Council of the District of Columbia
Committee on the Judiciary and Public Safety

Hearing Record

1350 Pennsylvania Avenue, N.W., Suite 108, Washington, DC 20004

To: Nyasha Smith, Secretary to the Council

From: Brooke Pinto, Chairperson BE PW
Committee on the Judiciary and Public Safety

Date: December 18, 2023

Subject: Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

On November 29, 2023, the Committee on the Judiciary and Public Safety, held a public hearing on "Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023". Notice of this public hearing was published in the District of Columbia Register on November 10, 2023, and the record remained open until December 13, 2023. A video recording of the hearing can be viewed online at oct.dc.gov

The following witnesses submitted testimony for the record:

- Aidan O'Shea
- Alan Alper
- Alejandra Jolodosky
- Alecia Haughton-Francis
- Alexander M. Padro
- Alessandro Clark-Ansani
- Alicia Mainor
- Amanda Lewis
- Amanda Melder
- Anna Roblin
- ANC 8B05
- Andre Lee
- Angelo Franco
- Anthony Hood

- Anthony Pirrotti
- Anwar Saleem
- Aura Angélica
- Austin Bryniarski
- Bakari Wilkins
- Benjamin Merrick
- Billy Easley
- Brenda Lee Richardson
- Brian Lutenegger
- Caolan Eder
- Capital Riverfront Business Improvement District
- Carla Marcellus
- Chanell Autrey
- Charles Spring
- Chief Pamela A. Smith
- Civil Rights Corps
- Commissioner Ebony Payne
- Daniel Gottlieb
- Dante O'Hara
- Darren Pasha
- Dawn Cook
- DC BID
- DC Police Union
- Eboni-Rose Thompson
- Edgar Haughton
- Elicia Yoffee
- Elizabeth Goodman
- Elizabeth Tang
- Elliot Figueroa
- Ellora Israni
- Erica Greens
- Erin O'Reilly
- Essence Reid
- Eskedar Girmash
- Federal City Council
- First District Police Citizens' Advisory Council, Inc.
- G.A. Cameron
- Gary Zottoli
- Geoff Gilbert
- Howard S. Marks
- Isabella LeBlanc
- Janelle Andrew
- Jean Homza
- Jeanette Mendes

- Jinwoo Park
- John Payne
- John Satyabhashak
- Johnathan Gibbs
- Josh Baker
- Juliana Barnet
- Julie Cameron
- Karen Hylton
- Kate Sugarman
- Katerina Semyonova
- Kathleen O'Donnell
- Keeli Mallory
- Kelvin Manurs
- Kenyattah A. Robinson, DC BID
- Kim Patterson
- Kimberly Lockett
- Kory Stuer
- Kush Kharod
- Kyle McColgan
- Lavern Carr
- Lisa Gore
- Lisa Haythe
- Liz Komar
- Luke Bostian-Valle
- M. Smith
- Maddie Poore
- Madhvi Bahl
- Margaret Cunningham
- Maryam Saleh
- Maura Brophy
- Meghan McKenna
- Melissa Wasser
- Micha Clark Moody
- Michael Tobin
- MOBB United
- Nadia Shebaro
- Nathan Krieg
- National Police Association
- Nell Geiser
- Niquelle M. Allen
- Patrick Powell
- Patricia Stamper
- Paula Fitzsimmons
- R. Payne

- Reed Southard
- Restaurant Association Metropolitan Washington
- Rev. Wanda Thompson
- Rodney Foxworth
- Robbie Woodland
- Robert Becker
- Robert J. Murphy
- Robert Vinson Brannum
- Roberta Shapiro
- Sam Myszkowski
- Samantha Lee
- Sandra “SS” Seegars
- Sandra Basanti
- Sangam Alopeke
- Sarah Shoenfeld
- Sarah Yergeau
- Scott Thompson
- Sharlene Castle
- Shawn Verma
- Shirley Hopkinson
- STREET LINE
- Suchi Mathur
- Sumayya Lane
- Sunrita Sarkar
- Suzy Wang
- T Vatnick
- TAALIB-DIN-UQDAH
- The Home Depo
- Timothy Neal
- Titi Arowolo
- Toi Francis
- Tom DeFranco
- Trupti Patel
- United States Attorney’s Office for DC
- Veronica Haughton
- Victoria Davis
- Vida Senior Center
- Virginia Spatz
- Vonetta Dumas Jennings
- Washington Highland Civic Association
- Washington Lawyers Committee
- Wilbert Francis
- William McLeod
- William P. Lightfoot

- Yilin Zhang
- Zach Styles

ATTACHMENTS

(A) Witness List
(B) Hearing Notice
(C) Copies of written testimony

COUNCIL OF THE DISTRICT OF COLUMBIA

COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

BROOKE PINTO, CHAIR

NOTICE OF PUBLIC HEARING ON

Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

Wednesday, November 29, 2023, at 9:00 a.m.
Room 500, John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Councilmember Pinto's YouTube Page (www.youtube.com/@cmbrookepinto)
DC Council Website (dccouncil.gov)
Council Channel 13 (Cable Television Providers)
Office of Cable Television Website (entertainment.dc.gov)

AGENDA AND WITNESS LIST

I. **CALL TO ORDER**

II. **OPENING REMARKS**

III. **WITNESS TESTIMONY**

A. PUBLIC WITNESSES

In-Person

1. William Lightfoot, Former DC Council Member At-Large
2. Dennis Corkery, Washington Lawyers' Committee for Civil Rights and Urban Affairs
3. Salim Adofo, Public Witness
4. Joshua Miller, Open City Advocates
5. Rondell Jordan, Open City Advocates
6. Lisa Burton, Moms of Black Boys United Incorporated
7. Robert Becker, D.C. Open Government Coalition

8. Anita Bellamy-Shelton, DC Women in Politics
9. Rebecca Strauss, Federal City Council
10. Ashley Ruff, ANC 7F02
11. Kevin Rapp, 5E05
12. Howard Marks, The Residences at Gallery Place Condominium Association
13. Rog Cedalia, Public Witness
14. Melissa Wasser, ACLU of the District of Columbia
15. Robert Vinson Brannum, Ward 5 Leadership Council Public Safety Committee
16. Rickey Bryant, Street Line
17. Maka Taylor, Global Gains Consulting
18. Kenithia Alston, Coalition of Concerned Moms
19. Roger Marmet, Peace for DC
20. Paul Johnson, 4D MPD CAC Executive Committee Member
21. Juliet Howell, Public Witness
22. Neena Murphy Martin, Fourth District Citizens Advisory Council
23. Pedro Lima, National Hispanic Council on Aging
24. Aris Compres, Menchos Dominican Restaurant
25. Eboni-Rose Thompson, Ward 7 Representative, DC State Board of Education
26. Skye Lawrence, Public Witness
27. Neal Gearhart, The Pursuit Wine Bar and Kitchen
28. Robert Murphy, MRP Realty
29. Ollie Figueroa, Motto by Hilton Washington DC
30. Paula Edwards, ANC 4A01
31. Jay Brown, Community Shoulders
32. Michael Sindram, Public Witness

Virtual

33. Anthony Pirrotti, ANC 4D08
34. J.P. Szymkowicz, ANC 3D07
35. Michael Cohen, ANC 4B07
36. Patricia Stamper, ANC 7C06
37. Tom DeFranco, SMD 4C03
38. Alexander Padro, ANC 2G02
39. Andre Lee, MidCity Development
40. Greggory Pemberton, DC Police Union
41. Robert Pittman, First District Police Citizens' Advisory Council, Inc.
42. Lavern Carr, Public Witness
43. Sandra Seegars, CRAV
44. Ruby Yearling, Civil Rights Corps
45. Audrey Nwanze, My Business Area 14th Street NW
46. Shawn Townsend, Restaurant Association Metropolitan Washington
47. Taunya Martin, Petworth Ward 4
48. Anthony Hood, Public Witness
49. Keith Hasan-Towery, Public Witness
50. Geoff Gilbert, Beloved Community Incubator
51. Melody Cooper, Coalition of Concerned Moms
52. Kyle McColgan, Greater Washington Board of Trade
53. Nee Nee Taylor, Harriet's Wildest Dreams

54. Taalib-Din Uqdah, 14th St. Uptown Business Association
55. Olivia Henderson, Washington Highland Civic Association
56. Barbara Jones, Fort Stanton Civic Association
57. Angela Franco, DC Chamber of Commerce
58. Derege Daneale, Aberash LLC.
59. Yilin Zhang, 1882 Foundation
60. Anwar Saleem, H Street Main Street
61. Joshua Baker, Public Witness
62. Carmen McCall, AARP Local 4870, Corresponding Secretary 7th District Citizens' Advisory Council
63. Lesil Farrakhan, Public Witness
64. Dawn Cook, Benning Ridge Civic Association
65. Kenyattah Robinson, Mount Vernon Triangle Community Improvement District
66. Maria McPhail, VIDA Seniors Centers
67. Maria Patricia Corrales, Fiesta DC, Inc.
68. Jean Homza, Public Witness
69. Madhvi Bahl, Migrant Solidarity Mutual Aid
70. L. Veronica Nelson, D.C. Commission for Women
71. Billy Easley, Public Witness
72. Sandra Basanti, DC Nightlife Council
73. Krishna Matturi, Minnesota Ave Civic Organization
74. Fae X, Good Trouble Co-op
75. Liliana Di-Majo, Barbara Chambers Children's Center
76. Kimberly Lockett, The Petworth Action Committee
77. Retirees For Accountability, RTA
78. Betty Murray, Genuine Sisters Supporting Sisters
79. Lisa Queen, Public Witness
80. Katalin Peter, AOBA

B. GOVERNMENT WITNESSES

1. Pamela Smith, Chief, Metropolitan Police Department
2. Michael Tobin, Executive Director, Office of Police Complaints
3. Katerina Semyonova, Special Counsel for Policy and Legislation, Public Defender Service
4. Jinwoo Park, Executive Director, Criminal Code Reform Commission

COUNCIL OF THE DISTRICT OF COLUMBIA

COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

BROOKE PINTO, CHAIR

NOTICE OF PUBLIC HEARING

on

Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

Wednesday, November 29, 2023
9:00 a.m.

In the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 500
and virtually via Zoom

To watch live:
Councilmember Pinto's YouTube Page (www.youtube.com/@cmbrookepinto)
DC Council Website (dccouncil.gov)
Council Channel 13 (Cable Television Providers)
Office of Cable Television Website (entertainment.dc.gov)

On Wednesday, November 29, 2023, Councilmember Brooke Pinto, Chairwoman of the Committee on the Judiciary and Public Safety, will hold a hearing on **Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"**.

Bill 25-555 includes a number of provisions aimed at improving public safety in the District. These include proposals focused on addressing recent crime trends, including:

- Prohibiting wearing hoods and masks on public property or during demonstrations for the purpose of committing crimes, intimidating, and threatening other people, or causing fear.
- Establishing a felony offense of "directing organized retail theft," which would make it unlawful for an individual to act as the organizer of a theft-for-profit scheme by recruiting or directing individuals to commit retail theft.
- Authorizing the Metropolitan Police Department (MPD) to declare temporary drug-free zones, which would allow MPD to limit loitering in those zones.

The bill also includes proposals focused on clarifying limitations on law enforcement officers. These include:

- Clarifying restrictions on police officers' use of neck restraints.
- Allowing officers to review their body-worn camera footage prior to writing their initial police report, except in certain circumstances.
- Limiting the amount of information that is required to be publicly posted regarding officer discipline.
- Limiting the Office of Police Complaints' access to MPD files.
- Making permanent a clarification regarding officers' ability to engage in vehicular pursuits.

The Committee invites the public to testify. Those who wish to do so must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings **by 5:00 p.m. on Monday, November 27, 2023**. Witnesses who represent organizations will have 5 minutes to speak. All others will have 3 minutes to speak. **Witnesses will have the option to testify in person or virtually**; witnesses should specify which option they are electing at the time they sign up to testify.

Witnesses who anticipate needing spoken language interpretation, or who require sign language interpretation, are requested to inform the Committee office of the need as soon as possible, but no later than 5 business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests may be submitted via the Hearing Management System during registration or by contacting Ms. Aukima Benjamin, Committee Manager to the Committee on the Judiciary and Public Safety, at (202) 724-8058 or via email at judiciary@dccouncil.gov. Requests received less than 5 business days before the proceeding may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Ms. Benjamin at the phone number or email listed above.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record; written testimony should be submitted through the Council's Hearing Management System at https://lims.dccouncil.gov/hearings. Testimony will be publicly accessible following Committee review.

The record will close at 5:00 p.m. on **Wednesday, December 13, 2023.**

CIVIL RIGHTS CORPS

D.C. Council Committee on the Judiciary and Public Safety
Public Hearing on Addressing Crime Trends (ACT) Now Amendment Act of 2023
(B25-0555)
November 29, 2023

Testimony By: Ruby Yearling
Litigation Support Fellow, Civil Rights Corps

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety:

The Council should **not** pass the ACT Now Amendment.

My name is Ruby Yearling, I am a D.C. resident and staff member of Civil Rights Corps in Washington, D.C. Civil Rights Corps works with survivors of violence, individuals accused and convicted of crimes, families and communities, and government officials to create a legal system that promotes safety, equality, and freedom. We litigate and win state and federal civil rights lawsuits challenging unconstitutional practices in the criminal legal system.

The Council's responsibility to keep D.C. safe includes protecting residents from police abuse. Unfortunately, MPD violates residents' rights every day. CRC represents people who are impacted by the deadly and destructive police practices that the ACT Now legislation seeks to expand and shield from public oversight: neck holds, uses of force, and harassment. I come here today to tell you from our practitioner experience that, if passed, this bill will make our communities less safe and even more vulnerable to police violence.

First, we should not narrow the legal definition of "deadly use of force." Ramming people in cars and grabbing their necks can be and has been deadly. We have data showing that MPD officers overwhelmingly target Black community members (46 percent of D.C. residents are Black, yet 91 percent of police uses of force are against Black people). Narrowing the definition of "deadly" force to exclude lethal maneuvers allows police officers to act with absolute impunity when interacting with community members, especially Black people.

Second, police misconduct information should not be hidden from the public. We decrease police violence by exposing–not obscuring–it. Against the Police Reform Commission's April 2021 recommendations, this act would deny public access to police misconduct records unless that

misconduct has been sustained by MPD itself. Further, it would remove officer names and final determination letters from the public database of even sustained allegations. The Act goes so far as to weaken what this Council can learn about MPD behavior, eliminating the requirement that, upon request, MPD must provide the Council a copy of body-worn footage of an incident. If MPD officers have conducted themselves ethically, then we should be able to see how and why MPD reached that conclusion. If officers have acted unethically, then we should absolutely be able to access those records and, at a minimum, we should know their names. MPD should not be the sole arbiter of what the public knows about officers' conduct. That these anti-transparency provisions are being proposed at all should be raising red flags for you and all District residents.

Third, the "drug free zone" prong of this bill is fundamentally antithetical to achieving the goal of curbing addiction and drug-related violence. Illegal drug use is already against the law in the District. What this provision does is criminalize everyday behavior, such as people merely standing together outside. This is the epitome of Broken Windows Policing which has been proven time and time again to be ineffective, criminalizing our community rather than making us safer. The Council repealed these provisions in 2014 over concerns that they promoted racial and class-based profiling and were unconstitutional. You should do the same today.

Fourth, the Police Reform Commission's recommendations are directly opposed to this bill's criminalization of masks "because it is written so broadly and can be applied so subjectively . . . [that] the law has been used to stop, pat down and even charge District residents, often minors who are 17 or 18 years old, for wearing hoodies." In D.C., where police racial profiling is already extremely common, this type of surveillance expansion will do nothing but increase possibilities for serious incidents of discriminatory policing.

In sum, ACT Now rolls back hard-fought advancements towards police transparency in the District while rejecting a myriad of recommendations by the Police Reform Commission and ignoring policies proven to enhance safety. Front-end investments in community well-being are far more effective at creating safety. This act instead doles out criminal charges and gives police cover to brutalize our community.

CRC calls on the Council to curb violence in our city by making evidence-based, meaningful investments in our collective well-being. Specifically: 1) Pass the *Drug Policy Reform Act* to decriminalize personal possession of drugs and invest in harm reduction centers; 2) Remove all police from schools by 2025, as previously planned; and 3) Create and fund a universal basic income as outlined in DC's Gun Violence Reduction Strategic Plan.

CIVIL RIGHTS CORPS

Stop expanding police authority. Stop investing in strategies we KNOW to be counterproductive. Our city deserves robust investments into the things that will truly keep us safe and thriving.

1601 Connecticut Ave NW, Suite 800, Washington, D.C. 20009

Phone: (202) 844-4975 | Fax: (202) 609-8030 | contact@civilrightscorps.org

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Statement on behalf of the
American Civil Liberties Union of the District of Columbia
before the D.C. Council Committee on the Judiciary and Public Safety
Hearing on Bill 25-0555 – "Addressing Crime Trends (ACT) Now Amendment Act of 2023"
by
Melissa Wasser, Policy Counsel
November 29, 2023

Good morning Chairperson Pinto and members of the Committee on the Judiciary and Public Safety. I am Melissa Wasser, Policy Counsel of the American Civil Liberties Union of the District of Columbia (ACLU-D.C.). On behalf of our over 14,000 members in all 8 wards, ACLU-D.C. submits the following testimony opposing Bill 25-0555, the Addressing Crime Trends (ACT) Now Amendment Act of 2023.

ACLU-D.C. strongly opposes this legislation and urges the Committee not to move it forward. Allowing officers to choke people, to escape accountability, and to arrest people without probable cause will not make the District any safer. Improving public safety in the District involves restricting harmful police practices, creating more transparency around police misconduct, and holding police accountable for their misconduct. This bill fails on all of these measures.

Reinstating unconstitutional drug free zones does nothing to improve public safety in the District. The definitional changes to neck restraints and asphyxiating restraints are dangerous, potentially fatal, and unnecessary. These changes also stand in direct opposition to the Council's own rationale for these initial changes in the summer of 2020.

Transparency is a core aspect of policing in a democratic society. The legislation's proposed changes to the body-worn camera (BWC) program, the Office of Police Complaints' access to files, and the officer disciplinary database fly in the face of transparency and accountability, which are both essential to MPD building trust and legitimacy in the eyes of District residents and the public.

Rather than removing vehicular pursuit tactics from the definition of serious use of force, the Council should be taking steps to limit vehicular pursuits and follow the Police Reform Commission's recommendations. Lowering the felony theft threshold will not deter people from stealing and layering piecemeal criminal code changes on

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top of an already-flawed criminal code will not make the District any safer. Reviving the overly broad anti-mask law would lead to subjective policing and would disproportionately impact the District's Black residents.

For these reasons, we urge the Committee to not move forward on this legislation, as it does not represent the approach that is needed to keep people safe in the District.

I. Reinstating drug free zones will lead to unconstitutional conduct and does nothing to improve public safety in the District.

Reinstating drug free zones that were unanimously repealed in 2014, with then-Councilmember Bowser's support,[1] is not the way to achieve public safety. The legislation would revive the Anti-Loitering/Drug Free Zone Act of 1996 and authorize the chief of MPD to "declare any public area a drug free zone for a period not to exceed 120 consecutive hours."[2] Once a drug free zone is designated, MPD must post a statement that it is "unlawful for a person to congregate in a group of 2 or more persons for the purpose of committing an offense... within the boundaries of a drug free zone," and to "fail to disperse after being instructed by a uniformed officer of the Police Department who *reasonably believes* (emphasis added) the person is congregating for the purpose of committing an offense."[3]

Loitering is constitutionally protected and the District can't make it a crime for a person to loiter – or to fail to disperse when ordered to disperse by an officer, which is the same thing.[4] On the other hand, loitering for the purpose of committing a crime is not protected. This means a jurisdiction can outlaw loitering if it is being done with the intent to commit an illegal act, such as the sale of regulated drugs or sex. But an officer would have to have *probable cause* to believe that the suspect was committing or intending to commit a crime, because probable cause is the constitutional minimum for an arrest.

Even with the addition of the phrase, "for the purpose of committing an offense," this section is still unconstitutional. This bill gives officers authority to order people to disperse if the officer had a *reasonable belief* that the person was loitering for the

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[1] Bill 20-0760, Repeal of Prostitution Free Zones Amendment Act of 2014, https://lims.dccouncil.gov/Legislation/B20-0760.
[2] Bill 25-0555, Addressing Crime Trends (ACT) Now Amendment Act of 2023, https://lims.dccouncil.gov/Legislation/B25-0555.
[3] *Id.*
[4] *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972).

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purpose of drug dealing, and then to arrest them if they failed to disperse. The officer will have probable cause to believe that the person he arrests has failed to disperse. However, the dispersal order itself is not valid unless it is based on probable cause to believe that the person who is ordered to disperse has committed a crime. Ordering a person who has committed no crime to disperse and then arresting him if he does not makes mere loitering a crime, which is unconstitutional. As such, we urge the Council to reject this unconstitutional section outright.

II. Changing the definitions of "neck restraints" and "asphyxiating restraints" is dangerous, unnecessary, and in direct opposition of the Council's own rationale on initial policing reforms in the summer of 2020.

The bill would amend the definitions of asphyxiating restraint and neck restraint and apply them retroactively. The bill removes the word "effect" from the definition of asphyxiating restraint so the definition now reads "with the purpose or intent of severely restricting the person's breathing."[5] The bill also removes the word "movement" from the definition of neck restraint so the definition now reads "with the purpose, intent, or effect of controlling or restricting the person's blood flow or breathing."[6]

These changes are dangerous, potentially fatal, and unnecessary.[7] Like many other major city police departments, MPD has prohibited the use of neck restraints for some time in its use of force policy.[8] In the wake of the killing of George Floyd, prohibitions like MPD's have become law in numerous states and cities across the country.[9] If passed, the updated definition would allow a chokehold to restrict an

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[5] Bill 25-0555, Addressing Crime Trends (ACT) Now Amendment Act of 2023, https://lims.dccouncil.gov/Legislation/B25-0555.
[6] *Id.*
[7] Bozeman et al., "Safety of Vascular Neck Restraint applied by law enforcement officers," Journal of Forensic and Legal Medicine, Vol. 92, 102446 (Nov. 2022), https://doi.org/10.1016/j.jflm.2022.102446.
[8] "It shall be unlawful for members to apply a neck restraint." MPD Use of Force Overview (2023), 3, https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/5.1%20Use%20of%20Force%20Overview%20FINAL.pdf.
[9] Harmeet Kaur and Janine Mack, "The cities, states and countries finally putting an end to police neck restraints," CNN (June 16, 2020), https://www.cnn.com/2020/06/10/world/police-policies-neck-restraints-trnd/index.html.

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individual's movement even if that restraint has the unintended effect of restricting that person's breathing.

These changes also stand in direct opposition to the Council's own rationale for banning these restraints. In response to the killings of Breonna Taylor and George Floyd by police in the summer of 2020, the Council initially passed policing and criminal justice reforms in the District, including a ban on the use of neck restraints. The Council reasoned that banning the use of neck restraints was "the provision most responsive to the circumstances of George Floyd's death."[10] In following the recommendations of the D.C. Police Reform Commission, the Council created a broader prohibition against any restraint that creates the risk of asphyxiation and expanded the prohibition to "prohibited techniques," which included both neck restraints and asphyxiating restraints.[11]

Furthermore, the initial underlying rationale of the ban – to prevent the asphyxiation of individuals taken into custody – extended to restraints beyond those that target an individual's neck. Prior to George Floyd's murder, special police officers in the District kneeled on Alonzo Smith's back in 2015 and held his head down. Smith later died and an autopsy revealed blunt force injuries on his head, neck, and torso; his death was ruled a homicide. We cannot go back to being a city that allows the use of these restraints.

Amending the definitions of "neck restraints" and "asphyxiating restraints" goes directly against what the Council was trying to achieve with policing and criminal justice reforms in the summer of 2020. Although the Mayor and MPD claim these changes clarify the distinction between a serious use of force and incidental contact with the neck,[12] asphyxiating restraints would be defined solely on the purpose or intention of the law enforcement officer to severely restrict the person's breathing. This means that this legislative change is much larger than trying to just stop

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[10] D.C. Council Committee on the Judiciary & Public Safety Committee Report on Bill 24-0320, the "Comprehensive Policing and Justice Reform Amendment Act of 2022," 16, https://lims.dccouncil.gov/downloads/LIMS/47448/Committee_Report/B24-0320-Committee_Report1.pdf?Id=151042.

[11] D.C. Police Reform Commission, "Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission," 120 (April 1, 2021), https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf.

[12] Executive Office of the Mayor, "Mayor Bowser Announces New Legislation to Support Safe and Effective Policing," October 23, 2023, https://mayor.dc.gov/release/mayor-bowser-announces-new-legislation-support-safe-and-effective-policing.

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incidental contact and would further the use of chokeholds by MPD. Decriminalizing these chokeholds will not make us safer in the District.

Instead of amending these definitions, the Council should reject these changes and follow the Police Reform Commission's recommendation and further expand the prohibited uses of force beyond "neck restraints" to include other means of asphyxiation, such as applications of force causing positional asphyxia (including a prone restraint with a knee in the back of a person being arrested).[13]

III. Changes to the body-worn camera program, the Office of Police Complaints' access to files, and the officer disciplinary database violate public trust and fail to hold police accountable when they abuse their power.

Similarly, the Mayor also seeks to roll back changes to the body-worn camera (BWC) program. The legislation would allow officers to view BWC footage prior to writing initial reports except in certain circumstances and to allow for the redaction of likenesses of District and federal government employees in BWC footage release. This means that in cases that do not involve police use of force or involve use of force that is below the force identified in the amended law, police can view their BWC before writing initial reports.

