

Initial Detention and Subsequent Release in the District of Columbia FY 2012 Report of Findings



Pretrial Services Agency for the District of Columbia
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About PSA

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 more than 45 years in the Superior Court of the District of Columbia and the United States District Court for the District of Columbia.

PSA is in the forefront of achieving the national standards for pretrial services programs set forth by the American Bar Association, the National District Attorneys' Association and the National Association of Pretrial Services Agencies (NAPSA) to use the least restrictive conditions of release that reasonably will assure the defendant's appearance in court and protect public safety.

On average in the District of Columbia, 80% of persons arrested and charged with a crime are released to the community, either on personal recognizance or with supervised release conditions. Another 15% are preventively detained. About 5% are released or held on financial bond.

The District of Columbia Code and United States Code require courts to review all initial detention decisions, including financial bonds and statutory safety and appearance-based detentions. This report shows that initially detained defendants are being released with greater frequency than in the past and these individuals are spending less time initially detained. Additionally, the District's use of financial bond remains minimal.

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Summary of Findings

This report presents the Pretrial Services Agency for the District of Columbia's (PSA) findings from a study examining the rates at which defendants are detained following initial appearance in the Superior Court of the District of Columbia (DCSC or Superior Court) and United States District Court for the District of Columbia (USDC or District Court) and the rates at which these defendants are subsequently released prior to disposition. This is the sixth publication of the results from this study, with the first results having been published for FY 2007. The study was completed by PSA's Office of Strategic Development (OSD).

For DCSC, OSD compared initial and subsequent release data from Fiscal Year (FY) 2012 to similar data from FY 2007-2011 to identify trends in rates of release and detention. FY 2012 is just the second year for which OSD analyzed initial detention and subsequent release information from USDC, and this report contains a comparison of the FY 2011 and FY 2012 data. Since the detention statutes vary between the two courts, OSD did not compare the data from DCSC and USDC.

D.C. Superior Court findings for FY 2012 include:

- ✓ 89% of detentions after initial appearance were based on statutory provisions that allow pretrial detention when the defendant is charged with a dangerous/violent offense (D.C. Code § 23-1322 (b)(1)(A)); has an existing pending case (D.C. Code § 23-1322(a)(1)(A)); or is currently on probation/parole supervision (D.C. Code § 23-1322(a)(1)(C)). There were 125 defendants initially held for Murder I, Murder II or Assault with Intent to Kill (AWIK) while armed (D.C. Code § 23-1325), accounting for just over 3% of the detained population.
- ✓ Over half (56%) of initially detained defendants (n=4,018) were subsequently released, and almost all of them (97.2%) were released to conditional pretrial supervision. This is the highest recorded rate of subsequent release since OSD began review of these data.
- ✓ For defendants subsequently released after initial detention, 86.4% were released within 14 days, and 72.7% were released within seven days.
- ✓ Subsequent release rates were highest for defendants initially detained because they were on probation/parole supervision (23-1322 (a)(1)(C)) at the time of the new arrest (75.9%). Release rates were lowest for defendants initially held after being arrested for Murder I, Murder II or AWIK (23-1325) (8.0%) and financial bonds (28.7%).

- ✓ 86.6% of subsequently-released defendants (n=2,251) were placed into a supervision program, 10.7% into a treatment program unit and 2.8% on personal recognizance.
- ✓ 6.1% of the cases in which defendants were not released before disposition (n=1,767) were disposed of (e.g., dismissed, sentenced) within seven days of the initial detention.

U.S. District Court findings for FY 2012 include:

- ✓ 86% of all detentions resulted from three statutory provisions that allow for defendants to be held while awaiting trial. More than half (57.2%) were due to defendants being charged with crimes that carry a maximum sentence of 10 years or more if convicted (18 USC § 3142 (f)(1)(C)). More than 17% were due to defendants being charged with crimes of violence (18 USC § 3142 (f)(1)(A)), and 11.9% were due to defendants being declared serious risks of flight (18 USC § 3142(f)(2)(A)).
- ✓ Less than one-fifth (19.4%) of initially detained defendants were subsequently released, and, of those, most (92.3%) were released to conditional supervision.
- ✓ For defendants subsequently released after initial detention, 56.4% were released within 14 days, and 41.0% were released within seven days.
- ✓ Subsequent release rates were highest for defendants initially detained because they were charged with crimes that carry a minimum sentence of 10 years (18-3142 (f)(1)(C)) (26.1%), followed by defendants initially deemed to be at serious risk of flight before trial (18-3142(f)(2)(A)) (16.7%).
- ✓ 92.3% of subsequently-released defendants (n=39) were placed into a supervision program and 7.7% were released on personal recognizance.
- ✓ 6.8% of all cases in which defendants were not released before disposition (n=162) were disposed of (e.g., extradited, dismissed) within seven days of the initial detention.

