

Pre-Trial Detention of Dangerous and Violent Defendants Following Passage of the Omnibus Public Safety Justice Amendment Act of 2009



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INTRODUCTION

OVERVIEW

On July 31, 2009, the DC Council unanimously passed the Omnibus Public Safety and Justice Amendment Act of 2009 (hereafter, “the Act”), a comprehensive anticrime bill with a particular focus on gun crime and other violent crime in the District of Columbia. The Act was signed by the mayor on August 26 and became effective on December 10, 2009, after the Congressional Review period passed.

One of the policy changes introduced by the Act involved making it easier to detain pretrial defendants charged with certain offenses, mostly dangerous or violent crimes. At the request of the Executive Office of the Mayor of the District of Columbia and the Criminal Justice Coordinating Council, this report examines whether detention of these defendants increased following passage of the Act. The legal grounds for pretrial detention of violent or dangerous defendants in the District of Columbia are briefly reviewed, as well as some considerations concerning weapons offenses. Trends in the pretrial detention of violent and dangerous defendants are then examined, and are found to indicate that detention was on the rise before the Act and continued to rise after its passage. Multivariate analyses are then reported that aim to distinguish any rise associated with the passage of the Act from preexisting trends in detention. The report then looks specifically at the effects of the Act on allegedly violent or dangerous defendants with and without associated weapons charges. Results suggest that pretrial detention for dangerous and violent defendants without weapons charges rose after passage of the Act, but those with associated weapons charges show no change.

PRETRIAL DETENTION IN THE DISTRICT OF COLUMBIA

In Washington, DC, when an individual is arrested, the police officer presents a complaint to the prosecutors of the United States Attorneys’ Office (USAO) or the District of Columbia Attorney General’s Office (OAG). The USAO or OAG then decides whether to prosecute the case and on what charges. If the prosecutor proceeds with the case, the defendant is scheduled to appear for arraignment or presentment in court, and is referred to the Pretrial Services Agency for the District of Columbia (PSA) for initial processing.

PSA conducts an interview with the defendant to collect information on prior criminal history, residential stability, substance use, and other relevant risk factors necessary to make release recommendations to the court, and prepares a report for submission to the judge. At initial hearings, the judge determines whether or not to release the defendant while awaiting trial. The report provides a pretrial release/detention recommendation and, if the defendant is released, supervision conditions (see Kim and Denver 2011 for a full discussion of the assessment process). Defendants may be released on their own recognizance, released with various supervision requirements, or

detained. Washington, DC, detention law is designed to largely preclude monetary bail as the determinant of detention or release. In 2008, 80 percent of all defendants were released without a money bond (Pretrial Services Agency 2009).

Pretrial Detention to Protect Public Safety

The Act amended the detention law in order to facilitate detention on the grounds of risk to public safety (or of flight) for defendants charged with certain offenses—mostly a “dangerous crime” or a “crime of violence.”¹ As such, this report focuses primarily on the detention of defendants charged with a violent or dangerous crime, on the grounds of public safety.

There are several different grounds for detaining a defendant to protect public safety. First, if a judge finds “*clear and compelling evidence*” that no condition or combination of conditions of release will reasonably ensure public safety, that is grounds for detention (§ 23-1322 (b)).² This rule was unaffected by the Act.

Second, if the judge finds “*substantial probability*” that the defendant committed a dangerous or violent crime, along with one of several additional circumstances that function as “aggravating conditions,” this generates a rebuttable presumption that pretrial detention is necessary for public safety (§ 23-1322 (c)). That is, these aggravating conditions lower the bar for detention, so that the presumption is that the defendant must be detained for public safety, leading to a conclusion that pretrial detention is necessary unless the defendant and counsel prove otherwise. As discussed below, the Act amended this law.

In addition to “dangerous and violent crimes,” certain firearm-related offenses and obstruction-of-justice offenses are also included. These aggravating conditions include the use of a deadly weapon; threats to a law enforcement officer, officer of the court, or prospective witnesses or jurors; prior conviction on a violent or dangerous crime committed while on pretrial release; more than one separate pending incident of a dangerous or violent crime; a robbery involving a victim injury; and firearms violations.³

Third, a separate subsection of the Detention Law concerns defendants charged with murder in the first or second degree or assault with intent to kill while armed (§ 23-1325), but this is rarely used.

¹ The charges designated as either a “dangerous crime” and “crime of violence” are listed in **appendix B**.

² Although it is beyond our purview here, we note that § 23-1322 (b) also provided for detention if there is no condition or combination of conditions that will ensure the appearance of the defendant in court.

³ The specific language of § 23-1322 (c) can be found in **appendix B**.

The one other important ground for detention is the defendant was arrested for an offense committed while the defendant was already under the supervision of a criminal justice agency at the time of the offense (§ 23-1322(a)(2)).

