Criminal Justice Coordinating Council

An Analysis of Juvenile Pretrial Detention Before and After Secure DC

September 2026

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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 an analysis of pretrial juvenile detention prior to and after the enactment of the PPSEA and Secure DC. An earlier version of this report was released to the Mayor and Council in May 2025, per D.C. Code § 22-4234(b)(10), but due to limitations in the data the CJCC received at that time, the CJCC was not able to address questions regarding the potential impact of Secure DC. Therefore, the DC Council enacted the Pretrial Detention Reporting Temporary Amendment Act of 2026 (B26-0562), which requires the CJCC to produce an additional report on changes in juvenile pretrial detention and public safety following enactment of the PPSEA and Secure DC.

This report addresses the following questions:

1. How many petitioned juveniles were eligible for the rebuttable presumption of detention before the PPSEA, after the PPSEA, and after Secure DC? How many of these youth were "newly eligible" after the PPSEA and after Secure DC?
2. Of the petitioned juveniles who were eligible for the rebuttable presumption of detention before the PPSEA, after the PPSEA, and after Secure DC, how many were initially released, initially ordered to a youth shelter house (YSH), or initially ordered to the Youth Services Center (YSC) following the initial detention hearing?
3. Of the eligible youth who were initially released or ordered to a youth shelter house following the initial detention hearing, before the PPSEA, after the PPSEA, and after Secure DC, how many were rearrested prior to their adjudication or secure detention at YSC? What were the underlying offenses, what were the rearrest charges, and what was the average time from initial release/shelter house to rearrest?
4. How did petitioned juveniles who were "newly eligible" (post the PPSEA and Secure DC) for the rebuttable presumption of detention compare to youth who "would have been eligible" (pre-PPSEA) with respect to detention rates and rearrest rates?

D.C. Superior Court Administrative Order 26-17 authorizes the CJCC to inspect, receive, compile, and analyze juvenile case records and related court data, and to publicly report the findings of that analysis, to meet the purposes of the juvenile pretrial detention reporting requirement in Secure DC (D.C. Code § 22-4234(b)(10)). The data sharing agreement that the CJCC has with D.C. Superior Court requires the CJCC to suppress all values less than 10 to preserve juvenile confidentiality.

Methodology

The CJCC used juvenile case data provided by the D.C. Superior Court and the Office of the Attorney General to conduct this analysis. The unit of analysis is at the case level. In this report, the CJCC provides analyses from subsets of the time before the PPSEA, between the PPSEA and Secure DC, and after Secure DC that are of equal length and occupy the same months of the year, as follows:

- Before the PPSEA: August 1, 2022, to January 31, 2023
- Between the PPSEA and Secure DC: August 1, 2023, to January 31, 2024 *(This interim time period is referred to as "after the PPSEA" throughout the report.*)
- After Secure DC: August 1, 2024, to January 31, 2025

For the analysis of juvenile rearrests while on pretrial release or at a youth shelter house, both papered and no-papered rearrests were included.

Finally, DC statutes define which crimes are classified as crimes of violence or dangerous crimes. For offenses that are cross-classified as both crimes of violence and dangerous crimes, the CJCC has classified them as crimes of violence to avoid double-counting. The CJCC has also classified Carrying a Pistol without a License (CPWL) in its own category since 1) it was the only charge not considered violent in the provided data and 2) CPWL – misdemeanor is not considered a dangerous crime but CPWL – felony is.

Results

Eligibility for the Rebuttable Presumption of Detention

- A smaller proportion of youth were eligible for the rebuttable presumption of detention after the PPSEA and after Secure DC. The percentage of eligible juvenile cases where substantial probability was found decreased from 15% (before the PPSEA) to 10% (after the PPSEA) to 6% (after Secure DC).
- This appears to be driven by a smaller proportion of cases meeting the charge and weapon eligibility criteria after Secure DC and, for the cases that did meet these criteria, a smaller proportion for which a probable cause hearing was held. If a probable cause hearing is not held, then the court does not make any finding about probable cause or substantial probability. The decrease in eligible cases may also be driven by an increase in the percent of cases in which the defense stipulated to probable cause. In practice, if the defense stipulates to probable cause, there generally will not be a determination about substantial probability, in which case the rebuttable presumption of detention is not a factor for consideration.
- Of the juvenile cases that met the charge and weapon eligibility criteria, 17% of those cases were "newly eligible" both after the PPSEA (41 of 235) and after Secure

DC (25 of 149). This means that these cases would not have been eligible for the rebuttable presumption of detention if not for the new legislation, in particular the PPSEA. The PPSEA added weapons that could be included in eligible charges and weapons. For example, prior to the PPSEA unarmed carjacking was not eligible for substantial probability but after the PPSEA was passed, it was eligible. For full details, see **Appendix B**.

