3,548 of 3,728 or 95.2%) were placed on supervision with release conditions. Of these, 180 (4.8%) were placed on personal recognizance (PR) with no conditions. The defendants most often released were those initially held due to being on probation or parole at the time of the new arrest (78.0%) during the two year period. Defendants held pursuant to D.C. Code § 23-1325 were the least likely to be released (8.2%). The data indicate that 33.9% of defendants for whom a financial bond had been imposed were released in FY 2013-2014, which represents an increase from FY 2007-2012 when 22.6% of initial detentions on bond resulted in release. PSA does not always receive information for individuals who post bond, which may have an impact on the figure reported.

<sup>14</sup> D.C. Code § 23-1322 (b)(1)(A)

<sup>15</sup> D.C. Code § 23-1322 (a)(1)(C)

<sup>16</sup> D.C. Code § 23-1322 (a)(1)(A)

<sup>17</sup> D.C. Code § 23-1325

<sup>18</sup> D.C. Code § 23-1322 (a)(1)(B)

Table 2 shows the data for subsequent releases by type of detention for FY 2013 and FY 2014 as well as FYs 2007-2012. The data for all eight years reveal that almost all cases resulting in subsequent release (16,743 out of 17,249 or 97.1%) were placed on conditional supervision and 506 releases (2.9%) were placed on PR without conditions. When looking at the data for FY 2013-2014 and the cumulative numbers from FY 2007-2012, they are similar in that defendants initially held due to probation/parole status at the time of arrest were most likely to be released.

In FYs 2013-2014, a similar percentage of defendants (8.2%) held pursuant to D.C. Code § 23-1325 was released compared to FYs 2007-2012, when 8.5% of those defendants were subsequently released. It should be noted that defendants held in cases with a charge involving a dangerous or violent offense, the most common hold type, were released in 47% of all cases during the eight-year period under review. However, the FY 2013-2014 release rate for that hold was higher, at 51.2%.

### **Time to Subsequent Release**

One point of interest for PSA is the timeframe from initial detention to subsequent release. This is an important element, particularly for bond cases, given the statutory intent to minimize pretrial detention based solely on an inability to meet the financial requirement.

In FY 2013 and FY 2014, the median release time for cases with defendants initially detained and subsequently released was seven days, which has remained the same since FY 2010. (While releases within 14 days were included in previous editions of this report, releases within seven days were highlighted in FY 2012 and was the measure used for FY 2013 and FY 2014<sup>19</sup>.)

Table 3 provides a comparison of the number of cases resulting in release within seven days during FY 2012-2014. It shows that 70.4% of all detained defendants who were eventually released were released within seven days of their initial detention.

---

<sup>19</sup> Data from FY 2007 show that 72% of initially detained defendants who secured release were released within 14 days. While these data were not available for FY 2008, in FY 2009, the percentage rose to over 86% of the population, and then to over 90% in both FY 2010 and FY 2011. The percentage declined to 86.6% for FY 2012, 84.7% for FY 2013 and 81.2% for FY 2014.

**Table 2**  
**Subsequent Release by Type of Detention (DCSC)**  
**FY 2007-2014**

	Total FY 2007-12					FY 2013					FY 2014				
Description	Number	Number Released	Percent Released	Conditional Release	PR	Number	Number Released	Percent Released	Conditional Release	PR	Number	Number Released	Percent Released	Conditional Release	PR
Current Dangerous/ Violent Offense	10,097	4,559	45.2	4,493	66	1,715	879	51.3	853	26	1513	774	51.2	747	27
Current Probation/Parole Status	5,784	4,277	73.4	4,205	72	759	584	76.9	563	21	564	448	79.4	423	25
Pending Criminal Charge	5,305	3,407	64.2	3,290	117	620	418	67.4	389	29	636	407	64.0	381	26
Bond Cases	3,255	736	22.6	702	34	198	83	41.9	76	7	182	46	25.3	35	11
Murder/AWIK Charge	788	67	8.5	60	70	95	5	5.3	5	0	99	11	11.1	11	0
Pending Sentence or Appeal	427	264	61.8	256	8	46	29	63.0	26	3	26	19	73.1	19	0
Other Holds	453	211	46.6	189	22	23	16	69.6	11	5	15	9	60.0	9	0
<b>TOTAL</b>	<b>26,109</b>	<b>13,521</b>	<b>51.8</b>	<b>13,195</b>	<b>326</b>	<b>3,456</b>	<b>2,014</b>	<b>58.3</b>	<b>1,923</b>	<b>91</b>	<b>3,035</b>	<b>1,714</b>	<b>56.5</b>	<b>1,625</b>	<b>89</b>

