

Criminal Justice Coordinating Council

An Analysis of Pretrial Detention Before and After Secure DC

Data Brief

May 2025

Executive Summary

Purpose:

Two recent pieces of legislation have expanded eligibility for pretrial detention in the District of Columbia: the Prioritizing Public Safety Emergency Amendment Act of 2023 (PPSEA) and the Secure DC Omnibus Amendment Act of 2024 (Secure DC). This report provides data on adult defendants whose charges are subject to the pretrial detention provisions in Secure DC; among those defendants, those who were released pretrial; and among those defendants released, an analysis of rearrests while on pretrial release.

Methodology:

CJCC used aggregate data provided by the Pretrial Services Agency for the section of the report on adult defendants. The unit of analysis for adults is at the case level. In this report, CJCC provides analyses from subsets of the time before PPSEA, between PPSEA and Secure DC, and after Secure DC that are of equal length and occupy the same months of the year, as follows:

- Before PPSEA: August 1, 2022, to January 31, 2023
- Between PPSEA and Secure DC: August 1, 2023, to January 31, 2024
- After Secure DC: August 1, 2024, to January 31, 2025

For the analysis of adult rearrests while on pretrial release, PSA included rearrests that were papered; no-papered rearrests were not included in the data PSA provided.

Finally, DC statutes define which crimes are classified as crimes of violence or dangerous crimes. For offenses that are classified as both crimes of violence and dangerous crimes, CJCC has included those charges with other offenses classified as crimes of violence alone. This is done to avoid double-counting those offenses or creating a third category of cross-classified offenses.

Limitations:

1. This report cannot identify accurately the number of adult defendants who were subject to the rebuttable presumption of detention.
2. This report cannot be used to determine whether the changes in the law caused changes in the numbers of defendants held pretrial.
3. This report cannot attribute changes in public safety over the last several years to the changes in pretrial detention provisions under PPSEA or Secure DC.

Findings:

Adults:

- Adult charges: Across these three time periods, between 7-10% of cases arraigned were for a crime of violence, between 12-16% were for a dangerous crime, and 74-80% were for neither a violent nor dangerous offense. The number of arraignments for all types of charges increased by over 1,000 cases in each subsequent time period. The number of arraigned cases that were for

crimes of violence or dangerous crimes increased between the first and second time periods before decreasing in the third time period, while the numbers of cases that were neither dangerous nor violent increased in each time period.

- Pretrial release or detention among adult defendants charged with a crime of violence or dangerous crime who were detained at arraignment: While there does not appear to be a meaningful change in the percentage of adult defendants who were detained following a detention hearing between the first and second time periods (52% and 51%), the percentage of defendants detained after a detention hearing increased from 51% to 65% between the second and third time periods, while the percentage of defendants released to the Pretrial Services Agency decreased from 49% to 35% between the second and third time periods.
- Papered rearrests among adult defendants charged with a crime of violence or dangerous crime: Before PPSEA, among adult defendants charged with a crime of violence or dangerous crime who were detained at arraignment and subsequently released, 11 (6%) were rearrested while on pretrial release, while between PPSEA and Secure DC, 17 (5%) were rearrested, and after Secure DC, 7 (3%) were rearrested. Across all three time periods, 1% or less of released defendants had a papered rearrest for a crime of violence or a dangerous crime. The numbers of these adult defendants with a papered rearrest while on pretrial release was too low across all three time periods to detect meaningful patterns in the time to rearrest.

This report only contains analysis of the adult pretrial detention provisions in Secure DC. DC Superior Court has not authorized the public release of the analysis of the juvenile pretrial detention provisions due to concerns regarding juvenile confidentiality.

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Background: What changed about pretrial detention in PPSEA and Secure DC

Introduction to PPSEA and Secure DC

Two recent pieces of legislation have expanded eligibility for pretrial detention in the District of Columbia: the Prioritizing Public Safety Emergency Amendment Act of 2023 (PPSEA)¹ and the Secure DC Omnibus Amendment Act of 2024 (Secure DC).²

When determining whether a person may be detained pretrial, the Court must assess whether there is a condition or combination of conditions that can:

- Assure the appearance of the defendant at their required court appearances, and
- Assure the safety of other people and the community.

Briefly, a detention hearing is held to determine whether there are conditions that permit the defendant's pretrial release or whether detention is needed to meet these two aims. For both adults and juveniles charged with crimes, the decision is made depending on several factors defined by law, including the nature of the charges; the level of evidence the judge determines exists about whether the person committed the charges; whether there was a weapon involved in the commission of any of the offenses; and, for adults, certain factors related to criminal history and current community supervision status. If certain criteria are met, there then exists a "rebuttable presumption for detention," which effectively means that the court presumes that no set of conditions for pretrial release can achieve the above two aims, and therefore detention pretrial is appropriate. This presumption is "rebuttable", meaning that the defendant may present evidence to rebut the presumption for detention in support of release. Conversely, if the criteria related to charges, evidence, weapons, and criminal or supervision history are not met, then there exists a general presumption of release; the prosecution may present arguments about conditions of release appropriate for the defendant in the present case.

Changes to Pretrial Detention in PPSEA and Secure DC

The changes to the pretrial detention provisions in PPSEA and Secure DC allow for, but do not legislatively mandate, an increase in the use of pretrial detention. Instead, they have expanded eligibility for the rebuttable presumption for detention. The tables below detail the specific changes made to pretrial detention under PPSEA and Secure DC.

These tables do *not* describe all the laws and provisions governing pretrial detention in DC, or all the changes that PPSEA and Secure DC made to other aspects of the criminal and juvenile justice systems in DC; these tables only describe the changes made to pretrial detention.