Initial Pretrial Placement Decisions for Eligible Juveniles

- Release was the most common initial placement before the PPSEA, whereas secure detention was the most common initial placement after the PPSEA and after Secure DC. A youth shelter house was the least common initial placement across all three time periods.

Specific numbers and percentages for initial placement decisions cannot be reported due to juvenile data suppression requirements.

Rearrests for Eligible Youth Initially Released or Ordered to Youth Shelter House

- There were very few rearrests among cases that met the criteria for the rebuttable presumption of detention where the youth was placed in YSH or released. The number of cases where the youth was rearrested did not change after the PPSEA but did decrease after Secure DC. Of the very small number of rearrests, approximately half were for a crime of violence or a dangerous crime both before the PPSEA and after the PPSEA/Secure DC.
- Of the very small number of released youths who were rearrested, the average number of days the youth remained offense free after initial release or YSH placement increased from 82.7 days before the PPSEA to 128.7 days after the PPSEA.
- The average number of days offense free increased from 44.5 days before the PPSEA and 116.3 days after the PPSEA specifically for violent crimes or dangerous crimes.
- Specific numbers and percentages for rearrests cannot be reported due to juvenile data suppression requirements.

Comparison of Outcomes for Newly Eligible Youth and Youth Who Would Have Been Eligible If the Law Had Been in Place Before the PPSEA

- A comparison of outcomes for youth who "would have been eligible" for the rebuttable presumption (if the new eligibility criteria had been in place before the PPSEA) and youth who were "newly eligible" for the rebuttable presumption could provide some insights into the potential impact of the relevant PPSEA and Secure

DC provisions. However, no meaningful conclusions can be drawn given the small number of "would have been eligible" and "newly eligible" youth. In addition, the results of the analysis could not be publicly reported due to juvenile data suppression requirements.

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For this report, Kristy Love, Executive Director, Dr. Meg O'Neill, Social Scientist, and Dr. Niloufer Taber, Director of Research and Policy, developed the methodology and contributed writing. Dr. Meg O'Neill and Dr. Niloufer Taber conducted the data analysis.

Background

The Basis of Pretrial Placement Decisions

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

- Assure the appearance of the respondent 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 respondent's pretrial release or whether detention is needed to meet these two aims. For 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; and whether there was a weapon involved in the commission of any of the offenses. 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 respondent may present evidence to rebut the presumption for detention in support of release. Substantial probability must be found for the presumption of detention to occur, for juveniles. Conversely, if the criteria related to charges, evidence, and weapons are not met, then there exists a general presumption of release; the prosecution may present arguments about conditions of release appropriate for the respondent in the present case.

Changes to Pretrial Detention in the PPSEA and Secure DC

Two recent pieces of legislation have expanded eligibility for the rebuttable presumption for 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]

The changes to the pretrial detention provisions in the PPSEA and Secure DC allow for, but do not legislatively mandate, an increase in the use of pretrial detention. Instead, they expand eligibility for the rebuttable presumption for detention, as outlined in the tables below.

[1] See https://code.dccouncil.gov/us/dc/council/acts/25-175
[2] See https://code.dccouncil.gov/us/dc/council/laws/25-175

These tables do *not* describe all the laws and provisions governing pretrial detention in DC, or all the changes that the 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 eligibility requirements for the rebuttable presumption of detention.