Omnibus Act of 2009

The Act focuses on increasing public safety, with a particular focus on gun crime and other violent crime, through all phases of the criminal justice process. This study concerns the specific implications of the Act for pretrial detention. Section 212 of the Act amended § 23-1322(c) of the existing Detention Law in two ways. The first change lowered the legal standard from “substantial probability” to “probable cause” for determining that a defendant has committed a violent or dangerous offense along with an aggravating condition (see **appendix B**). Because probable cause is a lower standard of proof than substantial probability, this could facilitate more use of pretrial detention for those charged with violent and dangerous crimes.

The second change concerns the implications of firearms offenses during the commission of a dangerous or violent crime. This is one of the aggravating conditions discussed above that sets a rebuttable presumption that no condition or combination of conditions of release will reasonably ensure public safety. Prior to passage of the Act, the only firearms offense that led to this rebuttable presumption involved carrying a pistol without a license (§ 22-4504(a)). The Act added three firearms-related offenses: carrying a rifle or shotgun, possession of a firearm during the commission of a crime of violence or dangerous crime, and unlawful possession of a firearm (§ 22-4504(a-1), § 22-4504(b), and § 22-4503, respectively).

FIREARMS CONTROL IN THE DISTRICT OF COLUMBIA

At the time the Act was passed, the District was grappling with how to respond to the Supreme Court’s decision to overturn the Firearms Control Regulations Act (hereafter the Firearms Act) in 2008 (*District of Columbia v. Heller*, 554 U.S. 570, 2008). The District has a long history of implementing programs and strategies to reduce gun violence. These efforts have ranged from requiring guns to be disabled and inoperable in the home to thorough registration processes with the Metropolitan Police Department (MPD) and strict penalties for those who use guns illegally. Stemming largely from the Firearms Act, gun policies in the District have been the subject of heated debate at both the local and national levels, and their effectiveness has been disputed in scholarly communities as well (Britt, Kleck, and Bordua 1996; Loftin et al. 1991). Most notably, the Firearms Act banned residents of the District from owning designated firearms, including handguns, automatic firearms, and high-capacity semiautomatic firearms.

In *Heller*, the Supreme Court found that the Firearms Act violated the Second Amendment, and noted that “few laws in the history of our Nation have come close to the severe restriction of the District’s handgun ban.” After this ruling loosened its firearm

restrictions, the District passed emergency legislation—and later permanent legislation—to prepare for the expected increase in legal gun ownership post-*Heller*.⁴

The Act was introduced a year later to strengthen tools to control violence in the District. In a public hearing on the Act, the Attorney General and MPD Chief of Police noted,

“While the District government is strongly committed to complying with the [*Heller*] ruling, and ensuring that law-abiding residents can possess a handgun in their home for self-defense, we also want to send an unambiguous message to those who commit violent acts that we will not tolerate criminal gun possession or use” (Nickles and Lanier, 2009).

⁴ See MPD’s response to the *Heller* ruling and information on the emergency legislation at http://mpdc.dc.gov/mpdc/cwp/view,a,1237,q,547431,mpdcNav_GID,1523,mpdcNav,%7C.asp.

DATA AND METHODS

DANGEROUS AND VIOLENT CASES, 2007 THROUGH 2010

This study examines administrative records of defendant cases that appeared in dockets primarily filed in the District's Superior Court in the three years preceding passage of the Act in December 2009, and for the year following, utilizing data on cases filed between January 2007 and December 2010.⁵ Administrative data were obtained from PSA's automated database, which tracks all cases brought to PSA for initial pretrial interviews.

The Act facilitated pretrial detention on the basis of dangerousness and primarily targeted dangerous or violent crimes. Defendants were charged with dangerous and violent offenses in approximately 18 percent of all cases filed in calendar year 2007 through calendar year 2010. Our study utilizes⁶ 16,784 dangerous or violent cases for which data were sufficient for study. The primary analytic approach in this study then examines changes over time in the probability of detention of violent or dangerous offenders, independently of how the number of dangerous and violent cases changes over time.

CASE CHARACTERISTICS

Our multivariate analyses analyze the probability of dangerous or violent defendants⁷ being detained, while controlling for other relevant characteristics of the individual cases. These case characteristics are also included in the administrative data. PSA gathers information about prior criminal history, residential stability, substance use, and other relevant factors via defendant interviews and background checks, in order to determine the risk that defendants would flee or engage in criminal activity upon release to the community. The administrative database maintains information about the risk of pretrial misconduct, the type of instant offense (the most recent or current offense), and the characteristics of defendants.

⁵ Two percent of observations are from defendants in U.S. District Court for the District of Columbia.

⁶ Approximately 10 percent of cases involving a dangerous or violent crime were lost due to missing data.

⁷ The unit of analysis is the case rather than the person; the same defendant may appear in more than one case. Yet, it is defendants who are detained. Therefore, in reporting the detention results, we refer at times to defendants being detained, while acknowledging that the same person may be represented multiple times.

DETENTION OUTCOMES

The primary outcome examined in this study is detention on public safety grounds, under 1322(b) and (c). Although the Act only lowered the thresholds for detaining dangerous and violent offenders under 1322(c), the data do not reliably distinguish detention under 1322(b) from 1322(c). Over the entire study period, we find only one case recorded as detained on 1322(c).