A fuller description of how pretrial detention is conducted in DC after Secure DC is provided in **Appendix A**, with a detailed description of the changes to law enacted through PPSEA and Secure DC in **Appendix B**.

¹ See <https://code.dccouncil.gov/us/dc/council/acts/25-175>

² See <https://code.dccouncil.gov/us/dc/council/laws/25-175>

Table 1: Summary of Definitional Changes in the Prioritizing Public Safety Emergency Amendment Act (PPSEA) and the Secure DC Omnibus Amendment Act (Secure DC) – Applies to Adult and Juvenile Detention Provisions

Description of change	Before PPSEA	After PPSEA but before Secure DC	After Secure DC
Expanded the definition of Dangerous Crimes under D.C. Code § 23-1331(3)	Subsection (H): Sexual abuse in the first degree, or assault with intent to commit first degree sexual abuse	Subsection (H): Sexual abuse in the first degree, or assault with intent to commit first degree sexual abuse	Added: - Subsection (H): <u>Any felony offense under Chapter 30 of Title 22 (Sexual Abuse)</u>
Expanded the definition of Crimes of Violence under D.C. Code § 23-1331(4)	See D.C. Code § 23-1331(4) for complete list	See D.C. Code § 23-1331(4) for complete list	Added: - <u>Misdemeanor sexual abuse with three prior convictions</u> - <u>Misdemeanor sexual abuse of a child or minor with three prior convictions</u> - <u>Strangulation</u> ³

* **Bold, underlined text** indicates what was changed by PPSEA or Secure DC.

³ Strangulation was created as a stand-alone offense in PPSEA. It was added to the definition of crimes of violence in Secure DC.

Table 2: Summary of Changes to Adult Pretrial Detention Provisions in the Prioritizing Public Safety Emergency Amendment Act (PPSEA) and the Secure DC Omnibus Amendment Act (Secure DC) – Applies to Adults only

Description of change	Before PPSEA	After PPSEA but before Secure DC	After Secure DC
<p>Expanded circumstances of crimes eligible for rebuttable presumption of detention under D.C. Code § 23-1322(c)</p>	<p>Crimes of violence only where:</p> <ul style="list-style-type: none"> - Crime committed while armed - Previously convicted of dangerous crime or crime of violence committed while on release pending trial - This crime was committed while on pretrial release - Joined with another dangerous crime or crime of violence from a separate incident - Crime is robbery with physical injury to victim <p>Dangerous Crimes where:</p> <ul style="list-style-type: none"> - Crime committed while armed - Previously convicted of dangerous crime or crime of violence committed while on release pending trial 	<p><u>All Crimes of Violence</u></p> <p>Dangerous Crimes where:</p> <ul style="list-style-type: none"> - Crime committed while armed - Previously convicted of dangerous crime or crime of violence committed while on release pending trial - This crime was committed while on pretrial release - Joined with another dangerous crime or crime of violence from a separate incident - Dangerous crime is CPWL, carrying a rifle or shotgun, PFCOV, or FIP 	<p><u>All Crimes of Violence</u></p> <p>Dangerous Crimes where:</p> <ul style="list-style-type: none"> - Crime committed while armed - Previously convicted of dangerous crime or crime of violence committed while on release pending trial - This crime was committed while on pretrial release - Joined with another dangerous crime or crime of violence from a separate incident - Dangerous crime is CPWL, carrying a rifle or shotgun, PFCOV, or FIP

	<ul style="list-style-type: none"> - This crime was committed while on pretrial release - Joined with another dangerous crime or crime of violence from a separate incident - Dangerous crime is CPWL, carrying a rifle or shotgun, PFCOV, or FIP 		
Expanded crimes eligible for a rebuttable presumption of detention under D.C. Code § 23-1325(a)	First degree murder, second degree murder, and assault with intent to kill while armed, where the offense was committed while armed with or having readily available a pistol, firearm, or imitation firearm	First degree murder, second degree murder, and assault with intent to kill while armed, where the offense was committed while armed with or having readily available a pistol, firearm, or imitation firearm	First degree murder, second degree murder, and assault with intent to kill while armed, where the offense was committed while armed with or having readily available a pistol, firearm, imitation firearm, or <u>other deadly or dangerous weapon</u>
Reduced legal standard for rebuttable presumption of detention under D.C. Code § 23-1325(a)	Substantial probability	<u>Probable Cause</u>	<u>Probable Cause</u>

* **Bold, underlined text** indicates what was changed by PPSEA or Secure DC.

Table 3: Summary of Changes to Juvenile Detention Provisions in the Prioritizing Public Safety Emergency Amendment Act (PPSEA) and the Secure DC Omnibus Amendment Act (Secure DC) – Applies to Juveniles only

Description of change	Before PPSEA	After PPSEA but before Secure DC	After Secure DC
Weapon required in conjunction with dangerous crime or crime of violence to justify application of rebuttable presumption of detention under D.C. Code § 16-2310(a-1)(1)(A)(i)	Pistol, firearms, or imitation firearm	<u>Knife</u> , pistol, firearm, or imitation firearm	<u>Knife</u> , pistol, firearm, or imitation firearm
Offenses subject to rebuttable presumption of detention without a weapon under D.C. Code § 16-2310(a-1)(1)(A)(ii)	None	<u>Murder, first-degree sexual abuse, carjacking, or assault with intent to commit any such offense</u>	<u>Murder, first-degree sexual abuse, carjacking, or assault with intent to commit any such offense</u>
[Unchanged] Legal standard under D.C. Code § 16-2310(a-1)(1)	Substantial probability	Substantial probability	Substantial probability

* **Bold, underlined text** indicates what was changed by PPSEA or Secure DC.

