



PRETRIAL JUSTICE IN THE NATION'S CAPITAL

FY 2017 - 2021 TRENDS

PRETRIAL SERVICES AGENCY FOR THE DISTRICT OF COLUMBIA
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INTRODUCTION

The Pretrial Services Agency for the District of Columbia (PSA) is an independent federal executive branch agency.

We have served the Nation's Capital for more than 50 years with the mission of promoting pretrial justice and enhancing community safety. During this time, we have developed a reputation as a leader in the pretrial field for our long history of effectively using a system of non-financial release to ensure the fair administration of pretrial justice.

This report provides five-year trend data in the following areas: key points in our business process, success indicators, workforce demographics, and defendant population profiles.

HOW WE OPERATE: JUSTICE SYSTEM ROLE AND FUNCTION

For over half a century, through our strong sense of mission and effective collaboration with justice partners, we have ensured that unnecessary pretrial detention is minimized, jail crowding is reduced, public safety is enhanced, and the pretrial release process is administered fairly.

PSA's HISTORY AND LAWS

PSA's foundation was established in 1966 with passage of the Federal Bail Reform Act. This law covered all federal courts and the District of Columbia and aimed to ensure fairness in the pretrial and bail processes. Key components of the law are a presumption in favor of pretrial release on personal recognizance (PR) for most defendants, a preference for the use of condition-based release to reduce the risk of failure to appear in court, restrictions on the use of money bonds, and a review of all bonds for defendants detained for 24 hours or more.

To implement the 1966 law, in 1967 Congress created the DC Bail Agency. Later that year, the Bail Agency began serving DC's federal court by providing judges with recommended non-financial release conditions to reduce the risk of defendants failing to appear in court.

In 1970, after existing under federal court jurisdiction exclusively, the Superior Court of the District of Columbia (DC Superior Court) was established, and the Bail Agency began serving both courts. Later that year, DC reevaluated its bail system and determined that, while the system adequately accounted for the risk of failure to appear, improvements were needed to reasonably assure public safety during the pretrial period. In response, Congress passed the DC Court Reform and Criminal Procedure Act, making DC the first jurisdiction in the nation to make community safety an equal consideration to future court appearance in bail bond setting. With this change, the Bail Agency began making non-financial release condition recommendations to reduce the risks of failure to appear and rearrest.

In 1978, DC passed a law renaming the Bail Agency the "DC Pretrial Services Agency."

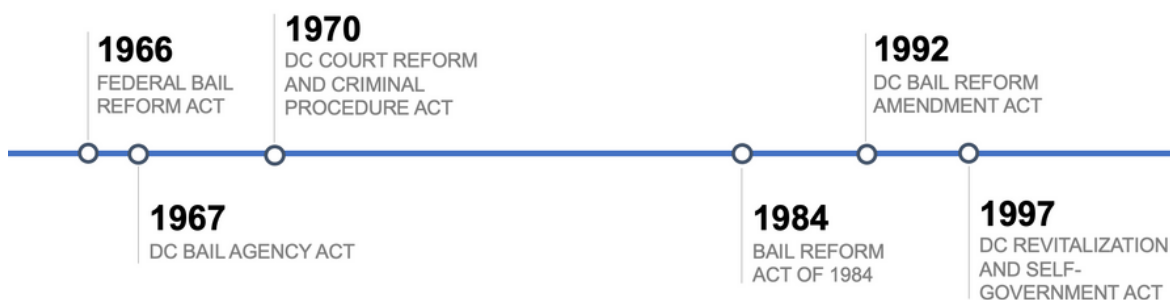
Several years later, the federal system followed DC's lead and passed the Bail Reform Act of 1984, which allows public safety to be considered when setting bail in DC's federal court as well. With the passage of this law, the Bail Agency began making non-financial release condition recommendations to reduce the risks of failure to appear and rearrest in federal court cases.

In 1992, in response to rising crime trends, the DC Council passed the 1992 Bail Reform Amendment Act. This Act introduced options for preventive pretrial detention and placed a landmark prohibition on the use of cash bail to control for public safety.

In 1997, the DC Pretrial Services Agency was converted from an entity within the DC Government to an independent, federal executive branch agency through the National Capital Revitalization and Self-Government Improvement Act ("DC Revitalization Act"). In 2011, the agency's name was changed to the current "Pretrial Services Agency for the District of Columbia" and is often referred to simply as "PSA."

Today, PSA supports the DC Superior Court and US District Court for the District of Columbia (US District Court) by interviewing and assessing arrested persons and making release recommendations used during their initial appearances in court. When individuals awaiting trial are released to the community, we provide a range of supervision options designed to reasonably assure they return to court and remain arrest-free. We'll discuss this in greater detail in the following sections.

LEGISLATIVE HISTORY



DC's MODEL SYSTEM

DC operates a bail system that promotes clear and reasoned decisions about release or detention. As described earlier, the system is governed by various laws that emphasize the use of least restrictive release conditions for eligible defendants, provide an option of preventive detention for individuals who pose the greatest risk to the community, and limit the use of money-based detention.

DC's laws require us to use the least restrictive¹ conditions to reasonably assure a defendant's appearance in court and the safety of the community. This means we must recommend the conditions that are minimally necessary to achieve these outcomes and strive not to recommend overly restrictive conditions.

