

**Statement of Clifford T. Keenan**  
**Director, Pretrial Services Agency for the District of Columbia**  
**on**  
**Bill 20-323, the “Post-Arrest Process Clarification Amendment Act of 2013”**

Public Hearing, Committee on the Judiciary and Public Safety  
Council of the District of Columbia  
John A. Wilson Building Room 500  
November 21, 2013

Thank you for the opportunity to provide the Committee on the Judiciary and Public Safety with this statement regarding Bill 20-323, the “Post-Arrest Process Clarification Amendment Act of 2013.” I also would like to thank the members of the Misdemeanor Arrest and Pretrial Release Subcommittee of the Council for Court Excellence (CCE) for their many months of work and perseverance culminating in its report, *Clarifying the Post-Arrest Process in the District of Columbia: Report, Recommendations, and Proposed Legislation*, May 2013, hereafter, the “CCE report,” the publication of which has led to the Council’s consideration of this legislation. I had the distinct pleasure of serving as the chair of that Subcommittee and enjoyed working with all of its members.

The recommendations and proposals in the CCE report are based on a consensus of the Subcommittee members, a point I would like to emphasize. The Subcommittee is comprised of representatives from the Metropolitan Police Department, the Public Defender Service for the District of Columbia, the Office of the Attorney General for the District of Columbia, the Office of the United States Attorney for the District of Columbia, the Superior Court of the District of Columbia, the District of Columbia Association of Criminal Defense Lawyers, the Pretrial Services Agency for the District of Columbia, and several CCE Board members who are in private practice and bring a wealth of D.C. criminal justice experience to the table. The fact that their divergent perspectives and interests could coalesce into a single legislative proposal clearly

indicates the significance this matter has for the D.C. criminal justice system. This proposal is one built upon consensus which I believe highlights the rationality and thoughtfulness that has gone into its development.

I am the Director of the Pretrial Services Agency for the District of Columbia (PSA) which is an independent entity within the federal, executive branch Court Services and Offender Supervision Agency for the District of Columbia. I have worked in the field of criminal justice in the District of Columbia for almost 40 years, having first served as a police officer with the Metropolitan Police Department and then as a prosecutor with the United States Attorney's Office. PSA's mission is to promote pretrial justice and enhance community safety. The bail law for the District of Columbia, codified at Title 23 of the D.C. Code beginning at Section 1321, is considered a model by most practitioners in the field of pretrial justice. The D.C. bail law recognizes the presumption of innocence afforded to every arrested person, and strikes the necessary balance between the arrestee's presumption of release, when appropriate, or continued detention, when necessary. Unlike most other jurisdictions, where bond schedules and the imposition of a commercial bail are used for persons awaiting trial, in the District money does not control who stays in jail or gets out. No pretrial defendant is detained in the District of Columbia without a judicial finding that the person poses a risk to the safety of the community or any person therein or poses a risk of not returning to court. However, this statutory protection only comes into play after the person has made an initial appearance before a judicial officer in court.

While the vast majority of persons who live in the District or work or visit here have no adverse contacts with law enforcement, there are still between 40,000 and 50,000 arrests made each year in the District of Columbia by members of the various police agencies. Being arrested,

even for a minor offense such as a traffic-related charge or for violating a municipal regulation, is a life-altering event for most persons. As the CCE report indicates, the process that takes place from the moment an officer identifies that an alleged violation has been committed by a particular person until that person makes an appearance before the judicial officer, has largely been “rooted in custom and practice.”

I believe the changes proposed by this legislation will improve the post-arrest processing for the thousands of persons who are arrested each year for minor criminal offenses in three ways. First, the bill provides more fairness and transparency to persons who have been arrested for these minor offenses. Next, it provides clarity to the criminal justice practitioners, such as police officers, prosecutors, and defense attorneys, who are responsible for handling these matters. Finally and most importantly, it enhances community safety while promoting pretrial justice for a wider array of persons who have been arrested for such minor offenses. Bill 20-323 therefore significantly advances the mission of the Pretrial Services Agency for the District of Columbia.

I will be the first to acknowledge that implementing some of these changes will not be easy. In fact, changing processes that have been in place for many years could prove to be a challenge, at least at the outset. However, given the significant benefit these changes bring to the fair administration of justice, especially pretrial justice, in the District of Columbia, I would submit that it is too important not to take these steps.

Again, thank you for the opportunity to provide this statement and I will be happy to answer any questions that you may have for me at this time.