Methodology

CJCC reporting requirements

Secure DC requires the Criminal Justice Coordinating Council (CJCC) to submit a report to the Mayor and Council about the pretrial detention provisions in PPSEA and in Secure DC. The report provisions require that CJCC provide data on adult defendants whose charges are subject to the pretrial detention provisions in Secure DC; among those defendants, those who were released pretrial; and among those defendants released, an analysis of rearrests while on pretrial release.

The report provisions also require CJCC to report on predisposition juvenile respondents whose charges are subject to the juvenile detention provisions in Secure DC; among those juveniles, those released and those placed in a youth shelter house (YSH); and among those released and those placed in a youth shelter house, an analysis of rearrests while released or YSH placement. Please also see **Appendix C** for the full reporting provisions.

Methodology to analyze pretrial detention provisions for adult defendants

To identify whether adult defendants were subject to the pretrial detention provisions of Secure DC, CJCC would need to determine whether all requirements for eligibility for the rebuttable presumption of detention were present in a particular case. This would require the CJCC to obtain individual criminal history records for each defendant in each case during the specified time periods to determine the following:

1. The charges for which the defendant was papered
2. Whether there was a finding of probable cause or substantial probability (the relevant legal standards at different time points for certain charges)
3. What weapon was involved in the case, if any
4. Whether the defendant was on pretrial release in any jurisdiction at the time of the offense
5. The defendant's criminal history, specifically if a previous conviction was for an incident committed while on pretrial release
6. Whether separate incidents of a dangerous crime or crime of violence were joined together at the detention hearing

CJCC was not able to obtain individual-level data from the DC Superior Court (the Court), the Pretrial Services Agency (PSA), or the United States Attorney's Office (USAO) due to limited capacity of partner agencies and the Federal Privacy Act, which prohibits executive branch federal agencies from sharing identifiable data for the purposes of research and analysis. In addition, some of the data that exists in case management systems may be incomplete (e.g., the type of weapon used in the case), and other information is not stored in an extractable data format, which would require a manual review of thousands of individual records. PSA, however, was able to provide aggregate data for this report, with some limitations. While some of this information is available to PSA, key pieces of information are not available in an extractable format or available at all to PSA. Specifically, Court findings as to probable cause or substantial probability are only available from Court records (item 2); whether separate incidents were joined together are also only available from Court records (item 6); and items (3), (4), and (5) are not available except in individual written reports, which are not extracted into databases.

PSA was able to extract data about individual defendants from their records and identify which defendants were charged with crimes of violence or dangerous crimes, and among those so charged, which were charged with the specific offenses that were newly classified as violent or dangerous under Secure DC. PSA also maintains records on rearrest for defendants released to PSA supervision and was able to provide aggregate information on defendants rearrested and average time to rearrest in days. PSA provided aggregate data on defendants rearrested whose charges were papered and did not consider rearrests that did not lead to papered charges.

The following table presents each reporting provision, the data provided in the report, and the limitations this presents.

Table 4: Adult pretrial detention report provisions and limitations due to data availability

Secure DC provision	Data provided in this report	Limitation
<p>§ 22–4234(b-9)(1) The number and percentage of defendants whose charges are subject to the pretrial detention provisions in the Secure DC Omnibus;</p>	<p>All defendants charged with dangerous or violent offenses, as a number and as a percentage of all defendants in the specified time periods.</p> <p>This does not include defendants who may have later been released or detained under § 23-1325(a).</p>	<p>This includes all defendants charged with these crimes, not only those who were subject to the rebuttable presumption of detention. Specifically, this includes all defendants charged with these crimes, not only those where substantial probability (before PPSEA) or probable cause (after PPSEA) was found, and not only those where there were applicable factors, such as weapons involved, relevant prior convictions, and supervision status.</p>
<p>§ 22–4234(b-9)(2) The number and percentage of defendants who were released pretrial prior to July 20, 2023[,] after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024], by type of offense for which the defendant was charged;</p>	<p>Of these defendants, the number and percentage who were detained under § 23-1322(b)(1)(A) at arraignment; meaning, the number and percentage of defendants where the prosecution requested pretrial detention.</p> <p>Of those defendants who were detained at arraignment under § 23-1322(b)(1)(A), the number and percentage who were subsequently released; meaning, the number and percentage of defendants who had a detention hearing and</p>	<p>The denominator is all defendants charged with crimes of violence or dangerous crimes, not only the subset who were subject to the rebuttable presumption of detention.</p>

	<p>were released after that hearing.</p> <p>Defendants released and detained under § 23-1325(a) are not included in this analysis.</p>	
<p>§ 22-4234(b-9)(3) The number and percentage of defendants who were rearrested while on pretrial release prior to the effective date of the Prioritizing Public Safety Emergency, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024], by type of underlying offense for which the defendant was charged and by type of rearrest offense; and</p>	<p>Of those defendants who were subsequently released, the number and percentage who were rearrested while on pretrial release and the type of charge for which they were rearrested.</p> <p>Defendants released under § 23-1325(a) are not included in this analysis.</p>	<p>The subset of defendants about whom this rearrest analysis was performed was all defendants charged with crimes of violence or dangerous crimes who were released pretrial, not only the subset who were subject to the rebuttable presumption of detention.</p>
<p>§ 22-4234(b-9)(4) The time from the start of pretrial supervision to rearrest for pretrial defendants who were rearrested for dangerous crimes or crimes of violence prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024] which shall be disaggregated by type of underlying offense for which the defendant was charged.</p>	<p>Of those defendants who were rearrested, how long from the start of pretrial supervision to the time of rearrest.</p> <p>Defendants released under § 23-1325(a) are not included in this analysis.</p>	<p>The subset of defendants about whom this rearrest analysis was performed included all defendants charged with crimes of violence or dangerous crimes who were released pretrial, not only the subset who were subject to the rebuttable presumption of detention.</p>