While pretrial detention is rare in DC, defendants who meet statutory criteria can be detained for a portion or the entirety of their pretrial period, based on judicial findings. Under our current laws, a defendant is eligible for pretrial detention when, at the time of the offense, they currently are on pretrial release;² awaiting sentencing or appeal of a sentence in another matter;³ on probation, parole or supervised release in another matter;⁴ and/or determined to be a flight risk or danger to another person or the community.⁵ In addition, a defendant is eligible for detention when charged with a dangerous or violent crime,⁶ charged under DC's white collar theft law,⁷ and/or determined to be at serious risk of obstructing justice and/or tampering with witnesses or jurors.⁸

¹ DC Code §23-1321 (c)(1)(B)

² DC Code §23-1322 (a)(1)(A)

³ DC Code §23-1322 (a)(1)(B)

⁴ DC Code §23-1322 (a)(1)(C)

⁵ DC Code §23-1322 (a)(2) and §23-1322 (b)(1)(D)

⁶ DC Code §23-1322 (b)(1)(A)

⁷ DC Code §23-1322 (b)(1)(B)

⁸ DC Code §23-1322 (b)(1)(C)

The use of money bond is not prohibited under DC law; however, our law prevents the use of financial bond to assure community safety.⁹ Financial bond may be imposed for defendants posing an extreme risk of flight; however, the amount cannot exceed a person's reasonable ability to post the money bond.

⁹ DC Code 23-1321 (c)(3)

RELEVANT LAWS

<u>DC Code §23-1321 (c)(1)(B)</u>	Use of the "least restrictive" conditions to reasonably assure a defendant's appearance in court and the safety of the community.
<u>DC Code §23-1322 (a)(1)(A)</u>	Eligibility for pretrial detention when, at the time of the offense, the defendant is currently on pretrial release.
<u>DC Code §23-1322 (a)(1)(B)</u>	Eligibility for pretrial detention when, at the time of the offense, the defendant is awaiting sentencing or appeal of a sentence in another matter.
<u>DC Code §23-1322 (a)(1)(C)</u>	Eligibility for pretrial detention when, at the time of the offense, the defendant is on probation, parole or supervised release in another matter.
<u>DC Code §23-1322 (a)(2) and §23-1322 (b)(1)(D)</u>	Eligibility for pretrial detention when, at the time of the offense, the defendant is determined to be a flight risk or danger to another person or the community.
<u>DC Code §23-1322 (b)(1)(A)</u>	Eligibility for pretrial detention when the defendant is charged with a dangerous or violent crime.
<u>DC Code §23-1322 (b)(1)(B)</u>	Eligibility for pretrial detention when the defendant is charged under DC's white-collar theft law.
<u>DC Code §23-1322 (b)(1)(C)</u>	Eligibility for pretrial detention when the defendant is determined to be at serious risk of obstructing justice and/or tampering with witnesses or jurors.
<u>DC Code 23-1321 (c)(3)</u>	Prevention of use of money bond.

HOW WE OPERATE: PRE-RELEASE SERVICES

PSA supports pre-release decision making for defendants with cases pending in DC's local and federal courts.

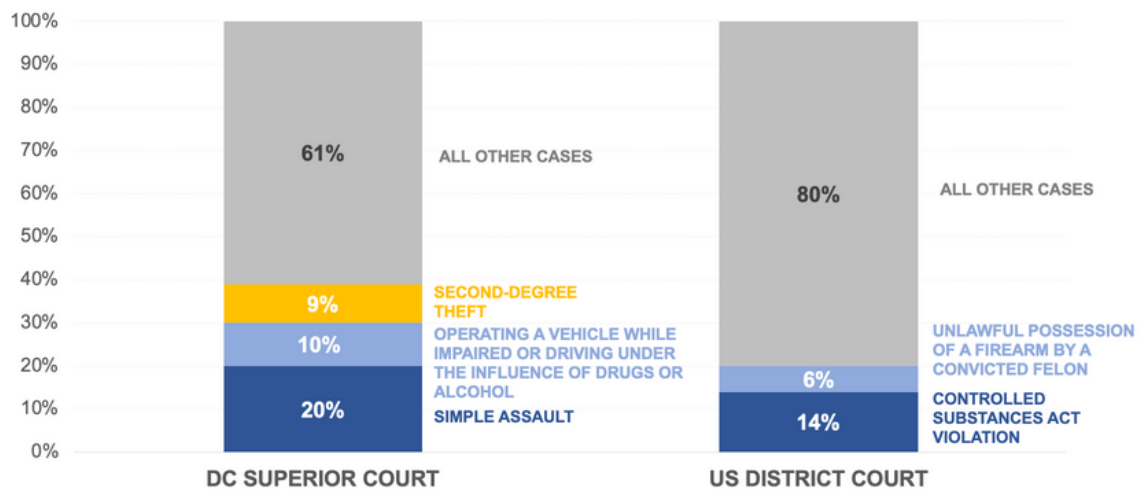
INFORMATION GATHERING

Once a person is arrested, a prosecutor decides what charges will be filed and in which court they will be prosecuted. Approximately 97% of PSA's supervised defendants have cases in DC Superior Court and 3% in US District Court. The top charges for DC Superior Court are simple assault (20%), operating a vehicle while impaired or driving under the influence of drugs or alcohol (10%) and second-degree theft (9%). For US District Court, the top charges are violations of the Controlled Substances Act (14%) and unlawful possession of a firearm by a convicted felon (6%).

Once a person is arrested, our work begins.

TOP CHARGES BY COURT

FY 2017-2021 AVERAGE



During the pre-release stage, PSA serves as a neutral factfinder. We gather information about newly arrested individuals to help us develop and make recommendations to the court about what, if any, release conditions can be imposed to reasonably assure each defendant will appear in court when required and remain arrest-free while awaiting trial. This includes criminal history from local and national databases, social and demographic information obtained through an interview with the arrestee, and drug testing results obtained prior to their appearance in court. This information informs our overall risk assessment of each person and helps us formulate recommended release conditions. All of this is incorporated into a pretrial services report, or "PSR," which is given to the judge, prosecutor and defense attorney.