	FY 2012			FY 2013			FY 2014		
<b>Description</b>	<b>Number Released</b>	<b>Within 7 Days</b>	<b>Percent</b>	<b>Number Released</b>	<b>Within 7 Days</b>	<b>Percent</b>	<b>Number Released</b>	<b>Within 7 Days</b>	<b>Percent</b>
Current dangerous/ violent offense	926	707	76.3	879	654	74.4	774	521	67.3
Current probation/ parole status	720	526	73.1	584	426	72.9	448	310	69.2
Pending criminal charge	479	339	70.7	418	279	66.7	407	262	64.3
Bond Cases*	64	28	44.8	83	48	57.8	46	25	54.3
Murder/AWIK charge	10	4	40.0	5	2	40.0	11	0	0.0
Pending Sentencing or appeal	36	24	66.7	29	22	75.9	19	12	63.2
Other Holds**	16	9	56.3	16	9	56.3	9	5	55.6
<b>TOTAL</b>	<b>2,251</b>	<b>1,637</b>	<b>72.7</b>	<b>2,014</b>	<b>1,440</b>	<b>71.5</b>	<b>1,714</b>	<b>1,135</b>	<b>66.2</b>

\* Includes cases with initial release designated in PRISM as: cash, surety, cash/surety with conditions, deposit bond and bond cases.

\*\* Includes holds designated in PRISM as: 24-hour Gerstein Perfection, Forensic Screening, Held/Detainer, Held for Mental Observation, Stet Agreement and Other Undesignated Holds.

## Subsequent Release by Release Type and PSA Release Program

Beginning with FY 2009, OSD examined the types of release and PSA programs to which defendants were released following their initial detention. Table 4 shows that in both FY 2013 and 2014, about 84% of cases resulting in release after initial detention were assigned to a supervision program, while 11% of cases were assigned to a treatment program and the remaining 5% were released to PR without supervision.

When compared to FYs 2009-2012, the FY 2013 and FY 2014 data show a slight decrease in the percentage of released cases assigned to supervision and treatment programs and an increase in the percentage on PR without supervision. The increase in the number of cases released on PR without conditions is a trend observed in all cases, not just those in which the defendant was initially detained. However, those cases still represent a very small percentage of defendants on pretrial release.

A closer look at the most common releases to a specific PSA program in FY 2013 and FY 2014 shows that 47.2% of initially detained defendants with cases released to the PSA Supervision Program were assigned to the General Supervision Unit (GSU) (1,473 out of 3,131). Most of



	<b>Total FY 2009-12</b>		<b>FY 2013</b>		<b>FY 2014</b>	
	<b>Number</b>	<b>Percent Defendants Released</b>	<b>Number</b>	<b>Percent Defendants Released</b>	<b>Number</b>	<b>Percent Defendants Released</b>
Supervision	8,577	85.6	1,701	84.5	1,430	83.4
Treatment	1,233	12.3	222	11.0	195	11.4
PR w/o Supervision	205	2.0	91	4.5	89	5.2
<b>TOTAL</b>	<b>10,015</b>	<b>100</b>	<b>2,014</b>	<b>100</b>	<b>1,714</b>	<b>100</b>

the defendants released to a PSA treatment program were placed in the Specialized Supervision Unit (SSU) (389 out of 417 or 93.3%).

Table 5 shows a comparison of the PSA release program data for FYs 2009-2012 and FY 2013 and FY 2014. The percentage of cases released to each PSA program has been consistent from year to year; however there was a shift in the number of cases released to GSU and HISP when looking at FY 2013 and FY 2014 in relation to the data from FY 2009-2012. In FY 2013-2014, GSU accounted for 39.5% (1,473 out of 3,728 cases) of all subsequent releases compared to 47.5% in FY 2009-2012. The percentage of HISP placements for subsequent releases increased from 22.5% in FY 2009-2012 to 32.2% (1,200 out of 3,728) in FY 2013-2014. The least often used PSA release program for subsequent release has been Drug Court, which annually accounts for less than one-half of one percent of defendants subsequently released.