This does not seem to be primarily an issue of data recording. The substantial overlap between the grounds for detention on 1322(b) and 1322(c) means that many defendants may be eligible for detention on both grounds; the court need not specify more than one basis for detention. Our courtroom observation suggests that detentions on public safety grounds are generally simply described as 1322(b) detentions.

We note that while 1322(b) and (c) contain most of the grounds for detention for public safety, they also contain other grounds for detention. The primary other reason for pretrial detention is to ensure court appearance. Nonetheless, for dangerous and violent offenders, we make the simplifying assumption that public safety is generally the primary basis for detention.

This report distinguishes among four detention statuses for defendants charged with violent and dangerous offenses.

- Public safety grounds for detention (1322(b) or (c))
- Preexisting community supervision ground for detention (1322(a))
- Other detention
- Release

INITIAL HEARINGS

This report focuses on detention at the initial hearing. **Table 1** compares the initial detention decision with the detention decision at subsequent hearings for dangerous and violent defendants, and confirms that most public safety detentions occur at the first hearing. Almost half of the cases have only one detention hearing.

The columns in table 1 show the results of the initial detention decision. The first column shows that 4,348 defendants were detained at their initial hearing on public safety grounds. Only a few (255) additional public safety detentions were made at subsequent hearings.

At the initial hearing, we also see that 2,260 defendants were detained because they were already under correctional supervision. Overall, a majority of defendants were released at the initial hearing. Of those released, only a small number were later detained on this ground (100).

Table 1. Initial and Subsequent Detention Status of Violent or Dangerous Defendants

<u>Detention at Subsequent Hearings</u>	<u>Initial Detention Decision</u>				Total
	Public Safety Detention (1322 (b, c))	Preexisting Community Supervision Detention 1322 (a)	Other Detention	Released	
NA (No Subsequent Hearing)	2,124	704	633	4,181	7,590
Public Safety Detention 1322 (b, c))	61	9	191	55	316
Preexisting Community Supervision Detention, 1322 (a)	<i>15</i>	<i>36</i>	<i>77</i>	<i>45</i>	<i>173</i>
Other Detention	<i>464</i>	<i>396</i>	<i>378</i>	<i>1,182</i>	<i>2,420</i>
Released	<i>1,684</i>	<i>1,115</i>	<i>263</i>	<i>3,169</i>	<i>6,231</i>
Total	4,348	2,260	1,542	8,632	16,782

Note: Public safety detention is indicated in boldface. Cases in which the initial detention status changes at later hearings are indicated in italics.

DETENTION OVER TIME

TRENDS OVER TIME IN PRETRIAL DETENTION

Figure 1 shows the initial detention status for dangerous and violent defendants, quarterly, over time; **Figure 2** presents these same results, by year. As can be seen, public safety detention increased year by year from 2007 on, while releases declined. The quarterly numbers also fluctuate around those yearly trends. Most years seem to show a rise and then fall in both releases and public safety detention.