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

Table 1: Summary of Definitional Changes in the Prioritizing Public Safety Emergency Amendment Act (PPSEA) and the Secure DC Omnibus Amendment Act (Secure DC)

Description of change	Before the PPSEA	After the 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): **Any felony offense under Chapter 30 of Title 22 (Sexual Abuse)**
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: - **Misdemeanor sexual abuse with three prior convictions** - **Misdemeanor sexual abuse of a child or minor with three prior convictions** - **Strangulation**[3]

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

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

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

Description of change	Before the PPSEA	After the 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, firearm, or imitation firearm	**Knife**, pistol, firearm, or imitation firearm	**Knife**, 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	**Murder, first-degree sexual abuse, carjacking, or assault with intent to commit any such offense**	**Murder, first-degree sexual abuse, carjacking, or assault with intent to commit any such offense**
[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 the PPSEA or Secure DC.

Methodology

Analyzing pretrial detention provisions for juvenile respondents

To identify whether juvenile respondents were subject to the pretrial detention provisions of Secure DC, the CJCC would need to identify, for each case and respondent:

1. The charges for which each respondent was papered in each case, including the degree of each charge
2. What weapon was involved in the case, if any
3. Whether there was a finding of substantial probability

DC Courts shared data on court proceedings and placements while the Office of the Attorney General shared data on charges and the weapon involved in the case. CJCC was able to identify all cases by their charges, whether there was a finding of substantial probability, and what the court ordered placement was. Data from the Department of Youth Rehabilitation Services was used to cross-reference physical locations of each youth. MPD offense and arrest data was used to identify whether youth were rearrested following their initial placement and before either their second placement or their adjudication.

Complete details of how the CJCC classified juvenile cases as subject to the rebuttable presumption of detention using this data and conducted the rearrest analysis using data from the Metropolitan Police Department, as well as associated limitations due to available data, can be found in **Appendix C.**

Dates that define time periods for reporting

The CJCC's reporting legislation requires certain data summaries across three time periods: prior to the effective date of the PPSEA, after the effective date of the PPSEA, and after the effective date of Secure DC (Appendix D). The effective date of the 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, the CJCC uses subsets of the time before the PPSEA, between the PPSEA and Secure DC, and after Secure DC that are of equal length and occupy the same months of the year, as follows:

- Before the PPSEA: August 1, 2022, to January 31, 2023

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

Table 3: 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								✓	✓	✓	✓	✓
2023	✓						PPSEA	✓	✓	✓	✓	✓
2024	✓					SDC		✓	✓	✓	✓	✓
2025	✓											

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

About the use of percentages

In each element of the reporting requirements, the 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 the 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, the 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.

Results

Eligibility for the Rebuttable Presumption of Detention

To be eligible for the rebuttable presumption of detention, a case must involve certain charges and weapon types, and substantial probability must be found. Although the PPSEA

and Secure DC expanded the types of charges and weapons that make a juvenile case eligible for the rebuttable presumption, a smaller proportion of cases were eligible after the legislation was enacted. Based on the data in Figure 1, the percentage of juvenile cases that were eligible for the rebuttable presumption of detention decreased from 15% (54 of 365) before the PPSEA, to 10% (53 of 538) after the PPSEA, to 6% (30 of 481) after Secure DC.

This decrease in eligibility appears to be driven by a smaller proportion of cases meeting the charge and weapon eligibility criteria after Secure DC and, for the cases that did meet these criteria, a smaller proportion for which a probable cause hearing was held (which is necessary for probable cause and ultimately substantial probability to be found).

Cases with Eligible Charge and Weapon Types

While the number of juvenile cases that had eligible charges and weapon types increased from 162 before the PPSEA to 235 after the PPSEA, the *proportion* of these cases remained the same—at 44%. However, after Secure DC, both the number and proportion of juvenile cases with eligible charge and weapon types decreased; specifically, 149 of 481 (31%) juvenile cases had eligible charge and weapon types after Secure DC.

Cases with Eligible Charge and Weapon Types for which Probable Cause Was Found

A probable cause hearing must be held for there to be a finding of probable cause. These hearings may involve the presentation of evidence by the prosecution to establish probable cause; or, the defense may stipulate to probable cause within the hearing, perhaps as part of negotiations to secure placement in non-secure detention (at a Youth Shelter House, YSH) over secure detention (at the Youth Services Center, YSC). In a probable cause hearing, probable cause may be found, not found, or so waived by the defense. If a probable cause hearing is not held, then the court does not make any finding about probable cause or substantial probability. In practice, if the defense stipulates to probable cause, there generally will not then be a determination about substantial probability. The rebuttable presumption of detention is therefore not a factor for consideration in the case.