SUPPORTING JUDICIAL DECISION-MAKING

FY 2017-2021 AVERAGE



9,334

CRIMINAL
HISTORY
REVIEWS
COMPLETED



7,728

DIAGNOSTIC
INTERVIEWS
COMPLETED



12,167

LOCK-UP
SPECIMENS
COLLECTED
AND TESTED



7,375

PRETRIAL
SERVICES
REPORTS
COMPLETED

RISK ASSESSMENT

As explained earlier, we conduct a risk assessment to determine the release conditions we recommend to judges. We use a scientifically validated risk assessment tool, which was designed exclusively for DC using data for defendants released pretrial in DC.

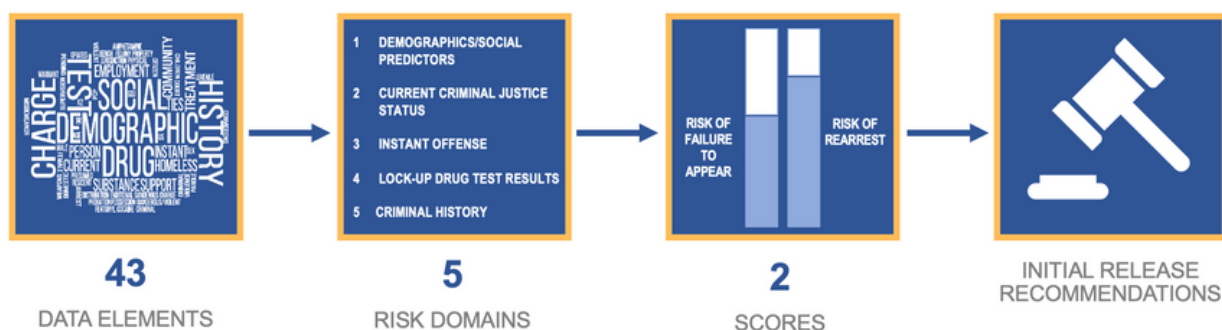
The tool predicts each arrested person's risk of failure to appear and rearrest by evaluating 43 factors from five domains: criminal history, current charge, criminal justice system status, drug test results and social/demographic attributes. It produces numeric scores that correlate to each person's likelihood of court appearance and likelihood of remaining arrest-free during the pretrial release period. PSA translates these numeric scores to risk levels, which are used to develop appropriate recommended release conditions.

We use risk assessment as a tool that supports – but does not replace – effective decision making by judges and pretrial services officers.

Consistent with nationally recognized best practices, we perform periodic independent revalidations of our tool, the most recent of which was completed in 2018. Another revalidation study is planned for 2023.

As part of the recent validation, we requested a specific analysis of the extent to which racial bias exists in the tool. The independent evaluator found that, while risk scores and misconduct rates vary by race, the relationship between risk scores and observed misconduct remains stable across race. Essentially, this means that in the limited instances in which there is over- or under-assessment of risk, it happens consistently across racial groups. Where bias is detected, it is minimal and distributed evenly among all groups.

OUR RISK ASSESSMENT TOOL



DRUG TESTING AND FORENSIC TOXICOLOGY

As a part of the pre-release and risk assessment process, we conduct a drug test on each arrestee prior to their initial appearance in court. All specimens obtained at this point are analyzed on-site in our laboratory located inside DC Superior Court using state of the art instruments and procedures, making results available within two hours.

We perform drug testing on urine and oral fluid specimens and can screen for up to 11 drugs of abuse, including fentanyl. We use the industry-leading standard – gas chromatography-mass spectrometry (GC-MS) – to confirm test results. Toxicologists conduct levels analyses to determine if drugs detected are from new or residual use to provide timely and accurate results for pretrial decision-making.

In addition to our pre-release testing, we perform testing for defendants who are released to the community while awaiting trial; offenders on probation, parole, and supervised release with the Court Services and Offender Supervision Agency; and respondents ordered into testing by the DC Superior Court Family Division.