When the Council passed the Comprehensive Policing and Justice Reform Amendment Act, the Council embraced accountability and transparency for a city with a troubled history of police abuses and chronic failures to hold officers responsible for their misconduct, particularly when that misconduct affects communities of color. BWC provisions help promote police accountability, deter officer misconduct, and provide objective evidence to help resolve complaints against police. The D.C. Police Reform Commission even recommended that prohibiting officers from reviewing their BWC recordings before writing initial reports should be a permanent change.[14]

While studies suggest that pre-report reviews of BWC footage can produce a small increase in the accuracy of police reports, there is a tradeoff: research shows that video recordings "do not necessarily reflect what the [officer] saw, heard or

[13] D.C. Police Reform Commission, "Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission," 120 (April 1, 2021), https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf.
[14] *Id.* at 169.

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perceived, particularly when recorded from a different vantage point"[15] and can bias the officer's memory, suppress what the officer originally recalled, and cause overreliance on video footage for recollection.[16] Initial police reports should be based on the officer's unbiased recollection of events, and officers should not be permitted to view BWC footage prior to preparing initial reports.

The legislation would also remove the requirement that the officer disciplinary records database include the name, badge number and current duty status of MPD officers against whom an allegation of misconduct has been sustained. This change violates public trust by shielding police misconduct from the public view.

The establishment of this database was a massive win for transparency. This database marked the first time the public would be able to track officer misconduct and how the MPD handles sustained allegations. Unlike most other professions that we have access to misconduct and certification records (e.g., law, medicine), law enforcement personnel have a right to kill and harm (often without consequences). The database will help keep MPD accountable to the public it serves and build further trust that the police are removing "bad apples" from their ranks.

Removing the requirement that the database include names, badge numbers, and current duty status of MPD officers with sustained allegations of misconduct would render the database useless. These records should be public because it would help improve police accountability and build greater trust within the community. Making these disciplinary records public also prevents greater waste, fraud, and abuse from re-hiring officers who have committed misconduct.[17] From 2010 – 2020, there have been $91 million in payments involving allegations of police misconduct

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[15] Donald Dawes, et al, "Body Worn Cameras Improve Law Enforcement Officer Report Writing Accuracy," Journal of Law Enforcement, Issue 2161-0231 (2015), 10-11, https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/improvelawenforcement.pdf.

[16] Brittany Blaskovits and Craig Bennell, "Exploring the Potential Impact of Body Worn Cameras on Memory in Officer-Involved Critical Incidents: a Literature Review," Journal of Police and Criminal Psychology, 35(3) (2019), 255-259, https://link.springer.com/article/10.1007%2Fs11896-019-09354-1. *See also* Vredeveldt, A., Kesteloo, L., & Hildebrandt, A., "To watch or not to watch: When reviewing body-worn camera footage improves police reports," Law and Human Behavior, 45(5) (2021), 427, https://psycnet.apa.org/fulltext/2022-09218-004.pdf; and Pezdek, K., Shapland, T., & Barragan, J., "Memory outcomes of police officers viewing their body-worn camera video," Journal of Applied Research in Memory and Cognition (2022), https://psycnet.apa.org/manuscript/2022-42983-001.pdf.

[17] Washington Post Editorial Board, "Why D.C. has rehired fired police – and given them back pay," Wash Post. (Oct. 18, 2022), https://www.washingtonpost.com/opinions/2022/10/18/dc-rehire-fired-police-officers-misconduct/.

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at MPD.[18] In the District, 65 officers have been named in repeated claims, accounting for $7.6 million of the $91 million paid–the fifth highest overall of the 25 cities surveyed. Having a public database of misconduct records could deter conduct that would end up in yet another settlement payment for the District.

The legislation would also change the Office of Police Complaints' access to information from "unfettered access to all information" to "timely and complete access to information."[19] This change will hurt the oversight power of OPC and will fail to hold MPD and D.C. Housing Authority Officers accountable for their behavior. By changing access from "unfettered" to "timely and complete information," it sends a greater message that law enforcement officers will not be held fully accountable by the Office of Police Complaints for their misconduct. The Council should reject these provisions outright.

IV. Vehicular pursuits are inherently dangerous, and the Council should acknowledge that inherent danger by rejecting this section outright.

The bill would also amend the Comprehensive Policing and Justice Reform Amendment Act of 2022 to clarify the standards by which the Metropolitan Police Department (MPD) may engage in a vehicular pursuit and would make permanent amendments to the vehicular pursuit law that were passed on an emergency basis this past summer. These changes include allowing vehicular pursuits that endanger the suspect and passengers in the suspect's vehicle; removing various police tactics of stopping vehicles from the definition of serious use of force; and removing the section that calls "ramming" a use of deadly force.

As we testified to this committee in 2021, "[a]cross the country and here in the District, laws exist that penalize members of the public for speeding. Because at a fundamental level, our society recognizes the inherent dangers speeding cars pose to anyone in their vicinity. Police chases pose the same threat."[20] The Police Reform

[18] Keith L. Alexander, Steven Rich, and Hannah Thacker, "The hidden billion-dollar cost of repeated police misconduct," Wash. Post (Mar. 9, 2022), https://wapo.st/3Gk0Sdn.
[19] Bill 25-0555, Addressing Crime Trends (ACT) Now Amendment Act of 2023, https://lims.dccouncil.gov/Legislation/B25-0555.
[20] ACLU-D.C. Testimony Before the D.C. Council Committee on the Bias in Threat Assessments Evaluation Amendment Act and Law Enforcement Vehicular Pursuit Reform Act (May 20, 2021), https://www.acludc.org/en/legislation/aclu-dc-testimony-dc-council-committee-bias-threat-assessments-evaluation-amendment-act.

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Commission also recommended that "in the interest of both public safety and harm prevention, the Council should strictly limit vehicle pursuits."[21]

The legislation removes the following practices or tactics for stopping vehicles from the definition of serious use of force: boxing in, caravanning,[22] deploying a roadblock, deploying a tire deflation device, paralleling,[23] and ramming[24] (previously designated as a use of deadly force). By removing these practices, the Mayor is sending a message that these uses of force are approved when pursuing a suspect and their potential passengers. Vehicle pursuits are inherently dangerous and can be fatal. Because of this inherent danger, police departments across the country, including MPD, strictly limit them to situations involving fleeing suspects who pose an immediate risk of killing or injuring another person.[25] Despite these policies, the District had at least three incidents of police chases that ended up in the deaths of District residents – Terrence Sterling in 2016, Jeffrey Price in 2018, and Karon Hylton-Brown in 2020.

Additionally, when more restrictive pursuit polices are adopted, "[t]here is little evidence that more individuals will flee, that crime rates will increase, or that case clearances will decline... Indeed, crime clearances have stayed relatively stable over time despite agencies adopting policies that are more restrictive."[26] These provisions should be rejected outright. Instead, the Council should follow the Police Reform

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[21] D.C. Police Reform Commission, "Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission," 103 (April 1, 2021), https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf.

[22] Caravanning is a "[p]ractice or tactic in which a law enforcement officer operates a pursuit vehicle without maintaining a reasonable distance between another pursuit vehicle." *See* MPD General Order 301.03 (July 20, 2023), 10, https://go.mpdconline.com/GO/GO_301_03.pdf.

[23] Paralleling is a "[p]ractice or tactic in which a law enforcement officer operates a pursuit vehicle in the same direction and at approximately the same speed as the suspect motor vehicle using another street or highway parallel to the direction or route of the suspect motor vehicle." *See* MPD General Order 301.03 (July 20, 2023), 11, https://go.mpdconline.com/GO/GO_301_03.pdf.

[24] Ramming is a "[t]actic in which a law enforcement officer intentionally causes a pursuit vehicle to come into physical contact with a suspect motor vehicle with the intent to damage, slow, or stop the suspect motor vehicle, regardless of the speed of the pursuit vehicle." *See* MPD General Order 301.03 (July 20, 2023), 11, https://go.mpdconline.com/GO/GO_301_03.pdf.

[25] MPD General Order 301.03 (July 20, 2023), https://go.mpdconline.com/GO/GO_301_03.pdf.

[26] Alpert, G. P., & Lum, C. (2014). Police pursuit driving: Policy and research. Springer Science & Business Media, https://books.google.com/books?hl=en&lr=&id=NeS5BAAAQBAJ&oi=fnd&pg=PR5&dq=Police+pursuit+driving:+Policy+and+research&ots=UBKVpkZxTZ&sig=EPRP5gujJGQjO1gEosMw0flOLYE#v=onepage&q=Police%20pursuit%20driving%3A%20Policy%20and%20research&f=false.

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Commission's recommendations: reinforce MPD policy by expressly making it unlawful to engage in vehicle pursuits unless certain narrowly defined conditions are met and be clear that officers may not use their vehicles to intentionally contact fleeing vehicles or attempt to force fleeing vehicles into another object or off the road.[27]

V. Lowering the felony theft threshold will not deter people from stealing and layering piecemeal criminal code changes on top of an already-flawed criminal code will not make the District any safer.

In addition to the provisions above, the legislation also makes further changes to the criminal code by establishing a new offense of organized retail theft and redefining theft in the first degree as any offense in which "the quantity of property obtained is 10 or more with a value of at least $250 over a 30-day period."

This threshold would be a lower value threshold than any other state in the country except New Jersey. There is no research which shows that low felony theft thresholds deter people from stealing. Rather, two studies suggest otherwise. Both studies examine the impact of increasing felony thresholds. If a lower felony theft threshold allegedly deters theft, then increasing it would certainly lead to more stealing.

A study conducted by Pew Charitable Trusts found that "[r]aising the felony theft threshold has no impact on overall property crime or larceny rates" and "[t]he amount of a state's felony theft threshold... is not correlated with its property crime and larceny rates."[28] Another study by the New England Public Policy Center examined the impact of felony theft thresholds on crime in New England.[29] Like Pew's analysis, they find that increasing felony theft thresholds does not increase larceny in the short-run and may actually decrease incidents of larceny in the long-run.

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[27] D.C. Police Reform Commission, "Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission," 103 (April 1, 2021), https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf.

[28] Pew Charitable Trusts, The Effects of Changing Felony Theft Thresholds (April 12, 2017), https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/04/the-effects-of-changing-felony-theft-thresholds.

[29] Osborne Jackson and Riley Sullivan, "The Impact of Felony Larceny Thresholds on Crime in New England," New England Public Policy Center (2020), https://www.bostonfed.org/publications/new-england-public-policy-center-research-report/2020/the-impact-of-felony-larceny-thresholds-on-crime-in-new-england.

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The proposed creation of the offense of organized retail theft, along with the redefinition of theft in the first degree is illustrative of what is wrong with the broader approach taken by recent criminal justice bills that make changes to offenses and penalties: layering piecemeal criminal code changes on top of an already-flawed criminal code. The District's criminal code already suffers from several problems, including overlapping offenses for the same behaviors and disproportionate penalties, which in turn, can lead to inconsistent results and disproportionate criminal sentences.[30] Because policymakers have only updated our criminal statutes in piecemeal fashion over several decades, the code lacks a basic framework to ensure a coherent, proportionate approach to offenses and penalties.[31] This has made our criminal code difficult to navigate and continually risked public trust in the fairness of our criminal legal system.

Building a scheme of criminal laws that is clear, internally consistent, distinguishes among different types of behaviors that cause different harms, and takes a proportional approach to penalties is crucial to public safety. Doing so makes it more likely that our criminal legal system produces fair and consistent results, and further, builds public trust. Piecemeal criminal code changes risk exacerbating our current system's inequities. The Council should not continue to engage in piecemeal changes, as doing so will move us further away from a criminal legal system that is truly consistent with public safety and security.

VI. Reviving the overly broad anti-mask law would lead to subjective policing and would disproportionately impact the District's Black residents.

The bill would also bring back the anti-mask law that the Comprehensive Policing and Justice Reform Amendment Act repealed. The Comprehensive Policing and Justice Reform Amendment Act repealed the prohibition on wearing masks with the intent to commit crimes or violations, or to intimidate or deprive of rights.

At the time of introduction, the law was intended to prevent hate groups like the Ku Klux Klan from intimidating people while wearing hoods and masks. The law was written so broadly and applied subjectively that it has been used to stop, pat down,

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[30] Councilmember Charles Allen, then-Chairperson of the Committee on the Judiciary and Public Safety, Report on B24-0416, the "Revised Criminal Code Act of 2022," 3-7 (October 26, 2022), https://lims.dccouncil.gov/downloads/LIMS/47954/Committee_Report/B24-0416-Committee_Report1.pdf?Id=148331.
[31] *Id.*

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and even charge District residents for wearing hoodies;[32] this section's inclusion of 16-year-olds means that additional minors could be stopped for similar reasoning. The Police Reform Commission recommended that this repeal should be made permanent and that the "Council was right to repeal the statute."[33] This section should be removed from the bill to stay in line with the Police Reform Commission's recommendation.

VII. Conclusion

ACLU-D.C. thanks the Committee for the opportunity to testify today. We once again urge the Committee not to move forward with this legislation, as it is not the approach to protecting public safety that District residents need or deserve. We are happy to work with the Committee on a comprehensive, proactive approach to public safety that respects and values the rights of D.C. residents and is focused on prevention, effectiveness, and accountability.

[32] D.C. Police Reform Commission, "Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission," 119 (April 1, 2021), https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf.
[33] *Id.*

Councilmember Brooke Pinto
Chair, Committee on Judiciary and Public Safety
1350 Pennsylvanian Ave. NW
Washington, DC 20004

Re: Testimony in Favor of the Addressing Crime Trends (ACT) Now Act

Dear Councilmember Pinto,

My name is Lisa R. Gore, and I am currently the Chairperson of Advisory Neighborhood Commission (ANC) 3/4G and the representative Commissioner for ANC 3/4G-01. I'm a mom of a DCPS graduate, a retired federal Special Agent, and a resident of Ward 4. I write this testimony in my personal capacity to assert my firm endorsement for the "Addressing Crime Trends (ACT) Now Amendment Act of 2023". This pivotal legislation represents a significant stride towards guaranteeing the safety of District of Columbia residents. As a resident and a concerned citizen, I am convinced that this bill is imperative in resolving the prevalent issue of crime in our communities.

I want to acknowledge that crime is an immensely complex issue. There is no simple solution to respond to crime nor is it a simple formula to prevent crime. Washington, D.C. is a welcoming community. We are blessed to have a city that has a rich and welcoming history and a passion and love for its people. The people of Washington, D.C. want communities that are thriving. We want our young learners to succeed and have the resources they need to be successful in their lives. As evidenced by our budget and prevention programs, we highly value addressing the root causes of violence and finding ways to help those that need it most.

However, we are also a city that values the safety of our fellow residents. We want to be safe and protected from those that willingly commit violence in our communities. In the cases where our preventative efforts are not successful, we must have a strong response effort. The proposed legislation, in my opinion, seeks to address gaps in current law that will enhance

MPD's ability to respond to certain crimes, as well as clarify policies related to MPD discipline and complaints. It seeks to create an accountability system that is based on a set of realistic circumstances that agencies face in holding people that commit repeated criminal offenses accountable.

Ensuring Community Safety and Reinforcing Criminal Laws

The ACT Now legislation, pending approval, would revive an anti-loitering law, thereby enabling the Metropolitan Police Department (MPD) to establish temporary drug-free zones for a duration of 120 hours. In our community, loitering has escalated into a substantial problem, triggering a surge in minor crimes, vandalism, and public disturbances. These issues have not only disrupted our community's peace and safety but have also imposed significant pressure on local law enforcement resources. The repeated pleas of communities to reinstate loitering laws are answered by this legislation, which is a step towards fulfilling their demands. Residents should be able to freely walk their communities and patronize local stores without fear. This legislation also includes sensible parameters for identifying high-risk areas and a community notification requirement, which helps in targeted law enforcement and reduces the potential for unjust policing practices.

The legislation also seeks to create criminal penalties for organized retail theft and ban the use of masks during criminal acts, intending to deter criminal activities and create a safer environment for our residents. The provision to aggregate thefts will be instrumental in distinguishing petty shoplifters from organized theft rings.

Potential critics of this legislation may suggest that it could be exploited to unfairly target specific demographics. However, the ACT Now Act includes explicit safeguards to ensure fair and impartial enforcement, prioritizing the protection of civil liberties and prohibiting discriminatory practices.

Changes to MPD Discipline and Complaints

As a former law enforcement officer with 27 years of service, I appreciate the clarification of certain provisions in the current law that adversely affect MPD officers and prospective recruits. For instance, the legislation addresses the use of body-worn camera recordings, permitting MPD officers to review camera footage before drafting initial reports, barring a few exceptions. This amendment will equip officers with necessary data to accurately document incidents while ensuring accountability and transparency.

The ACT Now legislation also refines stipulations related to officer discipline. It streamlines the Office of Police Complaints' access to the Metropolitan Police Department files and ensures effective oversight. The provision to repeal the mandatory publication of disciplinary records of officers by name strikes a balance between transparency and individual privacy rights. The amendments also provide clarity on the information supplied in the disciplinary database, further enhancing the police department's accountability. There are examples in the federal law enforcement community where agencies successfully bridge the gap in publicly reporting administrative violations and officer misconduct while simultaneously protecting officer privacy. I would also add the Council could consider requiring unique identifiers be used in place of an officer’s name. This would protect officer privacy but also allow for additional community transparency.

Moreover, ACT Now distinguishes between a serious use of force by a police officer and incidental contact with a person's neck during an encounter. This distinction is also crucial in ensuring accountability and ensuring the real issue of intentional violations of this policy are front and center.

The Addressing Crime Trends (ACT) Now Amendment Act of 2023 is a comprehensive and necessary piece of legislation that will enhance public safety and accountability in the District. I urge all council members to support this vital bill to ensure the protection and well-being of our community. By doing so, we can work towards creating safer neighborhoods, reducing crime rates, and ensuring the well-being of all residents in the District of Columbia. It is high time for the DC Council to support the honest, law-abiding citizens of DC. We must change direction as we are losing lives, neighbors to surrounding jurisdictions, and businesses are shuttering. This status quo mode that we are in is not sustainable. And we should not succumb to the false dichotomy of equity versus public safety. It's a perilous proposition that is destined to fail. We have many actions to undertake to make DC a safer city, including overhauling the entire criminal justice ecosystem, and this legislation signifies an important step in this process.

Thank you for your attention to this crucial matter. I trust you will consider the profound impact this legislation can have on our community. Should you need any further information or have any questions, please do not hesitate to reach out to me.

Thank you,

Lisa R. Gore

Aidan O'Shea

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

My name is Aidan O'Shea and this is my testimony in opposition to the Addressing Crime Trends ('ACT"") Now Act of 2023. I am a nine-year resident of the District, living on 16th Street in Ward 1, and my experience as a politically active Washingtonian make me feel certain that this bill's approach will fail to make the public safer, while exacerbating inequality and the suffering of many communities within the district.

This bill does not address the obvious roots of violence in D.C. Instead, it turns to old, discredited, inherently racist "tough on crime" strategies that will only serve to make MPD more unaccountable: permitting police to physically harm people with more impunity, allowing constant surveillance, and making accountability for clear violations of the public trust by officers nearly impossible. As a resident of a neighborhood adjacent to a police station, I have seen firsthand that ubiquity of police presence and surveillance has not yielded a safer home for me and my neighbors. I'd rather see my tax dollars go towards addressing conditions that push people towards violence.

Instead of passing this bill, I'd like to see the District use its substantial resources to violence intervention strategies that have proven effective, a universal basic income, violence prevention education, and strategies to reduce truancy in schools.

The council risks making all of us LESS safe by voting yes on this legislation. Councilmembers gain nothing from doubling down on strategies that got us here in the first place. Councilmembers who vote NO will show they are true leaders and not followers, starting us on the path to a safer and more prosperous future for D.C.

Alan Alper

I am a lifelong resident of the Metropolitan area and a resident of and homeowner in Foggy Bottom since July 1998. I am very concerned about all the reports of rising crime in the District, especially in my Ward 2 area. I am more nervous and cautious in public than I used to be. Concern for my safety and well being is more in the forefront of my mind than previously.

I do the polices hands are tied in doing their job and those who commit crimes know this. Accordingly, I applaud the Mayor, Council and police for putting forth the ACT NOW legislation in an attempt to more forcefully and responsibly address crime.

I support the ACT NOW amendment

Alecia Haughton-Francis

Alecia Haughton
1008 Anderson Place, SE
Washington, DC 20032
November 27, 2023

Subject: Support for Mayor Bowser's ACT Now Legislation

Dear City Council Members

I am writing to express my wholehearted support for Mayor Muriel Bowser's proposed ACT Now legislation, which aims to enhance public safety in our great city. As a resident of Ward 8, I have witnessed firsthand the escalating levels of crime that have left our community feeling less secure. The measures outlined in the ACT Now legislation are a welcomed and necessary step towards ensuring the safety and well-being of all Washingtonians.

Living in a high-crime area of Ward 8 has taken a toll on my sense of security. I find myself second-guessing simple activities, such as taking a walk in the neighborhood or visiting the only accessible grocery store in our ward. These activities, which should be enjoyed without fear, have become sources of anxiety due to the recent spike in crime. The Addressing Crime Trends, ACT Now legislation addresses these concerns by providing a comprehensive framework to combat and prevent crime effectively.

I am particularly appreciative of the legislation's commitment to enhancing community policing efforts, increasing resources for law enforcement, and fostering collaboration between residents and local authorities. These initiatives are crucial for creating an environment where all residents, regardless of their neighborhood, can feel safe and secure.

I urge you, as a respected member of the City Council, to work collaboratively with Mayor Bowser and your fellow council members to swiftly enact the provisions outlined in the ACT Now legislation. By doing so, we can send a strong message to our community that their safety is a top priority.

Thank you for your dedication to the well-being of our city, and I trust that your support for Mayor Bowser's ACT Now legislation will contribute significantly to the safety and prosperity of our community.

Sincerely,

Alecia Haughton-Francis

Alessandro Clark-Ansani

My name is Alessandro Clark-Ansani and I am submitting testimony in opposition to the Addressing Crime Trends (“ACT”) Now Act of 2023. I am a resident of DC in Ward 1 and I am writing with great concern about the multiple "tough on crime" bills that are in front of D.C. Council, particularly the Act Now Act. This act, and others, will not increase public safety, but rather just subject our communities to discriminatory and violent policing.

The ACT Now Act will bring back MPD practices that will result in serious physical harm to DC community members. The bill allows officers to restrict someone’s airway, restrict their breathing, and apply pressure to their neck, including their trachea, carotid artery, or jugular vein, to stop them from moving. This would allow another murder, just like that of George Floyd. And it removes all accountability by not requiring the release of body camera footage of this violence. This lack of oversight is greatly concerning and will directly lead to loss of life.

I am also deeply concerned about the provisions that would rely on ineffective and racist surveillance practices. Drug-free zones were ended in 2014 by the DC Council because of concerns about their unconstitutionality and discriminatory enforcement. Mayor Bowser, a council member at the time voted against this practice, as did Councilmembers McDuffie, Bonds, and Mendelson. If passed, this would encourage surveillance and harassment of people of color who are simply existing in public spaces.

Rather than passing this bill that will only create harm, I encourage the council to invest in policies that will actually create safety. As a D.C. resident, I want my tax dollars going towards creating opportunity for myself and my neighbors, not towards failed and discriminatory policies. The Council should put the limited budget city budget towards providing basic public goods, creating more housing, and investing in our schools.

It is time for the Council to take the step towards actually investing in safety rather than just relying on failed, racist policies to feign that they are taking action, when all they are doing is relying on tactics that never have, and never will, create safety. The research is clear that more criminalization will not increase safety: investments in our community and in combatting the root causes of violence will. I implore the Council to not backslide into carceral policies that will only cause harm.

TESTIMONY OF SHAW ANC COMMISSIONER ALEXANDER M. PADRO AT THE PUBLIC HEARING ON B25-555, THE "ADDRESSING CRIME TRENDS (ACT) NOW AMENDMENT ACT OF 2023," BEFORE THE COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY OF THE COUNCIL OF THE DISTRICT OF COLUMBIA, NOVEMBER 29, 2023

Madame Chair, Members of the Committee, and Committee Staff. I am Alexander M. Padro, Commissioner for ANC Single Member District 2G02. I have represented the Shaw neighborhood for 21 years, am the current Chair of the Commission, and have been executive director of Shaw Main Streets since 2004.

The Metropolitan Police Department is struggling to regain control over an unprecedented increase in crime that has resulted in an environment that threatens our city's economy and the renaissance that neighborhoods like Shaw have experienced in the past two decades. Indeed, one prominent Shaw developer shared with me his fear that a growing number of residential tenants will seek to end their leases due to the atmosphere of fear caused by the recent increase in shootings and robberies in the area. Combined with the potential loss of retail businesses due to loss of customers as a result of rising crime, and mixed-use development like the ones that have been the mainstay of 21st Century development in our neighborhood could become unstable, resulting in loss of jobs and sales and property taxes that sustain the District's economy. Fewer eyes and ears on the street can only create greater safety challenges for neighborhoods like Shaw, making these neighbors even less safe.

Before the COVID-19 pandemic, crime in central Shaw was not the primary concern of residents and visitors to the neighborhood, as it had been decades before. It is today, with residents and businesses' customers and employees facing threats and even assaults from drug intoxicated individuals on a daily basis and rapidly increasing gunfire incidents. Central Shaw has seen more than 40 businesses close permanently since January 2020. Some of these businesses have specified crime as the primary reason for their decision to close. The atmosphere of lawlessness and lack of repercussions for illegal acts is currently threatening the loss of 60 employees at one major employer in our neighborhood that is facing a difficult lease renewal decision.