Dates that define time periods for reporting

The legislation asks for certain data summaries across three time periods: prior to the effective date of PPSEA, after the effective date of PPSEA, and after the effective date of Secure DC. The effective date of PPSEA was July 20, 2023, while the effective date of the Secure DC Omnibus was June 8, 2024. Although the pretrial provisions were fully funded as of July 8, 2024, the plain text of the law governing the report states that the time period should be the effective date of the Secure DC Omnibus, June 8, 2024. When examining trends over time, we typically would want to use similar time periods to account for seasonal variation. Therefore, CJCC uses subsets of the time before PPSEA, between PPSEA and Secure DC, and after Secure DC that are of equal length and occupy the same months of the year, as follows:

- Before PPSEA: August 1, 2022, to January 31, 2023
- Between PPSEA and Secure DC: August 1, 2023, to January 31, 2024
- After Secure DC: August 1, 2024, to January 31, 2025

Table 5: Calendar highlighting months used to define the three time periods for analysis

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2022								x	x	x	x	x
2023	x						PPSEA	x	x	x	x	x
2024	x					SDC		x	x	x	x	x
2025	x											

The selection of these time periods excludes the five months immediately before PPSEA went into effect, as well as the four months before and the month after Secure DC went into effect.

About the use of percentages

In each element of the reporting requirements, CJCC is required to give both the number and the percentage of various descriptive statistics. However, when numbers are less than 100, percentages will be larger than the raw numbers, which can give a misleading interpretation of data. For this reason, raw numbers are presented when they are less than 100, and percentages are provided along with raw numbers when the raw numbers are 100 or larger.

About CJCC classification of charges as a crime of violence, a dangerous crime, or neither violent nor dangerous

DC statute defines which crimes are classified as crimes of violence or dangerous crimes; some offenses are classified as both crimes of violence and as dangerous crimes. For offenses that are cross-classified, CJCC reports them as being crimes of violence, rather than double-counting those offenses or creating a third category of cross-classified offenses. Additionally, since this analysis is at the case level rather than the charge level, when a case has multiple charges including a crime of violence and a dangerous crime, the case is classified as a crime of violence.

Limitations

This report has several key limitations to highlight:

- 1. This report cannot identify accurately the number of adult defendants who were subject to the rebuttable presumption of detention.**

As mentioned in the methodology, PPSEA and Secure DC made several changes to pretrial detention in DC, including changes in which offenses were eligible for the rebuttable presumption of detention; the factors, such as weapon type and criminal history, that are used to determine eligibility for the rebuttable presumption of detention; and the legal standard used to determine eligibility. CJCC is not able to assess all of these elements from available data and has relied instead on charges alone to respond to the reporting requirements. As a result, the numbers of adult defendants subject to the pretrial detention provisions in these two laws presented here are likely to be overestimated.

- 2. This report cannot be used to determine whether the changes in the law caused changes in the numbers of defendants held pretrial.**

There are at least three reasons why we might observe changes in the numbers of adult defendants held pretrial before PPSEA, after PPSEA, and after Secure DC: 1) the changes in law expanding eligibility for the rebuttable presumption of detention; 2) changes in patterns of criminal behavior in the community, or changes in law enforcement arrests in the community; and 3) changes in prosecutorial discretion to ask for pretrial detention or even judicial choices or findings. CJCC cannot disentangle these situations without having direct access to individual-level data; and even with individual-level data, we would not be able to assess the relative contribution of choices made by officers of the court or judicial officers.

- 3. This report cannot attribute changes in public safety over the last several years to the changes in pretrial detention provisions under PPSEA or Secure DC.**

The reporting requirements outlined in § 22–4234(b-9) and § 22–4234(b-10) direct CJCC to produce a series of descriptive statistics in several time periods, before and after each of the two laws of interest. This type of study design, known as a “pre/post” design, only describes pretrial detention during the relevant time periods, but is not able to associate changes in these descriptions with the changes in the law, or changes in the law with changes in public safety in DC. This report, unfortunately, cannot provide information one way or the other about whether the changes in pretrial detention enacted through PPSEA or Secure DC had an effect on public safety in the District. To identify an association between policy and public safety, CJCC would have to use a different study design and would have to conduct more complex statistical analyses; however, even with different study designs and analyses, it would be challenging to attribute changes in public safety as caused by shifts in policy.

Results: Adult Pretrial Defendants

Adult charges

The following table shows adult cases arraigned between August 1, 2022, and January 31, 2023, before PPSEA; between August 1, 2023, and January 31, 2024, or between PPSEA and Secure DC; and between August 1, 2024, and January 31, 2025, or after Secure DC. Charges are classified as violent, dangerous, or neither dangerous nor violent.

Table 6: Adult arraignments by charge type in each time period

By underlying offense type	Before PPSEA (intake between August 1, 2022, and January 31, 2023)	Between PPSEA and Secure DC (intake between August 1, 2023, and January 31, 2024)	After Secure DC (intake between August 1, 2024, and January 31, 2025)
Crime of violence*	369 (10%)	506 (10%)	452 (7%)
Dangerous crime	480 (13%)	810 (16%)	734 (12%)
Non-Dangerous/Non-Violent	2,914 (77%)	3,708 (74%)	4,847 (80%)
Total arraignments, all offenses	3,763 (100%)	5,024 (100%)	6,033 (100%)

* This category includes crimes of violence and offenses that are both crimes of violence and dangerous crimes.