DRUG TESTING

FY 2017-2021 AVERAGE



18,229

DEFENDANTS,
PROBATIONERS,
PAROLEES AND
RESPONDENTS
TESTED



168,714

SPECIMENS
TESTED



1,503,334

DRUG
ANALYSES
CONDUCTED



429

EXPERT WITNESS
TESTIMONIES
AND AFFIDAVITS
DELIVERED

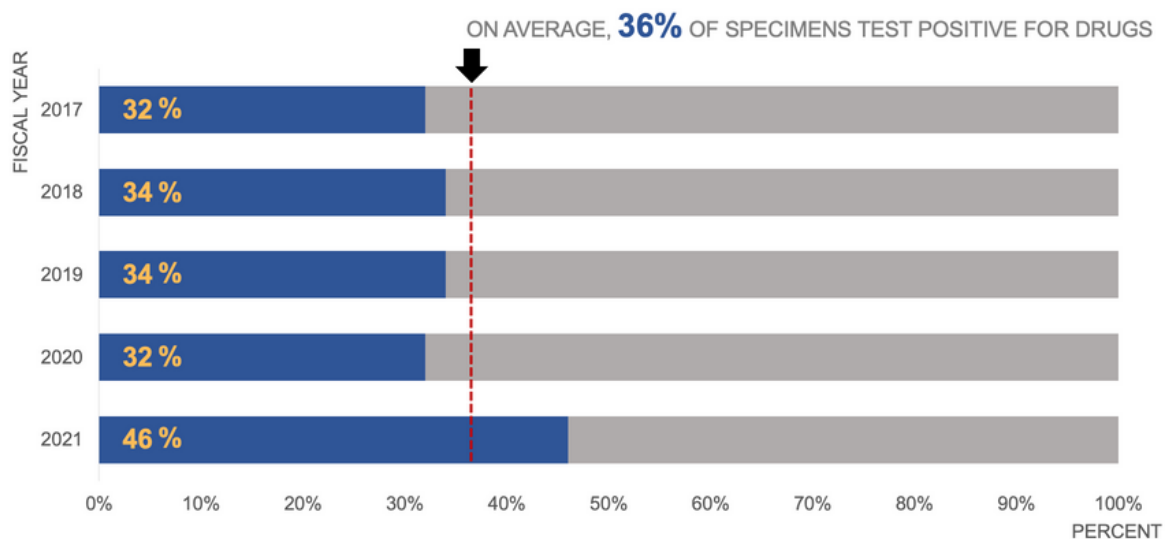
For pre- and post-release testing of arrestees and defendants and the other populations we serve, we analyze tens of thousands of specimens each month, which translates to millions of analyses each year for various drugs.

Much of this testing occurs at our 10,500 square-foot laboratory located in nearby Northeast DC. Both of our labs are accredited by the US Department of Health and Human Services Clinical Laboratory Improvements Act (CLIA) program.

When requested, our toxicologists and chemists provide affidavits or expert testimony in court to interpret or clarify analytical results. When a drug test result is challenged in court, we perform confirmation analyses using GC-MS, wherein complex mixtures of drugs are separated, uniquely identified and quantified, and the results are used to inform the court.

We publish monthly reports of drug testing trends for adults and juveniles, which are available to the public.

SPECIMENS TESTING POSITIVE



COURT SUPPORT

During an arrestee's first court appearance, we provide our Pretrial Services Report, which contains a summary of the individual's criminal history, social/demographic information, drug testing results, detention eligibility, and our recommended release conditions, as appropriate.

A judge uses PSA's recommendations, along with representations from the prosecutor and defense attorney, to make the release decision.

Our goal is to provide the judge with recommendations that appropriately reflect our mission of promoting pretrial justice and enhancing community safety. When doing so, we make recommendations for release conditions that take into consideration a person's assessed risk levels. In accordance with the law, we recommend the least restrictive release conditions necessary to reasonably assure appearance in court and public safety.

The key outcome we use to measure our performance in supporting the court is the judicial concurrence rate. This is the percentage of cases in which initial release orders from the court match PSA's recommendations. Since the inception of this measure, we consistently have met or exceeded our target.

JUDICIAL CONCURRENCE RATE

FY 2017-2021 AVERAGE



JUDICIAL CONCURRENCE

TARGET = 70%

AVERAGE RESULT =

80%

PRETRIAL RELEASE RATE

Each year, an average of 18,480 criminal cases are filed in DC Superior Court.

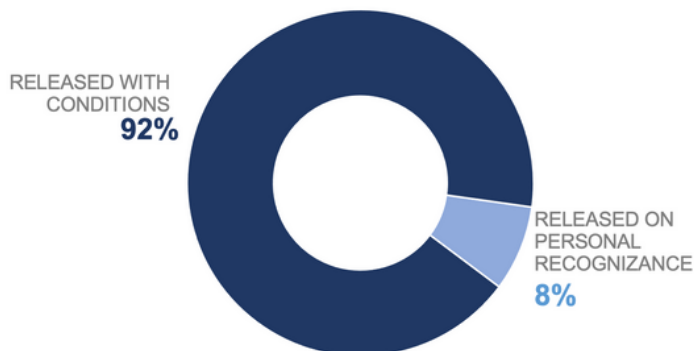
During each arrestee's first appearance in court, the judge can decide to release them on their personal recognizance; release them to PSA supervision; or detain them pursuant to one or more of DC's statutory preventive detention provisions.

On average, about 83% of cases result in defendants being released to the community immediately following their first appearance, either on PR or PSA supervision. We refer to this as an "initial" release.

Of the individuals released into the community, the majority are released to PSA supervision, while a smaller number are released on PR.

PRETRIAL RELEASE STATUS

FY 2017-2021 AVERAGE



For the remaining 17% of cases that result in initial detention, DC law requires a hearing within five days to determine whether there are conditions of release that can reasonably assure the defendant's future court appearance and public safety.¹⁰

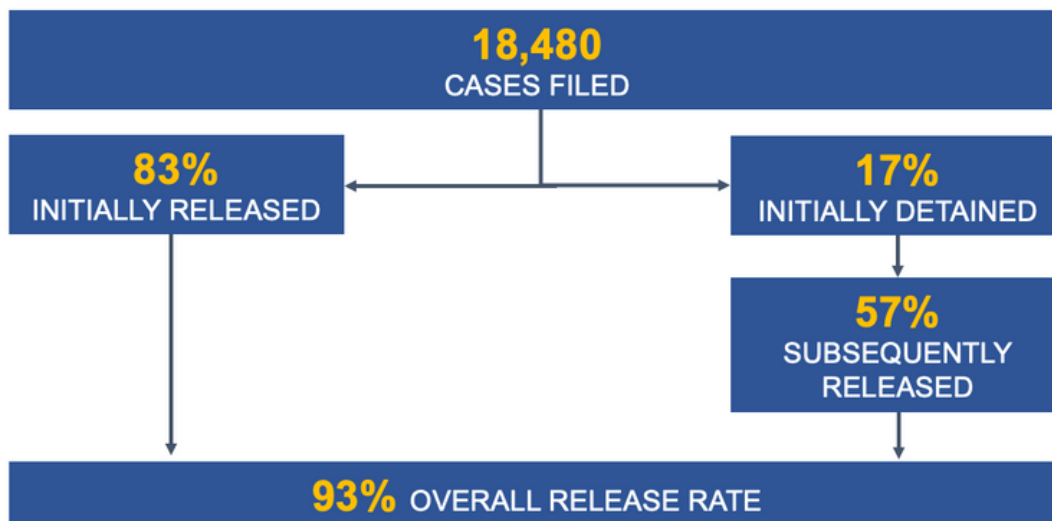
At the end of this second hearing, of the 17% initially detained, about 57% are subsequently released to the community, with the majority released to PSA supervision. We refer to this as a "subsequent release."