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The restoration of the ability to establish temporary drug-free zones as proposed by the bill before you is much needed. When this tool was available in the past, it was used effectively in Shaw, helping to curb open air drug sales. This tool will help relieve the pressures being exerted in neighborhood hot spots suffering from persistent drug activity and associated threats to public health and safety. Even if no other provisions of the bill are enacted, this option must be returned to the MPD toolbox in order to create a safer environment for law-abiding citizens.

Nationally, major retailers have closed as a result of flashmob-style thefts and dramatically increased levels of retail theft, notably in San Francisco. While making organized retail theft a crime may help discourage this type of organized theft, it is unclear how prevalent this type of crime currently is occurring in our neighborhoods.

I have, however, heard numerous business owners report that mask-wearing snatch thieves are the preeminent form of retail theft in our neighborhood. If reinstating the prohibition on wearing masks when engaging in criminal activity would increase the penalties faced by the perpetrators of such infractions, it could perhaps decrease this type of theft.

I am available to answer any questions you may have for me, now or after the hearing.

# # #

Alicia Mainor - C&S Model Dance and Praise Mentoring Bootcamp

Hello my name is Ms.Alicia Mainor ,program director of C&S Model Dance & Praise Mentoring Bootcamp . This is a girls mentoring program for youths in the District of Columbia wwe privide structure stability etiquette problem solving social and coping skills and much more we teach the young girls to express themselves through dance. We have performed for many people and organizations police events in the dmv. And all I asked is a safe space ,anew logo van, funding for uniform,meals,and transportaction . I pick them up and drop them off i provide personal hygiene supplies and I can not get any help . The help is only for grown men coming from jail and my program is based on making sure our little girls do not go to jail. We have two gun shot victims on my team ages 10&13 one on wheeler rd SE and the other in Kenolworth NE and this program can save a many more young girls in this city but I need help . And it's sad that if we are not apart of this lgbt society or the criminal society or with the who's who we get ignored. This program has been established since 2005. My girls has song happy birthday to Muriel at the 7D nights out my girls were in a program honoring the black women of DC and the gun shot victi was Speaking as Muriel and of course Muriel did not show up . but showed up downtown and uptown to the lgbt or whatever it is parade.
this program feed the seniors on wheeler rd wheeler creek 900 varney street SE Mother's Day Christmas and thanksgiving with No help . if you are carrying this higher position.. why not help those in lower positions who doing what you should or could be doing . If you care about one you should care about all . And my program service the two most important and valuable .. and thats the seniors and the children.
I can do alot more with your help. God had hoped me thus far . Even to this point of sending this message. And I pray it leads me to speak about soon if necessary.
I have been passed around from this person to that person about helping my program.. with little things like transportation meals vouchers for these parents to be able to afford the program and a safe place . Take sycam and oak for instance what the hell is over there for the kids? This gogo museum what about that is for the kids? The gogo bus WHY? Do we need that? Can these kids relate to that ? Where are the club football teams buses like my program a dance team bus and we are a praise dance team at that ., in which most of these leaders need to be involved with. We are out here touch and saving souls of these kids .. and y'all painting up the streets and buying million dollar gogo buses.. and our kids being shot daily. I just need support please and thank you. If this even reaches anyone.

Amanda Lewis

My name is Amanda Lewis and I am submitting testimony to state my opposition to the Addressing Crime Trends Now Act of 2023. I have lived in Ward 7 in DC for the past 4 years and do not believe that this act is the right path to take. I am concerned about many aspects of it that would lead to more criminalization and inequity rather than addressing the underlying issues that lead to crime and violence in this city.

As a social worker and a foster parent to a Black teen, I am concerned that the ACT Now Act will put my foster child in danger due to it's curtailing of transparency and oversight of MPD and reinstatement of ineffective and dangerous policing practices such as neck restraints and chokeholds. I am already afraid to use the police when my autistic foster child has aggressive meltdowns, and this act would make me even more fearful that deadly force could be used against my teen. In addition, we are still living through a global pandemic in which over 1000 people are dying each week of COVID-19. Reviving the anti-mask law puts those of us who are still trying to protect ourselves from the virus at risk of being targeted, and increases the opportunities for racial profiling to occur. This does not lead to safety.

As a social worker and a resident of one of the most impoverished wards of the city, I look at the underlying causes of the violence and see injustice, inequity, poverty, and hopelessness. The ACT Now Act does not address any of this. Instead of this approach, I would like my tax dollars to be spent on investing in basic needs, ensuring housing, food security, safe efficient transportation and high quality mental health service for all DC residents. Putting in place a process for restorative and transformative justice rather than relying on a system of punishment and fear is what will allow us to become a more just, safe, and compassionate city.

Councilmembers, I ask you to vote NO on the ACT Now Act. Rather than setting us on a pathway towards more criminalization, racial profiling, violence and fear, instead I urge you to choose instead to focus your energy, attention, and resources on solutions that lead to collective safety and reducing inequities in our city.

Amanda Melder

Chairperson Pinto and Members of the Judiciary and Public Safety Committee:

My name is Amanda, and I have been a DC resident for 15 years. My partner and I own a home in Ward 5, and we love the neighborhood we've chosen to call home.

I am writing today to voice my strong opposition to the Addressing Crime Trends (ACT) Now Act of 2023. Far from achieving the goal stated in the legislation's name, this proposal does nothing to make our city safer by lessening crime. Rather, it doubles-down on "tough on crime" approaches that, as we've seen again and again, overwhelmingly criminalize Black residents and marginalized communities.

As a woman married to a person of color, I am appalled by this regressive proposal. I do not want to live in a city where police are given more leeway to use chokeholds and pin down citizens by kneeling on their necks. Have we really learned nothing from George Floyd's brutal and unjust murder?

I do not want to live in a city where police have more leeway to pursue suspects while driving at high speeds through our streets. How does this make bikers and pedestrians, like my family and friends, safer?

I do not want to return to the failed policies of the 90s with "drug free" zones that do nothing to help people who struggle with addiction. These zones merely give police an excuse to arrest my neighbors congregating in public spaces.

In short, I do not want any of these so-called solutions that ignore the root causes of violence in our city in favor of strengthening an already ineffectual and unaccountable police force.

As a DC resident, I want my tax dollars to fund affordable housing, public education, and the creation of a universal basic income for city residents. Crime is prevented when the needs of everyone in the community are met, not when we double-down on punitive policies that only strengthen the carceral system.

Councilmembers, please use your authority and resources to address root causes to crime in our city. Uphold the values of your constituents by voting NO on ACT Now.

(Email) 8b05@anc.dc.gov
Phone: (202) 957-1894

RE: Bill 25-555 – Addressing Crime Trends (ACT) Now Amendment Act of 2023

Dear Members of the Council,

I wanted to take a moment to express my support for Bill 25 555 also known as the "Addressing Crime Trends (ACT) Now Amendment Act of 2023." The increasing levels of crime in our District have reached a concerning point impacting numerous families. As someone who lives in the District of Columbia and a parent to a 5-year-old daughter I am deeply troubled by the current state of the homicide rate and the alarming rise of carjackings.

It's really disheartening to see families losing their loved ones every day due to acts of violence. We need to take action to address this issue. I urge the City Council to pass this bill as a measure in order to protect the residents of the District of Columbia.

As someone who has experienced the tragedy of a 12 year child being struck by a bullet in my community I understand too well that we can't wait any longer. We can't afford for the violence to hit home like affecting the children or family members of council members or the mayor. The time for action was yesterday. I strongly urge the City Council to prioritize the safety of District residents by swiftly moving this bill forward.

While supporting this legislation is paramount, I also emphasize the need to equip the Metropolitan Police with the essential staffing and resources required to effectively enforce the proposed guidelines. It has come to my attention that the seventh district police station is currently understaffed and lacking the necessary resources to combat the rising crime rates. Passing this bill is a crucial step, but ensuring that law enforcement has the manpower to implement these measures is equally vital.

In conclusion, I urge you, esteemed council members, to demonstrate your commitment to the safety and well-being of District residents by supporting and expeditiously passing Bill 25-555. Together, we can take meaningful steps to restore a sense of security and peace to our communities.

Respectfully,

Joseph B. Johnson

Testimony of Andre Lee, Director of Community Engagement, MidCity Financial Corporation in Support of B25-0555 Addressing Crime Trends (ACT) Now Amendment Act of 2023. Before the Council of the District of Columbia's Committee on the Judiciary & Public Safety November 29, 2023

Good morning members of the Committee, my name is Andre Lee. I am the Director of Community Engagement at MidCity.

On behalf of the owner of Brookland Manor Apartments, I am pleased to offer testimony in support of Bill 25-0555.

At MidCity, one of the programs that falls under my purview is resident services. Resident services consist of property management staff meeting with residents and their families to provide information, assistance, and referrals to a wide range of resources including food assistance, health services, childcare, educational resources, economic development, and other critical services to meet individual and family needs.

Among our many services, Brookland Manor offers a food pantry, meals for children & seniors, after-school tutoring, health fairs, and a summer camp. We have also hosted a series of successful on-site job fairs. We recognize that the community cannot enjoy such activities if proper attention is not placed upon improving the quality of life in the community.

Constant loitering and drug distribution in the public spaces around Brookland Manor are the main factors that lead to violent crime at Brookland Manor. We have made tremendous efforts to secure the property, but our efforts have not been enough to curb the violence. We have 24-hour a day private armed security that patrols the Property. We have CCTV cameras facing various angles of the Property and the Metropolitan Police Department has real time access to watch the CCTV feed. We spend over $900,000 a year on security and CCTV monitoring. We have an MPD officer that lives in a comped unit at the Property in hopes that his presence will deter crime. We work with the Violence Interrupters to help ease tension at the Property, but the violence still prevails.

We host community meetings every quarter and invite MPD officers to attend and listen to the concerns of our residents. These meetings are conducted to not only bring attention to the violence in and around the neighborhood, but to also discuss ways in which the community can offer solutions to these issues. From these meetings, we have engaged in partnership discussions with various community organizations and non-profits to provide residents educational and workforce resources.

We understand that violence is often a result of mental health issues and drug abuse, so we partner with various social services and healthcare providers. This is done to assist our residents and neighbors who require mental health and substance abuse treatment or who need medical assistance. Over the past few years, Brookland Manor has hosted several health fairs providing health screenings to Brookland Manor residents. We will continue to provide residents with these resources.

We have made our best efforts but cannot do this alone. The importance of this legislation in advancing the safety of the Brookland Manor community is beyond question. We respectfully ask for you to make Brookland Manor Apartments and the surrounding area a drug-free zone.

Thank you for this opportunity to testify.

Anna Roblin

Hello,

I'm a ANC Commissioner in Southern Trinidad,5d03, and I am completely against this legislation. It is a unmitigated disaster from the foia situation to the body camera situation to the restraint situation and more.

When will you focus on the root causes of crime? DCPS is the 6th worst performing school system in the country, we're down there with Alabama. You are doing NOTHING to stop poverty. No wonder crime is through the roof. You don't care about homelessness either.

Allowing rogue police to continue their abuses is not going to help. The body camera provisions are beyond comprehension. What possible legitimate reason could there be for letting them see their footage before writing a report. This was advised against by the exploratory Commission. Now they can kneel on someone's neck unrestricted. It was possible to revise the no neck contact law in a way that was reasonable, this does not do that.

MPD is not one of the less abusive PD's in the country, they are not doing well with abuse. THIS BILL IS A DISASTER. DO NOT PASS IT.

As a former DCPS substitute teacher the disaster that is DCPS could be helped by instituting JLG's conflict resolution legislation and getting alot more restorative justice into the schools. Most DCPS schools don't have as curriculum although the law allows them to. Where is a anti poverty support system? We don't have one. There is basically zero safety net for poverty. Doing those two things would really help prevent crime the way it should be prevented, by helping people do better emotionally and economically. When will you see and focus on this?

VOTE NO ON ACT NOW. Please invest in restorative justice and conflict resolution in DCPS and in measures to stop poverty that work. Newark NJ has turned their historically disastrous crime rate around largely bc they are sending social workers out with police. Fund the NEAR Act or similar provisions and we can do the same. Community policing would also greatly help stop crime.

Anthony J. Hood

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November 29, 2023

My name is Anthony Hood and I am a lifelong Ward 5 resident. When it comes to public safety, I am a former Orange Hatter. At the time we started the citizens patrol groups, we thought outside the box in helping to make our neighborhoods safer. Mr. Leroy Thorpe, who is still active today, was the leader and founder of the Red Hats, a model that other groups followed. Those patrol groups have been very successful as a citywide effort.

I support Bill 25-555 and its initial start of making all who work and live feel safe again in the District of Columbia. We have to start somewhere and this is a good place to stop talking about it and be about it. It's time to take the handcuffs off our officers and give them the tools and support they need to be successful in ensuring our safety. When they are successful, we all win. I support Bill 25-555 as a start in making the District safe for us all again. Thank you.

Anthony Pirrotti

Good morning.

My name is Anthony Pirrotti, and I want to thank you for the opportunity to testify today in support of the ACT Now Amendment Act,
specifically the provision that would empower MPD to address loitering and open air drug markets in our communities.

I'm an ANC Commissioner representing SMD 4D-08, located in the upper northeast corner of Petworth. We're a quiet, historic, residential neighborhood, comprised mostly of working class families, many of them with children, and many of them long-time
residents of Washington, DC . I'd like to orient my testimony today around a specific, anecdotal location within my community to illustrate why this legislation is so necessary and so important for my neighbors.

Within my SMD is a small strip of empty grass, which has become a de facto open-air drug market. Each day, people from outside our community set up shop there. All day long, they loiter and engage in illegal and anti-social activities – drinking, arguing, fighting – sometimes violently,
littering, cursing, harassing people who pass by – most commonly women, and, most concerning of all, engaging in gang and gun violence. Within the past six months alone, this location has been the site of multiple shootings and more than one homicide.

And despite this concerning and dangerous behavior, despite the shootings and the harassment and the piles of trash, despite the pleas from neighbors and community leaders, no one seems capable of doing anything about it, which adds to a general sense of lawlessness and disarray to our otherwise quiet and safe community.

Everyone suffers as a result: neighbors are afraid that their children will be caught up in cross-fire from yet another shooting; the small businesses adjacent to the space – a restaurant, grocery store, dry cleaner, and medical supply store – suffer from the lack of foot traffic; people just trying to catch the bus to work suffer from catcalls and taunts; the entire community suffers from the piles of trash and stained couches and tents that people leave behind. Seeing this unchecked bad behavior occur day after day affects all of us – our sense of safety and well-being, our sense of confidence in our city government to carry out its most basic obligations to protect its citizens, our sense of pride in our community.

Each month, neighbors attend our ANC meetings asking for help. They present petitions demanding action from city officials. They plead for help from
MPD.

Yet every time we contact MPD or our City Councilmember, we are told that, unfortunately, there's really nothing anyone can do to fix this.

Well, this is our chance to fix this.

Our community deserves better. So, on behalf of my neighbors, I urge you to pass the ACT Now Amendment Act to empower MPD to help make the public spaces in our neighborhood safe again.

Thank you.

TESTIMONY OF ANWAR SALEEM
BEFORE THE CITY COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

Wednesday, November 29, 2023
9:00 a.m.

Public Hearing On Bill 25-555, the Addressing Crime Trends (ACT) Now Amendment Act of 2023

COUNCILMEMBER BROOKE PINTO, CHAIR

1350 Pennsylvania Avenue, NW, Washington, DC 20004 - Room 500
And virtually via Zoom

Good morning, Chairwoman Pinto and Members of the committee. I am Anwar Saleem, the Executive Director of H Street Main Street (HSMS), which includes areas east of the city, H Street, NE, and Minnesota Avenue, NE.

H Street Main Streets and Minnesota Ave Main Street strongly support the "Addressing Crime Trends Now Act" (ACT Now), a recent legislation submitted by Mayor Muriel Bowser. This pivotal legislation is a clarion call to confront the unsettling challenges undermining our city's public safety. As we champion this act, we anticipate it will equip MPD with an arsenal of tools essential for thwarting the audacious activities of criminals encroaching upon our

neighborhoods, residents, entrepreneurs, employees, visitors, and the very fabric of safety and quality of life in our beloved city.

As experienced by many sectors throughout the city, H Streets has had its share of high-profile crime covering the Newspapers and TV Screens throughout the past year, negatively impacting businesses and our communities' overall quality of life. This legislation will allow the city to customize its approach to DISRUPT crime legally. Compared to the country, the DC Metropolitan Police Department runs one of the country's most professional enforcement agencies and can administer the law effectively.

The pandemic's aftermath laid bare the tattered safety nets encapsulating homelessness and the poignant struggle of individuals grappling with mental health challenges. We acknowledge that tackling these pressing issues transcends the scope of MPD's duties. In a city as sophisticated as ours, rectifying this discrepancy is imperative. Thus, enacting this legislation must be mirrored with innovative ideas, robust support, and systemic shifts within the purview of pertinent DC Agencies dedicated to addressing the needs of those battling these adversities. These responsibilities must operate independently from MPD's mandate.

Thank you for allowing me to be heard, and I'm open to addressing questions.

Anwar Saleem

Aura Angélica

I come before you for the upteenth time to demand and beg that the Council stop falling for right-wing narratives and policies that will revert our communities and so much of the work that this body has already done to make our communities safer and better-resourced at the root. My name is Aura, I am a Ward 1 resident, and I am firmly in opposition to the ACT Now bill proposed by the Mayor and this body. I've been a DC resident for close to 6 years and have seen how this Council has played at people's hearts and communities from month to month to month. The ACT Now and its fellow bills being considered by Council are not only outdated - they've already been refuted by you all at different times. Is our memory that short? Have you forgotten the more than a dozen residents who MPD has murdered in cold blood just within a singe Council Period?

These murders are not only blood on your hands - they're a direct reflection of your failures to stand for the rights and freedoms of residents you swear to be advocating and working for each day.

Unless you are ready to stand for something - not just what you hear from one day to the next - none of you will be able to lead our city to any kind of health or prosperity.

You listened to us in 2020, and now listen to them in 2023. What do you stand for? Whose side are you on?

It's clear that ACT Now will only serve to reinstate the state's belief that stop and frisk and racial profiling are legitimate tools and approaches to community safety. Despite looking at our own data here in the District and nationally, you're choosing to look away in the name of appeasement with the right wing. ACT Now will reinstate policing practices that will lead to more cop-violence and murders of Black DC children and residents. You made changes in the name of George Floyd that you're happy to take back even if it gives us so many more names to call for justice for. Because of your deference and cowardice, MPD will be able to reinstitutionalize dangerous and violent chokeholds and dehumanizing searches that will make it almost impossible for residents to go anywhere safely.

At the same time that you're resourcing police under the idea that they'll be able to do better policing, you're making them a more dangerous threat to community members. How will this make us safer overall? It will only create more people who feel free to commit violence and cause harm.

Instead of passing bills that legitimize the use of violence against civilians, I call for you to find the heart and courage to lead on bills that will actually make our communities safer. This can include improving response times at OUC to improve overdose prevention; bringing resources to schools that help deescalate conflict and resolve it with justice, not punitive punishment; get back to phasing out cops from schools so children feel like they have a safe place to go to every day where they will be loved and cared for, not persecuted; support basic needs like schools, housing, food, and jobs so that people have opportunities to survive in this world without being under the boot of the state. Instead of supporting choking your own residents, support letting us breathe.

I don't know how many different ways I can call for you - and your staff who are reading this - to do the demonstratedly and data-drivenly right things. Stand up for yourselves and the people you say you represent. This is about life and death and will do nothing - has never done anything - to deter violence. Please, do something that involves people's well-being, not just the cops. Put DC first, not just your egos.

Austin Bryniarski

My name is Austin Bryniarski and I submit this testimony to oppose the Addressing Crime Trends ("ACT") Now Act of 2023. I have lived in DC for two years and am shocked and concerned by the numerous pieces of legislation introduced this year that echo and amplify deeply racist and classist "tough on crime" rhetoric that only serve to criminalize our communities and feed into mass incarceration. The ACT Now Act will not keep us safe, but rather it will harm some of the most marginalized communities in DC.

I'm really concerned about how the ACT Now Act will make MPD's operations more opaque and bring back racist surveillance and policing practices that only make people less safe. As a freelance writer and advocate whose work in other domains often depends on FOIA requests and other access to government records, I am appalled by the way this legislation curtails access to public records and limits the Office of Police Complaints' access to MPD information. This will create severe challenges for public scrutiny of MPD and basic oversight of MPD. Combined with the way this bill allows for police to criminalize people for existing in public (so-called "drug-free" zones and anti-mask provisions) and criminalize people more violently (through chokeholds, deadly force, and vehicular pursuit), this moves to obfuscate the activities of MPD are particularly egregious and make me feel less safe despite this bill's claims to addressing crime.

The District could do so much more to create a city in which people are safe and violence is not used to respond to the decades of organized abandonment that our communities have experienced as a result of policy. Strong oversight of MPD and more resources to City Departments that actually support the things people need to live full lives -- housing, healthcare, schools, food, transit, the environment, etc. -- should be prioritized. Policing should not be, but this bill does just that. Punishing people for being poor, or using policing as a kind of "one-size-fits-all" solution to the social decay our leaders have created over time, is not the answer; addressing the needs of our communities is.

The Council must knock this carceral, punitive, police-dependent approach to addressing so-called crime off. It needs to address root causes. It needs to stop criminalizing residents. You need to vote NO on the ACT Now Act. And you need to invest in things like food security, housing, healthcare, and the kinds of things that would actually make DC a safe place to live.

Dear Chair Pinto and Members of the Committee on the Judiciary and Public Safety:

My name is Elizabeth Tang—I have lived in DC for 6 years and currently live in Ward 1. I'm a civil rights attorney in my day job and a community organizer with the Democratic Socialists of America and Harriet's Wildest Dreams. **I'm writing to strongly oppose ACT Now (B25-0555).**

ACT Now follows a rash of other disastrous "tough-on-crime" bills with misleading names that expand criminalization of primarily Black and brown DC residents under the guise of "public safety." **You should vote No on all of them:**

- ACT Now (B25-0555)
- "Safer Stronger" (B25-0291)
- "Victim Protection" (B25-0345)
- "ACTIVE" (B25-479)
- The entire Secure DC Plan

1. ACT NOW would make it legal for cops to use more deadly violence.

George Floyd was murdered by a cop kneeling on his neck—this maneuver is rightfully illegal in DC. But ACT Now would let cops do this to stop someone from moving and would allow MPD to withhold body camera footage of these incidents. Just so we are clear: ***You want more people to be murdered the way George Floyd was murdered?*** And for murderous cops to hide their footage?

In 2021, DC Council severely limited vehicular pursuit after police chases killed 2 young Black men—***Karon Hylton-Brown and Jeffrey Price***. But ACT Now would make these types of deadly chases permanently legal. Respectfully, what the fuck?

2. ACT NOW would revive racist policies that DC repealed years ago.

In 2014, DC Council—including ***Mayor Bowser, Chair Mendelson, and Councilmembers McDuffie and Bonds***—voted to end "drug-free zones" due to concerns of unconstitutionality and discriminatory enforcement. But now you want to bring it back? ACT Now would allow MPD to create "drug-free zones" of 1,000 square feet for up to 5 days if a cop suspects people are gathering to use, buy, or sell drugs; and to arrest anyone who doesn't disperse or who later returns to the zone. ***It was a terrible policy in 2014, and it still is in 2023.***

In 2022, in the wake of the 2020 racial justice protests, DC Council unanimously repealed a racist anti-mask law. But just a few years later, you're trying to bring it back—to make it illegal to wear a mask or face covering with the intent to break the law and avoid identification or to threaten or harass people. ***But cops cannot tell if someone intends to break the law simply by looking at them***. Why are you introducing bill after bill trying to turn DC into a free-for-all for police harassment of Black and brown people? ***Was 2020 just a phase for you?***

3. ACT NOW would protect abusive cops from transparency, accountability, and oversight.

ACT Now would shield MPD officers who are charged with repeat violations from transparency and accountability. Specifically, the bill would ***prevent journalists and the general public from obtaining a cop's disciplinary records*** if their alleged violation was "not sustained" or if the violation occurred before the bill becomes effective. Reporters and the public would also not be able to get the name, badge number, or other details of a cop under investigation—only the disciplinary hearing transcript and final order.

The bill would also make it ***easier for MPD officers to lie*** about their use of violence and to use their firearms in dangerous ways. Specifically, the bill would let cops review their body camera footage before writing up a report to line up their story—contrary to recommendations from the DC Police Reform

Commission. It would also let MPD withhold body camera footage when a cop negligently discharges their firearm as long as no one is injured or killed or the cop was "only" shooting at an animal.

ACT Now would also ***severely limit oversight of MPD***. For example, the bill would allow MPD to withhold information from Office of Police Complaints investigations, to issue new orders and regulations without getting prior feedback from the Police Complaints Board, and to keep take down their public database of cops with sustained allegations of misconduct. ***We do not want a police state in DC.***

4. You should address the root causes of violence instead.

I am tired of saying the same thing over and over again.

"Violence is most pervasive and takes its greatest toll in areas of the District where predominantly Black and Brown residents have the least access to wealth."

DC Council's Police Reform Commission said this in 2021. It's time for you to adopt the evidence-based recommendations outlined in your own commission's report.