Figure 1. Initial Detention of Dangerous or Violent Defendants

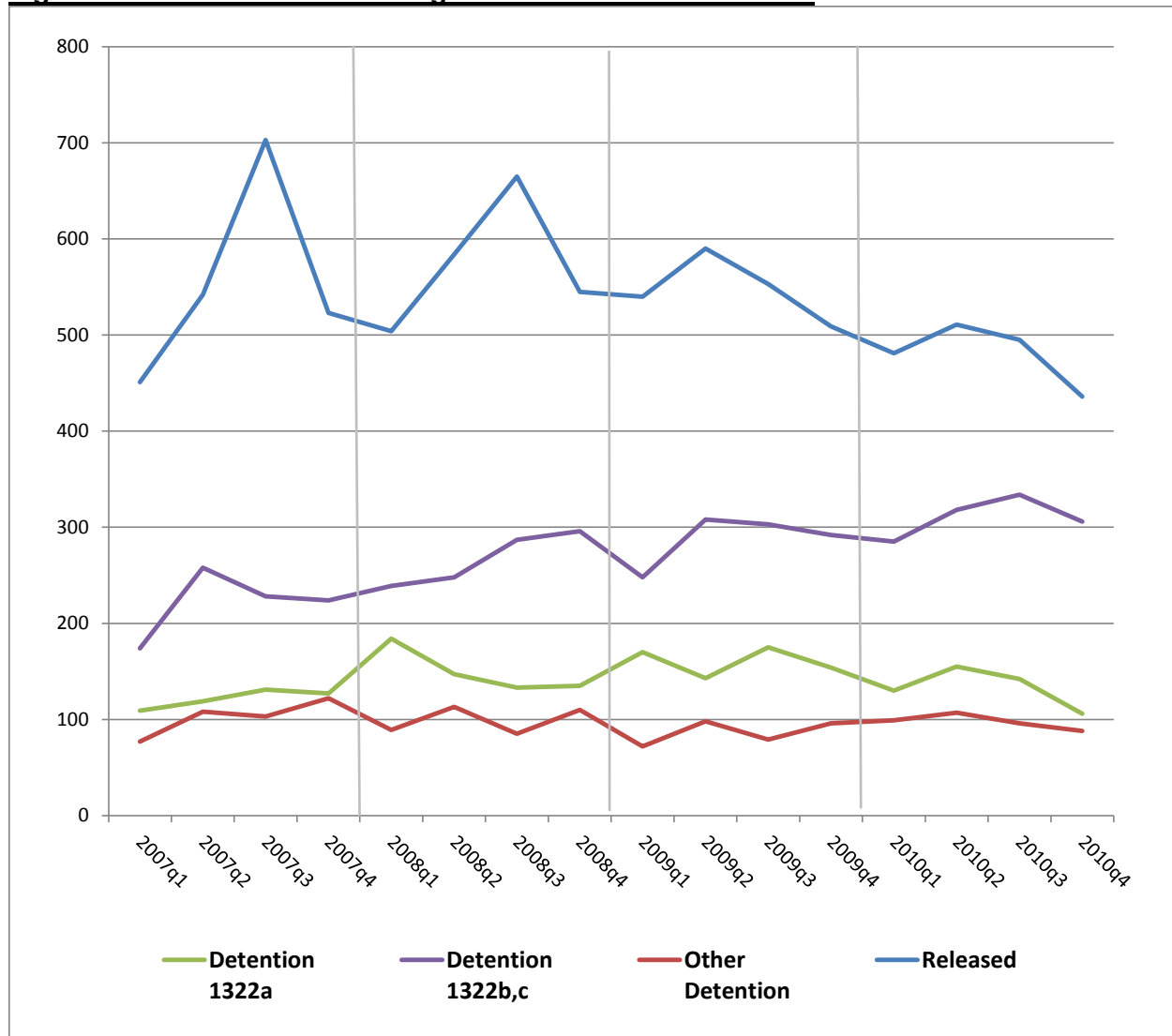
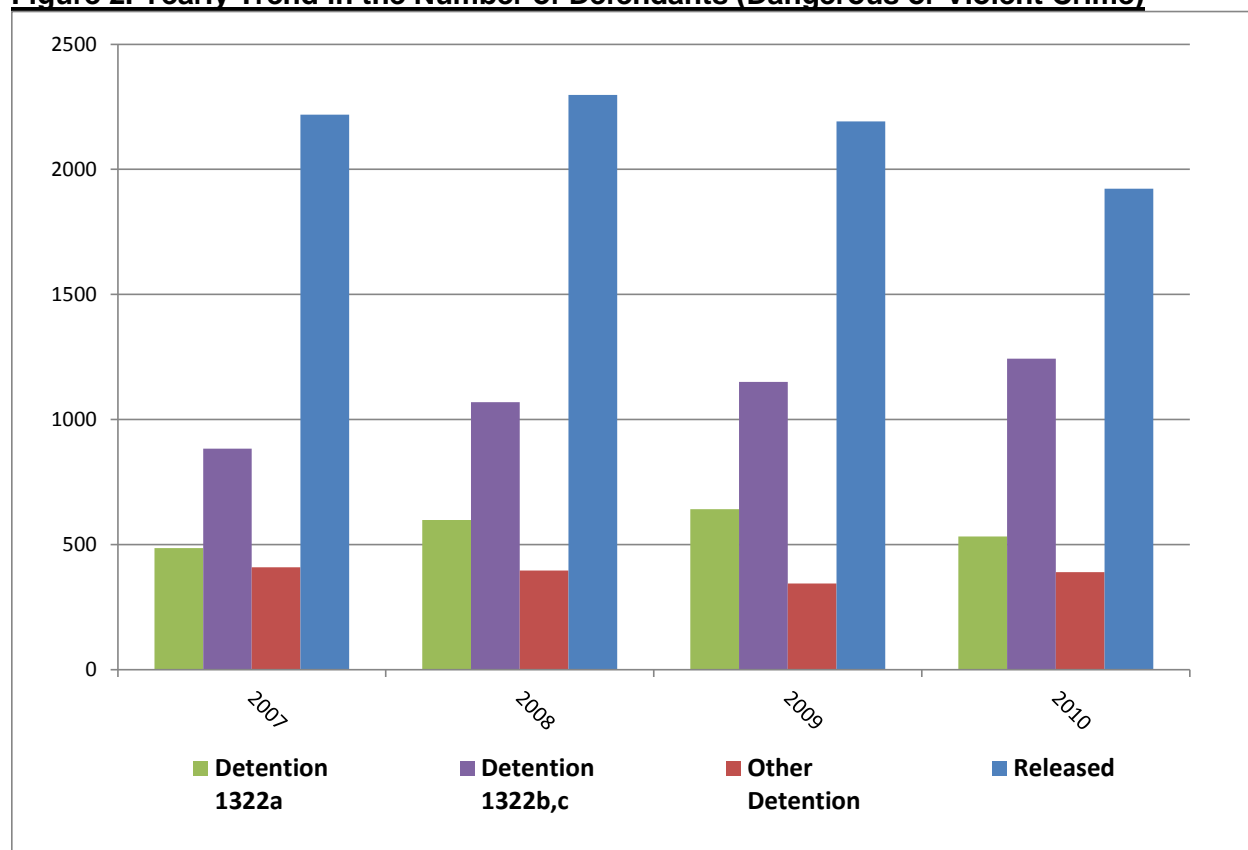