### **Detention Cases Disposed of within Seven Days**

In FY 2012, OSD added a review of cases for defendants who are not released prior to their cases reaching disposition. OSD examined how many of these cases were disposed of within seven days, a time period also used to measure the number of individuals subsequently released within seven days.

In the three years that OSD has reviewed this data, there have been 4,530 total cases in which the defendant remained detained pending disposition. 256 of those cases (5.7%) were disposed within seven days. In FY 2012 there were 107 out of 1,767 (6.1%) cases disposed within seven days; 62 out of 1,442 (4.3%) in FY 2013 and 87 out of 1,321 (6.6%) in FY 2014.

Of the 256 total cases disposed of within seven days, 97 (38.2%) resulted in a conviction. Sixty-three (63) of the 159 cases (39.7%) resulting in a non-conviction were due to plea agreements in other matters. The other 96 non-convictions (38% of all cases detention cases disposed within seven days) were dismissed or nolle. Table 6 provides a breakdown of the

		Total FY 2009-12		FY 2013		FY 2014	
PSA Release Program	Release Type	Number	Percent Defendants Released	Number	Percent Defendants Released	Number	Percent Defendants Released
General Supervision	Supervision	4,758	47.5	854	42.4	619	36.1
HISP	Supervision	2,258	22.5	622	30.9	578	33.7
SSU	Treatment	1,053	10.5	205	10.2	184	10.7
Work Release	Supervision	1,016	10.1	225	11.2	233	13.6
Other*	N/A	675	6.7	4	0.2	0	0.0
PR w/o Supervision	PR	205	2.0	91	4.5	89	5.2
Drug Court	Treatment	31	0.3	5	0.2	1	<0.1
Sanction Based Treatment	Treatment	19	0.2	8	0.4	10	0.6
<b>TOTAL</b>		<b>10,015</b>	<b>100</b>	<b>2,014</b>	<b>100</b>	<b>1,714</b>	<b>100</b>

\*Other indicates release option no longer used by PSA including New Directions, East of the River Community Court and GSU with GPS.

Convictions							Non-Convictions						
		FY 2012		FY 2013		FY 2014		FY 2012		FY 2013		FY 2014	
Sentence Type	Number	Percent	Number	Percent	Number	Percent	Disposition	Number	Percent	Number	Percent	Number	Percent
Confinement	24	53.3	17	100	35	100	Dismissed	35	56.5	24	53.3	21	40.4
Probation	14	31.1	0	0	0	0	Plea Agreement	19	30.6	20	44.4	24	46.2
Split Sentence	5	11.1	0	0	0	0	Dismissal						
Pending Sentencing	2	4.4	0	0	0	0	Nolle Prosequi	8	12.9	1	2.2	7	13.5
<b>Total</b>	<b>45</b>	<b>100</b>	<b>17</b>	<b>100</b>	<b>35</b>	<b>0</b>	<b>Total</b>	<b>62</b>	<b>100</b>	<b>45</b>	<b>100</b>	<b>52</b>	<b>100</b>

sentencing types for cases in which the defendant was detained and disposed as a conviction within seven days, as well as the disposition types for cases in which the defendant was detained and disposed as a non-conviction within seven days.

## **U.S. DISTRICT COURT CASE REVIEW**

In FY 2013-2014, 485 District Court cases resulted in detention following the defendant's initial court appearance. 106 of the cases for initially-detained defendants (21.9%) were subsequently released on PR or conditional supervision which is similar to the observed rate in FYs 2011-2012. It should be noted that FY 2014 represented the highest rate of subsequent release (27.3%) observed. The median time from initial detention to release varied significantly from FY 2013 (8 days) to FY 2014 (34 days). USDC data were first analyzed in FY 2011, and this report contains a comparison between FY 2011-12 data and FY 2013 and FY 2014 for USDC cases.

### **Statutory Basis for Detention**

Judicial officers in U.S. District Court used one of four statutory provisions of Title 18 of the U.S. Code to initially detain defendants in 436 (89.9%) out of 485 cases during FY 2013-2014. This includes defendants charged with a crime that carries a maximum sentence of 10 years or more if convicted; defendants charged with a crime of violence; defendants charged with a crime involving a firearm, destructive device, or any other dangerous weapons, failure to register as a sex offender or crime with a minor victim and defendants determined to be significant flight risks.