DC community members are struggling to meet their basic needs. You can help:

- Expand access to fresh, nutritious food in DC. ***There are only 4 full-service grocery stores in Wards 7 and 8,*** compared to the 72 stores in Wards 1 to 6.
- Eliminate homelessness in DC. DC is one of the most gentrified cities in the country, resulting in ***almost 5,000 unhoused community members.***
- Create a $750 monthly stipend for Black families in Wards 7 and 8 with children < age 10 and household incomes < $50,000, as recommended by DC's Gun Violence Reduction Strategic Plan
- Create a Violence Intervention Worker Training Academy to train outreach workers and violence interrupters and create new jobs, as recommended by DC's Gun Violence Reduction Strategic Plan. This is critical, given that ***as recently as 2022, there were 0 full-time violence interrupters in all of Ward 8***.
- Support #SafeAndFreeDC, a Black-led legislative agenda that is evidence-based and directly responsive to community needs and goals to improve public safety and quality of life for all DC residents

Racist and punitive "tough-on-crime" policies don't work. You should get rid of them:

- Pass the Drug Policy Reform Act to decriminalize personal possession of drugs, invest in harm reduction centers, and remove collateral consequences of drug convictions
- Pass the School Safety Enhancement Act to fund non-carceral solutions: restorative justice, de-escalation, violence interrupters
- Remove police from schools by 2025, as previously planned. ***"School resource officer" is a misnomer; cops are not "resources" for students.***
- Take cops out of mental health or overdose response. A gun cannot help someone experiencing a mental health crisis or overdose. Cops should never be called to these situations.
- Pass the Traffic Safety Enforcement Act to ban traffic stops for minor infractions (broken lights, tinted windows, etc.). And transfer enforcement of traffic violations that don't imminently threaten public safety from MPD to DDOT.

DC residents are tired of this ridiculous game of whack-a-mole every few weeks. Please stop trying to pass racist, reactionary crime bills and invest in your community instead.

Thank you,
Elizabeth Tang

Bakari Wilkins

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

I'm Bakari Wilkins and I'm writing to submit testimony opposing the Addressing Crime Trends (“ACT”) Now Act of 2023. I am a lifelong resident of the District, and the bills that have been passed or introduced in the last year are desperate attempts to posture as ""tough on crime"" without addressing the underlying issues. Stop-and-frisk and mass incarceration aren't things we should return to, no matter how much the Federal City Council and FOP want to drag us backwards. The ACT Now Act, just like the ACTIVE, Safer Stronger, and Prioritizing Public Safety Acts before it, will not keep us safe. Instead, it will just harm some of the most marginalized communities in the District.

This bill will allow MPD to establish “drug-free zones” that cover 1,000 square feet and can last up to 5 days. These zones can be established if an officer suspects people are congregating to use, purchase or sell drugs. It also gives MPD the authority to arrest anyone who doesn’t disperse or who later returns to the area. The DC Council voted to end this practice in 2014 because of concerns of unconstitutionality and discriminatory enforcement. Mayor Bowser, a councilmember at the time, voted to end this practice. As did current Councilmembers McDuffie, Bonds, and Mendelson.

True safety comes from having your needs met and having hope for the future. People, especially youth, are less inclined to throw their lives away if they feel like there are good jobs and opportunity for a decent standard of living ahead of them. The DC Council needs to invest in making sure residents have easy and deeply affordable access to food, housing, healthcare, schools, public transit, clean air and water, and more.

It is time for the Council to take the step towards re-envisioning our collective safety. We know, and research shows, that addressing root causes is what reduces violence, not criminalization. Councilmembers, instead of backsliding into this country’s carceral past, will you be bold and vote NO on ACT Now? And choose instead to invest in housing, access to food, health care, and other things that actually keep us safe.

Benjamin Merrick

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

My name is Ben, and I have been a resident and organizer in DC (wards 2 and 1) for the past 4 years. I am writing for what feels like the millionth time in the past few months to oppose in the strongest possible terms yet another terrible, reactionary, right-wing crime bill that the council and mayor are trying to impose on the city. ACT Now is an egregious, embarrassing, deeply racist bill that mirrors the hysterical overreach that animated 1990s crime politics. This bill will not only not make us any safer, it will make Black, brown, poor, and working class communities vastly *less* safe, putting them at constant risk of state violence. *It's also deeply personal to me, because it criminalizes the last line of defense I have to keep myself and my immuno-compromised partner safe from COVID — wearing a KN95 mask*.

I know that the council is motivated to address public safety issues in the city, but this bill does everything wrong. I join residents across the city in imploring the mayor and council:

1. DON'T BRING BACK CHOKEHOLDS. My god, why does this even need to be said? Chokeholds specifically have killed George Floyd, Eric Garner, and countless other, predominantly Black and brown people. I recently heard the new police chief refer to this provision as one of the "essential tools" of policing, which raises the question: if an act of pure and unnecessary violence such as choking someone out is an "essential tool" of policing, what does that say about policing itself? Well, it says everything — policing IS violence, and pouring resources into policing instead of addressing the root causes of community violence will forever make us less safe, not more.
2. DON'T BRING BACK "DRUG-FREE ZONES". While they've got a misleading name that sounds vaguely sensible, they are in reality despicable tools of state surveillance and disasters for vulnerable communities. It's no surprise that they've been previously deemed unconstitutional. They were a key part of the nearly-universally recognized national policy failure that was the "war on drugs," and attempts to bring it back now speak only to historical ignorance, racism, and deeply shameful hatred of poor and vulnerable people.
3. DON'T WEAKEN POLICE ACCOUNTABILITY. Please think twice about what this bill does: it gives cops new tools of violence with one hand (chokeholds), while seeking to weaken accountability for that violence with the other. This is nothing more than a recipe for cops to act out with impunity even more than they already do. If you pass this bill, you will have blood on your hands the next time a DC cop assaults someone and stays on active duty because they were able to review their bodycam footage before it got out to the public and fabricate a story.
4. DON'T CRIMINALIZE MASK-WEARING. This one is **deeply personal**. KN95 masks are one of the few remaining ways I have to protect myself and my immuno-compromised partner from COVID, given that this city, like local and federal governments everywhere, has essentially dropped all responsibility for public health while COVID is still a prevalent and highly-contagious illness that can be disabling long-term. And now this bill unconscionably *criminalizes that last line of defense* that those few of us who still care about COVID have, because any cop, at any time, can justify arresting or assaulting me for wearing a mask by falsely claiming I had "intent to break the law". This is so irresponsible it makes my head spin.

So what can the council do that would actually address the root causes of violence and make all of us safer? The answer is actually very straightforward: positive, life-affirming resources provided to everyone, especially our most vulnerable neighbors. Here are some examples about where we can start if we actually want to reduce harm and violence in our communities:

- DO Pass the #SafeAndFreeDC legislative agenda
- DO Expand violence interrupter programs, which are proven to be 5x more effective than policing at preventing community harm
- DO Decriminalize drugs and provide 24/7 harm reduction centers
- DO Pass the School Safety Enhancement Act to protect students with non-carceral strategies
- DO Move traffic enforcement to DDOT and improve all kinds of transportation safety with smart urban planning instead

- DO Pass a Universal Basic Income for DC Pass a DC version of the expired child tax credit to eliminate child poverty completely

As I stated in my previous testimonies, all of the above are not just pieces of nice, progressive legislation — they are PUBLIC SAFETY bills. Doing these things will make life better for all DC residents and absolutely have a much more positive impact on reducing harm and violence in our communities.

I have lived in Wards 2 and 1 in DC and in the past 4 years, I have witnessed nearby shootings and acts of violence, only to watch as my councilmembers brought more cops to the neighborhood and made things even worse — first when retaliatory shootings happened weeks later, and then when, of course, the cops themselves shot someone. Watching this age-old pattern be repeated ad infinitum — violence, then more cops, then more violence — is just tragic and sad. The Council and Mayor must pursue a new approach. It is also deeply offensive to see the mayor council attempting to criminalize the one tool that I feel like I have remaining to protect myself and my immunocompromised partner from COVID. If this bill passes, just wearing a mask for covid can put me at risk of police violence — all that on top of already feeling alienated by being one of the very few still wearing masks in indoor public spaces.

So I am once again calling on the Council to avoid doubling down on the failed strategies of mass incarceration and the war on drugs, and instead invest in our communities in ways that will actually make us more safe. VOTE NO on the ACT Now.

Testimony of Billy Easley II, Advisory Neighborhood Commissioner for SMD 1A10, Regarding B25-0555, Addressing Crime Trends (ACT) Now Amendment Act of 2023
Before the Council of the District of Columbia's Committee on the Judiciary & Public Safety
November 29, 2023

Dear Honorable Committee Chair Pinto,

My name is Billy Easley II, Advisory Neighborhood Commissioner for SMD 1A10, located in Columbia Heights. I'm here speaking in my own individual capacity as a Commissioner and not for ANC 1A. I applaud the efforts of Mayor Bowser and the DC Council to respond to the increase in retail theft, robberies, and other crimes impacting Washington DC and our residents. While there are aspects of the ACT Now Amendment Act of 2023 which I support, I urge the Mayor and the DC Council to support comprehensive reforms like funding and increasing staffing for the Department of Youth and Rehabilitative Services, increasing oversight over the Department of Forensic Sciences, hastening the re-accreditation of the DC Crime Lab, and implementing the Criminal Justice Coordinating Council's Gun Violence Reduction Strategic Plan.

As the co-chair of ANC 1A's Public Safety Committee, concerns about public safety are the number one topic I receive as a Commissioner from residents. In my testimony I will rely mainly on what I have heard from residents in crafting my recommendations regarding the ACT Now Amendment Act.

New offense for directing organized retail theft: I support the creation of a new offense for organized retail theft but I recommend the Council consult with the DC Sentencing Commission and the public about what the most appropriate maximum prison term is, rather than defer to the Mayor's proposed term. Advisory Neighborhood Commission (ANC) 1A has been impacted by a rise in crime, including an increase in theft offenses in 2021 and early 2023. The CVS located at Irving and 14th has been subjected to numerous robberies.

Retail theft doesn't just harm our businesses, it also demoralizes our residents who come to stores for essential goods and are confronted with empty shelves. Those who direct adults or even juveniles to engage in organized theft should be subjected to additional penalties, given their managerial role in the offense. However, this policy change alone will not reduce retail theft, especially among juveniles. It would be more effective for the Council to provide more funding and staffing for DYRS and other existing services to identify high risk juveniles and direct services to them. I would also suggest the Council providing more funds to MPD to update and main

Outlawing mask wearing in certain situations: A resident in my SMD recently had their packages stolen from their porch. The theft was recorded but the thief wore a balaclava to conceal their identity. This resident is adamant that mask coverings can be used to facilitate crimes. MPD leadership has also expressed concern about mask-wearing and want to be able to use it asway to establish reasonable articulable suspicion to search potential offenders who

may be preparing to engage in criminal activity. If the Council supports this provision, it must provide effective oversight over how MPD uses this provision so it is not being used inappropriately or so aggressively that it burdens everyday citizens who happen to wear a mask.

Transparency provisions and MPD policy: No resident shared concerns with me about these provisions, but I feel compelled to advise the Council to exercise caution in limiting information about police misconduct, loosening restrictions regarding chokeholds, or widening the justification for car chases. MPD leadership has argued that these provisions hurt recruiting and morale within the department. The Council should take MPD's arguments seriously but also recognize that the police staffing shortage is a problem experienced departments across the nation, even those that do not have similar restrictions. Most concerning to me is the limitation on the police misconduct database: our dedicated police officers do not lose their privacy just because they are government employees but the Council must ensure that any changes to the police database allows defendants to know when an officer has a record of misconduct that is relevant to their defense.

Drug Free Crime Zones: No residents shared concerns with this provision but I urge the Council to carefully review the jurisprudence regarding anti-loitering laws before enacting this provision. Combatting open-air drug markets and the criminal activity they facilitate is a laudable policy goal but if this particular method flounders in significant, costly litigation for MPD it will not have been worth it.

Our residents are frustrated. They don't think the DC government is doing enough to reverse crime trends. The Mayor and Council have an opportunity to change that perception. They want the DC government to work together and implement long term solutions, not short term fixes. If you remember one thing from my testimony, let it be this: other cities across the country are implementing proven strategies to reduce crime. DC can do the same.

Brenda Lee Richardson of Police Service Area 702 Outreach Committee Testimony on the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"
Wednesday, November 29, 2023

Good day, Chairman Mendelson and other members of the DC City Council. My name is Brenda Lee Richardson. I am a Ward 8 resident and facilitator for the Police Service Area 702 Outreach Committee. I wholeheartedly support this critical legislation on the "Addressing Crime Trends (ACT) Now Amendment Act of 2023. Our nation Capitol is under siege with 900 carjackings and 250 homicides in 2023.

There are too many perpetrators of crime and gun violence that are terrorizing our homeland. These menaces to society have no regard for life or the law. As I looked at this legislation, I am mindful of how smart and creative the criminals are and I hope this testimony will help strengthen the Act.

- **"Prohibiting wearing hoods and masks on public property or during demonstrations for the purpose of committing crimes, intimidating, and threatening other people, or causing fear."** *(Please consider ……. prohibiting wearing hoods, masks, and other disguises (garments, glasses, etc.) (Please consider…. public or private property. Public property only leaves the door open for them to descend on public safety on private property as well. It is critical to close this gap.)*
- **"Establishing a felony offense of "directing organized retail theft," which would make it unlawful for an individual to act as the organizer of a theft-for-profit scheme by recruiting or directing individuals to commit retail theft."** (Please consider "Establishing a felony offense of "directing <u>any</u> organized theft with a provision for retail theft.)
- **Authorizing the Metropolitan Police Department (MPD) to declare temporary drug-free zones, which would allow MPD to limit loitering in those zones.** (Please consider defining a drug free zone as a neighborhood or PSA. Please consider 30 to 60 days or more as the temporary timeframe. Do not leave the door open for the criminals to move their illicit activity a few blocks outside of the drug-free zone. I like the idea of drug free zones, but does this include alcohol and "Lien" (that concoction they have created with cough syrup to get high)? The miscreants are often seen loitering,

smoking pot and drinking alcohol in red cups that are often in their hands or on top of their cars. I hope the drug free zone will allow the police to search their vehicles as well.

Finally, let us give MPD the tools they need to keep law and order in our city. This is not the wild wild west and there is a new sheriff in town who has every intention of protecting and serving the law-abiding residents of the District of Columbia. If that means locking the bad guys up, I am totally supportive of that. But our court system must be prepared to address this issue as well. Otherwise, the criminals will end up back on our streets. Thank you.

Caolan Eder

My name is Caolan Eder and I am writing to oppose the Addressing Crime Trends (“ACT”) Now Act of 2023. I am a lifelong resident of the DMV and have lived in DC's Ward 1 for four years. I have seen the city change throughout my life, and I know that the ACT Now Act will change my city for the worse. It won't protect anyone; it will only harm Black and Brown communities.

As a teacher, I know that punishment and surveillance don't produce desired behaviors, they only increase harmful behaviors and target marginalized students. The same is true for the community at large. Lowering standards of accountability, increasing surveillance, and allowing police to hurt people with impunity will help no one and hurt marginalized communities. Just as educators know that students need the root causes of their challenges addressed, our citizens know that our tax dollars should be spent on improving our communities, not punishing people.

We as a city must invest in jobs and programming to keep everyone's basic needs met. People need food and housing, not violent repression and carceral strategies. We should be providing community health workers, not cops.

The DC Council must act to support our community through prosocial programming. Reject the ACT Now Act and invest in the basic needs of our residents.

Testimony of Emeka Moneme
President, Capitol Riverfront Business Improvement District
Committee on the Judiciary and Public Safety
Addressing Crime Trends Now Act (ACT Now)
Wednesday, November 29 at 9:00 AM EDT

Councilmember Pinto and members of the committee. My name is Emeka Moneme and I'm the President of the Capitol Riverfront Business Improvement District ("Capitol Riverfront BID"), established 15 years ago to enhance the overall quality of life for residents, employees, and visitors in the neighborhoods, spanning from Buzzard Point to the west and Maritime Plaza to the east, on the banks of the Anacostia River in southeast Washington, DC.

I am testifying in support of the *Addressing Crime Trends Now Act* ("ACT Now") for the stated purpose of addressing recent public safety challenges and keeping our neighborhoods safe.

The Capitol Riverfront BID is a place management organization, charged with ensuring that this key commercial district and neighborhood is clean, safe, and attractive to residents, workers, and visitors. Since I took over this role this fall, public safety has consistently been the first topic discussed when engaging with my board of directors and community groups. And if not the first, it's usually not far behind. This experience has reinforced my view that the foundational element of District's economic recovery strategy should be to reestablish the public's trust that our city's neighborhoods –including its commercial and entertainment districts - are safe. The Capitol Riverfront BID is intimately connected to the community that we serve and recognize the inseparable relationship between safety and other leading quality of life indicators, and therefore believe that our experiences and perspectives can add value to this continued conversation.

The Capitol Riverfront would like to go on the record with the position that both ACT Now and the specific tools aimed at eliminating retail theft from our stores, removing drug dealing on our corners, and increasing the consequences for wearing masks for the purpose of committing criminal acts, are positive, significant steps toward enhancing public confidence in our public safety environment. Specifically, I would like to voice our support for the Organized Retail Theft and Drug Free Zones provisions. Together, enforcement and accountability on these issues conveys a commitment to address anti-social behavior and reinforces the BID's efforts and responsibility to its residents and other constituents to enhance the quality of life within its geographic borders.

However, we believe that other systemic and structural reforms that, when combined with *ACT Now*, could create the types of cumulative effects that will return DC back to the positive economic and public safety environment that existed pre-global pandemic.

One of the most impactful actions that the District can take is to increase the number and visibility of Metropolitan Police Department (MPD) officers in the community. There are clearly several contributing factors that are challenging MPD's ability to hire and retain officers, but this change would have a significant impact on public perception about public safety and MPD's effectiveness. One action that might be impactful would be to increase the MPD Housing Program to extend beyond new hires and recruited officers to include existing officers. The goal would support MPD's retention efforts and encourage more sworn officers to live in the communities where they serve.

Another reform opportunity would be to streamline the US Attorney Office's prosecutorial workload by focusing on felony prosecutions and allowing misdemeanors and other petty crimes to be handled locally. This would allow those quality-of-life crimes to be prioritized by the local prosecutors and cause those cases to be closed more swiftly and at a higher rate.

I speak to these changes because the combination of seasonal entertainment venues – Nationals Ballpark and Audi Field – and the appeal of the riverfront, have allowed the Capitol Riverfront BID to enjoy protracted economic growth despite the pandemic. However, the success and viability of this key economic engine is at risk if its perception as a safe and attractive place to live, work, and play is undermined.

It is also important to speak to the context of this bill. Numerous events and incidents stimulated a much-needed and long-overdue debate regarding the optimal and appropriate role of police in our society. The passage of the *Comprehensive Policing and Justice Amendment Act* in Washington, DC was our city's response to those events. And while we recognize there are varying perspectives on this specific legislation, we also know that there is significant public urgency for our leaders to act now while doing so in a way that aligns with our civic values.

Thank you again for allowing me to testify on this very important issue that is a critical priority for our city. I appreciate your consideration of our organization's perspective as part of this conversation and am happy to answer any questions that you may have.

Carla Marcellus

Good morning. I would like the Council to pass this bill and put in place stronger anti-loitering laws. I live across the street from Stanton Supermarket and Corner Market Liquors, and have noticed an increase in loitering, drug sales, and trash especially since the opening of the liquor store. I no longer feel safe in my neighborhood. I purchased my condo in 2004 and will be retiring in 2-3 years. As much as I like living in DC, I am seriously considering moving out of this city. Thank you.

D.C. Criminal Code Reform Commission

Testimony of Executive Director Jinwoo Park on B25-0555 the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

COMMITTEE ON THE JUDICARY & PUBLIC SAFETY HEARING
November 29, 2023

DISTRICT OF COLUMBIA CRIMINAL CODE REFORM COMMISSION
441 FOURTH STREET, NW SUITE 1C001 SOUTH
WASHINGTON, DC 20001
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I. Introduction

The CCRC submits this written testimony as a supplement to oral testimony provided at the November 29, 2023 hearing held by the Committee on the Judiciary and Public Safety. The CCRC also notes that it has not provided oral or written remarks on every Title within this bill.

II. Comments on Specific Provisions

A. Changes to the First Degree Theft Offense and New Directing Organized Retail Theft Offense

The bill includes two separate provisions that appear to be targeted at addressing retail theft. The provisions would expand the first degree theft offense and create a new separate directing organized retail theft offense. For the reasons set forth below, the CCRC opposes the proposed changes to first degree theft and creation of the new directing organized retail theft offense.

1. Changes to First Degree Theft

This bill creates two new forms of first degree theft. Currently, theft is divided into two grades. First degree theft, which requires that the property stolen is valued at $1,000 or more; and second degree theft, which requires that the property has any value. The two degrees of theft carry significantly different maximum penalties: first degree theft is a felony with a maximum sentence of 10 years, while second degree theft is a misdemeanor with a maximum sentence of 180 days. This bill would redefine first degree theft to include stealing 10 or more items with a value of at least $250 over a 30-day period, or in the course of or in furtherance of such theft, knowingly commits assault or intentionally destroys or damages the property of the retail establishment. Because these changes are unnecessary to ensure criminal liability and risk imposing disproportionately severe penalties, the CCRC opposes these changes to the first degree theft offense.

a. 10 Items Valued at $250

Re-defining first degree theft to include stealing 10 or more items over a 30 day period with an aggregate value of $250 is both unnecessary and risks disproportionately severe penalties. This change is unnecessary when applied to items being stolen over a prolonged 30 day period. Under current law, if a person steals 10 items on 10 separate occasions, they can be prosecuted for *10 separate* counts of theft. Even if each item is valued at under $1,000 and only misdemeanor liability applies to each count, this would provide a maximum aggregate sentence of nearly 5 years.[1] Moreover, under the current D.C. Voluntary Sentencing Guidelines, sentences for even non-violent misdemeanors may be ordered to be served *consecutively* when they did not occur on a single day.

Imposing a 10-year maximum sentence for stealing multiple items valued at $250 is disproportionately severe. Theft is a non-violent property offense that is typically treated as a misdemeanor. Felony theft liability is reserved for objects with significant value. For example, if someone steals a single backpack that contains three textbooks, two notebooks, three pens and a pack of gum with an aggregate value of $250 or more, they would be subject to felony liability with a 10 year maximum sentence. Stealing a single bag also valued at $250 would be a

[1] Second degree theft is punishable by 180 days. D.C. Code § 22-3212. Ten counts of misdemeanor theft would therefore authorize a maximum aggregate sentence of 1,800 days, or 4 years and 339 days.

misdemeanor, with a 180 maximum sentence; less than *one twentieth* the sentence for stealing a bag that contained 9 items.

b. Commits Assault or Destroys or Damages the Property of the Retail Establishment

The bill would change the first degree theft offense to include either knowingly committing assault or intentionally destroying or damaging the property of the retail establishment during the course of and in furtherance of the theft. With respect to committing an assault during the course of and in furtherance of theft, this revision is unnecessary as this conduct is criminalized as robbery. With respect to causing property damage of a retail establishment, this revision is also unnecessary as separate charges of malicious destruction of property can be brought. In addition, applying felony liability to non-violent property crimes, *regardless of the value involved*, is disproportionately severe. Accordingly, the CCRC objects to these changes to the first degree theft offense.

Knowingly committing an assault during the course of a theft constitutes robbery, and it is unnecessary to re-define the theft offense to include this conduct. Both the D.C. Court of Appeals[2] and centuries of legal authorities[3] have clearly stated that theft and robbery are distinguished by the use force or threats. This revision would eviscerate this fundamental distinction between larceny and robbery by treating theft accomplished through the use of force or threats as not only robbery, but theft.

This revision creates clear overlap between the theft and robbery statutes but provides no guidance as to whether a person may be convicted of *both* theft and robbery based on a single act. If the offenses are intended to merge, this revision is entirely superfluous. Any person who commits first degree theft by committing an assault would *necessarily* also have committed robbery, which carries a maximum sentence of 15 years. If the offenses do not merge, the penalties are disproportionately severe. A person who commits assault during the course of a theft could be convicted of both first degree theft and robbery, which together carry an aggregate maximum sentence of 25 years. If these offenses do not merge, committing even a minor assault, such as a shove, in furtherance of theft would be subject to a maximum sentence ***5 years longer than the maximum sentence for second degree sexual abuse***[4] (which includes engaging in sexual intercourse with an unconscious person) and ***10 years longer than committing assault with intent to kill.***[5] The use of force in furtherance of theft is serious conduct, and the code already adequately criminalizes and penalizes this conduct through the robbery statute.

Revising first degree theft to include any property damage to a retail establishment creates disproportionate penalties. Although property damage constitutes an additional harm beyond theft itself, that harm is properly accounted for by the current malicious destruction of property offense.[6] Malicious destruction of property is punishable by up to 180 days, or 10 years if the property damage is more than $1,000. Similar to the theft offense, felony liability is reserved for causing damage to highly valuable property. Under this revision, a person who steals a single candy bar and while fleeing knocks over a store display causing minor property damage would be subject to

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[2] *Lattimore v. United States*, 684 A.2d 357, 360 (D.C. 1996).
[3] *See*, § 20.3. Robbery, 3 Subst. Crim. L. § 20.3 (3d ed.) (noting that "Robbery consists of all six elements of larceny . . . plus two additional requirements: [] that the property be taken from the person or presence of the other and [] that the taking be accomplished by means of force or putting in fear.").
[4] D.C. Code § 22-3003.
[5] D.C. Code § 22-401.
[6] D.C. Code § 22-303.

a 10 year felony, even though the value of property taken and damaged was very low. This non-violent property crime would be subject to the same maximum sentence as aggravated assault, which requires inflicting serious bodily injury.[7]

2. Creates New Directing Organized Retail Theft Offense

The bill creates a new directing organized retail theft offense. This offense requires that the defendant directs, recruits, or coerces two or more people to commit theft of merchandise valued at more than $1,000, with intent sell, barter, or trade the merchandise, or fraudulently return the merchandise to a retail merchant. The organized retail offense would be punishable by a maximum of 15 years. Although the CCRC takes this conduct seriously, it opposes creation of this new offense because it does not address a gap in liability or create proportionate penalties.[8] All conduct covered under this offense is already covered by *multiple* criminal statutes under current law, and creating a new offense that would authorize an additional 15-year maximum sentence is disproportionately severe for a non-violent property offense.