Across these three time periods, between 7-10% of cases arraigned were for a crime of violence, between 12-16% were for a dangerous crime, and 74-80% were for neither a violent nor a dangerous offense. The number of arraignments increased by over 1,000 cases in each subsequent time period. The number of arraigned cases that were crimes of violence or dangerous crimes increased between the first and second time periods before decreasing in the third time period, while the numbers of cases that were neither dangerous nor violent increased in each time period.

Adult release or detention

The following table shows the numbers and percentages of defendants who were detained at arraignment and who were subsequently released. Those who were detained at arraignment subsequently had a detention hearing, which is described in the next table. Defendants who were not charged with crimes of violence or dangerous crimes are not shown in this table.

The percentage of defendants charged with crimes of violence who were detained at arraignment increased from 45% to 59% to 60% across the three time periods, while the percentage of defendants charged with a dangerous crime who were detained at arraignment changed from 47% to 51% to 49%.

PSA notes that 5 of the 6,033 defendants arraigned from August 1, 2024, through January 31, 2025, were charged with one or more of the three newly added classified violent charges and 2 of the 5 defendants were detained under 23-1322 (b)(1)(A). Eleven of the 6,033 defendants arraigned from August 1, 2024, through January 31, 2025, were charged with one or more of the 21 newly added classified dangerous charges and 10 of the 11 defendants were detained under 23-1322 (b)(1)(A).

Table 7: Adult defendants detained or released at arraignment by charge type in each time period

By underlying offense type	Before PPSEA (intake between August 1, 2022, and January 31, 2023)		Between PPSEA and Secure DC (intake between August 1, 2023, and January 31, 2024)		After Secure DC (intake between August 1, 2024, and January 31, 2025)	
	CV	DC	CV	DC	CV	DC
Detained at arraignment*	166 (45%)	227 (47%)	301 (59%)	411 (51%)	272 (60%)	357 (49%)
Released at arraignment	203 (55%)	253 (53%)	205 (41%)	399 (49%)	180 (40%)	377 (51%)
Total	369 (100%)	480 (100%)	506 (100%)	810 (100%)	452 (100%)	734 (100%)

* These include only defendants who were detained at arraignment under § 23-1322(b)(1)(A).

CV = crime of violence; DC = dangerous crime

Table 8: Adults detained, released on personal recognizance, or released to PSA, following the detention hearing, by charge type in each time period

By underlying offense type	Before PPSEA (intake between August 1, 2022, and January 31, 2023)			Between PPSEA and Secure DC (intake between August 1, 2023, and January 31, 2024)			After Secure DC (intake between August 1, 2024, and January 31, 2025)		
	CV	DC	Total	CV	DC	Total	CV	DC	Total
Securely detained	115 (69%)	88 (39%)	203 (52%)	193 (64%)	169 (41%)	362 (51%)	218 (80%)	191 (54%)	409 (65%)
Released to PSA	47 (28%)	136 (60%)	183 (47%)	105 (35%)	242 (59%)	347 (49%)	53 (19%)	166 (46%)	219 (35%)
Released on Personal Recognizance	4 (2%)	3 (1%)	7 (2%)	3 (1%)	0 (0%)	3 (0%)	1 (0%)	0 (0%)	1 (0%)
Total	166 (100%)	227 (100%)	393 (100%)	301 (100%)	411 (100%)	712 (100%)	272 (100%)	357 (100%)	629 (100%)

Comparing the analytical time periods, 52%, 51%, and 65% of defendants with a detention hearing were securely detained following their detention hearing, in the three time periods, before PPSEA, between PPSEA and Secure DC, and after Secure DC, as seen in the table above. The percentage of defendants who were released to PSA was 47%, 49%, and 35% across the three time periods, respectively. Across all time periods, defendants who were detained at arraignment and were subsequently released on their personal recognizance was between 0-2%. While there does not appear to be a meaningful change in the percentage of defendants who were detained pretrial between the first and second time periods, the percentage of defendants detained after a detention hearing increased from 51% to 65% between

the second and third time periods, while the percentage of defendants released to PSA decreased from 49% to 35% between the second and third time periods.

Adult rearrest analysis, by underlying offense type

The following table represents defendants who were rearrested while on pretrial release, either released to PSA or on personal recognizance. These numbers represent unique defendants and are for rearrests that led to papered offenses. There were no instances of the same defendant rearrested more than once while on pretrial release during these time periods. Again, these represent only those defendants were detained at arraignment under § 23-1322(b)(1)(A) and subsequently released after their detention hearing.

Before PPSEA, 11 defendants (6%) charged with a crime of violence or dangerous crime were rearrested while on pretrial release, while between PPSEA and Secure DC, 17 (5%) were rearrested, and after Secure DC, 7 defendants (3%) were rearrested.

Table 9: Adults rearrested while on pretrial release, by underlying charge type in each time period

By underlying offense type	Before PPSEA (intake between August 1, 2022, and January 31, 2023)			Between PPSEA and Secure DC (intake between August 1, 2023, and January 31, 2024)			After Secure DC (intake between August 1, 2024, and January 31, 2025)		
	CV	DC	Total	CV	DC	Total	CV	DC	Total
Rearrested	4	7	11 (6%)	9	8	17 (5%)	3	4	7 (3%)
Not rearrested	47	132	179 (94%)	99	234	333 (95%)	51	162	213 (97%)
Total	51	139	190 (100%)	108	242	350 (100%)	54	166	220 (100%)

Adult rearrest analysis, by rearrest offense type

The following tables show the rearrest offense type among the 11, 17, and 7 defendants with a rearrest during their pretrial release for a dangerous crime or crime of violence. Before PPSEA, 2 out of 190 (1%) defendants released were rearrested for a dangerous crime or crime of violence. Between PPSEA and Secure DC, 5 out of 350 (1%) defendants were rearrested for one of these two types of offenses, and following Secure DC, 0 out of 220 (0%) defendants were rearrested for either of these types of offenses.