Among the juvenile cases that had eligible charge and weapon types, a smaller proportion of those cases had a probable cause hearing held after the PPSEA and after Secure DC. Specifically, of the cases with eligible charge and weapon types, 147 of 162 (91%) had a probable cause hearing before the PPSEA, 200 of 235 (85%) after the PPSEA, and 123 of 149 (83%) after Secure DC.

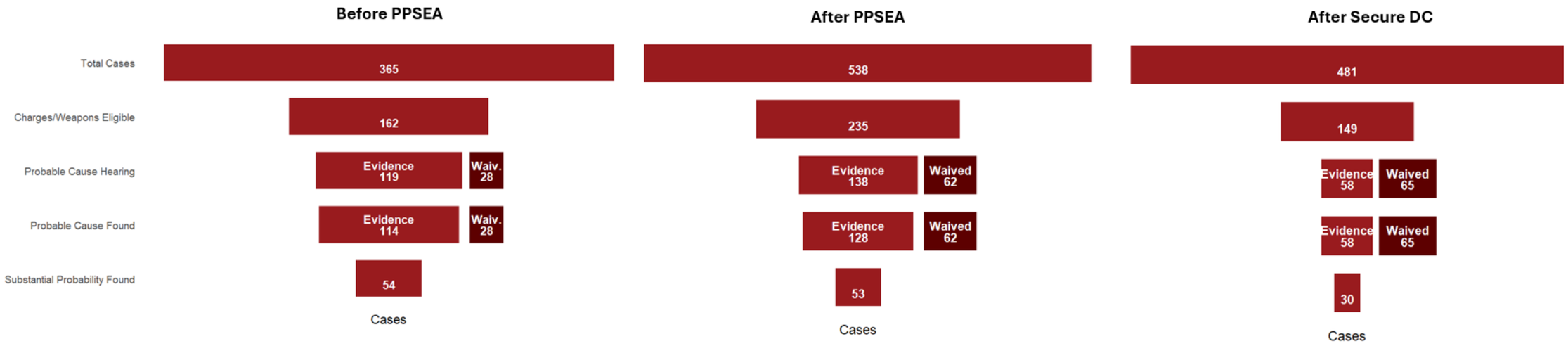
There are multiple reasons why a probable cause hearing may not be held: for example, the government may not seek probable cause or detention in the case, possibly because

the juvenile may be already detained; due to prosecutorial discretion; the juvenile may be hospitalized; or because the youth is committed on another case and placed in a secure hardware facility. See **Appendices A and C** for further details on pretrial detention procedures in D.C. Unfortunately, the information and data to explore across these potential reasons why a probable cause hearing was not held is not collected by any entity.

However, there were noticeable shifts in whether the probable cause hearing involved a finding of probable cause, or whether probable cause was waived or stipulated to by the defense. Over time, the percent of cases where probable cause was found via evidentiary hearing decreased; and the percent of cases where probable cause was found via stipulation by the defense increased. Before the PPSEA, after the PPSEA, and after Secure DC, probable cause was found via a presentation of evidence in 70% (114 of 162), 54% (128 of 235), and 39% (58 of 149) of cases eligible by charge and weapon types, respectively. Across the same three time periods, probable cause was waived, i.e., stipulated to by the defense, in 17% (28 out of 162), 26% (62 of 235), and 44% (65 of 149) of cases.

Overall, for juvenile cases with eligible charge and weapon types for which there was a probable cause hearing, probable cause was found in more than 95% of cases across all three time periods. However, as mentioned, substantial probability is generally found only in those cases where a probable cause evidentiary hearing is held, not when probable cause is waived or stipulated to by the defense. Considering this subset of cases, there was some fluctuation in the extent to which substantial probability was found: substantial probability was found in 54 of 114 (47%) cases before the PPSEA, 53 of 128 (41%) of cases after the PPSEA, and 30 of 58 (52%) of cases after Secure DC.

Figure 1: Juvenile Cases Filed that Met Various Components of Eligibility for the Rebuttable Presumption of Detention



Newly Eligible Cases

Analysis of juvenile cases with eligible charge and weapon types shows that 17% of those cases, both in the period after the PPSEA and after Secure DC, were eligible as a result of the expanded criteria established, in particular the new criteria established in the PPSEA, which changed which weapons the respondent had to be armed with during the crime that would make the case eligible.