The current code provides liability both for people who direct others to engage in criminal acts and those who agree to commit criminal acts with others. People who direct others to commit a criminal offense may be charged as accomplices, and are subject to the same maximum sentences as those who actually commit the offense.[9] Accomplice liability requires that the person aids, assists, or even merely *encourages* another person to commit an offense.[10] A person who directs, recruits, or coerces another to commit offense can be held liable for that offense as an accomplice.

In addition, people who agree to commit a crime together can be held liable for criminal conspiracy.[11] Conspiracy liability has two basic requirements. First, two or more persons agree to commit a criminal act.[12] A person can be convicted of conspiracy even if they only agreed to play a minor role in the criminal act.[13] For example, merely aiding a group in planning the criminal act is sufficient to satisfy this element of conspiracy liability. Second, at least one party to the conspiracy must take one overt act in furtherance of the conspiracy.[14] The overt act requirement is

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[7] D.C. Code § 22-404.01.

[8] While organized retail theft undoubtedly occurs, the CCRC does not have data available to demonstrate exactly how prevalent this conduct is within the District, or the degree to which it has become more common in recent years. However, national news outlets have reported that the National Retail Federation overstated the role of organized retail theft on total lost merchandise by a factor of 10. Eduardo Medina, *Retail Group Retracts Startling Claim About 'Organized' Shoplifting*, N.Y. Times, December 8, 2023.

[9] D.C. Code § 22-1805.

[10] D.C. Code § 22-1805. Accomplice liability requires "advising, inciting, or conniving at the offense, or aiding or abetting the principal offender[.]". The D.C. Court of Appeals has held that "one can be found guilty of aiding and abetting by merely encouraging or facilitating a crime." *Evans v. United States*, 160 A.3d 1155, 1161 (D.C. 2017); *Settles v. United States*, 522 A.2d 348, 356 (D.C. 1987).

[11] *McCullough v. United States*, 827 A.2d 48, 59 (D.C. 2003) (noting "a conspiracy count does not merge with any underlying offense").

[12] E.g., *McCullough*, 827 A.2d at 58; *Gibson v. United States*, 700 A.2d 776, 779 (D.C. 1997).

[13] *Thomas v. United States*, 748 A.2d 931, 939 (D.C. 2000).

[14] D.C. Code § 22-1805a(b) ("No person may be convicted of conspiracy unless an overt act is alleged and proved to have been committed by 1 of the conspirators pursuant to the conspiracy and to effect its purpose."). Hairston v. United States, 905 A.2d 765, 784 (D.C. 2006); see, e.g., Mitchell v. United States, 985 A.2d 1125, 1135 (D.C. 2009). The District's criminal jury instructions further clarify that this overt act must have been committed "for the purpose of carrying out the conspiracy." D.C. Crim. Jur. Instr. § 7.102.

not exacting. The DCCA has held that "a preparatory act, innocent in itself, may be sufficient."[15] Once a party to the conspiracy has committed just one overt act, all parties to the conspiracy may be held liable for criminal conspiracy, *even if the criminal offense is never actually committed*.

Accomplice and conspiracy liability doctrines under current law provide significant criminal penalties for the conduct defined under the proposed directing organized retail theft offense. In virtually every case in which a person commits the proposed directing organized retail theft offense, that person will also be liable for numerous offenses under current law as an accomplice and conspirator.

First, a person who directs others to commit retail theft can be prosecuted for theft as an accomplice. Under current law a person who directs 2 people to engage in retail theft would be guilty of two counts of misdemeanor theft, each carrying a maximum 180 day sentence. If the person directs additional persons to engage in theft, they can be convicted as an accomplice to each separate theft, increasing the maximum range of penalties. If any person steals property valued at $1,000 or more, the person directing that theft can be convicted as an accomplice to first degree theft, subject to a maximum 10 year sentence.

Second, in addition to accomplice liability for theft, a person who directs people to engage in organized retail theft can also be charged as an accomplice to *burglary*. The proposed statutory language for the organized retail theft offense defines the term "organized retail theft" as committing theft "of any merchandise." Although it is not explicitly included as an element of the offense, this definition strongly suggests that the proposed offense requires theft from a retail establishment. Second degree burglary is defined as entering any building—including a retail establishment—with intent to commit *any crime* within.[16] A person who enters a store with intent to shoplift an item from within has committed second degree burglary, a felony offense punishable by up to 15 years. Again, an accomplice may be punished as severely as one who actually commits the offense. A person who directs others to shoplift from a store can be charged as an accomplice to second degree burglary *as to each individual* who enters a store with intent to shoplift. Since the proposed directing organized retail theft offense requires that two or more people act in concert to steal merchandise, a person could be liable as an accomplice for two counts of second degree burglary, which would authorize a combined maximum *30 years* of incarceration.

Third, a person who organizes two or more people to engage in retail theft can be convicted of *conspiracy* to commit theft. Conspiracy, even to commit a misdemeanor offense such as petty theft or shoplifting, is a felony offense punishable by a maximum of 5 years.

Finally, in some cases additional charges can be brought. If the person directs *minors* to commit criminal offenses, that person can also be charged with contributing to the delinquency of a minor, which is punishable by up to 5 years for each minor.[17] The directing organized retail theft offense also includes *coercing* a person, which in some cases could blackmail,[18] which is subject to a 5 year maximum sentence.

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[15] *Robinson v. United States*, 608 A.2d 115, 116 (D.C. 1992) (citing *Iannelli v. United States*, 420 U.S. 770, 786 n.17 (1975)).
[16] D.C. Code § 22-801.
[17] D.C. Code 22-811(b)(4). The maximum penalty for contributing to the delinquency of a minor is 180 days if the person causes a minor to engage in a misdemeanor, or 5 years if the person causes a minor to engage in a felony, such as second degree burglary.
[18] D.C. Code § § 22–3252.

a. The Proposed Directing Organized Retail Theft is More Difficult to Prove than Current Offenses

The proposed organized retail theft offense does not close a gap in law or even make it easier to make arrests or obtain convictions; conspiracy and accomplice liability are *easier* to prove than the proposed organized retail theft offense. In *every case* in which police officers have probable cause to make an arrest under the proposed directing organized retail theft offense, they have probable cause to make an arrest under current law. In *every case* in which the U.S. Attorney's office can prove beyond a reasonable doubt that the defendant committed directing organized retail theft, they can also prove that the defendant acted as an accomplice and conspirator to numerous criminal offenses.

The proposed directing organized retail theft offense is *more difficult* to prove than either accomplice or conspiracy liability as it requires both that the aggregate value of stolen items is $1,000 or more and that the items were intended to be sold, bartered, or traded, or fraudulently returned to a retail merchant. If a person directs others to steal merchandise and there is any reasonable possibility that the persons who stole the merchandise had intent to keep and use the items themselves, there is no liability under the proposed directing organized retail theft offense.

b. Directing Organized Retail Theft Penalized More Severely than 2nd Degree Murder

As discussed above, the conduct criminalized under the proposed directing organized retail theft offense is already criminalized under various provisions in the current D.C. Code, and subject to lengthy maximum sentences. A person who commits the proposed offense can, under current law, be charged with two counts of second degree burglary as an accomplice, two counts of misdemeanor theft as an accomplice, and criminal conspiracy. These offenses provide an aggregate maximum sentence of nearly 36 years.

Creating a new organized retail offense, which carries a 15 year maximum sentence and overlaps with current forms of liability would authorize an aggregate maximum sentence of nearly *51 years*. Absent aggravating factors, such as the decedent being a young child or elderly person, the maximum sentence for second degree murder is 40 years.[19] Therefore, directing two people to shoplift merchandise would be subject to a ***longer maximum sentence than second degree murder***. If the proposed offense is codified, the D.C. Code would authorize a longer sentence for directing two people to shoplift merchandise than for intentionally killing another person.

It is patently disproportionate to subject this conduct to a longer maximum sentence than second degree murder. Current offenses, which are easier to prove than the proposed directing organized retail theft offense, already provide ample penalties for this conduct.

This type of reactive legislation—which creates an unnecessary and overlapping criminal offense when penalties are already sufficiently severe—is the reason the District has a disorganized code with needlessly duplicative offenses and disproportionate penalties. This is type of legislation is why the current code has not just a destruction of property offense,[20] but a separate destroying boundary stones offense;[21] why there is not just an offense criminalizing disposing of trash into waterways,[22] but an offense that specifically prohibits disposing of watermelons and cantaloupes

[19] D.C. Code §§ 22-2104; 24–403.01(b-2).
[20] D.C. Code § 22-303.
[21] D.C. Code § 22-3309.
[22] D.C. Code § 8-902.

in the Potomac river.[23] It's why current code includes two threats statutes that are identical except one has a maximum sentence 40 times longer than the other.[24]

The District already has one of the worst criminal codes in the nation, and the CCRC recommends against further degrading the code with unnecessary, overlapping measures that create disproportionate penalties, while not improving public safety and order.

B. Reinstate Anti-Mask Law

The bill would re-instate an anti-mask law that would criminalize wearing a mask or hood with intent to engage in an array of specified behaviors including committing criminal offenses, civil infractions; depriving persons of equal protection under the law; using or threatening the use of force, to injure, intimidate, or interfere with any person because of their exercise of any right; intimidating, abusing, or harassing another person; or causing a person to fear for their personal safety. Although the law may serve useful law enforcement purposes, the CCRC notes that some applications of the law may violate first amendment free speech rights, and other uses that are constitutional may nonetheless create a risk of fourth amendment violations. The CCRC discusses the potentially problematic provisions below.

1. Recklessness Mental State as to Putting Others in Fear

The anti-mask offense criminalizes wearing a mask or hood "where it is probable that reasonable persons will be put in fear for their personal safety by the defendant's actions, with reckless disregard for that probability." It is possible, at least as applied in particular cases, that this provision violates the Constitution's protections on free speech.

This last term, the Supreme Court decided *Counterman v. Colorado,* in which it reviewed a threats statute that was silent as to intent. The Court held that the First Amendment "requires proof that the defendant had some subjective understanding of the threatening nature of his statements . . . but that a mental state of recklessness is sufficient. The State must show that the defendant consciously disregarded a substantial risk that his communications would be viewed as threatening violence. The State need not prove any more demanding form of subjective intent to threaten another."[25] However, the *Counterman* decision was limited to "true threats", i.e. "serious expression[s] conveying that a speaker means to commit an act of unlawful violence."[26] Whether a threat constitutes a "true threat" is not based on the speaker's intent, but on "what the statement conveys to the person on the other end."[27] If mask-wearing does not constitute a "true threat," arguably criminalizing mask-wearing on the basis of a reckless mental state may violate the First Amendment's free speech protections.

Whether or not the act of wearing a mask would be considered a "true threat" is an open question. Conduct such as burning crosses has previously been deemed a "true threat."[28] If a later court

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[23] D.C. Code § 22-4402.

[24] D.C. Code §§ 22-407; 22-1810. The D.C. Court of Appeals has held that "both the misdemeanor and the felony offenses have identical elements." *Joiner v. United States*, 585 A.2d 176, 180 (D.C. 1991). However, the misdemeanor threats statute has a maximum sentence of 6 months and the felony threats statute has a maximum sentence of 20 years.

[25] *Counterman v. Colorado*, 600 U.S. 66, 69 (2023).

[26] *Id.* at 74 (internal quotations omitted).

[27] *Id.*

[28] *See, Virginia v. Black,* 538 U.S. 343 (2003).

found that wearing a mask did constitute a "true threat" then the recklessness mental state requirement of the proposed anti-mask statute would probably be deemed Constitutional under *Counterman*. This prong of the anti-mask law does require that "it is probable that reasonable persons will be put in fear for their personal safety by the defendant's actions," though this would not necessarily require that the mask-wearing constitutes a true-threat. Given that there are many reasons one would wear a mask, and First Amendment expression is clearly implicated by the statute, there is at least some risk that this statute could be found unconstitutional as applied in particular cases.

2. Use of the Anti-Mask Law to Conduct Terry Stops

In addition to possible first amendment concerns, the anti-mask law *could* be used in a manner that implicates fourth amendment rights as well. Testimony at the November 29, 2023 hearing indicated that the Metropolitan Police Department may be interested in using this statute as a means to stop people under the terms of *Terry v. Ohio*.[29] Under *Terry*, law enforcement may temporarily seize[30] a person for investigatory purposes when there is reasonable articulable suspicion that the person is going to commit a crime. This degree of suspicion is less stringent than that required to establish probable cause, which would authorize a lawful arrest. In addition, when an officer "has reason to believe that he is dealing with an armed and dangerous individual," the officer may also perform a pat-down search for weapons. In determining whether the temporary seizure is lawful, courts must assess the following: (1) there must be "articulable facts" evident in the Record, (2) that "taken together with rational inferences from those facts," (3) when viewed objectively, permit a law-enforcement officer to "reasonably" "conclude in light of his experience that criminal activity may be afoot."[31] This is true even if each of those acts may be "innocent in itself, but which taken together warranted further investigation."[32]

Under *Terry*, regardless of whether the mask-law is reinstated, officers who have reasonable articulable suspicion that a person is going to commit a crime are legally permitted to conduct an investigatory stop into possible criminal activity. For example, if a masked person is casing a store for a possible burglary or robbery, an officer is legally permitted to perform an investigatory stop under *Terry*. In these cases, whether the mask-law is reinstated will have no effect on officer's lawful authority to perform investigatory stops.

Re-instating the mask law would in certain cases authorize law enforcement to conduct *Terry* stops when there is articulable suspicion that a person is committing *the mask offense itself*, as opposed to some other independent offense such as robbery or burglary. As discussed above, the mask offense prohibits wearing a mask "where it is probable that reasonable persons will be put in fear for their personal safety by the defendant's actions, with reckless disregard for that probability." Assuming criminalizing this type of mask-wearing does not violate the first amendment, without clear guidance, an officer would have wide latitude to decide what would put a person in reasonable fear for their safety. Some might feel that a person simply wearing a ski mask when it is not sufficiently cold outside is frightening enough and would feel entitled to make a stop or even an arrest. Certain religious garb covers the face and if an officer felt that it made other people feel

[29] *Terry v. Ohio*, 392 U.S. 1 (1968).
[30] A "seizure" for the purposes of the Fourth Amendment occurs when a reasonable person would not feel free to terminate the police encounter. *Terry*, 392 U.S. at 16 (1968) ("It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person.").
[31] *Id*. at 21-22, 30.
[32] *Id*. at 22.

fearful then he would theoretically have the authority to make an arrest under the proposed statute, even if the arrestee had no intention to do anything to hurt or bother anyone.

The CCRC believes that *Terry* stops based on reasonable articulable suspicion that a person is going to commit the mask offense itself is Constitutionally permissible in many contexts, but there is a risk that these stops could be used in a broader context and ensnare innocent residents who happen to be wearing masks.

3. Wearing a Mask with Intent to Harass and Protected Speech

The proposed anti-mask law may implicate traditionally protected speech. The fourth prong of the proposed statute prohibits wearing a mask with the intent to intimidate, threaten, abuse, or *harass* any other person. The law already prohibits threats, which is consistent with Constitutional free speech protections, but depending on the conduct, there are instances where intent to harass can and should be legal. For example, a person is well within their rights to stand outside the Wilson building and yell at passing public officials about how the government is being run. This type of critical speech, even if non-threatening, could constitute harassment. If the same person, wishing to remain anonymous, yells at public officials while wearing a mask it appears that they could be in violation of anti-mask law, even though they are engaging in protected speech.

C. Drug-Free Zones

The bill proposes giving the Chief of the Metropolitan Police Department (MPD) power to declare "any public area a drug free zone for a period not to exceed 120 consecutive hours." "Drug free zone" is a statutorily defined term and cannot exceed a square of 1000 feet on each side. The bill provides factors the Chief must consider in deciding to declare a drug free zone, but on its face places no limitations on the Chief's authority and provides no required factual findings or standards for evaluating the enumerated factors.

If the Chief declares an area to be a drug free zone, the police must mark the borders of the drug free zone with barriers, tape, or stationed police officers and provide notice that "it is unlawful for a person to congregate in a group of 2 or more persons for the purpose of committing an offense under [the Controlled Substances Act] within the boundaries of the drug free zone, and to fail to disperse after being instructed to disperse by a uniformed officer of the police department who reasonable believes the person is congregating for the purpose of committing an offense under [the Controlled Substances Act]."

The bill then establishes a new two-part criminal offense for congregating in a group of 2 or more persons in a drug free zone with the purpose of committing an offense under the Controlled Substances Act (CSA), and failing to disperse after being instructed to disperse by a uniformed officer of the police department who reasonably believes the person is congregating for the purpose of committing an offense under the CSA. The bill provides that the determination that a person is congregating in the zone for the purpose of violating the CSA is based on the totality of the circumstances and provides numerous circumstances to be considered. Many of the enumerated circumstances cover wholly lawful conduct marginally or not at all relevant to the question of whether the person is *presently* congregating in the drug free zone for the purpose of violating the

CSA and will not be sufficient to establish a reasonable belief in the person's purpose.[33] The bill provides no guidance on how to evaluate the factors and does not require the officer's basis of reasonable belief to be based on the person's actual conduct while congregating in the zone.

The proposed bill does contain elements that address some of the reasons similar laws have been struck down as unconstitutional and may be construed narrowly enough to survive a facial challenge. If it survives, a careful implementation will be necessary to avoid unconstitutional enforcement. Assuming constitutionality though, the value of establishing a temporary drug free zone is unclear because (1) it will be extremely difficult for police to establish probable cause for the new offense in the absence of probable cause for another already existing offense, and (2) any deterrent impact on drug activity in the zone can be effectuated by an increase police presence and is not dependent on declaring a drug free zone.

1. Constitutionality

The constitutionally of a particular statute can be challenged through both facial challenges, meaning the statute attacked is unconstitutional on its face, and as-applied challenges, meaning the statute is constitutional on its face but attacked as unconstitutional in its implementation. Facial challenges are generally easier for governments to overcome than as-applied challenges. Courts have a strong preference for deciding constitutional questions on an as-applied basis[34] and generally only strike down statutes on their face when there is no set of circumstances under which the statute could be deemed valid."[35] When a narrow interpretation of statutory text can be imposed to avoid an unconstitutional construction, courts will typically adopt the narrowed interpretation that makes a statute constitutional under those narrow circumstances. This means even where statutory language is upheld as facially constitutional, a statute can be unconstitutional in a particular application of the law.

a. Facial Challenges

As noted above, courts have a strong preference for as-applied challenges and facial challenges to the constitutionality rarely succeed. Courts generally prefer to wait until the harm has occurred, such as after an unlawful arrest, to address a constitutional violation. When it comes to

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[33] For example, one of the circumstances listed includes that "such a person has no other apparent lawful reason for congregating in the drug free zone, such as waiting for a bus or being near one's own residence."

[34] The Sixth Circuit explained the preference for as-applied challenges stating: "Many of the concerns that underlie the ripeness doctrine—that '[t]he operation of the statute [will be] better grasped when viewed in light of a particular application" and that "the proper exercise of the judicial function' avoids deciding abstract and speculative questions, underlie, and are indeed echoed by, the courts' reluctance to grant relief in the face of facial, as opposed to as-applied, attacks on statutes. When 'determining whether a law is facially invalid,' as when determining whether a case is ripe, 'we must be careful not to ... speculate about 'hypothetical' or 'imaginary' cases' or to 'premature[ly] interpret[ ] ... statutes on the basis of factually barebones records.' 'Exercising judicial restraint in a facial challenge frees the Court not only from unnecessary pronouncement on constitutional issues, but also from premature interpretations of statutes in areas where their constitutional application might be cloudy.' As-applied challenges—the 'basic building blocks of constitutional adjudication'—remain the preferred route." *Warshak v. United States*, 532 F.3d 521, 528–29 (6th Cir. 2008) (internal citations omitted).

[35] *Plummer v. United States*, 983 A.2d 323, 338 (D.C. 2009), as amended on denial of reh'g and reh'g en banc (May 20, 2010) (explaining "this is so because 'a plaintiff can only succeed in a facial challenge by 'establish[ing] that no set of circumstances exists under which the [a]ct would be valid,' i.e., that the law is unconstitutional in all of its applications.'").

constitutionally protected activity, however, courts have held post arrest remedies are not always sufficient.[36] The Supreme Court has also repeatedly held that "even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose."[37]

The drug free zone statute is most likely to be challenged facially as void for vagueness, overbreadth, and violation of a person's right to be free from restrictions on liberty. [38] Vagueness and overbreadth challenges are often seen in the First Amendment context but can also be raised with respect to other restrictions on liberty under the Due Process clause. Statutes with similar but not identical provisions have been both upheld and struck down in other jurisdictions as facially unconstitutional. Due to variations in overall statutory schemes and uncertainty regarding how a court will interpret certain provisions, the CCRC cannot say definitively how Constitutional challenges to the proposed drug free zones would be resolved by District courts.

With respect to vagueness, a statute is void for vagueness when it either "fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute," or "encourages arbitrary and erratic arrests and convictions."[39] "The more important aspect of the vagueness doctrine 'is not actual notice, but the other principal element of the doctrine—the requirement that a legislature establish minimal guidelines to govern law enforcement.'"[40]

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[36] *Papachristou v. City of Jacksonville*, 405 U.S. 156, 165 (1972) ("It would certainly be dangerous if the legislature could set a net large enough to catch all possible offenders, and leave it to the courts to step inside and say who could be rightfully detained, and who should be set at large." (citations omitted).

[37] *See e.g.*, *Sawyer v. Sandstrom*, 615 F.2d 311, 317–18 (5th Cir. 1980) ("To the extent that the ordinance does have legitimate drug enforcement purposes, there exist alternative means of accomplishing those ends…Even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved. The breadth of legislative abridgment must be viewed in the light of less drastic means for achieving the same basic purpose. A more artfully drawn ordinance would reach only those persons who are active participants in illegal narcotics transactions or who aid and abet the primary offender, without chilling the first amendment rights of persons engaged in essentially innocent associational conduct. Even if a municipality failed to adopt a local ordinance regulating drug activity, the Florida Legislature has provided law enforcement officers with a vast array of tools with which to combat illegal narcotics activity. The conduct which the state may punish without running afoul of the first amendment is more than adequately covered by these provisions.") (citing *Shelton v. Tucker*, 364 U.S. 479, 488 (1960); *People v. Cressey*, 2 Cal.3d 836, 87 Cal.Rptr. 699, 708, 471 P.2d 19, 28 (1970);*Jolley v. City of Jacksonville*, 281 So.2d 901, 903 (Fla.Dist.Ct.App.1973)).

[38] *See City of Chicago v. Morales*, 527 U.S. 41, 52 (1999)("The city correctly points out that imprecise laws can be attacked on their face under two different doctrines. First, the overbreadth doctrine permits the facial invalidation of laws that inhibit the exercise of First Amendment rights if the impermissible applications of the law are substantial when "judged in relation to the statute's plainly legitimate sweep." *Broadrick v. Oklahoma*, 413 U.S. 601, 612–615 (1973). Second, even if an enactment does not reach a substantial amount of constitutionally protected conduct, it may be impermissibly vague because it fails to establish standards for the police and public that are sufficient to guard against the arbitrary deprivation of liberty interests.") (citing *Kolender v. Lawson*, 461 U.S. 352, 358 (1983)).

[39] *Papachristou v. City of Jacksonville*, 405 U.S. 156, 162 (1972); *see also Ford v. United States*, 498 A.2d 1135, 1138–39 (D.C. 1985).

[40] *Kolender v. Lawson*, 461 U.S. 352, 358 (1983) (also stating: "Where the legislature fails to provide such minimal guidelines, a criminal statute may permit "a standardless sweep [that] allows policemen, prosecutors, and juries to pursue their personal predilections.").