Introduction

OSD reviewed the pattern of releases for defendants held after initial appearance in DCSC using data from FY 2007 through FY 2012. The data set included 26,109 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 reviewed 201 cases detained by statute during FY 2012. This is only the second year USDC data were captured, but data for both years (520 cases total) are included in this report.

For both Superior Court and District Court, this review included:

- ✓ Identifying the most common statutory holds following initial court appearance;
- ✓ Determining the number of defendants who were initially detained and subsequently released;
- ✓ Reviewing the percentage of initially detained defendants that were released within seven and 14 days of their initial detention;
- ✓ Examining subsequent release types as well as releases to PSA release programs; and
- ✓ Identifying the number of cases in which the defendant was not released before disposition, but the case was subsequently disposed of within seven days of initial detention.

This report outlines these findings for FY 2012, and compares DCSC cases to data from FY 2007 through 2011¹ and compares USDC cases to data from FY 2011.

It should be noted that in both DCSC and USDC, the court can order a defendant held under more than one statutory hold. However, PRISM and the courts' 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.

¹ The DCSC FY 2007 review included only a portion of defendants who were initially detained, whereas the review for FY 2008-12 included all defendants in DCSC initially detained under a statutory hold or financial bond.

Preventive Detention Overview

Washington, DC, is a unique jurisdiction in that financial bond is rarely used to detain individuals pending disposition. Since 2007 when the data was first examined, there have been 3,255 total defendants held on a financial bond, an average of 543 per year. It is important to note in many instances a nominal bond is ordered in one case if an individual is already being detained in another matter. The city operates under relevant provisions of the District of Columbia (DC) Code and United States (US) Code, which contain presumptions of pretrial release on personal recognizance (PR), but also contain rebuttable presumptions of pretrial detention for certain defendants, including those charged with crimes of violence, those with a pending criminal charge, and those currently under probation or parole supervision. This type of detention is often referred to as “preventive detention.”

On average in the District of Columbia, 80% of persons arrested and charged with a crime are released to the community, either on personal recognizance or with supervised release conditions. Another 15% are preventively detained. Only 5% are released or held on financial bond.

PSA observes provisions of the D.C. Code for Superior Court cases and the U.S. Code for District Court cases to interview and conduct risk assessments on persons detained or charged with offenses that are scheduled to appear before a judicial officer. From this interview, PSA prepares a report to the court that identifies each defendant’s eligibility for preventive detention and identifies any conditions 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 that are detained after this first appearance are referred to as “initially detained” for purposes of this report.

For cases heard in Superior Court, the D.C. Code requires judges to review release conditions set for defendants that remain incarcerated 24 hours after initial appearance if the detention is due to an inability to meet the conditions of release.² For persons held under the statute’s preventive detention provisions, the Code requires a hearing within five business days of initial appearance to determine whether there are conditions of release that will reasonably assure the defendant’s future court appearance and the public’s safety.³

² D.C. Code § 23-1321 (c)(4)

³ D.C. Code § 23-1322 (b)(1)

Similarly, for cases heard in 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 court.⁴ 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, approximately 1,650 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 \$155.20 per day. Based on these figures, the cost to detain these defendants held as few as one or as many as seven days was \$1,208,697.60 for defendants whose cases originated in Superior Court and \$8,223.60 for cases originating in District Court, for a total cost of \$1,216,921.20.

D.C. Superior Court Case Review

In FY 2012, there were 4,018 cases in which defendants were detained at initial court appearance. Of these initially-detained defendants, 2,251 (56.0%) were subsequently released on personal recognizance or conditional supervision. This represents the highest percentage of cases resulting in subsequent release since PSA first conducted this analysis in FY 2007, and continues a trend of annual increases in the percentage of subsequent releases. When the data were initially reviewed following FY 2007, the release rate was 45.7% (n=1,839). In FY 2008, that rate rose to 49.3% (n=5,420), 49.6% in FY 2009 (n=5,114), 51.9% in FY 2010 (n=4,829) and 55.5% in FY 2012 (n=4,889). Subsequent releases tended to occur within 14 days after initial detention. In addition to a larger percentage of defendants being subsequently released, the overall trend shows fewer defendants are being initially detained.