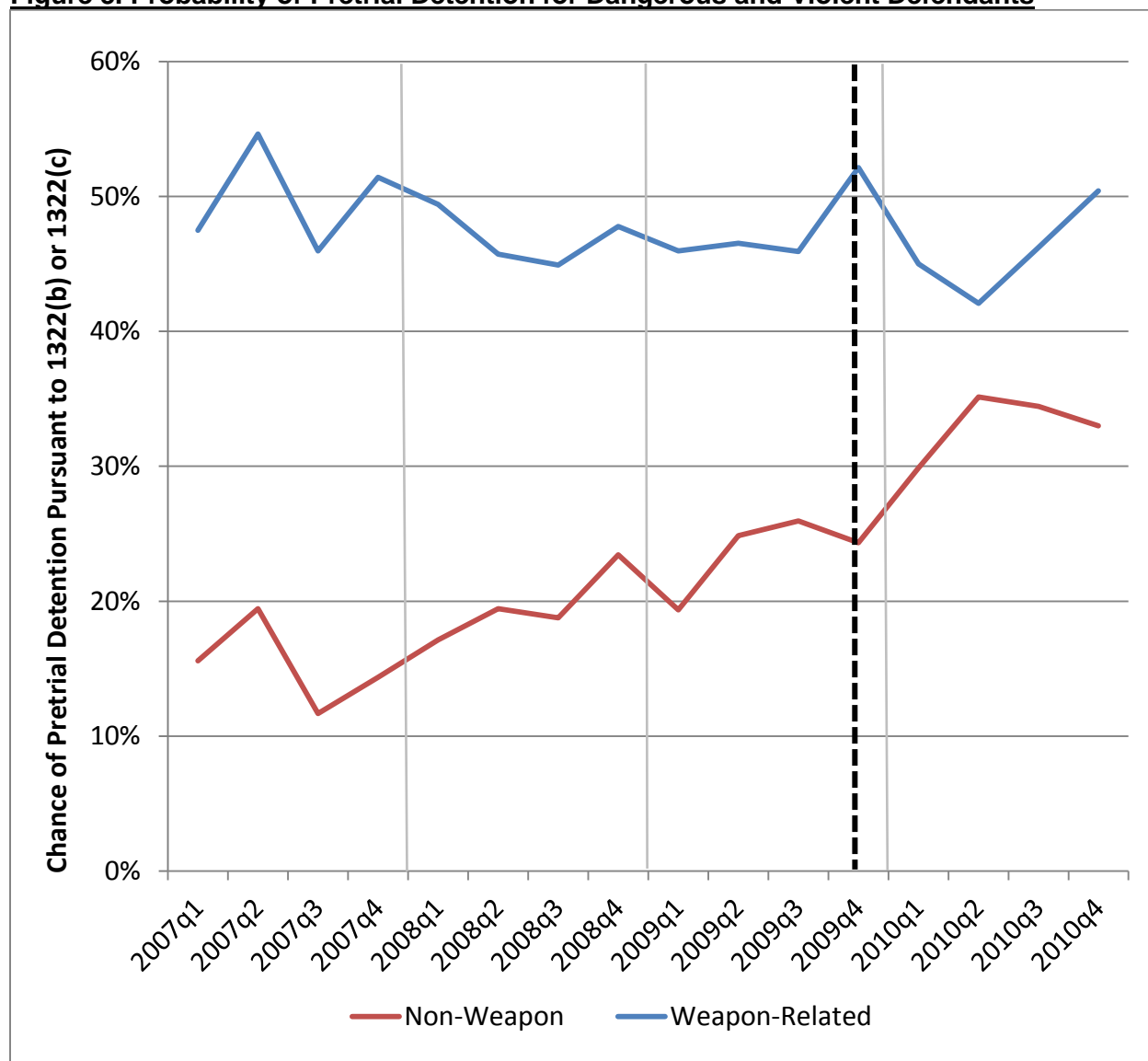
Figure 2. Yearly Trend in the Number of Defendants (Dangerous or Violent Crime)



While figures 1 and 2 show changes in the volume of detention, **Figure 3** displays the probability of initial detention (vs. release) from 2007 through 2010. Other forms of detention are excluded. The passage of the Act, in December 2009, is indicated by the vertical line. Clearly, the probability of detention has increased over time. Despite some fluctuations in 2007 and 2008, there has been a persistent increase in the probability of pretrial detention. We find that 2010 had the highest number of public safety detentions of dangerous and violent defenders during this period.