When the initial and subsequent release rates are examined collectively, 93% of cases result in defendants being released to the community pretrial. This leaves 7% of cases resulting in detention.

¹⁰ DC Code 23-1322

PRETRIAL RELEASE RATE

FY 2017-2021 AVERAGE



HOW WE OPERATE: POST-RELEASE SERVICES

We provide a range of risk-based supervision case management services designed to support defendant success and mitigate risk of failing to appear in court and rearrest.

COURT APPEARANCE

When defendants are released on PR or to PSA supervision, we provide court date reminders to help support their appearance in court.

When defendants fail to appear, we support the court and defendants by investigating the circumstances.

When a defendant notifies PSA or the court in advance of the court date, we investigate the veracity of the reason for not being able to make the appearance (e.g., hospitalization) and report this information to the court. In many cases, these investigations prevent issuance of bench warrants.

When a defendant fails to appear in court and has not notified PSA or the court in advance, the court may issue a bench warrant. In such instances, we investigate to determine whether there is a legitimate reason for the defendant failing to appear, provide this information to the court, and help the defendant resume contact with the court.

When defendants are released to PSA supervision, in addition to court date reminders, we provide court-ordered case management and other risk mitigation services to support their ability to remain arrest-free while awaiting trial.

DEFENDANT SUPERVISION

PSA uses a variety of strategies to maximize each defendant's likelihood of remaining arrest-free and appearing in court during the pretrial period. These strategies are based on the release conditions ordered by the court and each defendant's assessed risk level. Common release conditions include reporting to a pretrial services officer, drug testing, behavioral health treatment and electronic monitoring.

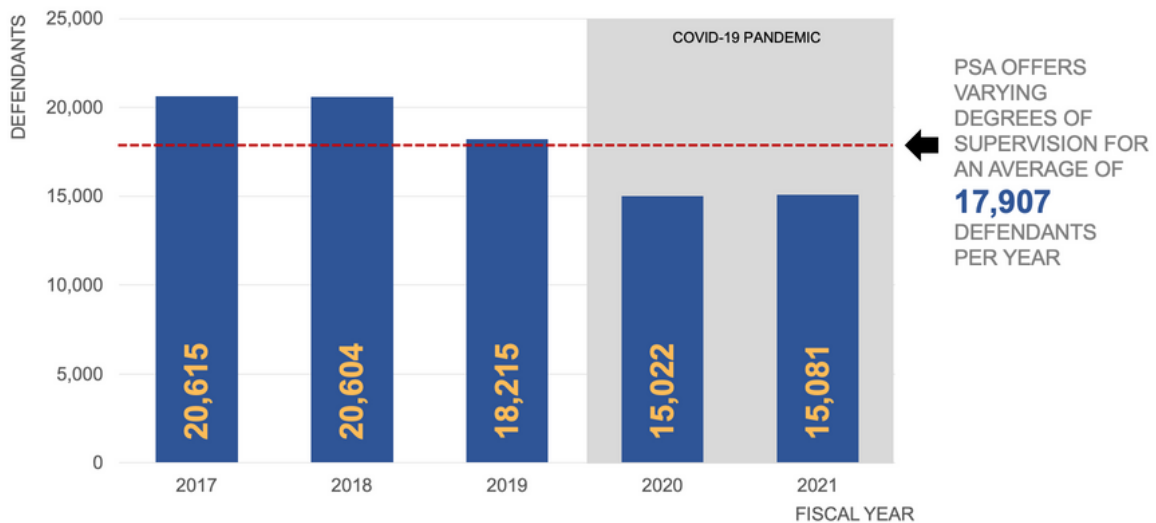
Throughout the duration of each case, we use a system of graduated incentives and sanctions to promote compliance with release conditions.

Non-compliance is addressed through interventions designed to modify behavior. These may include increased method and/or frequency of reporting, increased or modified schedule for drug testing, behavioral health assessment and treatment (as appropriate), and requests for judicial action. In addition to notifying the court, we inform the prosecutor and defense attorney of non-compliance.

Compliance with release conditions is recognized with incentives, which can include reduced supervision requirements.

Most defendants are assigned to a general supervision team, which supervises all standard release conditions. In some instances, defendants are assigned to specialty teams based on their specific release conditions, such as behavioral health treatment or electronic monitoring.

DEFENDANTS SUPERVISED ANNUALLY



BEHAVIORAL HEALTH SERVICES

To reduce the risk of failure to appear in court and rearrest during the pretrial period, we conduct behavioral health screenings and assessments and facilitate connection to treatment services, as appropriate.

Depending on a defendant's risk level, we provide behavioral health services directly, through contract, or by referral to community-based providers. Where appropriate, community-based providers may serve as a resource for social services, such as education, vocational training, medical services, temporary housing, clothing and food banks, among others.