USDC has many less cases and a wider range of detention holds available than DCSC, so there are fewer cases held under each hold type. Table 7 provides a breakdown of the number and percentage of cases for defendants held under each hold type during FY 2013 and FY 2014, as well as a comparison to FYs 2011-2012. The data indicate for the four-year time period, defendants were held after being charged with a crime that carries a maximum sentence of 10 years or more if convicted at a substantially higher rate than any other hold type.

### **Subsequent Releases**

In FY 2013 and FY 2014, all but two defendants, (104 out of 106, or 98.1%), with cases resulting in subsequent release were released on conditional supervision, which is a change from FYs 2011-2012 when 92.4% released had conditions imposed and the remainder were released on personal recognizance. The defendants with cases released most often during the two year period are those initially held after being charged with a crime that carries a maximum sentence of 10 years or more if convicted (32.7%), which is a bit higher than FY 2011-2012 (28.4%). It is important to note that due to the relatively few defendants held initially under most of the statutory provisions, the release rates can vary widely with as little as a single release. During each year the data were examined, there were several statutory

provisions under which no initially detained defendants were released prior to case disposition. The most common provision was the one that allows for detention of defendants who are not U.S. citizens or permanent residents<sup>20</sup>, under which 42 of 43 defendants remained held (see Table 8).

### **Time to Subsequent Release**

As with DCSC data, FY 2012 was the first time OSD calculated the percentage of defendants securing release within seven days of initial detention. Table 9 shows that in FY 2013 and FY 2014 combined, 42.3% (45 out of 106) of defendants were released within seven days. This is similar to the 41% released within seven days when this was initially examined in FY 2012. The median time for defendants being released in USDC was 8 days in FY 2013 and 34 days in FY 2014, compared to 13 days in FY 2012. As mentioned before, the small sample size of USDC cases lends itself to the potential for wide swings in the data from year to year. As these and other data are examined in subsequent years, OSD will be able to better identify the trends associated with USDC cases.

---

<sup>20</sup> 18 USC § 3142(d)(1)(B)

Description	FY 2011-12		FY 2013		FY 2014	
	Number	Percent	Number	Percent	Number	Percent
Max sentence of 10 years or More <sup>21</sup>	282	54.2	158	54.3	93	46.9
Crime of	81	15.6	41	14.1	44	22.7
Serious risk of flight <sup>23</sup>	54	10.4	30	10.3	16	8.2
Firearm, destructive device, or any other dangerous weapon/ Failure to register as a sex offender/ minor victim <sup>24</sup>	15	2.9	37	12.7	17	8.8
Other Holds	40	7.7	1	0.3	0	0.0
Citizenship status <sup>25</sup>	22	4.2	12	4.1	9	4.6
Probation/ Parole <sup>26</sup>	8	1.5	7	2.4	6	3.1
Bond Cases**	5	1.0	1	0.3	0	0.0
Max sentence of life <sup>27</sup>	3	0.6	2	0.7	2	1.0
Convicted of 2+ felonies <sup>28</sup>	4	0.8	1	0.3	4	2.1
Pending felony	3	0.6	0	0.0	2	1.0
Obstruction of justice <sup>30</sup>	2	0.4	0	0.0	0	0.0
Pending imposition, execution or completion of sentence/appeal <sup>31</sup>	1	0.2	1	0.3	1	0.5
<b>Total</b>	<b>520</b>	<b>100</b>	<b>291</b>	<b>100</b>	<b>194</b>	<b>100</b>

\* Includes holds designated in PRISM as: Held/Held without Bond/ Detainer with no statutory designation.

\*\* Includes cases with initial release designated in PRISM as: cash, surety, cash/surety with conditions, deposit bond and bond cases.