Table 10: Adults rearrested while on pretrial release, by rearrest charge type in each time period

By rearrest offense type	Before PPSEA (intake between August 1, 2022, and January 31, 2023)	Between PPSEA and Secure DC (intake between August 1, 2023, and January 31, 2024)	After Secure DC (intake between August 1, 2024, and January 31, 2025)
Crime of violence	1	3	0
Dangerous crime	1	2	0
Non-Dangerous/Non-Violent	9	12	7
Total rearrested	11	17	7

Adult time to rearrest

The table below represents the average time to rearrest, rounded to the nearest day, among defendants charged with a crime of violence or dangerous crime who were rearrested while on pretrial release. For some of these figures, they do not represent an average but are the actual time to rearrest for a single defendant. Given these small numbers, it is difficult to detect patterns and make summary statements.

Table 11: Time to rearrest in days by rearrest charge type in each time period

By rearrest offense type	Before PPSEA (intake between August 1, 2022, and January 31, 2023)	Between PPSEA and Secure DC (intake between August 1, 2023, and January 31, 2024)	After Secure DC (intake between August 1, 2024, and January 31, 2025)
Crime of violence	8 (n=1)	50 (n=3)	N/A
Dangerous crime	12 (n=1)	33 (n=2)	N/A
Non-Dangerous/Non-Violent	72 (n=9)	48 (n=12)	64 (n=7)
Total rearrested	61 (n=11)	47 (n=17)	64 (n=7)

n = number of defendants

Appendix A: Description of Pretrial Detention Procedures in the District of Columbia for Adult Defendants and Juvenile Respondents

When determining whether a person may be detained pretrial, the Court must assess whether there is a condition or combination of conditions that can:

- Assure the appearance of the defendant at their required court appearances, and
- Assure the safety of other people and the community.

Laws and procedures governing pretrial detention decisions differ by whether the defendant is a juvenile or an adult. A juvenile is a person under the age of 18 while an adult is 18 or older; or a juvenile who is being charged as an adult.

Pretrial Detention Procedures for Adult Defendants

For adults, there are two court appearances where decisions are made regarding pretrial detention. These are the initial appearance, or arraignment, and the detention hearing. These two court appearances are separated by several days, the length of time of which is determined by the specific circumstance of the offense and the defendant.

Initial appearance: When an adult is arrested for an offense, their initial appearance before the court happens at *arraignment*. Arraignment is the meeting among the prosecutor, defense attorney, defendant, and the judge in which the prosecutor presents the charges against the defendant to ensure they are informed of the charges against them. Depending on several factors, there may be a *detention hearing* scheduled and the defendant may be detained between arraignment and the detention hearing. Following the detention hearing, the defendant may then also be detained prior to the disposition (or final outcome) of their case.

There are several steps that must occur, with multiple options for how events can unfold. First, at *arraignment*, the judge must find that there is *probable cause* that the defendant committed the offenses with which they are charged, based on an affidavit from law enforcement.⁴ If there is a finding of probable cause, then the specific charges and the supervision history of the defendant become important. If a defendant is being charged with a crime of violence or a dangerous crime; if the judge finds that there is a serious risk that the person will flee; or if the judge finds that there is a serious risk that the defendant will obstruct justice through threats or actions against prospective witnesses or jurors, then the defendant will be held for up to three calendar days pending a detention hearing.

If the defendant is being charged with any offense, not just a crime of violence or a dangerous crime; the person was on release pending trial or sentencing in another case, or was on a form of community supervision, such as probation, parole, or supervised release; and the judge finds that the person may flee or pose a danger to any person or the community, then the defendant may be held for up to five business days pending a detention hearing.

⁴ This is also called a probable cause affidavit or sometimes a *Gerstein* affidavit after the relevant Supreme Court case.

Finally, if a person is being charged with first-degree murder, second-degree murder, or assault with intent to kill while armed; and the judge finds the person may flee or pose a danger to any person or the community, then the defendant may be held for up to fourteen calendar days pending a detention hearing.

If the defendant is not facing charges of a crime of violence, dangerous crime, first- or second-degree murder, assault with intent to kill while armed; does not represent a flight risk or risk to prospective witnesses or jurors; and is not currently on release pending trial or sentencing or under community supervision, then there is a presumption for release. For defendants who are released at arraignment, they may be released on their own personal recognizance or given conditions of release. Conditions of release are imposed if the judge finds that release on personal recognizance is not sufficient to assure the safety of the community and the defendant's return to court.

There were no changes to the process as it unfolds at the initial appearance under PPSEA. Secure DC did not change any processes or steps. However, Secure DC did expand what charges that are defined as crimes of violence or dangerous crimes, meaning that any steps that apply to crimes of violence or dangerous crimes apply to additional types of charges following Secure DC.

Detention hearing: For defendants not released at arraignment, a detention hearing follows the initial appearance. At the detention hearing, the judge must first find that there is probable cause for the charged offenses based on additional information presented rather than only the law enforcement affidavit.