Figure 3 shows the probability of detention on public safety grounds compared to release, for dangerous and violent defendants, separately for those with and without associated weapons charges. Throughout the period, defendants with associated weapons charges were considerably more likely to be detained. But the probability of detention for defendants with weapons charges has been relatively flat, declining somewhat over time, albeit with some fluctuations. In contrast, the probability of detention of dangerous and violent defendants without associated weapons charges shows a steady increase, and a fairly sharp increase after passage of the Act.

Figure 3. Probability of Pretrial Detention for Dangerous and Violent Defendants



MULTIVARIATE ANALYSES

The trends already examined indicate that detention of violent or dangerous defendants on public safety grounds increased after the passage of the Act. However, we have also seen that such public safety detention was already increasing. The key analytic challenge for our multivariate models is to determine whether there is an additional increase after December 2009 as a result of the Act or whether the increase is just part of a preexisting trend. A second analytic task is to attempt to control for variation over time in other case characteristics associated with detention. If individuals arrested after

the Act were more dangerous than before, then we could mistakenly attribute the increase to the Act rather than their dangerousness.

For our multivariate analyses, detention outcomes are limited to public safety detention versus release, and exclude defendants detained for preexisting community supervision or other grounds. Parallel analyses were also conducted in which public safety detention was compared to all other outcomes, and results were substantively equivalent. The multivariate models themselves are shown in **appendix A**. Here we review key results.

CASE CHARACTERISTICS AND PRETRIAL DETENTION

We first examined case features that are associated with the increased probability of detention. We examined defendant and case characteristics, including age, gender, race, and whether there was a weapon-related charge and a felony charge in the current case. We also included a risk score assessed by PSA and used in its release recommendations, for the risk of flight (FTA). This risk score is calculated from a series of binary risk factors regarding the criminal history, compliance history, substance abuse problems, and community ties of defendants. Higher scores indicate greater risk.

Table 2. Public Safety Detention and Case Characteristics for Dangerous or Violent Defendants

	Association with Detention in Multivariate Model?	Average Before the Act (n = 12,479)	Average After the Act (n = 4,305)	Significant Change?
Age	–	34.35	33.21	*
African American Defendant	+	0.93	0.92	*
Male Defendant	+	0.86	0.85	
Flight Risk Score	+	4.56	4.73	*
Weapon	+	0.43	0.47	*
* p < .01; + = positive association; – = negative association.				

Of particular interest in this analysis are case characteristics that are both associated with detention in multivariate models (see **appendix A**, model 1), and that increased or decreased coincident with passage of the Act. We find that although the observed changes were modest in size, there are a number of significant changes. Thus, it is especially important to statistically control for these variables, to prevent misattributing any effects of the change in case characteristics to the Act.

Table 2 describes the case characteristics that both changed over time and were associated with public safety detention of violent and dangerous defendants. Age is

negatively related with detention, suggesting that younger defendants have a higher probability of detention. All of the other characteristics show a positive correlation with detention, such that African Americans, males, those with a weapons charge, and those with higher flight risk scores are more likely to be detained.

The average age of dangerous and violent defendants, the percentage of cases involving African-American defendants, and the percentage involving males all declined slightly from before to after passage of the Act. At the same time, the flight risk score increased. Perhaps most important, the percentage of dangerous or violent cases that had an associated weapon-related charge increased somewhat from before the Act (43 percent) to after the Act (47 percent). These changes in the mix of case are controlled in our multivariate analyses.

MULTIVARIATE RESULTS

Our primary multivariate analyses of the effect of passage of the Act do three things simultaneously. They control for preexisting time trends, control for case characteristics, and distinguish the effects of the Act on dangerous or violent defendants with and without associated weapons charges.

The multivariate analyses find that results are significantly and substantively quite different for defendants with and without associated weapons charges.

For dangerous and violent defendants *without* associated weapons charges, we find that detention on public safety grounds increased with passage of the Act. While such detention was on an upward trend, that trend does not seem to completely account for the increase in detention following passage of the Act.

In contrast, for defendants with associated weapons charges, we find no increase in the probability of detention. If anything, the probability of their detention was on a slight downward trend, and dropped further after passage of the Act.

These results largely confirm the trends that were shown in **Figure 3**. Technical details are presented in **appendix A**, where the full model is shown in **Table 3**, model 5.

SUMMARY AND CONCLUSIONS

We find a steady increase from 2007 through 2010 in the probability of detention for dangerous and violent defendants without associated weapons charges, on public safety grounds. No such trend was seen in the detention of defendants with associated weapons charges.

Multivariate statistical techniques were used to attempt to disentangle these trends from the passage of the Act *per se*. The probability of detention seems to show an additional increase in 2010, after passage of the Act, beyond the preexisting trends. That is, passage of the Act was associated with a change in the probability of pretrial detention for dangerous and violent defendants who did not have weapons charges. No such effect, however, was found for dangerous and violent offenders with associated weapons charges.