Table 4: Juvenile cases that Met Charge and Weapon Criteria for the Rebuttable Presumption of Detention: Existing Criteria vs New Criteria (per the PPSEA and Secure DC)

Criteria type	After the PPSEA (intake between August 1, 2023, and January 31, 2024)	After Secure DC (intake between August 1, 2024, and January 31, 2025)
Met existing criteria	194 (83%)	124 (83%)
Met new criteria (PPSEA or Secure DC)	41 (17%)	25 (17%)
TOTAL	235 (100%)	149 (100%)

Initial Pretrial Placement Decisions for Eligible Cases

For cases that are eligible for the rebuttable presumption of detention, the court can choose to release the youth, to place the youth in a Youth Shelter House (YSH), or to securely detain the youth at the Youth Services Center (YSC). It is important to note that for youth who have multiple open cases, the court may consider the youth's current placement when determining the initial placement for the instant case. For example, if the youth is securely detained in another open case, the court may place an order to "release" the youth in the instant case, knowing that the youth will actually be in secure detention.

Given the small number of cases that were eligible for the rebuttable presumption, and due to juvenile data suppression requirements, the CJCC is not able to provide specific numbers or percentages for the initial placement decisions for eligible cases. Instead, only the following general information can be provided about initial placement decisions:

- Release was the most common initial placement before the PPSEA, whereas secure detention was the most common initial placement after the PPSEA and after Secure DC.
- A youth shelter house was the least common initial placement across all three time periods.

Juvenile Pretrial Rearrests

The CJCC analyzed rearrests for youth in cases that were eligible for the rebuttable presumption of detention who were either released or ordered to a youth shelter house at initial placement. Rearrests due to alleged offenses that occurred at the Youth Services Center were not included in this analysis. The period during which rearrests were observed was from the date of the initial placement decision through either the date of adjudication or the date of a new placement at YSC.

Given the small number of eligible cases for which youth were released or ordered to a youth shelter house, and due to juvenile data suppression requirements, the CJCC is not able to provide specific numbers or percentages of rearrests. Rather, the following general information can be provided about youths ordered released or ordered to YSH:

- The number of cases where the youth was rearrested did not change after the PPSEA but did decrease after Secure DC.
    - This analysis looks at rearrests among cases. The youth could have multiple offenses during the case time period, but only the first offense was counted for each youth. The time offense free also used the time until first offense date.
    - The percentage of eligible cases where the youth was rearrested while released or at YSH did not show a consistent pattern across the three time periods: it increased and then decreased.
- Of the very small number of rearrests, approximately half were for a crime of violence or a dangerous crime both before the PPSEA and after the PPSEA/Secure DC.
- Of the very small number of those rearrested, the average number of days the youth remained offense free after initial release or YSH placement increased from 82.7 days before the PPSEA to 128.7 days after the PPSEA. Considering time offense free until a dangerous crime or crime of violence, the average number of days after initial release or YSH placement was 44.5 days before the PPSEA and 116.3 days after the change in law.

However, the CJCC cautions readers against drawing strong conclusions based on these very small numbers, as these numbers are based on behavior of a handful of youth.

Comparison of "Would Have Been Eligible" and "Newly Eligible" Cases

The CJCC intended to compare outcomes for cases that "would have been eligible" for the rebuttable presumption—that is, cases during the "before the PPSEA" time period that would have been eligible if the PPSEA and Secure DC were in place at that time—to "newly eligible" cases—that is, cases during the "after the PPSEA" and "after Secure DC" time periods that were eligible for the rebuttable presumption only due to the new criteria established in those laws. Such an analysis could have provided insight into the potential impact of the PPSEA and Secure DC on pretrial detention and rearrests. However, no meaningful analysis could be conducted, given the small number of "would have been eligible" and "newly eligible" youth; nor could analysis be publicly shared, in light of juvenile data suppression requirements.