If there is a finding of probable cause, then whether the defendant is charged with a crime of violence or dangerous crime; the type of weapon, if any, used in the charged offense; the supervision history and the conviction history of defendant; and whether the defendant has threatened or taken harmful action against law enforcement, an officer of the court, or prospective witnesses or jurors become important in determining whether the defendant's case is subject to the rebuttable presumption of detention. The defense may present arguments to attempt to overcome the presumption of detention, after which the prosecution must prove that no combination of conditions will reasonably assure the safety of any other person and the community if the defendant were released. If the rebuttable presumption applies, the judge must write a statement of reasons about why the person is detained or released. These cases must be indicted within 90 days and brought to trial after a further ten days, by statute, and so are sometimes called "hundred day" cases.

Separately, for adults charged with first-degree murder, second-degree murder, or assault with intent to kill while armed with certain types of weapons, there is also a rebuttable presumption of detention which applies if the judge finds probable cause. These cases must be indicted within 9 months, under DC Superior Court Rules of Criminal Procedure. For adults charged with first-degree murder, second-degree murder, or assault with intent to kill while armed, but not with a pistol, firearm, imitation firearm, or other dangerous or deadly weapon, there is a general presumption of release. The prosecution may present arguments to overcome the presumption of release; but the judge is not required to write a statement of reasons. If detention is ordered, then the case must also be brought within 9 months.

A defendant who is *released on their personal recognizance* is not subject to supervision by PSA while on pretrial release. When a person is *released to PSA*, they are subject to supervision by PSA while on

pretrial release. Rearrest while on pretrial release, either with or without supervision by PSA, creates a separate basis for pretrial detention.

Pretrial Detention Procedures for Juvenile Respondents

In a juvenile case, the first step is for prosecutors to file a delinquency petition for a juvenile in a particular case. After a petition is filed, an *initial hearing* is held where the juvenile is made aware of the contents of the petition. If the charging offenses are among those eligible for predisposition detention, prosecutors may either seek a *probable cause hearing* or waive it in a particular case. Establishing probable cause that the juvenile committed a delinquent act eligible for predisposition detention is a necessary step to seeking that detention; if probable cause is waived in a particular case, that juvenile will not be held in that case. The probable cause hearing is a legally separate event from the initial hearing, but it may be held during the same appearance before the Court. It is worth noting that if probable cause is waived in a particular *case*, that does not necessarily mean that the *juvenile* is released; if a juvenile is facing several cases simultaneously, then the prosecutor may only seek probable cause in the most severe of these cases and not seek it in the other simultaneous cases. This is because seeking probable cause in multiple cases is redundant, since a juvenile can only be held once, no matter how many cases they may be facing.

If probable cause is found, there also needs to be a finding of a significant risk of harm or that detention is necessary to secure the child's presence at the next court hearing. Both conditions are needed for the prosecution to ask for detention. After establishing probable cause, the burden for demonstrating that a juvenile should be held lies with the prosecutor. The prosecutor may then also seek a finding of *substantial probability*, an evidentiary standard higher than probable cause. While the prosecution can ask for detention on the basis of probable cause alone, they may seek to shift the burden to defense counsel to rebut the presumption of detention by establishing a substantial probability that the juvenile committed an offense that qualifies for the presumption. In other words, establishing *probable cause* is necessary for the juvenile to be detained predisposition, while establishing a *substantial probability* of a delinquent act makes it easier for a juvenile to be detained.

Following a finding of probable cause and a finding of substantial probability (if both are sought by the prosecution), a *secure detention status hearing* is held. If probable cause was found, but not substantial probability, then the burden lies with the government to make the case for detention; if both probable cause and substantial probability were found, then the burden lies with the defense to rebut the presumption of detention. The Court makes a decision about the juvenile's predisposition placement at the secure detention status hearing. A *detention order* will describe whether the youth should be held in secure detention at the Youth Services Center (YSC) or at a youth shelter house, while a *release order* will describe the conditions of release.

This secure detention status hearing is not the final word on where the juvenile will physically be prior to their disposition; as noted, the juvenile may be held in another case; or there may not be space in a youth shelter house at the time of the court-ordered placement, leading that juvenile to remain at YSC; or, the juvenile's predisposition placement may change prior to final disposition (such as if they are released to parents and subsequently detained, or moved from secure detention to a youth shelter house).

Appendix B: Changes to criteria for pretrial detention for adults and juveniles in PPSEA and Secure DC; and definitional changes to crimes of violence and dangerous crimes under Secure DC

The following sections show the text of DC Code using ~~bold and strikethrough~~ to convey that section of the law was removed by either PPSEA or Secure DC bold and underline to signify added text. Sections of the titles and chapters referenced which were unchanged by either law have not been included; sections of DC Code that govern pretrial detention that were unchanged are also not included.