"An ordinance is impermissibly overbroad if it deters constitutionally protected conduct while purporting to criminalize nonprotected activities."[41] Furthermore, "[l]egislative enactments that encompass a substantial amount of constitutionally protected activity within the parameters of criminalized conduct will be invalidated even if the statute has a legitimate application" when they are substantially overbroad "in relation to the statute's plainly legitimate sweep."[42]

A federal court struck down a drug free zone ordinance in Annapolis that permitted police officers to order a person to disperse when that person was "behaving in a manner indicating that the person is remaining at or in a public place located within a Drug–Loitering Free Zone for the purpose of engaging in drug-related activity as demonstrated by" any one of a series of described acts in the ordinance.[43] Part of the basis for striking the law was the total absence of a specific intent element that could, at least partially, address some of the vagueness and overbreadth concerns. The District Court in Maryland pointed out that "only those anti-loitering ordinances interpreted as including a specific intent requirement have been upheld against both prongs of a vagueness challenge. In contrast, anti-loitering ordinances that do not contain a *mens rea* element generally have been invalidated as unconstitutionally vague."[44]

The proposed law includes a specific intent requirement that requires that the person be congregating with the purpose of committing a drug offense.[45] However, although the intent requirement distinguishes this law from others that have been struck down as unconstitutional,[46] the intent requirement does not *guarantee* constitutionality as statutes containing specific intent requirements have been struck down when allowing police to infer criminal purpose from constitutionally protected conduct or failing to inform persons of all the circumstances that could result in an arrest.[47] In addition, statutes with specific intent requirements that have been upheld

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[41] N. Virginia Chapter, ACLU v. City of Alexandria, 747 F. Supp. 324, 326 (E.D. Va. 1990) (citing *Kolender v. Lawson*, 461 U.S. 352, 358 (1983)).
[42] *Id.* (internal citations omitted).
[43] *NAACP Anne Arundel Cnty. Branch v. City of Annapolis*, 133 F. Supp. 2d 795, 804 (D. Md. 2001).
[44] *Id*. at 808.
[45] *See* § 5(a) & § 2(2).
[46] *See City of Chicago v. Morales*, 527 U.S. 41, 57–58 (1999)("Its decision followed the precedent set by a number of state courts that have upheld ordinances that criminalize loitering combined with some other overt act or evidence of criminal intent. However, state courts have uniformly invalidated laws that do not join the term "loitering" *with a second specific element of the crime*"); s*ee also Ford v. United States*, 498 A.2d 1135, 1139 (D.C. 1985) (explaining "the solicitation statute prohibits specified conduct for the purpose of prostitution," "does not authorize the arrest of a person based on simple loitering" and "requires the wandering plus additional objective conduct evincing that the observed activity is for the purpose of prostitution" "mitigate[ing] the law's vagueness").
[47] *See N. Virginia Chapter, ACLU v. City of Alexandria,* 747 F. Supp. 324, 328 (E.D. Va. 1990) (striking down Alexandria drug loitering ordinance and stating "The separate specific intent requirement is nullified by the provision that deems engaging in the enumerated behaviors as manifesting an unlawful purpose. By equating unlawful purpose with seven innocent activities that may be accomplished by persons lacking unlawful intent, the Alexandria ordinance criminalizes a substantial amount of constitutionally protected activities."); *Cleveland v. Mathis*, 735 N.E.2d 949, 952 (1999) (explaining an ordinance prohibiting loitering for the purpose of prostitution by using the language "among the circumstances which may be considered" was found void for vagueness because "the word 'among' indicates there were other circumstances to form the basis of an arrest and conviction" and thus, "the average citizen was not informed of these circumstances by the statutory language"); *Silvar v. Eighth Jud. Dist. Ct. ex rel. Cnty. of Clark*, 129 P.3d 682, 685 (2006) (explaining that "the phrase '[a]mong the circumstances which may be considered in determining whether such purpose is manifested' is also unduly open-ended" and that "the word 'may' has been construed as permissive

also contain or have been interpreted to contain other features to ensure constitutionality such as requiring an additional overt act that manifests the illegal purpose.[48] Section 5(b) of the proposed law includes an open ended list of conduct that police may consider in assessing intent, including constitutionally protected and marginally relevant conduct,[49] but does not necessarily permit dispersal orders on the clearly unconstitutional basis. Thus, a court may or may not find this to be vague or overbroad after analyzing the entire scheme and employing a narrowing construction.

As an example, the Washington State Supreme Court upheld an anti-loitering law in Tacoma after it found under the statute "a person must perform objectively ascertainable, overt conduct [in addition to loitering] that is commonly associated with illegal drug-related activity, such as soliciting, enticing, inducing, or procuring another person to exchange, buy, sell, or use illegal drugs or drug paraphernalia" with the purpose of engaging in illegal drug-related activity."[50] That the loitering law included a specific intent requirement was not, on its own, sufficient to make the law Constitutional. The Washington Supreme Court stated that "[w]hile the potential overbreadth of the ordinance is *diminished* by the intent requirement, *it is critical* that the culpable mental state coexist with identifiable, articulable conduct reasonably consistent with the intent to buy, sell, or use illegal drugs."[51] The specific intent requirement in the proposed provision of the bill does not necessarily coincide with "identifiable, articulable conduct reasonably consistent with the intent to buy, sell, or use illegal drugs," which may be additionally required to make the statute constitutional.[52] While some of the conduct specified in the bill is reasonably consistent with intent to commit a drug offense, the bill also identifies conduct that may be considered as manifesting a purpose to commit a drug offense even if it has at best a very limited relationship to criminal intent.[53] The proposed statute does not specifically preclude a requirement of an additional overt act necessary to establish probable cause, and a court could determine that the conduct specified in the statute *is* reasonably consistent with intent to commit drug offenses, and uphold the constitutionality of the statute.

The proposed statute enumerates numerous factors to be considered in determining whether the person is congregating for the purpose of violating the CSA. It is well-established under the Fourth Amendment that before a police officer may even briefly stop and question a person suspected of criminal activity, a "police officer must be able to point to specific and articulable facts which,

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rather than mandatory, which indicates that nonenumerated factors can be considered" and holding that those two phrases "embod[y] a lack of specificity that is fatal to the ordinance.").

[48] *See e.g.*, *City of Tacoma v. Luvene*, 827 P.2d 1374, 1383–84 (Wash. 1992) (holding the culpable mental state in a statute must coexist with identifiable, articulable conduct reasonably consistent with the intent to buy, sell, or use illegal drugs to survive a facial challenge based on overbreadth).

[49] Most notably, the statute includes the fact that a "person has no other apparent lawful reason for congregating in the drug free zone" as a factor that may manifest purpose to commit a drug offense.

[50] *City of Tacoma*, 118 Wash. at 846 (stating also "this conduct, which is in addition to loitering, must be done for the purpose of engaging in illegal drug-related activity"); *see also Ford v. United States*, 498 A.2d 1135, 1140 (D.C. 1985) ("The District of Columbia solicitation statute in question here, *because it requires that conduct be for the purpose of prostitution and because it provides that objective criteria must be present in order to support a conviction*, is not void for vagueness.") (emphasis added).

[51] *City of Tacoma v. Luvene*, 827 P.2d 1374, 1383–84 (Wash. 1992) (emphasis added).

[52] *Id.*

[53] The bill identifies the fact that a "person has no other apparent lawful reason for congregating in the drug free zone" as a factor that may manifest purpose to commit a drug offense.

taken together with rational inferences from those facts, reasonably warrant that intrusion."[54] Many of the proposed statutory factors, however, do not constitute identifiable, articulable conduct reasonably consistent with a *present* purpose on the part of the persons congregating to violate the CSA that would support rational inferences for even a brief investigatory stop. For example, one of the factors listed is not having another apparent lawful purpose, a phrase criticized by the Supreme Court for having no common and accepted meaning.[55] Another factor is simply having a prior conviction for a drug offense no matter how old.[56] Such factors alone would be insufficient to establish a basis for a lawful arrest or even an investigatory seizure.[57]

Beyond vagueness and overbreadth, a clearer facial challenge may be made on Fourth Amendment grounds if courts determine a dispersal order constitutes a Fourth Amendment seizure requiring probable cause. As written, the statute permits a dispersal order, though not arrest, upon a showing of "reasonable belief" that a person is congregating for the purpose of engaging in illegal drug activity. "Reasonable belief" is a standard lower than probable cause in the District of Columbia Circuit.[58] However, the Fourth Amendment may require a probable cause showing prior to a restriction on the freedom of movement longer than a brief investigatory seizure such as the dispersal order authorized by the statute.[59] If probable cause is needed under the Fourth Amendment for a dispersal order of the nature authorized, the unambiguous statutory authorization for a dispersal order based on reasonable belief alone may not be amenable to a narrower constitutional interpretation consistent with current case law and could make the statute facially unconstitutional.

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[54] *Terry v. Ohio*, 392 U.S. 1, 21, 88 S. Ct. 1868 (1968).

[55] *City of Chicago v. Morales*, 527 U.S. 41, 56–57, 119 S. Ct. 1849, 1859, 144 L. Ed. 2d 67 (1999)("It is difficult to imagine how any citizen of the city of Chicago standing in a public place with a group of people would know if he or she had an "apparent purpose." If she were talking to another person, would she have an apparent purpose? If she were frequently checking her watch and looking expectantly down the street, would she have an apparent purpose?").

[56] *Cf. People v. Smith*, 44 N.Y.2d 613, 620–21, 378 N.E.2d 1032, 1036 (1978) (holding statute not to be void for vagueness when construed to preclude arrest or conviction based on simple loitering by a known prostitute or anyone else and to require loitering plus additional objective conduct evincing that the observed activities are for the purpose of prostitution").

[57] *N. Virginia Chapter, ACLU v. City of Alexandria*, 747 F. Supp. 324, 328 (E.D. Va. 1990) ("By equating unlawful purpose with seven innocent activities that may be accomplished by persons lacking unlawful intent, the Alexandria ordinance criminalizes a substantial amount of constitutionally protected activities.").

[58] *See United States v. Thomas*, 429 F.3d 282, 286 (D.C. Cir. 2005), on reh'g in part, 179 F. App'x 60 (D.C. Cir. 2006)("As explicated by five other circuits, the "reason to believe" standard is satisfied by something less than would be required for a finding of "probable cause." *See Valdez v. McPheters*, 172 F.3d 1220, 1225–26 (10th Cir.1999); *United States v. Route*, 104 F.3d 59, 62 (5th Cir.1997); *United States v. Risse*, 83 F.3d 212, 216 (8th Cir.1996); *United States v. Lauter*, 57 F.3d 212, 215 (2d Cir.1995); *United States v. Magluta*, 44 F.3d 1530, 1535 (11th Cir. 1995).").

[59] *See also City of Chicago v. Morales*, 527 U.S. 41, 58–59 (1999) ("Although it is true that a loiterer is not subject to criminal sanctions unless he or she disobeys a dispersal order, the loitering is the conduct that the ordinance is designed to prohibit. *If the loitering is in fact harmless and innocent, the dispersal order itself is an unjustified impairment of liberty*. If the police are able to decide arbitrarily which members of the public they will order to disperse, then the Chicago ordinance becomes indistinguishable from the law we held invalid in *Shuttlesworth v. Birmingham*, 382 U.S. 87, 90 (1965)"); *Alsaada v. City of Columbus*, 536 F. Supp. 3d 216, 262–63 (S.D. Ohio 2021))(explaining that the Fourth Amendment is implicated when a person's freedom of movement rather than the movement itself has been terminated and finding "a constitutionally redressable seizure can occur where officers use physical force to prevent protestors from coming any closer, such as by herding protestors, forming a skirmish line, or failing to provide a means of egress—where such governmental action is intentional and results in the termination of freedom of movement").

Finally, there is a possible issue with the power delegated to the Chief to declare a drug free zone without any required showing.[60] The statute gives the Chief power to unilaterally declare a drug free zone without requiring any conditions be present. It is true that the statute provides criteria that the Chief shall *consider* in deciding whether to designate a drug free zone. However, there is no explicit requirement that the Chief find that persons are endangered by illegal drugs before declaring a drug free zone and the statute does not explicitly place any limitations on the decision-making authority. [61] Likewise, the statute does not establish any condition that must be present before the declaration of a drug-free zone and actually permits the Chief to rely on *unverified* information, rather than objective evidence, not necessarily related to drug activity. The lack of limiting principles could lead to challenges for overbreadth or for being an unconstitutional delegation of authority as, arguably, the authority implicitly gives the Chief the power to establish a criminal offense without even a minimal finding with respect to the need to declare a drug free zone.[62] Of course, a court may read the factors enumerated in § 3(b) as limiting guiding principles to ensure constitutionality and establish a narrower authority to declare drug free zones than § 3(a) appears to provide. If this were to happen, dispersal orders made in cases where the Chief did not adhere to limiting principles required by courts but not clearly articulated in the statute could be held unlawful in an as-applied challenge.

b. As-Applied Constitutional Issues

Even if the statute is facially constitutional, individual applications of the statute could still result in as-applied constitutional challenges. The constitutional safeguards placed in the statute, such as the requirement that a person have the specific purpose of committing a drug crime when they congregate, must be given teeth in the implementation of the statute to avoid running afoul of the constitution. But the lack of clear statutory standards and the enumeration of constitutionally protected conduct and factors wholly insufficient to establish reasonable, articulable suspicion among the factors MPD officers can consider before issuing a dispersal order increase the

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[60] *See Unum Life Ins. Co. of Am. v. District of Columbia*, 238 A.3d 222, 232 (D.C. 2020) ("To articulate an intelligible principle to satisfy the nondelegation doctrine, the legislature must 'clearly delineate[ ] the general policy, the public agency which is to apply it, and the boundaries of this delegated authority.' In evaluating nondelegation, our analysis is not limited to the specific delegated authority; we consider the statutory scheme as a whole, including the purposes articulated by the legislature, limits placed on the delegation, and any guidance given to the agency.") (citing *Mistretta v. United States*, 488 U.S. 361, 372–73, (1989); *Skinner v. Mid-Am. Pipeline Co*., 490 U.S. 212, 219–20 (1989)); *see also People v. Lowrie*, 761 P.2d 778, 782 (Colo. 1988) ("A statutory delegation of authority to make rules carrying criminal sanctions for their violation, however, must not be so open-ended as to vest the agency with "unbridled authority to declare conduct criminal.").

[61] *Agnew v. District of Columbia*, 920 F.3d 49, 55 (D.C. Cir. 2019) ("A law invites arbitrary and discriminatory enforcement when "there are no standards governing the exercise of the discretion" it grants.) (citing *Papachristou v. City of Jacksonville*, 405 U.S. 156, 170 (1972).

[62] Compare, for example, the pretrial detention statute which requires judges to make a finding that there is no condition or combination of conditions of release that would ensure the safety of the community or the person's return to court before detaining a person and then lists factors for the judge to consider in making that determination. *See* § 23-1322. Under that statute, judges are instructed as to factors to consider and given wide latitude in evaluating those factors. But the statute goes one step further than the proposed law here because it requires a factual determination as to whether a minimum threshold is established before the judges may detain a person. The proposed statute here does not specify any particular condition that must be satisfied prior to the declaration of a drug free zone thus imposing no explicit limit on the Chief's authority.

likelihood that officers will misunderstand the constitutionally permissible reach of the law and engage in unconstitutional enforcement.

As an initial matter, the inclusion of factors in the statute that clearly do not provide a sufficient basis for a reasonable belief that two or more persons are congregating for the purpose of committing a drug crime among the factors an officer may consider could lead officers to erroneously conclude they have enough evidence for a reasonable belief and issue unconstitutional dispersal orders. The standards for probable cause and reasonable belief with respect to whether a person is committing a crime for constitutional purposes will not be determined by the statutory factors listed as circumstances that officers can consider. By specifying certain circumstances as factors to be considered that do not "establish specific and articulable facts which, taken together with rational inferences from those facts" establish reasonable, articulable suspicion that criminal activity is currently or very recently afoot, the statute could suggest to an on the ground officer that the presence of one of these circumstances constitutes sufficient evidence to support a dispersal order.

For example, if two persons who had been convicted years ago of simple possession of a controlled substance were loitering in the area with "no other apparent lawful reason" after being dropped off by a vehicle registered to a known unlawful drug user, a police officer would still not have probable cause or a reasonable belief that they were *currently* congregating for the purpose of violating the Controlled Substances Act. This is true even though three of the statutory factors enumerated are present. If an officer only had that evidence, it would be unlawful for a police officer to order those persons to disperse and just the giving of a dispersal order might result in civil rights claim against the officer and the District. In this way, the statute may *suggest* an unlawful dispersal order is allowed even if it does not explicitly authorize it.

As another example, the new offense requires that the person not recongregate in the zone with another person *for the purpose* of committing an illegal drug offense before an offense is established. The statutory text may lead to confusion about the showing required to make an arrest after a dispersal order is given as failure to disperse alone will not establish a basis for a warrantless arrest. The offense for which a person could be arrested after failing to disperse will still require *probable cause* that the person is congregating for the purpose of committing a drug offense with another person who was also ordered to disperse. Arrests made based solely on remaining in the zone or recongregating in the zone and without probable cause as to a present purpose to congregate with the purpose of committing a drug offense will be unlawful under the Fourth Amendment and could lead to civil rights actions or motions to suppress.

2. Effectiveness of Drug Free Zones

Even assuming there are no Constitutional concerns with the drug-free zones, it is unclear what practical effect this law will have with respect to 1) allowing lawful arrest of persons within the drug-free zones who refuse to disperse; and 2) the deterrent effect produced by establishing the drug-free zones.

a. Arrest Authority Under the Proposed Bill

To give enforcement authority to officers, the bill creates a criminal offense for which people can be arrested. Pursuant to the proposed law, a person is prohibited from (1) congregating in a group of 2 or more persons in a designated "drug free zone" for the purpose of committing an offense under the CSA, and (2) failing to disperse after ordered to by a police officer who reasonably believes that the person is congregating for the purpose of committing an offense under the CSA. Officers may lawfully make a warrantless arrest when there is probable cause that an offense has been committed in their presence. As applied to this offense, if an officer has probable cause both that the person refused to disperse from the drug-free zone, and that the person congregated with 2 or more persons with the purpose to violate the CSA,[63] a lawful warrantless arrest can be made for violation of the failure to disperse offense. However, if an officer has probable cause that the person is congregating *for the purpose* of committing a drug offense, in virtually all cases the officer would also have probable cause *that the person is committing a drug offense*, and could arrest the person regardless of whether a drug-free zone had been established. For example, if an officer has probable cause that a person in a drug free zone has fentanyl that he intends to sell and that person refuses to disperse, the officer could arrest that person for the proposed failure to disperse offense, or simply arrest him for possession of a controlled substance with intent to distribute.

b. Deterrent Effect of Drug-Free Zones

There is consensus among criminologists that it is the certainty and swiftness of punishment, not the severity of penalties, that effectively deters criminal conduct. Under the bill, drug free zones would be conspicuous as they must be clearly designated by police tape, barriers, or police personnel, and information related to the boundaries and effective date of the drug free zone must be posted. Given these requirements, since there is an exceptionally high risk of being caught for committing a drug offense within the drug free zone, the zones should provide a powerful deterrent effect. However, this effect would likely be temporary as each zone can only remain in place for five days. The statute does not provide any limitations on the Chief from re-establishing the drug-free zone, which would extend the time in which the zone deters criminal conduct. However, it is not clear why a drug free zone would be more effective than an increased police presence in the area. It is the presence of police and the higher risk of being arrested for a serious drug offense that is most likely to deter illegal drug activity.[64]

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[63] The statute defines "disperse" to require recongregating with the same individuals.

[64] *See NAACP Anne Arundel Cnty. Branch v. City of Annapolis*, 133 F. Supp. 2d 795, 812 (D. Md. 2001) ("Having concluded that the ordinance impacts a substantial amount of protected activity, the court examines its legitimate scope. First, the City certainly has a legitimate interest in protecting its citizens from the dangers of drug trafficking. *It is unclear, however, what the ordinance would add to the drug and loitering laws already in place even if it did contain a specific intent requirement*.") (emphasis added).

DC Chamber of Commerce
DELIVERING THE CAPITAL

Angela Franco, President & CEO, DC Chamber of Commerce

Testifying Before the Committee on the Judiciary and Public Safety on B25-555, The Addressing Crime Trends (ACT) Now Amendment Act of 2023.

Wednesday, November 29, 2023

Greetings Chairwoman Pinto, committee members, and staff. My name is Angela Franco, and I am the President and Chief Executive Officer of the DC Chamber of Commerce. Thank you for the opportunity to testify on behalf of our members in support of B25-555, the ACT Now Amendment Act of 2023.

We believe this legislation is an important tool in our efforts to combat the rising tide of crime in the District.

I would like to speak specifically to the persistent concerns I am hearing from our retail members regarding the proliferation of retail theft in their establishments across all eight wards of the District. Chamber members ranging from the largest national retail chains right on down to locally owned mom and pop markets and shops, have emphazied to me that they are working with commuity organizations and the District government to take active steps to deter the retail thefts of their businesses. But I am here today to testify to the fact that many of our retail members believe they are rapidly running out of tools to combat the significant theft loses they are sustaining. In addition, we are now hearing rising reports of District businessses that are permanently closing their doors, in part due to significant loses and associated costs steming from these property crimes. Finally, and perhaps most troubling, retail members continue to express concerns for the safety and security of their workers, some of whom have actually been the victims of assaults by those carrying out retail thefts and many others who have expresed fears

about working in retail settings where experiencing serious criminal activity firsthand has become an unavoidable part of their work life.

Against this alarming backdrop, we welcome the public safety reforms in the ACT Now bill, most especially the provisions focused on combatting organized retail theft. While we know there is no silver bullet that will prevent retail theft outright, we recognize that this activity at the local, regional and national levels is becoming increasingly sophisticated, evolving from mostly single perpetrators carrying out relatively minor acts of petty theft to organized groups of thieves stealing large quantities of targeted, high-value merchandise. We have learned that in some cases, perpetrators turn this merchandise over to third parties in exchange for cash, and the third parties in turn sell or fence the stolen property – either locally or online. We understand that the Act Now bill would criminalize the direct organization of such retail theft. We at the Chamber strongly support this significant enhancement of our criminal code.

The Chamber also supports the other major provisions of the legislation, including law changes that should assist both the leadership and the women and men who serve as officers at all levels of the MPD in protecting our residences, businesses, workers and visitors.

We and our members appreciate your efforts, Chairwoman Pinto, to hold this hearing today, and we stand ready to assist you and your committee to ensure the timely advancement of the ACT Now bill, culminating in a prompt and sucessful vote on it by the full Council.

Thank you for your time. I'm happy to answer any questions.

December 9th, 2023

The Council of the District of Columbia
Committee on the Judiciary and Public Safety
Chairperson Brooke Pinto
1350 Pennsylvania Avenue, NW, Suite 400
Washington, D.C. 20004

Re: Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

Dear Chairperson Pinto:

My name is Chanell Autrey, and I am the Director of Government Affairs for Target Corporation for our Mid-Atlantic/Great Lakes region.

Today, I would like to express Target's support for the organized retail theft provisions in Bill 25-555, the "Addressing Crime Trends Act (ACT) Now Amendment Act of 2023."

Target is proud of our presence in Washington, D.C. and our support for the local economy and communities where we are located. Our commitment includes five stores, a corporate office, and over 500 team members.

Organized retail crime (ORC) activity has continued to increase across the United States, particularly over the past couple of years. According to the National Retail Federation, more than two-thirds of respondents in their 2023 retail security survey stated they were seeing even more violence and aggression from ORC perpetrators compared with a year ago.

Additionally, the problem affects all of us, limiting product availability, creating a less convenient shopping experience, and putting team members and guests in harm's way. At Target, the safety of our guests and our team members is always our priority, and we work diligently with legislators, law enforcement, and retail industry partners to advocate for public policy solutions.

We look forward to working with the Committee and the entire Council to combat theft and organized retail crime in the District of Columbia.

Thank you for your consideration.

Chanell Autrey
Director of Government Affairs
Target Corporation

Charles Spring

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

I wish to register opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I have lived in DC for 20 years and too often have witnessed the usual response to crime increase is more police. We need different plans than the tried and failed approaches of the past. The ACT Now Act, like the ACTIVE, Safer Stronger, Prioritizing Public Safety Acts before it, will not keep us safe. Instead, it will just harm some of the most marginalized communities in the District.

Reducing crime is not helped by reduced transparency of law enforcement. Police MUST be accountable to the residents. And allowing police to engage in unethical behavior is not a solution to safer communities. Allow police to inflict more harm does not lead to a society I want - it just leads to more police violence and overreach, which we already witness too much of.

We need our hard-earned tax dollars to go toward addressing basic needs of our community, including violence-reduction programs that are alternatives to the police and prison. Please pass the #SafeAndFreeDC agenda and a Violence Intervention Worker Training Academy.

The council must re-envision our collective safety. We cannot to go back to the approaches that lead to mass incarceration and police being unaccountable for their violence and killings. Please vote NO on the ACT Now. And move toward more investments in housing, access to food, health care, and other things that really reduce crime and keep all safe.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

METROPOLITAN POLICE DEPARTMENT

Addressing Crime Trends (ACT) Now Amendment Act of 2023 (B25-555)

Testimony of

Pamela A. Smith

Chief of Police

Before the
Committee on the Judiciary & Public Safety
Council of the District of Columbia
The Honorable Brooke Pinto, Chair

November 29, 2023
1350 Pennsylvania Avenue, NW, Room 500
Washington, DC 20004

It is the mission of the Metropolitan Police Department to safeguard the District of Columbia and protect its residents and visitors with the highest regard for the sanctity of human life. We will strive at all times to accomplish our mission with a focus on service, integrity, and fairness by upholding our city's motto, Justitia Omnibus -- Justice for All.

Good afternoon, Chairperson Pinto, members and staff of the Committee, other Councilmembers, and everyone in our great city watching us today. I am Pamela Smith, Chief of Police for the Metropolitan Police Department (MPD), and I am here with Lindsey Appiah, the Deputy Mayor for Public Safety and Justice to discuss Mayor Bowser's proposed legislation, the *Addressing Crime Trends Now Amendment Act of 2023*, or ACT Now. I would like to thank Chairperson Pinto for so quickly scheduling this hearing. It is critical that we continue the work that has been done so far this year to try to ensure that DC has the laws and tools to best address the two most significant public safety issues we are facing: illegal guns and the increasing use of them in the District, and the historically low sworn staffing levels at MPD.