For defendants with significant substance use disorders, we operate a treatment system that utilizes graduated sanctions and incentives designed to reduce drug use. Each defendant receives an individualized treatment plan tailored to address their treatment needs while promoting compliance with release conditions.

A key component of our substance use disorder programming is the Superior Court Drug Intervention Program, more commonly known as Drug Court. Drug Court is a treatment and supervision program for eligible defendants with non-violent misdemeanor and felony offenses, as well as drug- and alcohol-related traffic offenses. It offers the potential for participants to have their misdemeanor charges dismissed or felony charges treated more favorably at sentencing.

SUBSTANCE USE DISORDER SUPPORT

FY 2017-2021 AVERAGE



1,650

DEFENDANTS
REFERRED FOR
SUBSTANCE USE
DISORDER
SCREENING



1,532

SUBSTANCE USE
DISORDER
ASSESSMENTS
CONDUCTED



324

DEFENDANTS
PLACED INTO
SUBSTANCE USE
DISORDER
TREATMENT



244

DRUG COURT
PARTICIPANTS
SUPERVISED

In addition to serving defendants with substance use disorders, we supervise defendants with a range of mental health treatment needs. Individuals with severe and persistent mental illness are eligible to participate in the Mental Health Community Court, which, like Drug Court, offers deferred prosecution and amended sentencing agreements. We collaborate with DC Government agencies and community providers to provide needed mental health services and/or treatment.

For both programs, we screen and recommend eligible defendants for participation, provide active supervision, and report compliance to the court. Participants in both programs are supervised on specialized teams with clinically trained staff.

We also have specialized teams to supervise defendants needing substance use disorder or mental health-related treatment who are charged with impaired driving-related misdemeanor offenses.

Generally, about half of all defendants assessed as needing treatment are placed into treatment during the pretrial period. When defendants are not placed, in most cases, this is because the case is dismissed, treatment is not ordered by the court, or the defendant refuses treatment.

MENTAL HEALTH SUPPORT

FY 2017-2021 AVERAGE



2,560

DEFENDANTS
REFERRED FOR
MENTAL HEALTH
SCREENING



2,388

MENTAL HEALTH
SCREENINGS
CONDUCTED



401

DEFENDANTS
CONNECTED TO
MENTAL HEALTH
SERVICES



91

MENTAL HEALTH
COMMUNITY
COURT
PARTICIPANTS
SUPERVISED

ELECTRONIC MONITORING

Defendants assessed to be at highest risk of rearrest may be placed on electronic monitoring (EM). Individuals on EM are supervised by specialized teams and receive case management services designed to promote their compliance with all general release conditions, as well as those specific to the EM equipment.

EM is designed to monitor compliance with release conditions requiring a defendant to stay away from a specific geographic location and/or comply with a court-ordered curfew. EM can range from home confinement, where defendants are able to leave home only for approved appointments, to the community supervision component, where defendants' movements are less restricted, but still monitored to ensure adherence to court-ordered release conditions.

On average, 8% of all defendants are ordered to be placed on electronic monitoring.