We should note that our ability to distinguish the preexisting trend from an additional increase following passage of the Act is somewhat limited by the relatively short data series (one year) following passage of the Act. Since both the preexisting trends and the apparent effect associated with the passage of the Act are in the same direction, they are difficult to disentangle, and results can be sensitive to details in how the time trend is modeled.

These results raise some additional questions: How and why did the passage of the Act increase detention of such defendants? Did judges utilize the lowered thresholds to detain dangerous and violent defendants who would otherwise have been released? Or, perhaps, did the Act's general focus on addressing dangerous and violent offenders promote increased worry about the public safety risk of releasing such defendants? Were both the passage of the Act and increased detention part of the same contemporaneous focus on addressing the public safety risk of dangerous and violent defendants? Or, did other development(s) at the same time somehow reinforce or facilitate pretrial detention of dangerous and violent offenders?

Our quantitative study of administrative data cannot distinguish among such possibilities. Only a study of judicial decisionmaking could show whether judges were sensitive over this period to the lowering of the thresholds for pretrial detention to protect public safety.

The results for weapons-involved offenders raise additional questions: Why have the trends in detaining dangerous and violent offenders with and without weapons charges been so different? Detention is considerably more likely for such weapons-involved offenders than other dangerous and violent offenders. Perhaps there is little room for increased detention of such offenders.

Did the prominence of the *Heller* decision and responses to it play some role in preventing an increase in pretrial detention? These questions, too, cannot be addressed by the available administrative data.

These important questions may warrant additional study. What is clear from the present study is that, in the District, dangerous and violent defendants without weapons charges have faced increasing chances of detention in the interests of protecting public safety.

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APPENDIX A: MULTIVARIATE ANALYSES

This appendix reports results from our multivariate analyses. With individual-level case data, each case is either detained pursuant to 1322(b) or (c), or not detained, which is a dichotomous outcome. We model detention through logistic regression; results are shown as logit coefficients (b values) in Table 3.

Model 1 estimates the effect of key measures on the chance of pretrial detention. Individual characteristics such as age, race, and gender, and case characteristics such as the involvement of a weapon-related charge and the level of FTA risk, were examined. Findings are in expected directions and ranges.

Model 2 then adds in a yearly trend, and finds increasing detention over time. In additional analyses not presented here, we explored a quadratic component to the time trend; it did not improve the model.

Model 3 then examines whether detention rises or falls after passage of the Act, while controlling for the aforementioned time trends, individual characteristics, and case characteristics. The Act is coded as before (0) or after (1) December 2009. Results find no significant change associated with the Act beyond that accounted for by the time trend. In analyses not shown, we also explored whether there was a change in the time trend by interacting the Act with the Yearly Trend term (centered at December 2009), and found no such effect.

Models 4 and 5 differentiate the effect of the Act on cases with and without an associated weapons charge. It is important to note that the meaning of the Act term is different in this model than in the previous models. With both the Act and the weapons terms coded (0, 1) as dummy coefficients, and an interaction term, the coefficient for the Act is no longer the average effect across all cases (i.e., a “main effect”). Instead, in Model 5, the Act term gives the effect only for defendants *without* a weapons charge, and the Act x weapon interaction term gives the difference between defendant with and without an associated weapons charge.

When defendants with and without weapons charges are differentiated, then model 4 shows that they have different time trends. Defendants *without* weapons charges show a positive trend in the probability of detention, as seen earlier, but considerably larger ($b = .314$). But this is more than offset for defendants with weapons charges ($0.314 - 0.363 = -0.049$), who have a slightly negative trend.

When we turn to the effects associated with passage of the Act in model 5, we see that the effect is quite different for the two groups. For defendants *without* a weapons charge, the effect is significant and positive ($b = .202$), indicating an increase in the probability of detention. For defendants *with* a weapons charge, however, the effect is actually somewhat negative ($.202 - .285 = -.083$), and the probability of detention declines.