Violent crime, largely driven by the possession and use of illegal guns, has been growing since March 2023, when the number of robberies and carjackings suddenly and sharply spiked. The increase peaked in June, with more than twice as many robberies and three times as many carjackings reported than in June of 2022. Mayor Bowser and the Administration reacted quickly, with the introduction of the *Safer Stronger Amendment Act of 2023* in May. Chair Pinto picked up the baton, holding a hearing on the legislation in June, and in July, proposing and shepherding through Council the *Prioritizing Public Safety Emergency Amendment Act of 2023* to immediately address some targeted legislative needs. This momentum has continued with Chair Pinto's *Addressing Crime through Targeted Interventions and Violence Enforcement Amendment Act of 2023*, and now Mayor Bowser's ACT Now proposal.

The forward momentum on policy and legislation is critical. Crime is still higher when compared to the same period in 2022. It is going to take some time to reverse the sharp rise in crime beginning this past March. Carjackings are down 7 percent, assault with a dangerous weapon is down 6 percent, and vehicle theft is down 11 percent. Overall index violent crime is down three crimes, and robbery is up 14 crimes over the prior period in 2023.[1]

The second major public safety challenge we are facing is the lowest sworn staffing level in five decades. As of November 22, 2023, we have 3,339 sworn members. This is 460 fewer members than just three years ago.[2] To put that in perspective, at that time there was an average of 342 sworn members in each police district. In just three years, we have lost staffing for one and one-third police districts. However, there is reason for optimism. Our recruit classes are slowly growing. The classes for August, September, and October were the largest in more than a year.

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[1] Data comparing the 133 days between July 17 through November 26, 2023, to the prior 133 days (March 6 through July 16, 2023). Chief Smith was appointed Acting Chief of Police on July 17, 2023. The *Prioritizing Public Safety Emergency Amendment Act of 2023* became effective on July 20, 2023. Motor Vehicle Theft is classified as a property crime, not a violent crime.

[2] As of the end of FY2020, September 30, 2020. This is about 700 sworn members lower than the end of FY2013 (4,010).

Attrition was lower in Fiscal Year (FY) 2023 than originally projected, with decreases in both resignations and retirements. Nevertheless, there was a net loss of 123 sworn members in FY23.

The many steps that the Administration is taking to address the two overarching challenges – violent crime and staffing – have been discussed at multiple hearings throughout the year so I will focus on the new tools in the proposed legislation. To begin with, ACT Now proposes changes in three criminal charges to help the criminal justice system address emerging crime trends.

Drug Free Zones

First, residents have valid concerns about public space with persistent drug activity – particularly distribution – and the disorder and other crimes that accompany them. Addressing these open-air drug markets through enforcement is increasingly challenging. Investigations take significant time and resources. There is less reliance on cash changing hands, making transactions harder to identify and track. And when arrests are made, the arrestees are often quickly back on the street, or they are quickly replaced by others involved in the drug trade. We need a new strategy – or perhaps an old one – to help us disrupt this criminal activity. For nearly 20 years, from 1996 through 2015, District law authorized the Chief of Police to establish drug free zones, DFZs, to interrupt illegal drug activity. We believe this can be an effective tool again by authorizing police to disperse groups of people engaging in illegal drug activity in designated areas for a limited time. Our goal is not to make a lot of arrests. Indeed, under the prior iteration of the law, the Department apparently did not make many arrests for failure to disperse. But disrupting the illegal activity will allow time for communities to come together to reclaim their public space, and potentially to work with other government and community partners to enhance it.

As detailed in the proposed legislation, MPD could establish a DFZ for up to five days when evidence and analysis indicate that drugs are being bought, sold, or used illegally, and threaten the health and safety of residents of the area. The Department would post signs in the area notifying the public of the boundaries and effective dates of the zone, and the prohibited behavior – that it is unlawful for two or more persons to congregate to illegally to buy, sell, or use drugs, and to fail to disperse from the zone when warned by a police officer. Violating the dispersal order could result in arrest and, if convicted, a penalty of up to 180 days in jail.

To highlight a few key points in the proposal:

- **Size:** The size of a DFZ is limited to no more than 1,000 feet per side.
- **Public Notice:** DFZs will be clearly marked with signs posted within and along the borders of the DFZ. A sample of the signs that were used previously is attached to my testimony.
- **Stops:** The establishment of a DFZ does not eliminate the requirement for an officer to have reasonable articulable suspicion before conducting a stop and to document it accordingly. The legislation notes that officers must consider the totality of the circumstances to determine whether someone is congregating for the purpose of illegal drug activity, such as observing the exchange of money for small packages, information from a reliable source, or prior drug convictions. Officers also should consider whether someone has legitimate reasons

for congregating, such as waiting for a bus or being near home. Some Councilmembers mentioned concerns that this could be used to target people coming and going from drug treatment centers in the city; language could certainly be added to the legislation to include that as an example of a legitimate activity.

- **Constitutionality:** Finally, the Office of the Attorney General (OAG) had previously testified to Council of concerns about the constitutionality of the prostitution free zones, which mirrored the language of the DFZs. We addressed this concern by adding a specific element of intent to commit drug crimes to the legislation, which the OAG has certified as legally sufficient.

In short, drug free zones are a useful and constitutional tool to address drug-related crime on District streets and protect the public from the dangers often associated with the distribution of illegal drugs.

Organized Retail Theft

The Administration hears the concerns of businesses and residents from across the city, in all eight Wards, about the damage from retail theft. Just last week, The Washington Post highlighted how retail theft is negatively affecting business on the H Street Northeast corridor.[3] The prior week, Forbes Advisor released a national survey, which estimated that the cost to business of retail theft in DC – which included lost products, higher insurance, and other factors – was estimated at $880 per resident.[4] The Mayor's ACT Now proposes new legal tools to help police and prosecutors address key trends in retail theft. Currently, first degree theft, also called Theft I, requires that the value of the goods stolen exceed $1,000. Under the proposed legislation, Theft I could include the theft of 10 or more items having a value of $250 over a 30-day period. Committing an assault or intentionally destroying or damaging the property of a retail establishment would also qualify as Theft I.

Lastly, recruiting, directing, or coercing individuals to commit organized retail theft would be a new crime. This would address individuals who are not committing the theft but directing others to do it for them. This is critical to help break up these criminal enterprises by getting to the top people. The proposed penalty of a maximum of 15 years is higher than the penalties for Theft 1 (maximum of ten years) or for conspiracy to commit theft (maximum of five years) because it does not make sense that the people at the top of a criminal enterprise should be subject to a lower penalty than the people at the bottom.

It is important to note that a maximum sentence of ten years does not actually result in sentences of ten years. According to public data published by the DC Sentencing Commission, the average Theft I sentence is 13 months confinement.[5] Even for offenders with two or more prior

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[3] Schwartzman, P. (2023, November 20). H Street was once a symbol of D.C.'s rebirth. Now it's barely holding on. *The Washington Post*. https://www.washingtonpost.com/dc-md-va/2023/11/20/h-street-corridor-dc-crime/

[4] Metz, J. and Megna, M. (2023, November 14). The Impact of Retail Theft on Small Businesses and States. *Forbes Advisor*. https://www.forbes.com/advisor/business-insurance/impact-retail-theft-on-small-businesses

[5] The District of Columbia Sentencing Commission. (2015). Final Data Sets. https://scdc.dc.gov/page/datasets

convictions for Theft I, which carries a maximum penalty of 15 years, the voluntary sentencing guidelines create a sentencing range of 14 to 32 months,[6] part of which may be suspended.[7] With sentences like this, it is clear why there is even less deterrence from committing Theft 2, which carries a maximum penalty of just 180 days. Our businesses need some relief, and this proposal can help the criminal justice system to address this problem. It should also be clear from this discussion why the Council should take up the Mayor's proposal in Safer Stronger to change the composition of the Sentencing Commission to include greater representation by people accountable to District residents.

Anti-Mask Law

The final proposed change to the DC Criminal Code is to revive a section of the *Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982* that was repealed by the Council in the summer of 2020. The repeal was perhaps an understandable reaction to the need for the public to wear masks during the pandemic to protect personal and public health. However, the law did not criminalize that conduct. The law prohibited people over 16 years of age wearing a mask on public space for the purpose of committing crimes or violations, intimidating, threatening, or harassing other people, or recklessly causing a reasonable person to fear for their safety.

The Department has charged this provision, which carries a 180-day maximum penalty, sparingly. In the 30 months before its repeal, MPD charged someone under this law only 15 times. In 14 of the cases, the subject was also charged with other crimes. In one case, officers were canvasing for someone who had committed multiple misdemeanor sexual assaults. They were able to charge a masked subject who was harassing another likely victim before he actually assaulted her.

This last case highlights how this law can be an important investigative tool. Anecdotally, we are hearing from more residents and businesses about people committing crimes such as robbery and retail theft while wearing masks. I have personally seen four individuals in a car all wearing full ski masks. If this law is revived, an officer may have reasonable articulable suspicion to stop someone wearing a mask, depending on the totality of the circumstances. For instance, wearing a ski mask in January when it is 20 degrees outside or a costume with a mask on Halloween would not be unusual or unexpected. However, it could be reasonable for an officer to conduct an investigative stop of someone wearing a full ski mask in July while loitering around a convenience store after a series of masked robberies at other convenience stores. This is all the more important now, when retail theft and violent robberies and carjackings are plaguing businesses and residents in our city. We urge the Council to revive this common-sense law.

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[6] The District of Columbia Sentencing Commission. (2023). *Voluntary Sentencing Guidelines Manual*. https://scdc.dc.gov/sites/default/files/dc/sites/scdc/page_content/attachments/2023%20Full%20Manual%20Final%20Updated.pdf

[7] Pursuant to the Youth Rehabilitation Act, the Court may, in its discretion, issue a sentence less than any mandatory-minimum term. (D.C. Official Code § 24-903).

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In addition to these changes to the criminal code, Mayor Bowser, Deputy Mayor Appiah, and I urge the Council to consider the sections of ACT Now that take a second look at some of the provisions of the *Comprehensive Policing and Justice Reform Amendment Act of 2022*. We recognize the importance of fair and constitutional policing, and MPD is continuously working to earn and strengthen community trust. The District of Columbia has been a leader in systemic reform for decades, such as with uses of force and First Amendment assemblies. MPD has also long had one of the most restrictive policies and practices related to vehicle pursuits and neck restraints. However, when it comes to matters of public safety, it is important that we all be willing to assess our efforts and continue to adjust when appropriate. And the 2022 legislation merits review and revision in order to support public and officer safety, allow otherwise strong criminal cases to move forward, and ensure that MPD can recruit and retain the best police officers. I will explain in depth a few of the provisions and highlight others.

- **Vehicle Pursuits:** We appreciate the Council's passage this summer of emergency legislation to amend the prohibition on pursuits in the 2022 legislation. Since the passage of the *Law Enforcement Vehicular Pursuit Clarification Emergency Amendment Act*, the Department has engaged in 13 pursuits,[8] slightly lower than MPD's prior average of four per month. None of these would have been permissible under the original law. The emergency language is more restrictive than our prior policy, but preserves the ability to pursue in some circumstances when the fleeing subject poses an imminent threat of death or serious bodily injury to another person. We urge the Council to make permanent this provision. We also urge the Council to repeal language that allows for certain practices that MPD does not authorize, including caravanning and ramming.

- **Neck Restraints / Asphyxiating Restraints:** MPD supports the intent of the provisions addressing neck restraints and asphyxiating restraints. For decades, MPD has required officers to avoid tactics that may impede a subject's ability to breathe, or may result in chest or throat compressions, airway blockage, or positional asphyxia. Officers have also been required to seek medical attention immediately if a person appears to be having difficulty breathing. However, the definitions in the 2022 legislation went much further and have caused what we believe are unintended consequences.

  The new law is rigid in its definitions, leaving officers with sustained use of force violations for contact with the back and side of the neck that is either incidental – lasting only moments before an officer realizes where their hand or arm is – or was intended to protect a subject – such as one officer who held the back of the neck of a subject who was banging their head against a brick wall. Alternatively, I have seen officers hesitate when trying to control a combative subject. This hesitation, although understandable, could have disastrous consequences for the officer or a member of the public, particularly if the subject is armed. And the sustained uses of force have serious consequences as well, because cases with uses

[8] From July 20 to November 28, 2023.

of force outside of law or policy may not be papered or prosecuted. In addition, in future cases officers with sustained use of force violations may be portrayed negatively by defense counsel and lose credibility with the judge or jury.

Therefore, we urge the Council to pass the proposed language clarifying that the prohibition on neck restraints applies to actions that restrict breathing or choke an individual, but not simply contact with the side or back of the neck during a physical struggle to bring an individual into custody. The much broader definition of asphyxiating restraints – which essentially applies to the whole torso – would be clarified to apply to actions where the purpose or intent is to severely restricting breathing. Otherwise, any time a subject's breathing is severely restricted – which can happen, for instance, when someone runs from police – an officer who has made contact with the subject's torso risks a sustained use of force violation.

The legislation would continue to prohibit what the public thinks of as a chokehold, or using an object or body part with the purpose of severely restricting breathing. In addition, we recommend that this change be retroactive to the date the provisions were enacted so that MPD's Use of Force Review Board can review each case to determine whether the conduct is prohibited under the amended definition and expunge sustained violations that would be permitted under the amended law.

- **Body-Worn Camera (BWC) Videos:** The Administration once again urges the Council to reconsider the prohibition on officers watching their body-worn camera videos before writing reports for routine cases. By establishing what is essentially a random memory test for officers, this law needlessly jeopardizes the city's ability to hold offenders accountable – at every step from arrest warrants to papering to prosecutions. The credibility of officers can be impeached for any difference between the initial report – which has to be based solely on an officer's notes and memory – and the video.

  This prohibition is a departure from national best practice. Allowing officer viewing in most cases has the support of the independent Police Executive Research Forum, which conducted extensive research supported by the US Department of Justice to develop best practice policies around BWCs. Their rationale for allowing officers to review BWC videos noted that, "Real-time recording of the event is considered best evidence. It often provides a more accurate record than an officer's recollection, which can be affected by stress and other factors. Research into eyewitness testimony demonstrates that stressful situations with many distractions are difficult even for trained observers to recall correctly."[9] The current law provides a strong advantage to the defense, which was not the intent of the District's investment in BWCs.

[9] Community Oriented Policing Services (COPS), U.S. Department of Justice and the Police Executive Research Forum (PERF). (2014). Implementing a Body-Worn Camera Program Recommendations and Lessons Learned. https://www.policeforum.org/assets/docs/Free_Online_Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf

Mayor Bowser's proposal would still prohibit officers from viewing BWC video before writing initial reports for incidents with an officer-involved death, a firearm discharge by the officer, a head strike, an MPD canine bite, and any use of force with an immediately apparent serious bodily injury. The US Attorney's Office also supports amending this provision. The Council should pass this common-sense revision.

* * * *

Lastly, several provisions in the 2022 law would result in MPD officers having fewer privacy rights than convicted criminals. Under District law, except in limited circumstances, MPD cannot release information about an individual's arrest or conviction record unless the individual consents to the release of the information.[10] I support holding officers accountable for misconduct, up to and including termination. However, we must strive to balance enhanced accountability for officers while acknowledging that they have privacy and safety interests as well. In order to continue to attract and retain the best officers, we must ensure that there is equity in handling their routine performance of duty that is not determined to be a serious violation of policy or law.

To that end, ACT Now would:

- Allow the faces of DC and federal employees to be redacted from BWC releases. The officers using force are already identified by name by the Deputy Mayor. But without good reason, the District should be cautious before subjecting government employees and their families to the virtual and real-life harassment that has become so prevalent in today's society. We already have concerns that the automatic release of the involved officer's name before any evaluation of whether the use of force is justified within policy or law may unduly prejudice members of the public and subject the officer and family to harassment. However at least there is some tie to the officer's actions, rather than simply being a government employee at the scene of a use of force.

- Clarify that no personally identifying information or medical information about officers shall be subject to disclosure. We should all be able to agree that the District government should not unduly expose private medical information about officers or information that would put them at higher risk of identity theft.

- Remove employee names from released discipline records and the announcements of adverse action hearings, and require disclosure only in sustained investigations/discipline cases that result in suspension, demotion, termination. To compare this to the handling of criminal cases, this provides for the release of identifying information only if there is a "conviction" (a sustained violation) for serious misconduct that merits a significant penalty.

[10] Pursuant to DC Municipal Regulations Section 1-1004 Adult Records. Under DC Code 5-113.01(a)(4), arrests are required to be maintained in "arrest books," but these are not available to the public in a format that can be searched by the arrestee name.

- Clarify that when an officer is the victim of a crime for which the trial is usually a bench trial, the defendant should be granted a jury trial only if the officer was in uniform or acting in official capacity at the time of the crime. Defendants should not be granted special advantages just because they commit crimes such as misdemeanor sexual abuse, attempted theft, or destruction of property against someone they did not know was a police officer. If we want officers to live in DC, they should have equal protection under the law.

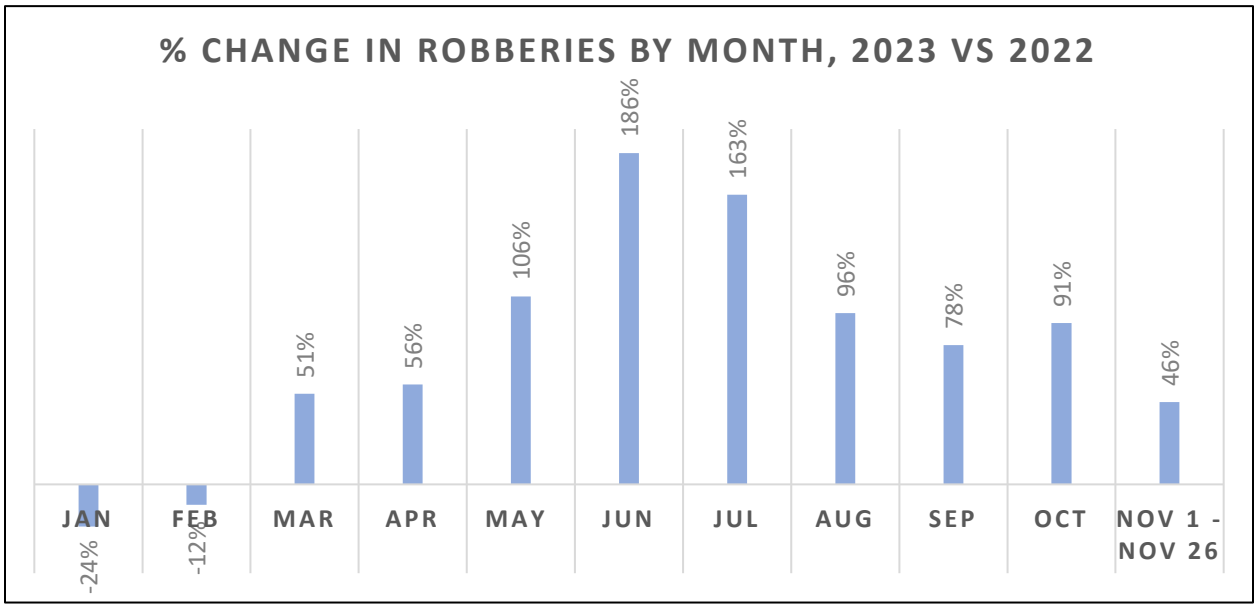
- Repeal the language giving the Office of Police Complaints (OPC) "unfettered access" to information related to any case under OPC's purview. This includes all complaints, all use of force incidents, and any in-custody death. Instead, the Administration's proposed legislation would reinstate OPC's "timely and complete access to information," as well as the requirement that identifying information in these files remain confidential, which was inexplicably repealed in the 2022 legislation.

  This provision creates substantial risks regarding the release of security-sensitive information, such as the identities of witnesses and confidential sources. This concern is highlighted by a recent incident where an OPC employee was discovered to be watching body-worn camera videos with no justification. Particularly since OPC lacks the many layers of accountability and oversight that have been put in place at MPD, providing OPC unfettered access to all MPD files without any obligation of confidentiality is highly problematic.

  The Department has a strong record of providing requested information to OPC under the "timely and complete access" standard. However, unlike "unfettered access," it allows for the possibility that we may not always agree that all the requested information is either relevant or should be released outside the Department. In these infrequent cases, OPC is able to seek redress with the Chief of Police or the Council. This standard is important not only to members, but should be important to anyone who may be identified in a police file. The Chief of Police and members of the Department are subject to questions and accountability for our actions daily – through the public, the media, the courts, OPC, auditors, the Council, and others. That is not true of OPC. Therefore, OPC should not have unfettered access to these highly sensitive files, and they should be required to keep the identity of people named in them confidential.

* * * *

In conclusion, thank you for the opportunity to speak with you today about ACT Now. By closing some significant gaps in our criminal code, ACT Now will enhance the ability of MPD and our government partners to protect our communities and hold offenders accountable. In addition, by amending some recently enacted legislation, the Council will support the community and officers in key ways. The amendments will lower or remove recently enacted barriers to closing and prosecuting cases, hopefully allowing us to remove violent offenders from streets. The amendments will not only support good police officers who are doing good work in our communities daily, but will support officer retention and recruitment. In turn, this will help us gradually reverse the devastating reduction in police staffing, and therefore support a safe and vibrant city. I appreciate your consideration of this important legislation.


% CHANGE IN ROBBERIES BY MONTH, 2023 VS 2022
-24%
-12%
51%
56%
106%
186%
163%
96%
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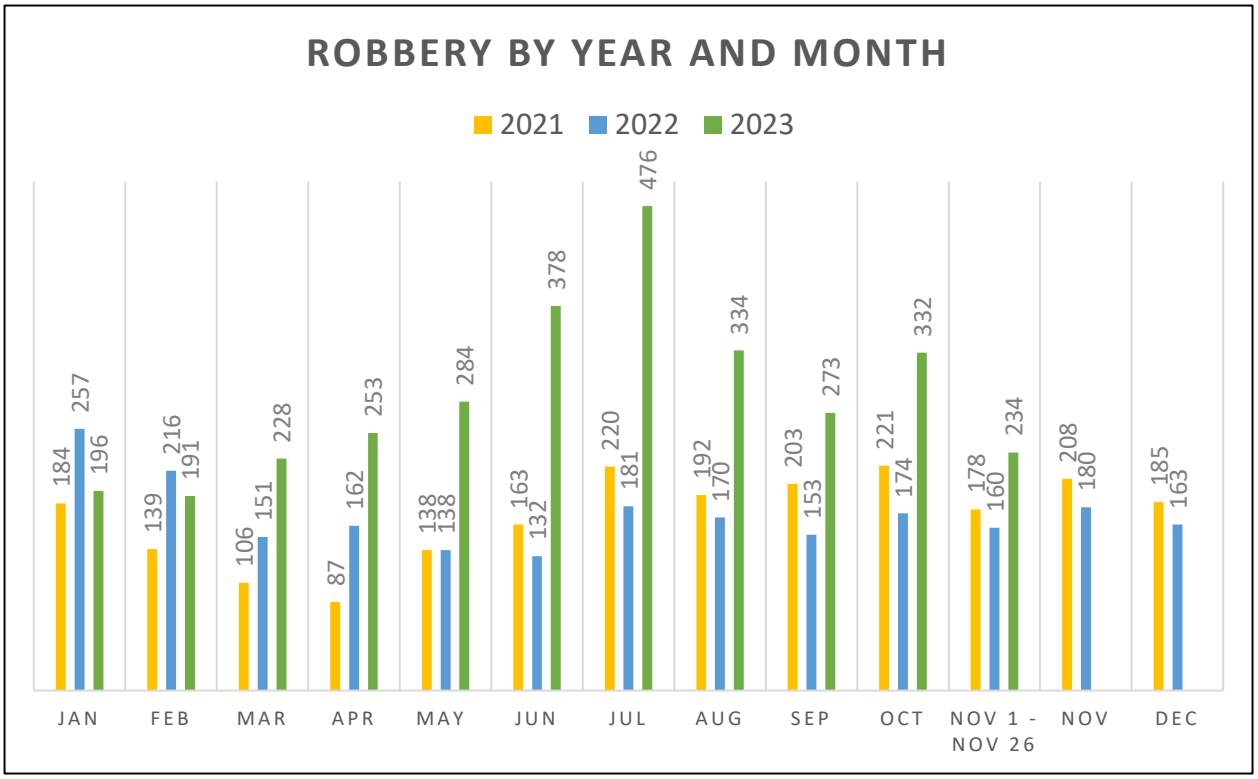
ROBBERY BY YEAR AND MONTH
2021
2022
2023
184 257 196
139 216 191
106 151 228
87 162 253
138 138 284
163 132 378
220 181 476
192 170 334
203 153 273
221 174 332
178 160 234
208 180
185 163
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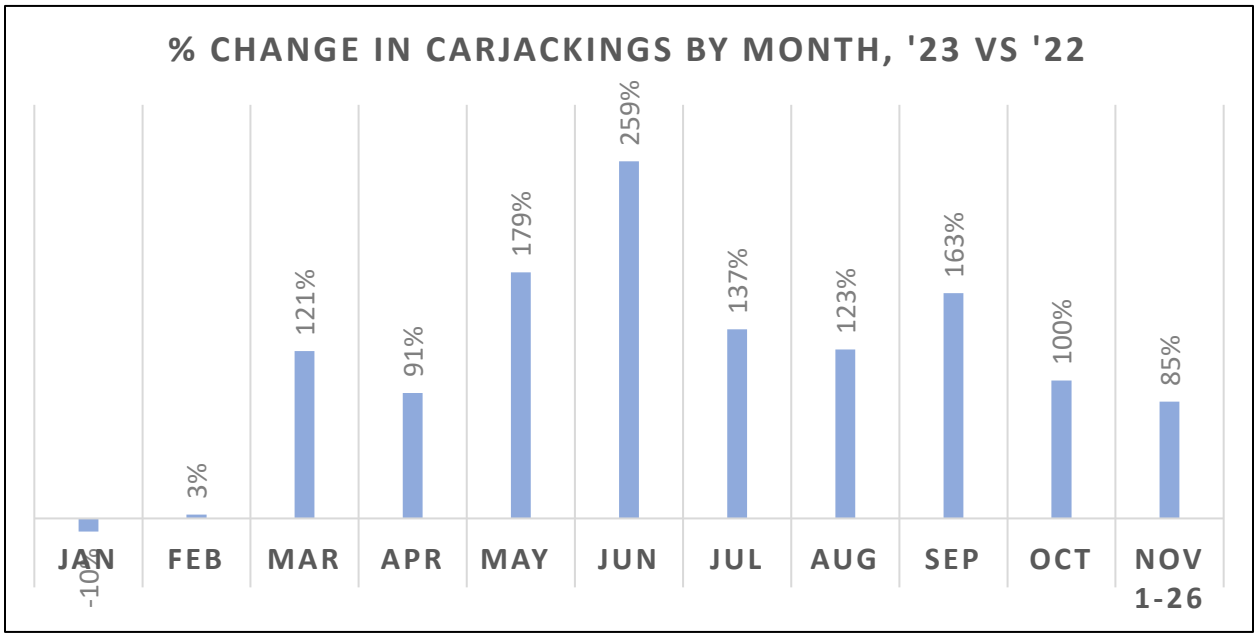
OCT
NOV 1 - NOV 26
NOV
DEC