DEFENDANTS ON ELECTRONIC MONITORING

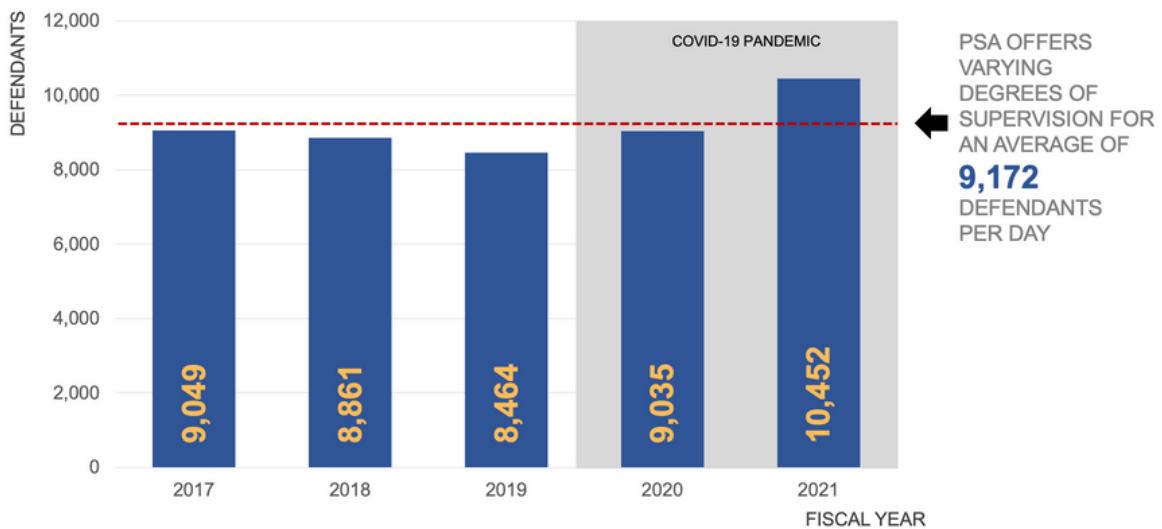
FY 2017-2021 AVERAGE



SUPERVISION TRENDS AND DEFENDANT DATA

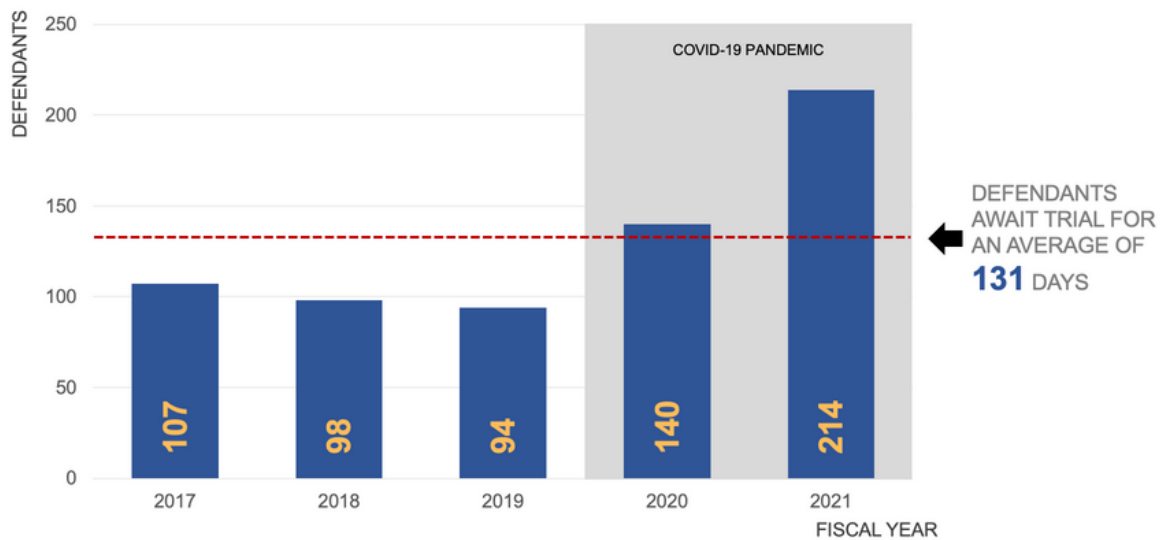
During the reporting period, we supervised an average of 9,172 defendants each day. During the global COVID-19 pandemic, our average daily population increased sharply, to as high as nearly 10,500 defendants under supervision daily.

DEFENDANTS SUPERVISED DAILY



The pandemic caused a similar increase in the average length of time defendants remained under supervision. Prior to the pandemic, the average was about 100 days. At the height of the pandemic, this figure rose to as high as 214 days.

DAYS AWAITING TRIAL



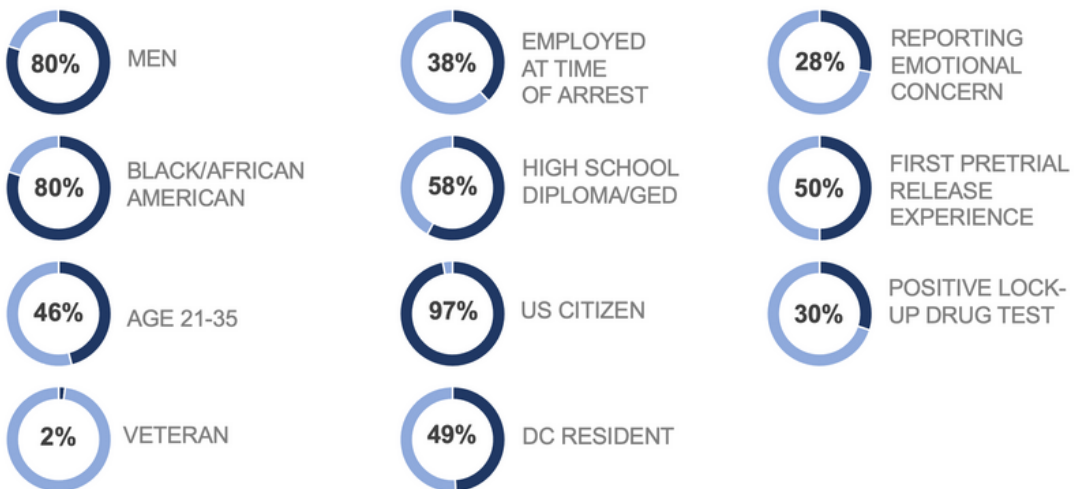
Just under half of defendants released to the community are African American men between ages 21 and 35. Most are US Citizens living in DC. About 2% self-identify as veterans.

Thirty-eight percent of defendants are employed when arrested and 58% report high school or a GED as the highest level of education.

Thirty percent test positive for drug use at lockup and 28% report emotional or mental health concerns.

DEFENDANT DEMOGRAPHICS

FY 2017-2021 AVERAGE



Half of supervised defendants have never been released pretrial previously.

Most supervised defendants (72%) have pending misdemeanor cases, 22% have pending felony cases, and 6% have both felony and misdemeanor cases pending.

PENDING CASES

FY 2017-2021 AVERAGE



SUCCESS INDICATORS

PSA looks at three defendant-related outcomes to measure the success of our efforts. These are the rates for remaining arrest-free, appearance in court, and continued pretrial release. We set a target goal for each.

Tracking new arrests during the pretrial period is a critical national standard for pretrial service programs and measured as an outcome in at least 36 states and the federal judicial system.

We define the arrest-free rate as the percentage of released defendants who remain free of new, papered, US or serious traffic charges in DC, while the original case is pending.

The arrest-free rate for defendants has remained steady over the trend reporting period at 88% and less than 2% are alleged to have committed a violent crime.

The appearance rate represents the percentage of defendants who make all scheduled court appearances during the pretrial period.

The continued pretrial release rate examines the percentage of defendants who remain on release at the conclusion of their pretrial period without revocation or a pending request for removal due to non-compliance.