<sup>21</sup> 18-3142 (f)(1)(C)

<sup>22</sup> 18-3142 (f)(1)(a)

<sup>23</sup> 18-3142 (f)(2)(A)

<sup>24</sup> 18-3142 (f)(1)(E)

<sup>25</sup> 18-3142 (d)(1)(B)

<sup>26</sup> 18-3142 (d)(1)(A)(iii)

<sup>27</sup> 18-3142 (f)(1)(B)

<sup>28</sup> 18-3142 (f)(1)(D)

<sup>29</sup> 18-3142 (d)(1)(A)(i)

<sup>30</sup> 18-3142 (f)(1)(B)

<sup>31</sup> 18-3142 (d)(1)(A)(ii)

**Table 8**  
**Subsequent Release by Type of Detention (USDC)**  
**FY 2011-2014**

Description	Total FY 2011-12					FY 2013					FY 2014				
	Number	Number Released	Percent Released	Conditional Release	PR	Number	Number Released	Percent Released	Conditional Release	PR	Number	Number Released	Percent Released	Conditional Release	PR
Max Sentence	282	80	28.4	72	8	158	42	26.6	42	0	93	40	43.0	38	2
Crime of Violence	81	7	8.6	7	0	41	4	9.8	4	0	44	4	9.1	4	0
Serious risk to flee	54	9	16.7	9	0	30	3	10.0	3	0	16	1	6.3	1	0
Firearm, destructive device, or any other dangerous weapon/ failure to register as a sex offender	15	3	20.0	3	0	37	4	10.8	4	0	17	5	29.4	5	0
Other Holds	40	4	10.0	4	0	1	0	0.0	0	0	0	0	0.0	0	0
Citizenship status	22	0	0.0	0	0	12	0	0.0	0	0	9	1	11.1	1	0
Probation or parole	8	1	0.0	1	0	7	0	0.0	0	0	6	0	0.0	0	0
Bond Cases	5	1	0.0	1	0	1	0	0.0	0	0	0	0	0.0	0	0
Max sentence of life	3	0	0.0	0	0	2	0	0.0	0	0	2	0	0.0	0	0
Convicted of 2+ felonies	4	0	0.0	0	0	1	0	0.0	0	0	4	2	50.0	2	0
Pending felony case	3	0	0.0	0	0	0	0	0.0	0	0	2	0	0.0	0	0
Obstruction of justice	2	0	0.0	0	0	0	0	0.0	0	0	0	0	0.0	0	0
Pending imposition, execution of sentence/appeal	1	0	0.0	0	0	1	0	0.0	0	0	1	0	0.0	0	0
<b>TOTAL</b>	<b>520</b>	<b>105</b>	<b>20.2</b>	<b>97</b>	<b>8</b>	<b>291</b>	<b>53</b>	<b>18.2</b>	<b>53</b>	<b>0</b>	<b>194</b>	<b>53</b>	<b>27.3</b>	<b>51</b>	<b>2</b>

	FY 2012			FY 2013			FY 2014		
<b>Description</b>	<b>Number Released</b>	<b>Within 7 Days</b>	<b>Percent</b>	<b>Number Released</b>	<b>Within 7 Days</b>	<b>Percent</b>	<b>Number Released</b>	<b>Within 7 Days</b>	<b>Percent</b>
Max sentence of 10 years or more	30	13	43.3	42	16	38.1	40	12	30.0
Crime of Violence	4	1	25.0	4	3	75.0	4	4	100
Serious Risk of Flight	4	1	25.0	4	3	100	1	0	0.0
Firearm, destructive device, or any other dangerous weapon/ failure to register as sex offender/ minor victim	0	0	0.0	4	2	50.0	5	4	80.0
Citizenship Status	0	0	0.0	0	0	0.0	1	0	0.0
Convicted 2+ Felonies	0	0	0.0	0	0	0.0	2	1	50.0
Other Holds	1	1	100	0	0	0.0	0	0	0.0
<b>TOTAL</b>	<b>39</b>	<b>16</b>	<b>41.0</b>	<b>53</b>	<b>24</b>	<b>45.3</b>	<b>53</b>	<b>21</b>	<b>39.6</b>

\* Only detention holds in which there was at least one documented release during the past four fiscal years were included in this table.

## Subsequent Release by Release Type and PSA Release Program

OSD also examined the type of release that followed initial detention. Table 10 shows that in FY 2013 and FY 2014 cases, most defendants (93.4%) released following initial detention were assigned to a PSA supervision program, which is slightly higher than FY 2012 (90.5%). OSD also observed the highest rates of cases assigned to a PSA treatment program in FY 2013, whereas the highest rate of cases released on PR without supervision in the three-year period occurred in FY 2012.