Statutory Basis for Detention

DCSC judicial officers detained defendants using three statutory holds – charged with a dangerous or violent offense (23-1322 (b)(1)(A)), currently on probation or parole (23-1322(a)(1)(C)), and pending criminal charge (23-1322(a)(1)(A)) – in at least 3,591 of 4,018 detentions records (89.4%) in FY 2012. This represents a slight increase from FY 2011 (85.0%) with an overall increase from FY 2007-11 when these holds were used in 79.6% of all detention cases (n= 22,091). The statutory hold for murder charges was used in 3.1% of

⁴ 18 USC § 3142 (f)

cases in FY 2012, which is similar to the 3.0% observed rate during FY 2007-11. Bonds were ordered in 5.6% of FY 2012 cases, a decrease from 9.7% in FY 2011 and significantly down from 13.7% for FY 2007-11.

Table 1 provides a breakdown of the number and percentage of defendants held under each statutory provision as well as the cumulative totals for FY 2007-12.

Subsequent Releases

In FY 2012, almost all defendants released after initial detention (2,189 of 2,251 or 97.2%) were placed on supervision with release conditions. Sixty-two (2.8%) 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 (23-1322 (a)(1)(C)) (75.9%). Defendants held on charges of murder or AWIK (23-1325) were the least likely to be released (8.0%). The data indicate only 28.7% of defendants initially detained on bonds were released, however, PSA does not always receive information for individuals that post bond, which may have an impact on the figure reported (See Table 2).

Table 3 shows the data from Table 2 in addition to the subsequent release information from FY 2007-11, as well as cumulative data for FY 2007-12. The data for all six years reveal that almost all defendants that were subsequently released (13,195 out of 13,521 or 97.6%) were released on conditional supervision and 326 defendants (2.4%) were released on personal recognizance without conditions. When looking at the cumulative data, the numbers are similar to the FY 2012 data in that defendants initially held due to current probation/parole status (23-1322 (a)(1)(C)) were most likely to be released. In FY 2012, a slightly lower percentage of defendants (8.0%) held for a murder or AWIK charge (23-1325) was released compared to FY 2007-11, when 8.6% of those defendants were subsequently released. It should be noted that defendants held on a charge of a dangerous or violent offense (23-1322(b)(1)(A)), the most common hold type, were released only in 45.2% of all cases during the six-year period that was reviewed, although the FY 2012 release rate for that hold was slightly higher, at 48.4%.

Table 1
Statutory Basis for Detention (DCSC)
FY 2007-2012

Description	Statutory Provision (D.C. Code)	FY 2007-11		FY 2012		Total FY 2007-12	
		Number	Percent	Number	Percent	Number	Percent
Current dangerous/ violent offense	23-1322 (b)(1)(A)	8,183	37.0	1,914	47.6	10,097	38.7
Current probation/ parole status	23-1322 (a)(1)(C)	4,835	21.9	949	23.6	5,784	22.2
Pending criminal charge	23-1322 (a)(1)(A)	4,577	20.7	728	18.1	5,305	20.3
Bond Cases*	--	3,032	13.7	223	5.6	3,255	12.5
Murder charge	23-1325	663	3.0	125	3.1	788	3.0
Other Holds**	--	429	1.9	24	0.6	453	1.7
Pending sentencing or appeal	23-1322 (a)(1)(B)	372	1.7	55	1.4	427	1.6
TOTAL		22,091	100	4,018	100	26,109	100

* 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.

Table 2
Subsequent Release by Type of Detention (DCSC)
FY 2012

Description	Statutory Provision (D.C. Code)	Number	Number Released	Percent Released	Conditional Release	PR
Current dangerous/violent offense	23-1322 (b)(1)(A)	1,914	926	48.4	916	10
Current probation/parole status	23-1322 (a)(1)(C)	949	720	75.9	700	20
Pending criminal charge	23-1322 (a)(1)(A)	728	479	65.8	460	19
Murder charge	23-1325	125	10	8.0	10	0
Bond Cases	--	223	64	28.7	55	9
Other Holds	--	24	16	66.7	15	1
Pending sentencing or appeal	23-1322 (a)(1)(B)	55	36	65.5	33	3
TOTAL		4,018	2,251	56.0	2,189	62