Table 3. Models Predicting the Chance of Pretrial Detention vs. Release

		Across All Cases		Differentiating Cases with and without Weapons Charges	
	Case Characteristics	Time Trend	Act Effect	Time Trend	Act Effect
	Model 1	Model 2	Model 3	Model 4	Model 5
Tuesday	0.148 [*]	0.136	0.135	0.147 [*]	0.147 [*]
Wednesday	0.140 [*]	0.135 [*]	0.135 [*]	0.138 [*]	0.137 [*]
Thursday	0.180 ^{**}	0.170 ^{**}	0.169 ^{**}	0.169 ^{**}	0.169 ^{**}
Friday	0.201 ^{**}	0.207 ^{**}	0.207 ^{**}	0.197 ^{**}	0.197 ^{**}
Saturday	-0.0940	-0.100	-0.100	-0.103	-0.103
Age (in years, centered at 18)	-0.00285	-0.00249	-0.00248	-0.00211	-0.00204
Age Squared	-0.000450 ^{***}	-0.000450 ^{***}	-0.000450 ^{***}	-0.000459 ^{***}	-0.000459 ^{***}
Race: Black	0.608 ^{***}	0.624 ^{***}	0.625 ^{***}	0.609 ^{***}	0.610 ^{***}
Race: Other	0.308	0.318	0.316	0.279	0.280
Male Defendant	1.032 ^{***}	1.051 ^{***}	1.050 ^{***}	1.053 ^{***}	1.055 ^{***}
Risk of FTA	0.0811 ^{***}	0.0795 ^{***}	0.0795 ^{***}	0.0790 ^{***}	0.0793 ^{***}
Weapon-related Charge	1.148 ^{***}	1.137 ^{***}	1.137 ^{***}	0.830 ^{***}	0.986 ^{***}
Yearly Trend		0.141 ^{***}	0.125 ^{***}	0.314 ^{***}	0.267 ^{***}
Weapon x Yearly Trend				-0.363 ^{***}	-0.274 ^{***}
Act			0.0531	0.0542	0.202[*]
Act x Weapon					-0.285[*]
Constant	-2.908 ^{***}	-2.802 ^{***}	-2.831 ^{***}	-2.660 ^{***}	-2.747 ^{***}
<i>N</i>	12980	12980	12980	12980	12980
<i>AIC</i>	14930.9	14869.3	14870.7	14769.2	14766.9
<i>BIC</i>	15028.0	14973.9	14982.8	14888.7	14893.9
Log Likelihood	-7452.4	-7420.6	-7420.4	-7368.6	-7366.5
χ^2	1648.4	1712.0	1712.6	1816.1	1820.4

^{*} $p < 0.05$, ^{**} $p < 0.01$, ^{***} $p < 0.001$.

APPENDIX B. ASPECTS OF DETENTION LAW

CRIMES DESIGNATED AS DANGEROUS OR VIOLENT

The term “dangerous crime” means one of the following:

- Any felony offense under Chapter 45 of Title 22 (Weapons) or Chapter 25 of Title 7 (Firearms Control)
- Any felony offense under Chapter 27 of Title 22 (Prostitution, Pandering)
- Any felony offense under Unit A of Chapter 9 of Title 48 (Controlled Substance)
- Arson or attempted arson of any premises adopted for overnight accommodation of persons for carrying on business
- Burglary or attempted burglary
- Cruelty to children
- Robbery or attempted robbery
- Sexual assault in the first degree, or assault with intent to commit first degree sexual abuse
- Any felony offense established by the Prohibition Against Human Trafficking Amendment Act of 2010

The term “crime of violence” means one of the following:

- 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 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
- Use, dissemination, or detonation of a weapon of mass destruction
- An attempt or conspiracy to commit any of the foregoing offenses

§23-1322(c) BEFORE AND AFTER PASSAGE OF THE ACT

Note: Changes to §23-1322(c) with passage of the Act are indicated below as follows: old language that was removed is shown as ~~struck out~~, and new language that was added is underlined.

There shall be a rebuttable presumption that no condition of combination of conditions will reasonably assure the safety of any other person and the community if the judicial officer finds by a ~~substantial probability~~ probable cause that the person:

- (1) Committed a dangerous crime or a crime of violence, as these crimes are defined in § 23-1331, while armed with or having readily available a pistol, firearm, imitation firearm, or other deadly or dangerous weapon
- (2) Has threatened, injured, intimidated, or attempted to threaten, injure, or intimidate a law enforcement officer, an officer of the court, or a prospective witness or juror in any criminal investigation or judicial proceeding
- (3) Committed a dangerous crime or a crime of violence, as these terms are 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
- (4) Committed a dangerous crime or a crime of violence while on release pending trial for a local, state, or federal offense
- (5) Committed two or more dangerous crimes or crimes of violence in separate incidents that are joined in the case before the judicial officer
- (6) Committed a robbery in which the victim sustained a physical injury; or
- (7) ~~Committed CPWL, carrying a pistol without a license.~~ Violated D.C. Official Code § 22-4504(a) (carrying a pistol without a license); D.C. Official Code § 22-4504(a-1) (carrying a rifle or shotgun); D.C. Official Code § 22-4504(b) (possession of a firearm during a crime of violence); or D.C. Official Code § 22-4503 (unlawful possession of a firearm)

District of Columbia Crime Policy Institute (DCPI)

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DCPI is a nonpartisan, public policy research organization focused on crime and justice policy in Washington, D.C. DCPI connects a diverse team of prominent scholars and policy experts. With funding from the Justice Grants Administration (JGA) in the Executive Office of the District of Columbia Mayor (EOM), DCPI was established at the Urban Institute in 2009.

Administered by the Justice Policy Center at the Urban Institute, DCPI's mission involves three tasks: conduct analyses of the costs and benefits of justice policies and programs for the District of Columbia; create a publicly accessible research library of crime and justice research in the District of Columbia; and conduct research and evaluation projects concerning District of Columbia crime and public safety, crime prevention, and crime policy.



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