

Section 1.03: Release or detention pending trial

- G. If temporary detention for up to ten days is sought under 18 U.S.C. § 3142(d):
1. Ask the U.S. attorney to state the factual basis for the motion.
 2. Give defendant's counsel an opportunity to respond.
 3. Determine whether defendant fits within one or more of the categories set forth in 18 U.S.C. § 3142(d)(1).
 4. If defendant fits within one or more of these categories, determine whether he or she "may flee or pose a danger to any other person or the community." 18 U.S.C. § 3142(d)(2). If so, detention is mandatory.
 5. If detention for up to ten days is not ordered, proceed to the bail inquiry. If detention for up to ten days is ordered:
 - (a) Direct the U.S. attorney to notify the appropriate officials immediately and to notify the court and defendant's counsel immediately if any such official expressly declines or fails to take defendant into custody.
 - (b) Fix a date and time for bail hearing to be held in the event that the defendant is not taken into custody by any such official.
 - (c) Execute a temporary detention form.
- H. If pretrial detention has been sought under 18 U.S.C. § 3142(e), conduct the required hearing under § 3142(f):
1. Make findings of fact and state the reasons for the decision. If detention is ordered, these must be written. 18 U.S.C. § 3142(i)(1). See also Fed. R. App. P. 9.
 2. If detention is not ordered, set bail.
 3. If detention is ordered, execute a pretrial detention form that meets the requirements of 18 U.S.C. § 3142(i).

Other FJC sources

The Bail Reform Act of 1984 (2d ed. 1993)