The appearance rate has remained steady at 89% over the trend reporting period, as has the continued pretrial release rate at 87%.

DEFENDANT SUCCESS INDICATORS

FY 2017-2021 AVERAGE



ARREST-FREE
TARGET = **88%**
AVERAGE RATE =
88%



APPEARANCE
RATE TARGET = **87%**
AVERAGE RATE =
89%



CONTINUED
PRETRIAL RELEASE
TARGET = **85%**
AVERAGE RATE =
87%

HOW WE OPERATE: WORKFORCE AND RESOURCES

PSA's success is inextricably linked to our dedicated and talented workforce and our commitment to judicious management of resources to deliver the programs and services that exemplify best practices in pretrial justice.

WORKFORCE PROFILE

As of September 2021, we had 311 employees, over 77% of whom are assigned to operations functions that serve the court and defendants.

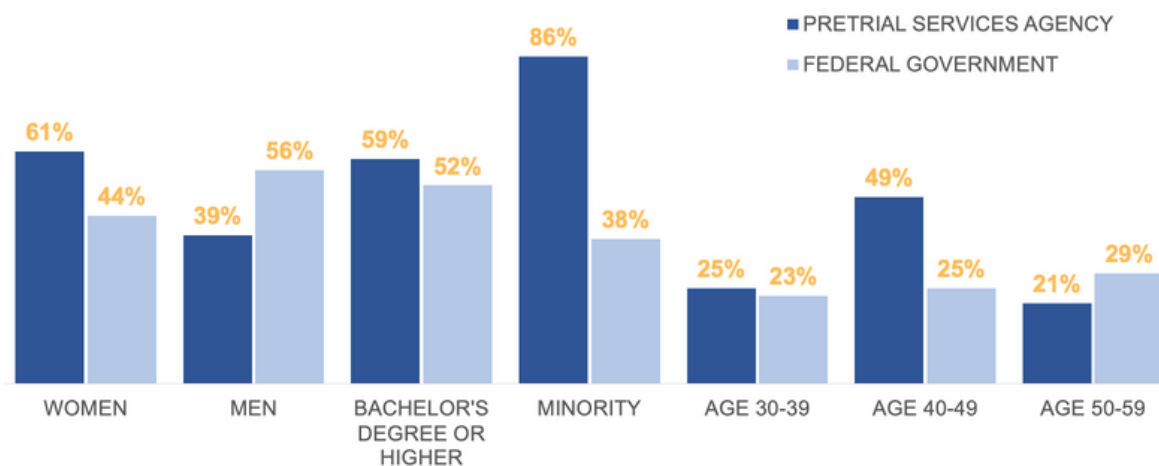
Compared with the federal workforce overall, PSA employees are younger and we have a higher representation of women (61%) than the Federal Government overall (44%). Most of our employees represent a minority racial and/or ethnic group (86%), whereas in Federal Government, minority groups represent just over a third (38%).

Our rate of employees who have earned bachelor's degrees or higher is comparable to the federal workforce overall, 59% and 52% respectively.

PSA employees spend more time in federal service than elsewhere across the government, 17 years compared with 12 years, respectively.

PSA's WORKFORCE

AS OF SEPTEMBER 2021

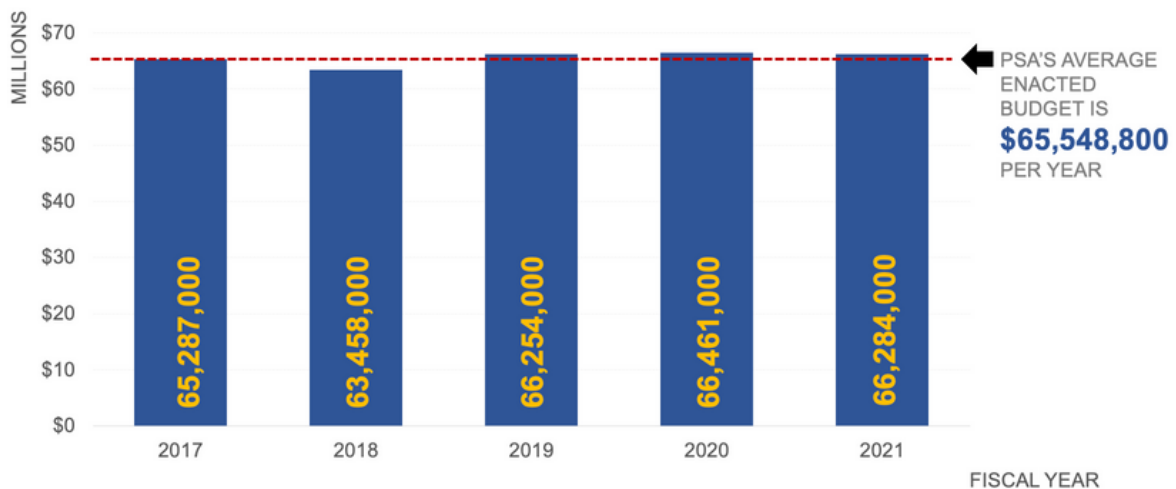


AGENCY ENACTED BUDGET

An average of 84% of our annual budget goes to salaries, benefits, and rent, leaving the balance for programmatic and administrative costs. Programmatic costs include such expenses as treatment services, electronic monitoring, and laboratory costs. Administrative costs include such items as facilities management, information technology operations, and interagency agreements for financial and human resource services, training and travel.

AGENCY ENACTED BUDGET

FY 2017-2021







PRETRIAL SERVICES AGENCY
FOR THE DISTRICT OF COLUMBIA

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WWW.PSA.GOV

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