A closer look at releases to specific PSA programs in FY 2013 shows that defendants were assigned to GSU in almost half (25 of 53, or 47.2%) of subsequent releases followed by HISP (19 of 53, or 35.8%). Those figures were reversed in FY 2014 when 49.1% (26 out of 53) of cases were assigned to HISP and 32.1% (17 out of 53) of cases were released to GSU. Released defendants were placed in one of those two programs in over 80% of all subsequent releases in FY 2013 and FY 2014. Table 11 shows the distribution for all defendants released to PSA programs from USDC.

	FY 2011-12		FY 2013		FY 2014	
Release Type	Number	Percent Defendants Released	Number	Percent Defendants Released	Number	Percent Defendants Released
Supervision	95	90.5	49	92.5	50	94.3
Treatment	2	1.9	4	7.5	1	1.9
PR w/o Supervision	8	7.6	0	0.0	2	3.8
<b>TOTAL</b>	<b>105</b>	<b>100</b>	<b>53</b>	<b>100</b>	<b>53</b>	<b>100</b>



		FY 2011-2012		FY 2013		FY 2014	
PSA Release Program	Release Type	Number	Percent Defendants Released	Number	Percent Defendants Released	Number	Percent Defendants Released
General Supervision	Supervision	53	50.5	25	47.2	17	32.1
HISP	Supervision	41	39.0	19	35.8	26	49.1
PR w/o Supervision	PR	8	7.6	0	0.0	2	3.8
Work Release	Supervision	1	0.9	5	9.4	7	13.2
New Directions*	Treatment	1	0.9	2	3.7	0	0.0
SSU	Treatment	1	0.9	1	1.9	1	1.9
Sanction Based Treatment	Treatment	0	0.9	1	1.9	0	0.0
<b>Total</b>		<b>105</b>	<b>100</b>	<b>53</b>	<b>100</b>	<b>53</b>	<b>100</b>

*\*Indicates release option no longer used by PSA. Future analysis of this data will combine this group into an "other" release type category.*

## Cases Disposed of within Seven Days

As with DCSC cases, OSD examined the number of USDC defendants charged in cases filed in FY 2013 and FY 2014 that were never released prior to their cases reaching disposition. OSD examined how many of these cases were disposed of within seven days, a time period also used to measure the number of individuals subsequently released within seven days. One difference from FY 2012 compared to FYs 2013-14 is that OSD removed all "Removal to other Jurisdiction" cases from the list of defendants initially detained since those detentions were based on criminal charges alleged to have occurred in other jurisdictions. In FY 2012, 9 (81.9%) out of 11 cases disposed of within seven days were due to individuals waiving extradition to the demanding jurisdiction. As a result of the change noted above, only three total defendants in FYs 2013-14 that were detained until case disposition had their cases disposed of within seven days. Table 12 provides a breakdown of those detention cases disposed of within seven days dating back to FY 2012.

	<b>FY 2012</b>		<b>FY 2013</b>		<b>FY 2014</b>	
<b>Disposition</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Extradition Waived	9	81.8	0	0	0	0
Dismissed	2	18.2	0	0	3	100
<b>Total</b>	<b>11</b>	<b>100</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>100</b>

## CONCLUSION

An overall review of FYs 2007-2014 data for DCSC shows a trend that initially detained defendants are being released with greater frequency from year to year, with the highest rate of subsequent release, 58.3%, occurring in FY 2013. The percentage of cases resulting in release within seven days indicates a slight decline each year since FY 2012 when that data was first examined. The percentage of detained cases disposed within seven days has been similar from year to year, however there has been a pretty wide range (27% - 42%) of cases disposed as non-convictions each year.

After reviewing four years of data for USDC, some trends are beginning to emerge. However, the data are still subject to wide swings in the percentages observed for different elements measured based on the small number of cases reviewed annually compared to those numbers processed in DCSC.

OSD has added new elements to this review over time and will continue to do so as other points of interest are identified. One such change in the FY 2015 report will be an examination of subsequent release rates by the defendants' risk scores from PSA's new risk assessment, which was unveiled during FY 2014.



**PRETRIAL SERVICES AGENCY FOR  
THE DISTRICT OF COLUMBIA**  
633 Indiana Avenue, NW, Suite 1120  
Washington, DC 20004  
202-220-5500

*This publication is available online*

[PretrialServices.gov](http://PretrialServices.gov)