Appendix A: Description of Juvenile Pretrial Detention Procedures in DC

When determining whether a person may be detained prior to their adjudication, the court must assess whether there is a condition or combination of conditions that can:

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

Laws and procedures governing pretrial detention decisions differ depending on whether the person is a juvenile respondent or an adult defendant. A juvenile is a person under the age of 18 while an adult is 18 or older, or a person 15 to 17 years old who is being charged as an adult. The following section describes pretrial detention procedures for juvenile respondents only.

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 (D.C. Code §16-2305). After a petition is filed, an *initial hearing* is held where the juvenile is made aware of the contents of the petition (D.C. Code §16-2308). If the youth is not released pursuant to D.C. Code § 16-2311, the court holds a detention hearing pursuant to D.C. Code §16-2312, using the criteria for detaining children in D.C. Code §16-2310 and Super. Ct. Juv. R. 106.

If the prosecutor is asking the court to detain the youth pretrial, the court holds the detention hearing to determine if there is probable cause that the youth committed the charged offense(s). That is either accomplished through the government presenting evidence to the court or the respondent waiving their right to a probable cause hearing, if they elect to do so.

The detention 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 not sought 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. Further, the defense may waive or stipulate to probable cause as part of negotiations with the government, such as to obtain placement in non-secure detention (at YSH) over secure detention (at YSC).

If probable cause is found (or waived by the defense), 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 (D.C. Code §16-2310(a)). After establishing probable cause, the burden for demonstrating that a juvenile should be held lies with the prosecutor. For some charges, which are listed in D.C. Code §16-2310(a-1), the prosecutor may also seek a finding of *substantial probability*, an evidentiary standard higher than probable cause. While the prosecution can ask for detention based on 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 pretrial, while establishing a *substantial probability* the respondent committed one or more of the enumerated delinquent acts creates a presumption that the juvenile should be detained.

Following a finding of probable cause and a finding of substantial probability (if both are sought by the prosecution), the court makes a determination about detention. 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 decides about the juvenile's pretrial placement at the detention 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 detention 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 pretrial 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 Juveniles in the PPSEA and Definitions of Crimes of Violence and Dangerous Crimes in Secure DC

The following sections show the text of the D.C. Code using **~~bold and strikethrough~~** to convey that section of the law was removed by either the PPSEA or Secure DC, and **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 the D.C. Code that govern pretrial detention that were unchanged are also not included.

- § 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.**

- § 23-1331
  - (3) The term "dangerous crime" means:
    - *[Omitting the list of offenses that were included in the definition of dangerous crimes before the PPSEA and before Secure DC.]*
    - **(H) Any felony offense under Chapter 30 of Title 22 (Sexual Abuse);** [This adds:
      - § 22- 3002. First Degree Sexual Abuse.
      - **§ 22- 3003. Second Degree Sexual Abuse.**
      - **§ 22- 3004. Third Degree Sexual Abuse.**
      - **§ 22- 3005. Fourth Degree Sexual Abuse.**
      - **§ 22- 3006. Misdemeanor Sexual Abuse (if it is a 4th or subsequent offense which would make it a felony)**
      - **§ 22- 3008. First Degree Child Sexual Abuse.**
      - **§ 22- 3009. Second Degree Child Sexual Abuse.**
      - **§ 22- 3009.01. First Degree Sexual Abuse of a Minor.**
      - **§ 22- 3009.02. Second Degree Sexual Abuse of a Minor.**
      - **§ 22- 3009.03. First Degree Sexual Abuse of a Secondary Education Student.**

- **§ 22- 3009 .04. Second Degree Sexual Abuse of a Secondary Education Student.**
- **§ 22- 3010. Enticing a Child or Minor.**
- **§ 22- 3010.01. Misdemeanor Sexual Abuse of a Child or Minor (if it is a 4th or subsequent offense which would make it a felony).**
- **§ 22- 3010.02. Arranging for a Sexual Contact with a Real or Fictitious Child.**
- **§ 22- 3013. First Degree Sexual Abuse of a Ward, Patient, Client, Arrestee, Detainee, or Prisoner.**
- **§ 22- 3014. Second Degree Sexual Abuse of a Ward, Patient, Client, Arrestee, Detainee, or Prisoner.**
- **§ 22- 3015. First Degree Sexual Abuse of a Patient or Client.**
- **§ 22- 3016. Second Degree Sexual Abuse of a Patient or Client.**
- **§ 22- 3018. Attempts to Commit Sexual Offenses (if the completed offense would be a felony)]**