Table 3
Subsequent Release by Type of Detention (DCSC)
FY 2007-2012

Description	Statutory Provision (D.C. Code)	FY 2007-2011					FY 2012					Total FY 2007-12				
		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	23-1322 (b)(1)(A)	8,183	3,633	44.4	3,577	56	1,914	926	48.4	916	10	10,097	4,559	45.2	4,493	66
Pending Criminal Charge	23-1322 (a)(1)(A)	4,577	2,928	64.0	2,830	98	728	479	65.8	460	19	5,305	3,407	64.2	3,290	117
Current Probation/Parole Status	23-1322 (a)(1)(C)	4,835	3,557	73.4	3,505	52	949	720	75.9	700	20	5,784	4,277	73.4	4,205	72
Murder Charge	23-1325	663	57	8.6	50	7	125	10	8.0	10	0	788	67	8.5	60	7
Bond Cases	--	3,032	672	22.2	647	25	223	64	28.7	55	9	3,255	736	22.6	702	34
Other Holds	--	429	195	45.5	174	21	24	16	66.7	15	1	453	211	46.6	189	22
Pending Sentencing or appeal	23-1322 (a)(1)(B)	372	228	61.3	223	5	55	36	65.5	33	3	427	264	61.8	256	8
TOTAL		22,091	11,270	51.0	11,006	264	4,018	2,251	56.0	2,189	62	26,109	13,521	51.8	13,195	326

Time to Subsequent Release

One point of interest for PSA is the timeframe from initial detention to subsequent release, when applicable. 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. Data from FY 2007 show that 72% of initially detained defendants were subsequently released within 14 days.

While these data were not available for FY 2008, in FY 2009, the percentage of initially detained defendants released within 14 days rose to over 86%, and then to over 90% in both FY 2010 and FY 2011. The percentage declined slightly to 86.6% for FY 2012, though still a 14% increase from FY 2007. In FY 2012, the median release time for all defendants initially detained and subsequently released was seven days.

Table 4 shows the number of defendants released within 14 days for each detention type for FY 2007- 2011 (FY 2008 excluded), FY 2012 and the cumulative totals.

Beginning in FY 2012, OSD examined more closely the time to release to better gauge the percentage of defendants released at their detention hearing, typically scheduled within seven calendar days of detention. Table 5 provides similar information to Table 4, with the exception being the number and percentage of defendants released within seven days of initial detention, rather than 14 days.

The data show that close to three quarters of all detained defendants were subsequently released within seven days. This is comparable to the percentage of defendants released within 14 days when this information was first analyzed in FY 2007. For future analysis of this population of defendants, OSD will use the seven-day time period as a measure when considering time to release for those defendants initially detained that are subsequently released.

Table 4
Subsequent Release within 14 Days of Initial Detention (DCSC)
FY 2007-2012

Description	Statutory Provision (D.C. Code)	FY 2007-2011 (excluding FY 2008)			FY 2012			Total FY 2007-2012 (excluding FY 2008)		
		Number Released	Within 14 Days	Percent	Number Released	Within 14 Days	Percent	Number Released	Within 14 Days	Percent
Current dangerous/violent offense	23-1322 (b)(1)(A)	2,951	2,427	82.2	926	767	82.8	3,877	3,194	82.4
Pending criminal charge	23-1322 (a)(1)(A)	2,075	1,885	90.8	479	427	89.1	2,554	2,312	90.5
Current probation/parole status	23-1322 (a)(1)(C)	2,816	2,669	94.8	720	669	92.9	3,536	3,338	94.4
Murder charge	23-1325	38	13	34.2	10	7	70.0	48	20	41.7
Bond Cases	--	443	278	62.8	64	38	59.4	507	316	62.3
Other Holds	--	119	99	83.2	16	9	56.3	135	108	80.0
Pending sentencing or appeal	23-1322 (a)(1)(B)	157	145	92.4	36	32	88.9	193	177	91.7
TOTAL		8,599	7,516	87.4	2,251	1,949	86.6	10,850	9,465	87.2

Table 5
Subsequent Release within Seven Days of Initial Detention (DCSC)
FY 2012

Description	Statutory Provision (D.C. Code)	FY 2012		
		Number Released	Within 7 Days	Percent
Current dangerous/violent offense	23-1322 (b)(1)(A)	926	707	76.3
Pending criminal charge	23-1322 (a)(1)(A)	479	339	70.7
Current probation/parole status	23-1322 (a)(1)(C)	720	526	73.1
Murder charge	23-1325	10	4	40.0
Bond Cases	--	64	28	44.8
Other Holds	--	16	9	56.3
Pending sentencing or appeal	23-1322 (a)(1)(B)	36	24	66.7
TOTAL		2,251	1,637	72.7

Subsequent Release by Release Type and PSA Release Program

Beginning with FY 2009, OSD examined the types of release and PSA release programs to which defendants were released following their initial detention. Table 6 shows that in FY 2012, 86.6% of defendants released after initial detention were assigned to a supervision program. Nearly 11 % (10.7%) of defendants were released into a treatment program. The remaining 2.8 % were released to PR without supervision.