- § 23-1325(a). [Release in first degree murder, second degree murder, and assault with intent to kill while armed cases or after conviction. This applies to adults.] A person who is charged with murder in the first degree, murder in the second degree, or assault with intent to kill while armed shall be treated in accordance with the provisions of section 23-1321 unless the judicial officer has reason to believe that no one or more conditions of release will reasonably assure that the person will not flee or pose a danger to any other person or to the community. If such a risk of flight or danger is believed to exist, the person may be ordered detained. In any pretrial detention hearing under the provisions of this section, if the judicial officer finds that there is ~~a substantial probability~~ probable cause that the person has committed any of the foregoing offenses while armed with or having readily available a pistol, firearm, imitation firearm, or other deadly or dangerous weapon there shall be a rebuttable presumption that no condition or combination of conditions of release will reasonably assure the safety of any other person or the community.
- § 16-2310. (a-1)(1)(A) [Criteria for detaining children.] There shall be a rebuttable presumption that detention is required to protect the person or property of others if the judicial officer finds by a substantial probability that the child:
 - (i) a dangerous crime or a crime of violence while armed with or having readily available a knife, pistol, firearm, or imitation firearm.
 - (ii) Unarmed murder, first-degree sexual abuse, carjacking, or assault with intent to commit any such offense.
- § 23-1322 [Detention prior to trial. This applies to adults.]
 - *[Omitting (c)(1) and (c)(2) as they were unchanged by PPSEA or Secure DC.]*
 - (c)(3) Committed a dangerous crime ~~or a crime of violence, as these terms are defined~~, as that term is defined in § 23-1331, and has previously been convicted of a dangerous crime or a crime of violence which was committed while on release pending trial for a local, state, or federal offense;
 - (c)(4) Committed a dangerous crime ~~or a crime of violence~~ while on release pending trial for a local, state, or federal offense;
 - (c)(5) Committed 2 or more dangerous crimes ~~or crimes of violence~~ in separate incidents that are joined in the case before the judicial officer;
 - ~~(c)(6) Committed a robbery in which the victim sustained a physical injury;~~
 - (c)(7) Violated § 22-4504(a) (carrying a pistol without a license), § 22-4504(a-l) (carrying a rifle or shotgun), § 22-4504(b) (possession of a firearm during the

- (4) The term "crime of violence" means aggravated assault; act of terrorism; arson; assault on a police officer (felony); assault with a dangerous weapon; assault with intent to kill, commit first degree sexual abuse, commit second degree sexual abuse, or commit child sexual abuse; assault with significant bodily injury; assault with intent to commit any other offense; burglary; carjacking; armed carjacking; child sexual abuse; cruelty to children in the first degree; extortion or blackmail accompanied by threats of violence; gang recruitment, participation, or retention by the use or threatened use of force, coercion, or intimidation; kidnapping; malicious disfigurement; manslaughter; manufacture or possession of a weapon of mass destruction; mayhem; murder; robbery; sexual abuse in the first, second, or third degrees; **misdemeanor sexual abuse pursuant to § 22-3006(b); misdemeanor sexual abuse of a child or minor pursuant to § 22-3010.01 (a-1); strangulation;** use, dissemination, or detonation of a weapon of mass destruction; or an attempt, solicitation, or conspiracy to commit any of the foregoing offenses.

Appendix C: Secure DC provisions related to writing the report

Secure DC Provisions Related to Writing the Report (Revised on February 13, 2025)

§ 22–4234 (b-9) The CJCC shall submit a report to the Mayor and Council on the efficacy of the pretrial detention provisions in the Secure DC Omnibus Amendment Act of 2024 [D.C. Law 25-175], no later than May 7, 2025. The report shall include the following descriptive data:

- (1) The number and percentage of defendants whose charges are subject to the pretrial detention provisions in the Secure DC Omnibus;
- (2) The number and percentage of defendants who were released pretrial prior to July 20, 2023[,] after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024], by type of offense for which the defendant was charged;
- (3) The number and percentage of defendants who were rearrested while on pretrial release prior to the effective date of the Prioritizing Public Safety Emergency, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024], by type of underlying offense for which the defendant was charged and by type of rearrest offense; and
- (4) The time from the start of pretrial supervision to rearrest for pretrial defendants who were rearrested for dangerous crimes or crimes of violence prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024] which shall be disaggregated by type of underlying offense for which the defendant was charged.

§ 22–4234 (b-10) The CJCC shall submit a report to the Mayor and Council on the provisions in the Secure DC Omnibus relating to pre-trial detention for juveniles, no later than May 7, 2025. The report shall include the following descriptive data:

- (1) The number and percentage of juveniles who have been found to have a substantial probability to have committed a crime that is subject to the juvenile detention provisions in the Secure DC Omnibus;
- (2) The number and percentage of juveniles who have been found to have a substantial probability to have committed a crime that is subject to the juvenile detention provisions in the Secure DC Omnibus who were released before a factfinding or dispositional hearing prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024] by type of offense for which the juvenile was charged;
- (3) The number and percentage of juveniles who have been found to have a substantial probability to have committed a crime that is subject to the juvenile detention provisions in the Secure DC Omnibus who were placed in a youth shelter before a factfinding or dispositional hearing prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024] by type of offense for which the juvenile was charged;

- (4)** The number and percentage of juveniles who have been found to have a substantial probability to have committed a crime that is subject to the juvenile detention provisions in the Secure DC Omnibus who were rearrested while on release prior to a factfinding or dispositional hearing prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024], by type of underlying offense for which the juvenile was charged and by type of rearrest offense;
- (5)** The number and percentage of juveniles who have been found to have a substantial probability to have committed a crime that is subject to the juvenile detention provisions in the Secure DC Omnibus who were rearrested while placed in a youth shelter prior to a factfinding or dispositional hearing prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024], by type of underlying offense for which the juvenile was charged and by type of rearrest offense;
- (6)** The time from when a juvenile who was ordered released to rearrest for juveniles who have been found to have a substantial probability to have committed a crime who were rearrested for dangerous crimes or crimes of violence prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024]; which data shall be disaggregated, by type of underlying offense for which the juvenile was charged; and
- (7)** The time from when a juvenile who was placed in a youth shelter to rearrest for juveniles who have been found to have a substantial probability to have committed a crime who were rearrested for dangerous crimes or crimes of violence prior to July 20, 2023, after the effective date of the Prioritizing Public Safety Emergency [July 20, 2023], and after the effective date of the Secure DC Omnibus [June 8, 2024]; which data shall be disaggregated, by type of underlying offense for which the juvenile was charged; provided.