- (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: Methodology for Classifying Juvenile Cases and Conducting an Analysis of Rearrests

Classifying juvenile cases as subject to the pretrial detention provisions in the PPSEA and Secure DC

While the PPSEA and Secure DC affected eligibility for the rebuttable presumption of detention based on charges and weapons used, there are nuances as to how determinations of probable cause, substantial probability, and updated detention decisions may play out in practice. These complexities are not necessarily captured in the legislative provisions on juvenile pretrial detention changed by the PPSEA and Secure DC, nor in the CJCC's legislatively mandated reporting requirements on this topic. For example, for substantial probability to be found, probable cause must first be found. However, in practice, a prosecutor may waive probable cause, if, for example, the respondent is already being held in another case – since a juvenile may be held only once no matter how many cases they may be facing. Defense counsel may stipulate to probable cause as part of negotiations with the prosecutor as to the placement of the juvenile – such as part of negotiating a juvenile respondent being placed at YSH rather than at YSC. Additionally, while probable cause is necessary for a juvenile to be detained pretrial, establishing substantial probability makes it easier for the government to secure pretrial detention for a juvenile respondent.

The PPSEA and Secure DC changed pretrial provisions in which substantial probability is the necessary level of evidence. Therefore, to capture these nuances in implementation, the CJCC has also presented data on the number and percent of cases where a probable cause hearing was held; the outcome of the hearing; and where substantial probability was found or not found. Additionally, there may be differences between placement by judicial order for detention in the case and the actual placement of the juvenile respondent, if the juvenile respondent was facing multiple simultaneous cases or if a placement did not become available on the date of the order. For example, the court may designate a youth's placement as released in a particular case when they have already been held in a separate case. Therefore, the CJCC also presents data on rearrest considering both the court-ordered placement and the physical placement of the juvenile at the time of the offense.

Defining the start and end of placement for rearrest analyses

Juvenile respondents may have their pretrial placements updated during the pretrial period. The CJCC has tracked rearrests only until the end of the first court ordered placement, and if there was only one placement, the end date for the rearrest analysis was adjudication (including a finding of guilt, acquittal, or dismissal). There are several reasons for defining the analytical period in this way:

- Since the PPSEA and Secure DC changed proceedings only for the initial placement, the rebuttable presumption of detention is relevant when there is a question of proof regarding the charges. In a post-adjudication phase, the juvenile respondent has been found or pled guilty, and those questions of proof regarding charges no longer apply.
- The PPSEA and Secure DC affected proceedings for the initial placement. Since the factors affecting an updated placement were not changed by this legislation, the end date for the rearrest analysis should not extend beyond the first placement.
- The rebuttable presumption of detention is relevant when there is a question of proof regarding the charges. In a post-adjudication phase, the juvenile respondent has been found or pled guilty, and those questions of proof regarding charges no longer apply. Therefore, if there were only one placement, the adjudication was used as the end date.
- The time between the adjudication in the factfinding hearing and the sentencing may be extensive, particularly if a juvenile was placed in the post-plea track in HOPE Court, Track 2 in the JBDP, or was placed on a Deferred Disposition Agreement (DDA).
- There are agreements and program participations that happen prior to adjudication – such as pre-plea HOPE Court, Track 1 in the JBDP, Consent Decrees and Deferred Prosecution Agreements. However, these pre-plea programs and deferral agreements are generally small in number and are likely to be even smaller for youth charged with the types of serious offenses that could make them eligible for the rebuttable presumption of detention (dangerous offenses, crimes of violence, and CPWL). Per the OAG, youth charged with these sorts of offenses are less likely to be offered pre-plea prosecution alternatives.

The DC Courts did not review or verify the final data that the CJCC used for this report.

Appendix D: Secure DC Provisions Related to Writing the Report

§ 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 pretrial detention for juveniles, no later than September 30, 2026. 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 July 20, 2023, and after 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 July 20, 2023, and after 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 July 20, 2023, and after 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 July 20, 2023, and after 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 July 20, 2023, and after 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 July 20, 2023, and after June 8, 2024; which data shall be disaggregated, by type of underlying offense for which the juvenile was charged.