When compared to FY 2009-11, the FY 2012 data show a slight decrease in the percentage of defendants released to a treatment program and an increase in the percentage of defendants subsequently released on PR without supervision. The increase in the number of defendants 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 releases to a specific PSA release program in FY 2012 shows that 60.0% of initially detained defendants released to a supervision program were assigned to PSA's General Supervision Unit (GSU) (1,170 out of 1,949); while most of the defendants released to a treatment program were placed in PSA's Specialized Supervision Unit (SSU) (216 out of 240 or 90.0%).

Table 7 shows a comparison of the PSA release program data for FY 2009-11 and FY 2012 as well as the cumulative release program assignments for the four-year period. GSU accounted for just over one half (52.0%) of the entire population of 2,251 defendants that were subsequently released after initial detention in FY 2012, followed by the High Intensity Supervision Program (HISP) (25.9%). The least often used PSA release program was Drug Court, which was ordered for only one defendant.

There are two PSA release programs that were commonly used, but have been discontinued. The East of the River Community Court (ERCC) was discontinued in December 2011 following the implementation of a city-wide community court and the New Directions program was discontinued in February 2013 to allow greater defendant participation in evidence-based treatment programs, including Drug Court.

Table 6
Subsequent Release by Release Type (DCSC)
FY 2009-2012

Release Type	FY 2009-11		FY 2012		Total	
	Number	Percent Defendants Released	Number	Percent Defendants Released	Number	Percent Defendants Released
Supervision	6,628	85.4	1,949	86.6	8,577	85.6
Treatment	993	12.8	240	10.7	1,233	12.3
PR w/o Supervision	143	1.8	62	2.8	205	2.0
TOTAL	7,764	100	2,251	100	10,015	100

Table 7
Subsequent Release by PSA Release Program (DCSC)
FY 2009-2012

PSA Release Program	Release Type	FY 2009-2011		FY 2012		Total FY 2009-2012	
		Number	Percent Defendants Released	Number	Percent Defendants Released	Number	Percent Defendants Released
General Supervision	Supervision	3,588	46.2	1170	52.0	4,758	47.5
HISP	Supervision	1,676	21.6	582	25.9	2,258	22.5
SSU	Treatment	837	10.8	216	9.6	1,053	10.5
Work Release	Supervision	853	11.0	163	7.2	1,016	10.1
ERCC*	Supervision	453	5.8	34	1.5	487	4.9
PR w/o Supervision	PR	143	1.8	262	2.8	205	2.0
New Directions*	Treatment	116	1.5	14	0.6	130	1.3
GSU w/ GPS*	Supervision	58	0.7	N/A	0.0	58	0.6
Drug Court	Treatment	30	0.4	1	<0.1	31	0.3
Sanction Based Treatment	Treatment	10	0.1	9	0.4	19	0.2
TOTAL		7,764	100	2,251	100	10,015	100

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

Detention Cases Disposed of within Seven Days

A new element added to this analysis is a review of defendants charged in cases filed in FY 2012 that were not released prior to their cases reaching disposition. OSD examined how many of these individuals (n=1,767) had their cases disposed of within seven days. This time period was selected to mirror those individuals that were released within seven days pursuant to a judicial decision.

The data show that 107 of the 1,767 defendants (6.0%) never released had their cases disposed of within seven days of their initial detention. When that range is extended to 14 days, the number of cases disposed of increases to 187 (10.6%).

Out of the 107 cases disposed of within seven days, only 45 (42.1%) resulted in a conviction. Nineteen of the 62 (30.1%) defendants whose cases resulted in a non-conviction were due to plea agreements in other matters. Table 8 provides a breakdown of the cases in which the defendant was not released that ultimately were disposed of within seven days.

Based on the 62 cases resulting in non-conviction within seven days, if these cases were included with the total number of defendants subsequently released, the subsequent release rate would increase slightly from 56.0% (2,251 out of 4,018) to 57.6%.

Table 8
Detention Cases Disposed of within Seven Days (DCSC)
FY 2012

Convictions			Non-Convictions		
Sentence Type	Number	Percent	Disposition	Number	Percent
Confinement	24	53.3	Dismissed	35	56.5
Probation	14	31.1	Plea Agreement Dismissal	19	30.6
Split Sentence	5	11.1	Nolle Prosequi	8	12.9
Pending Sentence	2	4.4			
TOTAL	45	100	TOTAL	62	100

U.S. District Court Case Review

In FY 2012, 201 District Court defendants were detained following their initial court appearance. Thirty nine of the initially-detained defendants (19.4%) were subsequently released on PR or conditional supervision. The median time from initial detention to release was 13 days. USDC data were first analyzed in FY 2011, so this report contains the first comparison available for USDC cases.

Statutory Basis for Detention

USDC judicial officers used three statutory provisions of Title 18 of the U.S. Code to initially detain 174 out of 201 defendants (86.6%) during FY 2012: defendants charged with a crime that carries a maximum sentence of 10 years or more if convicted (18-3142 (f)(1)(C)); defendants charged with a crime of violence (18-3142 (f)(1)(a)); and defendants determined to be significant flight risks (18-3142 (f)(2)(A)).

USDC has a wider range of detention holds available than DCSC, so there are fewer defendants held under each hold type. Table 9 provides a breakdown of the number and percentage of defendants held under each hold type during FY 2012, as well as a comparison to FY 2011. The data indicate there were four hold types used in FY 2011 that were not observed in the data for FY 2012. For the two-year cumulative total, defendants were held after being charged with a crime that carries a maximum sentence of 10 years or more if convicted (18-3142(f)(1)(C)) at a rate more than three times that of any other hold type.

Subsequent Releases

In FY 2012, most defendants subsequently released (36 of 39 or 92.3%) were released on conditional supervision. Three defendants (7.7%) were released on PR with no conditions. These percentages are almost identical to the observed rates from FY 2011. The defendants released most often based on PSA records are those initially held after being charged with a crime that carries a maximum sentence of 10 years or more if convicted (18-3142(f)(1)(C)) (26.1% release rate), which is slightly lower than FY 2011 (29.9%). 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. In FY 2012, there were several statutes under which all initially detained defendants were not released prior to disposition. The most common provision was the one that allows for detention of defendants who are not U.S. citizens or permanent residents (18-3142(d)(1)(B)), under which 10 defendants were held. (See Table 10).

Table 9
Statutory Basis for Detention (USDC)
FY 2011-2012

Description	Statutory Provision (U.S. Code)	FY 2011		FY 2012		Total (FY 2011-2012)	
		Number	Percent	Number	Percent	Number	Percent
Max sentence of 10 years or more	18-3142 (f)(1)(C)	167	52.4	115	57.2	282	54.2
Crime of violence	18-3142 (f)(1)(a)	46	14.4	35	17.4	81	15.6
Serious risk of flight	18-3142 (f)(2)(A)	30	9.4	24	11.9	54	10.4
Other Holds*	--	29	9.1	11	5.5	40	7.7
Firearm, destructive device, or any other dangerous weapon/ minor victim	18-3142 (f)(1)(E)	13	4.1	2	1.0	15	2.9
Citizenship status	18-3142 (d)(1)(B)	12	3.8	10	5.0	22	4.2
Probation and parole	18-3142 (d)(1)(A)(iii)	7	2.2	1	0.5	8	1.5
Bond Cases**	--	5	1.6	0	0.0	5	1.0
Pending felony case	18-3142 (d)(1)(A)(i)	3	0.9	0	0.0	3	0.6
Max sentence of life	18-3142 (f)(1)(B)	2	0.6	1	0.5	3	0.6
Convicted of 2+ felonies	18-3142 (f)(1)(D)	2	0.6	2	1.0	4	0.8
Obstruction of justice	18-3142 (f)(1)(B)	2	0.6	0	0.0	2	0.4
Pending imposition, execution or completion of sentence/appeal	18-3142 (d)(1)(A)(ii)	1	0.3	0	0.0	1	0.2
TOTAL		319	100	201	100	520	100

* 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.

Table 10
Subsequent Release by Type of Detention (USDC)
FY 2011-2012

Description	Statutory Provision (U.S. Code)	FY 2011						FY 2012						Total FY 2011-2012					
		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 of 10 years or more	18-3142 (f)(1)(C)	167	50	29.9	45	5	115	30	26.1	27	3	282	80	28.4	72	8			
Crime of violence	18-3142 (f)(1)(a)	46	3	6.5	3	0	35	4	11.4	4	0	81	7	8.6	7	0			
Serious risk to flee	18-3142 (f)(2)(A)	30	5	16.7	5	0	24	4	16.7	4	0	54	9	16.7	9	0			
Other Holds	--	29	3	10.3	3	0	11	1	9.1	1	0	40	4	10.0	4	0			
Firearm, destructive device, or any other dangerous weapon/ minor victim	18-3142 (f)(1)(E)	13	3	23.1	3	0	2	0	0.0	0	0	15	3	20.0	3	0			
Citizenship status	18-3142 (d)(1)(B)	12	0	0.0	0	0	10	0	0.0	0	0	22	0	0.0	0	0			
Probation and parole	18-3142 (d)(1)(A)(iii)	7	1	14.3	1	0	1	0	0.0	0	0	8	1	12.5	1	0			
Bond Cases	--	5	1	20.0	1	0	0	0	N/A	N/A	N/A	5	1	20.0	1	0			
Pending felony case	18-3142 (d)(1)(A)(i)	3	0	0.0	0	0	0	0	N/A	N/A	N/A	3	0	0.0	0	0			
Max sentence of life	18-3142 (f)(1)(B)	2	0	0.0	0	0	1	0	0.0	0	0	3	0	0.0	0	0			
Convicted of 2+ felonies	18-3142 (f)(1)(D)	2	0	0.0	0	0	2	0	0.0	0	0	4	0	0.0	0	0			
Obstruction of justice	18-3142 (f)(1)(B)	2	0	0.0	0	0	0	0	N/A	N/A	N/A	2	0	0.0	0	0			
Pending imposition, execution or completion of sentence/ appeal	18-3142 (d)(1)(A)(ii)	1	0	0.0	0	0	0	0	N/A	N/A	N/A	1	0	0.0	0	0			
TOTAL		319	66	20.7	61	5	201	39	19.4	36	3	520	105	20.2	97	8			

Time to Subsequent Release

As with Superior Court data, OSD determined the percentage of defendants that were released within 14 days of initial detention. Table 11 illustrates, in FY 2012, only 56.4% of released defendants (n=39) were released within 14 days. This is very similar to the 57.6% released within 14 days in FY 2011. The median time for defendants being released in District Court was 13 days in FY 2012, up from eight days in FY 2011. As mentioned before, the small sample size of District Court 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 regarding District Court cases.

Again, as with Superior Court, beginning in FY 2012, OSD more closely examined the time to release to better gauge the percentage of defendants released at their detention hearing, typically scheduled within seven days of detention. Table 12 provides similar information to Table 11 except for defendants released within seven days of initial detention for FY 2012.

The FY 2012 data show that less than one-half of all defendants subsequently released were released within seven days of their initial detention. For future analysis of this population of defendants, OSD will use the seven-day time period as a measure when considering time to release for those defendants initially detained that are subsequently released.

Subsequent Release by Release Type and PSA Release Program

In addition to determining the percentage of defendants that were released as shown in previous tables, OSD examined the type of release to which individuals were released following their initial detention. Table 13 shows that in FY 2012, most defendants (89.7%) released following their initial detention were assigned to a supervision program, which is comparable to FY 2011 (90.9%). OSD also observed comparable rates in the percentage of defendants released to PR without supervision and a treatment program in FY 2012 compared to FY 2011.

A closer look at releases to specific PSA release programs in FY 2012 shows that only three of PSA's supervision programs were used as release options – GSU, HISP and Work Release. As Table 14 shows, there was a larger gap in the distribution of the percentage of defendants released to GSU and HISP in FY 2012 compared to FY 2011. The one defendant released to a treatment program was placed in New Directions, as the other drug treatment programs are mainly reserved for individuals with cases pending in Superior Court.

Table 11
Subsequent Release within 14 Days of Initial Detention (USDC)
FY 2011-2012*

Description	Statutory Provision (U.S. Code)	FY 2011			FY 2012			Total FY 20011-2012		
		Number Released	Within 14 Days	Percent	Number Released	Within 14 Days	Percent	Number Released	Within 14 Days	Percent
Max sentence of 10 years or more	18-3142 (f)(1)(C)	50	30	60.0	30	18	60.0	80	48	60.0
Serious risk of flight	18-3142 (f)(2)(A)	5	3	60.0	4	1	25.0	9	4	44.4
Crime of violence	18-3142 (f)(1)(a)	3	2	66.7	4	2	50.0	7	4	57.1
Other Holds	--	3	0	0.0	1	1	100.0	4	1	25.0
Firearm, destructive device, or any other dangerous weapon/ minor victim	18-3142 (f)(1)(E)	3	2	66.7	N/A	N/A	N/A	3	2	66.7
Probation and parole	18-3142 (d)(1)(A)(i ii)	1	0	0.0	N/A	N/A	N/A	1	0	0.0
Bond Cases	--	1	1	100.0	N/A	N/A	N/A	1	1	100.0
TOTAL		66	38	57.6	39	22	56.4	105	60	57.1

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

Table 12
Subsequent Release within Seven Days of Initial Detention (USDC)
FY 2012

Description	Statutory Provision (U.S. Code)	FY 2012		
		Number Released	Within 7 Days	Percent
Max sentence of 10 years or more	18-3142 (f)(1)(C)	30	13	43.3
Serious risk of flight	18-3142 (f)(2)(A)	4	1	25.0
Crime of violence	18-3142 (f)(1)(a)	4	1	25.0
Other Holds	--	1	1	100.0
Firearm, destructive device, or any other dangerous weapon/ minor victim	18-3142 (f)(1)(E)	N/A	N/A	N/A
Probation and parole	18-3142 (d)(1)(A)(iii)	N/A	N/A	N/A
Bond Cases	--	N/A	N/A	N/A
TOTAL		39	16	41.0

Table 13
Subsequent Release by Release Type (USDC)
FY 2011-2012

Release Type	FY 2011		FY 2012		Total	
	Number	Percent Defendants Released	Number	Percent Defendants Released	Number	Percent Defendants Released
Supervision	60	90.9	35	89.7	95	90.5
Treatment	1	1.5	1	2.6	2	1.9
PR w/o Supervision	5	7.6	3	7.7	8	7.6
TOTAL	66	100	39	100	105	100

Table 14
Subsequent Release by PSA Release Program (USDC)
FY 2011-2012

		FY 2011		FY 2012		Total FY 2011-2012	
PSA Release Program	Release Type	Number	Percent Defendants Released	Number	Percent Defendants Released	Number	Percent Defendants Released
General Supervision	Supervision	32	48.5	21	53.8	53	50.5
HISP	Supervision	28	42.4	13	33.3	41	39.0
SSU	Treatment	1	1.5	0	0.0	1	0.9
Work Release	Supervision	0	0.0	1	2.6	1	0.9
PR w/o Supervision	PR	5	7.6	3	7.7	8	7.6
New Directions*	Treatment	0	0.0	1	2.6	1	0.9
TOTAL		66	100	39	100	105	100

** 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 Superior Court cases, OSD examined the number of defendants charged in cases filed in FY 2012 that were not released prior to their cases reaching disposition. OSD examined how many of these individuals in District Court (n=162) had their cases disposed of within seven days. This time period was selected to mirror those individuals that were released within seven days pursuant to a judicial decision. The data for FY 2012 show that 11 of the 162 defendants (6.8%) never released had their cases disposed of within seven days of their initial detention. For USDC, almost all of these individuals were detained pending removal to other jurisdictions on federal charges for which the defendant initially was arrested and detained in Washington, DC. Table 15 provides a breakdown of those detention cases disposed of within seven days.

If the data in Table 15 were included with the total number of defendants subsequently released, the District Court subsequent release rate would increase from 19.4% (39 out of 201) to 24.9%.

Table 15
Detention Cases Disposed of within Seven Days (USDC)
FY 2012

Disposition	Number	Percent
Extradition Waived	9	81.8
Dismissed	2	18.2
TOTAL	11	100

Conclusion

An overall review of the FY 2007-2012 data for Superior Court shows that initially detained defendants are being released with greater frequency each year, culminating with a 56.0% release rate in FY 2012. While defendants are being released sooner compared to the initial analysis from FY 2007, FY 2012 represents the first time a lower percentage of defendants was released within 14 days compared to the previous year. This is the first year OSD analyzed the percentage of defendants released within seven days, which is within the typical time period a detention hearing is held.

The percentage of defendants released to a supervision program has remained consistent with previous years. However, in FY 2012, the percentage of defendants subsequently

released to a treatment program declined, and there was an increase in the percentage of defendants released on personal recognizance without conditions.

FY 2012 represents the first time that OSD examined the cases in which a defendant was not released prior to case disposition where the case was disposed of within seven days of detention. OSD will continue to look at these data in future years as this may provide a more comprehensive profile of the true number of defendants released within seven days of initial detention, particularly for cases not resulting in conviction.

FY 2012 represents the first time OSD was able to compare the District Court data across multiple years. Based on the low volume of cases in District Court, it appears there will be a wide range in the percentage of cases resulting in detention for each hold type from year to year in addition to other elements measured, such as releases by various release types and releases to various PSA programs. OSD will continue to monitor this and all other comparisons from both courts in subsequent reporting years.



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