% CHANGE IN CARJACKINGS BY MONTH, '23 VS '22
-10%
3%
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179%
259%
137%
123%
163%
100%
85%
JAN
FEB
MAR
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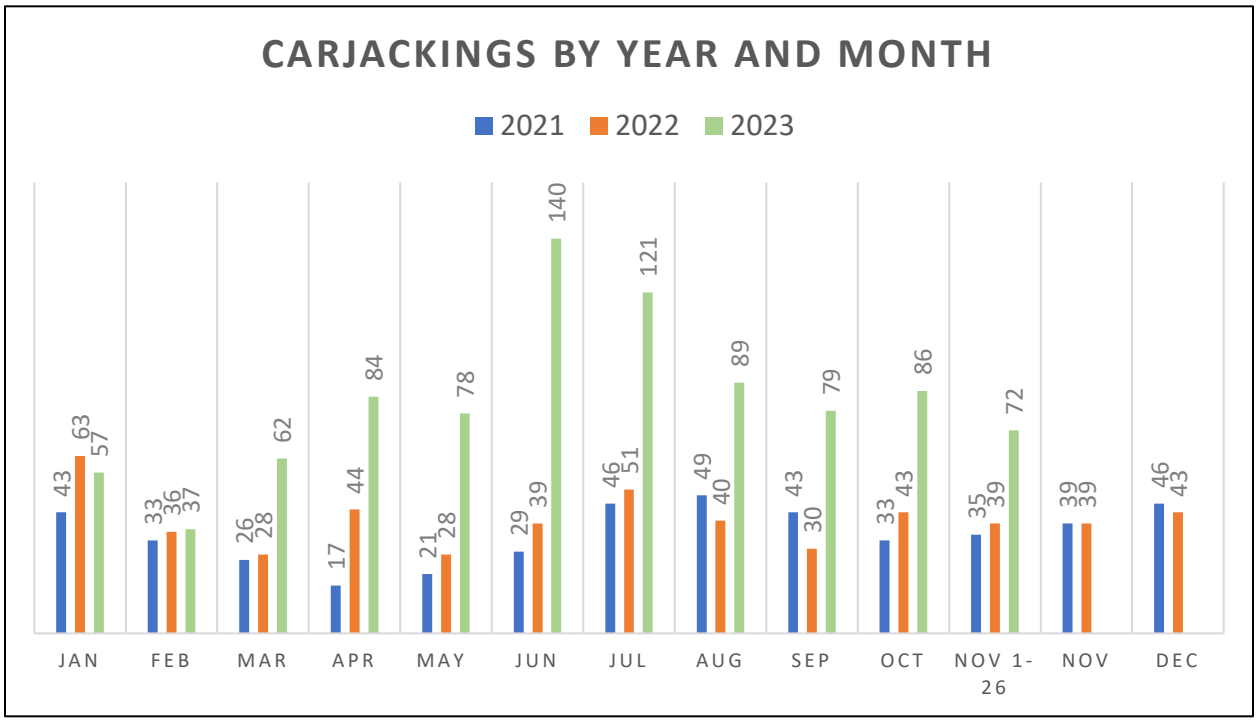
NOV 1-26


CARJACKINGS BY YEAR AND MONTH
2021
2022
2023
43 63 57
33 36 37
26 28 62
17 44 84
21 28 78
29 39 140
46 51 121
49 40 89
43 30 79
33 43 86
35 39 72
39 39
46 43
JAN
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NOV 1-26
NOV
DEC

Vincent C. Gray
Mayor

Government *of the* District *of* Columbia

Cathy L. Lanier
Chief of Police

WARNING

This area has been declared a

DRUG FREE ZONE

BY ORDER OF THE CHIEF OF POLICE

Any person congregating in a group of two (2) or more on public space within the boundaries of this Drug Free Zone for the purpose of participating in the use, purchase, or sale of illegal drugs, and who fails to disperse after being instructed to disperse by a uniformed member of the Metropolitan Police Department, is subject to arrest. An arrest can result in a fine of not more than $300, imprisonment for not more than 180 days, or both.

[D.C. Law 11-270, Anti-Loitering/Drug Free Zone Act of 1996]

BOUNDARIES

Boundaries of Defined Drug Free Zone:

_____

_____

EFFECTIVE DATES

Start Date: **Time:** **End Date:** **Time:**

_____

Cathy L. Lanier
Chief of Police

QUESTIONS? Contact the Patrol Services and School Security Bureau at

(202) 576-6600 or visit **www.mpdc.dc.gov/aboutdfz**

NOTICE: This sign is property of the Government of the District of Columbia and may not be removed and taken away, tampered with, defaced, or destroyed. Any persons who do so will be prosecuted.

PD-907-C Drug Free Zone Placard Notice
Office of Communications (July 2008). For reorders, see Property Division.

ANC 7D05 – Kingman Park
Commissioner Ebony Payne
7D05@anc.dc.gov
202-427-2068

Testimony RE: B25-0555 Addressing Crime Trends (ACT) Now Amendment Act of 2023

Dear Chair Mendelson and DC Councilmembers,

I am pleased to review and submit comments in support of Mayor Bowser's proposed legislation for the following reasons:

1. Retail theft is having a serious impact on the ability of businesses, particularly grocery stores, Black/Minority owned, and small businesses, to safely operate and continue to do business throughout Ward 7. As a business owner myself, I know that crime and theft make it too risky to open and operate a brick-and-mortar store which in turn negatively impacts the larger community through the loss of potential jobs and economic activity that small businesses bring. We must get a handle on the rampant theft and organized crime that is occurring in our retail and grocery stores that is putting at risk the ability of the few grocery stores we have from being able to continue to operate in our communities.
    a. This provision can be made stronger by adding language that encourages MPD to more closely monitor illicit markets of stolen goods and fake paper/temporary license plate tags online including on social media sites such as Facebook. Juveniles involved in criminal activities can purchase illegal firearms on these channels which gives them the tools necessary to commit violent crimes. Monitoring social media for criminal theft and disrupting those channels is essential to curbing our crime spike.
2. The use of face masks during robberies, car jackings, and other violent offenses has made it difficult to identify and catch suspects even if they are caught on surveillance camera. It is very intimidating to be approached by a person who has their face covered by a mask.
    a. I do see a need to clarify that medical masks, such as N95 masks and others needed for reasonable protection from COVID and other respiratory illnesses, are acceptable and not subject to arrest. I would also like to see clarification on how an arrest is deemed appropriate as the current language is vague.
3. Loitering has become a serious issue not only in Kingman Park, but all over Ward 7. I hear from families who describe feeling fear while walking into a grocery store because of loiterers standing outside, selling drugs, getting into fights, and participating in theft.
4. ANC 7D's Public Safety Committee recently passed a letter regarding an open-air drug market that has formed at the Verizon building located at 580 23rd Place NE at the intersection of Benning Road. The problem includes people dragging furniture such as chairs and couches to the side of the building so that they can shoot up drugs

comfortably, belligerent fights breaking out in the alleyways, and intimidation of residents who live nearby who must walk to their front door while living in fear.

a. The Drug Free Zone initiative can be made stronger by eliminating the bureaucratic hurdle requiring MPD to notify the Council Chair every time a new drug free zone is created. A more reasonable requirement would be a quarterly report. Outreach is also necessary to educate the public and ANCs about what resources will become available if an area is deemed to be a drug free zone.

Daniel Gottlieb

My name is Dan Gottlieb and I submit this written testimony to oppose the "Addressing Crime Trends Now" (ACT) of 2023. I have lived in DC since May 2021. Currently I reside in Ward 6 with my wife and young daughter. I am an attorney. I am deeply troubled by the numerous pieces of legislation introduced this year in the DC Council that pander to "tough on crime" rhetoric, and work only to harm our Black and brown communities and endanger young people and people of color in this city.

The ACT Now bill, like many other bills proposed this year, will NOT keep our communities safe. It will lead to mass incarceration and perpetuate the cycle of harm that does NOTHING to address the reasons people engage in violence, property theft and drug use. This bill will bring back harmful, ineffective policies that people across DC have fought for years to end, like “drug-free zones”, bans on face coverings, and neck restraints or chokeholds.

As a parent and taxpayer, I strongly urge the Council to reject this bill. I believe that reinstating practices that curtail oversight over and transparency within MPD, expand surveillance of poor communities, and allow police officers to inflict literal physical harm on our community members without any accountability can only lead to more racially disparate outcomes, engender anger and more violence, and will not create actual safety for anyone.

As a resident who intends to raise my children in this city, I urge the council to invest in solutions that create meaningful safety and raise the standard of living for all our communities. The council must invest in communities' and people's basic needs, by creating a universal basic income, putting more funds in violence interruption work already being done by credible messengers and community members, and ensuring that all neighborhoods have access to basic public goods like affordable housing, employment opportunities, medical care, good schools, grocery stores, libraries, etc.

Please reject punitive strategies that rely on caging people - almost always people of color - instead of fostering sustainable solutions for community well-being. We do not need cops in our kids schools - we need real mental health solutions, economic opportunities, and a high quality of life for our young community members and all people in DC, not just the wealthy.

The Council must take real steps towards building public trust and encouraging collective safety in DC. There is no way to incarcerate ourselves out of this current spike in crime. Addressing poverty, racism, and lack of opportunity to thrive is what will reduce violence, drug use, and property crime.

PLEASE VOTE NO on ACT NOW.

Dante O’Hara

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety, My name is Dante O'Hara and I am submitting testimony in opposition to the Addressing Crime Trends (“ACT”) Now Act of 2023. I have lived in DC for the past 4 years and I am shocked by and deeply concerned by the numerous pieces of legislation introduced this year that are reminiscent of the 90s “tough on crime” bills — bills that led to the criminalization and mass incarceration of Black and brown communities. The ACT Now Act, like the ACTIVE, Safer Stronger, Prioritizing Public Safety Acts before it, will not keep us safe. Instead, it will just harm some of the most marginalized communities in the District.

The ACT Now Act will reinstate MPD practices that will result in serious physical harm to DC community members. This bill will allow officers to restrict someone’s airway, restrict their breathing, and apply pressure to their neck, including their trachea, carotid artery, or jugular vein, to stop them from moving. These changes would allow officers to kneel on a person’s neck to restrict their movement, the way that George Floyd was murdered. On top of this, because these actions would not be considered a neck restraint or asphyxiation, other parts of this bill will make it such that MPD is no longer required to release body camera footage of these incidents. So, MPD officers will be able to put community members into chokeholds without any oversight — how can you call that safety?

The DC Council should pass policy that will bring together different constituency groups with different approaches and who have been directly impacted by gun violence and victims of police crimes to have a serious and in-depth discussion about actual solutions. The Council should also pass legislation that could give their constituents more power in say over police policy in their communities and have the ability to shape public safety policy by providing recommendations through regular hearings in the community with local elected officials and to develop something akin to Chicago’s Empowering Communities for Public Safety bill.

It is time for the Council to take the step towards re-envisioning our collective safety. We know, and research shows, that addressing root causes is what reduces violence, not criminalization. Councilmembers, instead of backsliding into this country’s carceral past, will you be bold and vote NO on ACT Now? And choose instead to invest in housing, access to food, health care, and other things that actually keep us safe.

Darren Pasha

Hi

around May 2023 I had my electric scooter stolen , I had a lock on the scooter, a secure one. The screws on the pole where scooter was locked to , those screws were unscrewed via professional tools , this is what the investigation by MPD turned out to be. The CCTV camera also in the area outside MKL library (9th/G is where the crime happened) were not able to help locate the person who took my vehicle, I asked a question like this to an open forum to the Mayor when the new chief was in the MLK library. I said a question “ can we do something about adding more cctv cameras and the one that is out there to check to see if they are working “. I asked a question like that and it was at a time that I was still frustrated this crime happened to me.

A month later, I was shocked, I saw the person on my scooter riding around dupont circle fountain area. ..I took a video of the individual on my scooter. I started recording because as I got close to the scooter I recognized it and I had an app on my phone that once I pressed it, the Bluetooth connected. As I shout at him " it's my scooter" he drives it off . I then call 911. I shared the video with MPD, it went to a detective, who send it to the DA office. 4 month later the 14 year old took a glea ple deal. . He was released back into the community, he is on probation . I expressed my frustration with the DA office " he is back in the community and he knows what I look like because I took a video of him ". DA office told me " he is on probation, he won't do anything to retaliate against you, if he does then he goes to jail " they said that to me to re assure me. it was not re assuring. I asked the DA office for " restitution" , DA office said they won't do that because of the financial situation his parents is in and he is 14 and he don't have a job, we can't ask for that for the value of your scooter which was $1100 as they had the recepit of my purchase .

Month went by i became angry, frustrated, that something like this happened to me, that because of my video he got caught, it was because of me he got caught , it was me recording him, mpd did not catch him, and I just became frustrated that I was not going to get the money to buy a new scooter. My scooter was also not recovered in the property of the house they searched, they assumed he sold it. DA told me to reach out to my council members to tell them to hold juvenile more accountable. What happened to me is an example of Many out there that shows there has to Be some changes on how juviniles Are being treated. This shows me that if someone tomorrow goes steal someone else electric scootwr and this person happens to be let's say 14 years old then he will also get released back into the community.

it's a month later since he has been released back into the community. My case is closed. I am trying to forget

and forgive and it's hard for me because I don't have the money to buy a new scooter. It's sad that this is what I am left dealing with.

I hope my story here can help change the system, so something like this do not happen to someone else. Thank you for reading.

darren pasha.

contact info for the DA office , If this helps you reach out to them for information about my situation, this is the DA office information who took the case

Priscilla A. Guerrero

Assistant Attorney General

Public Safety Division | Juvenile Section

Office of the Attorney General for the District of Columbia

Priscilla.guerrero@dc.gov | 202-674-5791

Dawn Cook

My name is Dawn Cook and I am testifying in support of the Act Now Act. As President of Benning Ridge Civic Association, Ward 7 resident and High School Educator I find it jarring and troublesome to see the high number of gun related offenses committed by juveniles. Most recently, I experienced firsthand the direct effect that gun violence has on our youth and community, when my former student was gunned down a block away from Dunbar High School.

The significant shortage of Manpower in MPD is a community struggle and has a direct impact on policing. As a result, crime increases, and the community suffers gravely. I support the Act Now Act specifically for its initiatives to limit loitering, and 120-hour drug free zones. The Minesota Avenue and Benning Road corridors have been a pariah to the bustling business and residential areas that were erected to improve the quality of life for new and old DC residents. However, the sight of individuals aimlessly sauntering near metro entrances, bus stops and retail areas is off putting and continues to be a threat to the community. Moreover, National's Stadium and Wharf where I frequently walk has also been stigmatized by criminals who prey on patrons that simply want to enjoy the "amenities meant to attract family's and increase the financial viability of our city".

I also support the Act Now Act's initiative to penalize those responsible for organized retail theft and forbidding the wearing of masks. Furthermore, I think the sale of ski masks at convenient stores in the District should be prohibited. Desperate problems call for desperate measures! And although this initiative seems petty and pointing to some, it is on behalf of the victims of these crimes, tax paying residents and for the revival of our city that I support Act Now Act. Thank you for your time and attention to this pressing matter.

Testimony of Kenyattah A. Robinson
President & CEO, Mount Vernon Triangle Community Improvement District & Chair, DC BID Council
Committee on the Judiciary and Public Safety
Addressing Crime Trends Now Amendment Act of 2023 (ACT Now)
Wednesday, November 29 at 9:00 AM EDT

Good morning Councilmember Pinto and members of the committee. My name is Kenyattah Robinson and I'm the President & CEO of the Mount Vernon Triangle Community Improvement District ("Mount Vernon Triangle CID" and "MVT CID"), established 20 years ago to enhance the overall quality of life for residents, employees, and visitors in the Mount Vernon Triangle neighborhood of downtown Washington, DC.

I also serve as Chair of the DC BID Council, which is an association of Washington, DC's now-12 Business Improvement Districts that sit at the intersection of the public and private sectors and strives to serve as an effective catalyst for growth and improvement on behalf of our stakeholders. It is in this role and on behalf of my colleagues that I come before you today to testify in support of the *Addressing Crime Trends Now Amendment Act of 2023* ("ACT Now") for the stated purpose of addressing recent public safety challenges and keeping our neighborhoods safe.

We also come before you not as experts in the practice of safe and effective policing – although we can all agree that it should be an essential part of the economic recovery strategy for any city – but rather as professionals who are passionate about the creation and sustainment of clean, safe, and welcoming spaces. In other words: vibrant places that people want to be. (Because when was the last time you heard anyone say they wanted to be in a place that was *not* one of these things?). Thank you for giving us this opportunity to speak constructively about the nexus between place management and public safety, and public safety and economic recovery.

As practitioners who are intimately connected to the communities we serve, we understand our stakeholders to recognize the inseparable relationship between safety and other leading quality of life indicators, and therefore believe that our BIDs have unique experiences and perspectives to lend to this conversation. We know from conversations with stakeholders the following two things. First, public safety has become *the* primary topic discussed in just about every discussion. And if not the first item discussed, it's usually not far behind. Second, our communities believe that both their personal safety – and that of their families and employees – and economic security are being put at heightened risk due to what is perceived to be a lack of focus on the problems that make them feel unsafe. Issues such as being unable to buy basic necessities because organized retail theft has rendered store shelves bare, to having to navigate open-air drug markets while walking a child from school, to fears of being robbed or carjacked by masked criminals while enjoying a night out on the town, all contribute to heightened

perceptions that things are out of control. Increases in personal anxiety about safety then lead to decreases in public perceptions about safety, which combined contribute to a downward spiral that will lead to municipal disinvestment. And the negative cycle continues.

We believe there to be other systemic and structural reforms that, when combined with *ACT Now*, could create the types of cumulative effects that will return DC back to the positive economic and public safety glidepath that was profoundly disrupted by 2020's global pandemic and other events that, speaking personally, stimulated a much-needed and long-overdue debate regarding the optimal and appropriate role of police in our society. What followed was a rethinking, reformulation, and reimagination of public safety strategies in cities across America including passage of the *Comprehensive Policing and Justice Amendment Act* in Washington, DC. And while we recognize there are varying perspectives on this specific legislation, we also know that there is significant public urgency for our leaders to act now and in a way that aligns with our civic values.

The DC BID Council fundamentally believes that we all deserve to live in a safe and just city. That we should do all that we can to prevent crime before it happens. That we should provide help and support to those who ask for and need it. And that – as a basic societal organizing principle and operating agreement – we must hold accountable those who commit crime.

It is therefore our consensus view that, on balance, both ACT Now and the specific tools aimed at eliminating retail theft from our stores, removing drug dealing on our corners, and increasing the consequences for wearing masks for the purpose of committing criminal acts, are positive significant steps toward enhancing public confidence in our public safety environment. And this public confidence is critical toward promoting the city's robust and sustained economic recovery; and creating the safe, welcoming, high-quality public environment that is vital to Washington, DC's ongoing attractiveness within what has become an extremely competitive regional landscape.

Thank you again for allowing me to testify on this very important issue that we deem to be a critical priority for our city. We appreciate your consideration of our perspective and are happy to answer any questions that you may have.

DC Police Union
1524 Pennsylvania Avenue, SE
Washington, DC 20003
Office (202) 548-8300 | Fax (202) 548-8306
www.DCPoliceUnion.com

November 29th, 2023

Testimony of DC Police Union for B25-0555, Addressing Crime Trends Now Amendment Act of 2023

Good morning members of the Committee. I appreciate the opportunity to testify before you today. As the Chairman of the D.C. Police Union, I speak on behalf of approximately 3,000 sworn police officers, detectives, and sergeants who serve our community as members of the Metropolitan Police Department (MPD). Having served as a D.C. police officer for eighteen years, I take immense pride in serving this city.

Today, the members of the MPD's rank-and-file would like to express our support for the ACT Now legislation. This bill will address a number of issues with the *Comprehensive Policing and Justice Amendment Act of 2021* (CPJAA) which our Union has repeatedly brought to the attention of the Council.

Since the implementation of the CPJAA, the MPD has lost 1,364 police officers while only hiring 896, resulting in a net loss of 468 officers[1]. This decline has led to longer response times, fewer officers patrolling our neighborhoods, and a severe public safety crisis in the District. The MPD is now using more than one million hours of overtime to try to make up for these losses[2]. It's worth noting that one million hours is equivalent to nearly 500 FTEs.

I must emphasize the gravity of the situation. We are witnessing a historic exodus of MPD police officers and nearly 40% of these separations are resignations[1]. These officers are leaving for alternative employment opportunities because they no longer wish to work in an environment where their workplace protections have been stripped away, and the fairness and equitability that was such a highly valued principle within MPD, no longer exists.

Due to these historically low staffing numbers, crime rates in the District are now surpassing levels not seen in twenty years. Homicides have reached 250, this is the highest number of murders in the city since 2002. This year 96 juveniles have been shot, 15 fatally. There have

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[1] MPDC October 2023 "Staffing and Attrition" Report
https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/Staffing%20%26%20Attrition%20October%202023.pdf

[2] MPDC September 1, 2023 "MPD OT Report through 8/12/2023"
https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/MPD%20OT%20Report_PPE%2008%2012%2023_Final_Combined.pdf

been 906 carjackings this year, a 106% increase over last year. Violent crime is up 40%, and crime overall is up 27%.

Today's hearing focuses on the "*Addressing Crime Trends Now Amendment Act of 2023*," which aims to address some gaps in the District's public safety ecosystem necessary for reducing crime in D.C. We broadly support the policies contained in the bill and we firmly believe this will help to address both staffing issues, as well as some alarming crime trends in the District.

Adopting this legislation is imperative, as it addresses the urgent need to strengthen our MPD staffing numbers, something critically necessary to reduce our increasing crime problems as well as reducing tens of millions in spending on mandatory overtime.

Once again, I am grateful for the opportunity to testify before this Committee. I stand for any questions or concerns you may have.

Greggory Pemberton
Chairman
D.C. Police Union

Written Testimony from the National Police Association in Support of the ACT Now Amendment

The National Police Association supports Mayor Muriel Bowser's proposed Addressing Crime Trends (ACT) Now Amendment Act of 2023 (B25-555). The proposals in this tempered bill provide law enforcement with the tools necessary to combat crime more effectively. It helps establish a less restrictive policing landscape and contains language that better protects officers from undue reprisal. These elements are essential to fighting crime, as well as to retaining and attracting the best qualified men and women to the Metropolitan Police Department (MPD).

Why the ACT Now Amendment is Needed

Washington, D.C., like many other American cities, is experiencing a public safety crisis. Crime has spiked in almost every category since 2022, including homicide, robbery, and auto theft. These numbers are impeding residents' quality of life, impacting businesses, and placing visitors in harm's way.

At a time when crime has increased, the MPD is unable to meet its staffing requirements. Fewer officers result in longer response times for service (including for high-priority calls), leaves officers with less time for community engagement, and leads to officer burnout.

The proposals in Mayor Bowser's bill address some of these concerns by emphasizing proactive policing and allowing officers to perform their duties in good faith. When officers feel supported by their city government, they are more inclined to engage in proactive policing, and less likely to hesitate during potentially life-threatening situations. This is a prudent policy that benefits police offers and the communities they serve.

Commentary on Specific Proposals of the ACT Now Amendment

While we broadly support the ACT Now Amendment, we'd like to offer commentary on four specific proposals.

Creates new criminal penalties for organizing retail theft operations

It's in the City's best interest to allow MPD to curb retail theft being perpetrated by large-scale, organized retail theft rings. These crimes result in higher prices and force some retailers -including small businesses- to shutter their doors, which impacts D.C.'s economy. When it displaces employees and residents who depend on these businesses, it also becomes a quality-of-life issue. Additionally, organized theft is linked to other crimes, including assaults, illegal gun trafficking, vandalism, and drug activity.

Reducing the qualifying value of stolen goods from at least $1,000 dollars to $250 dollars when considering penalties for Theft I offenses, is modest. More notably, this proposal would create a new crime that more adequately penalizes the masterminds of retail theft sprees. Targeting the primary agitators of an operation is an effective strategy used by law enforcement to combat theft and other crimes.

Renews restrictions on masks

The proposal on mask wearing is situational. It doesn't target people who wear masks for health reasons or inclement weather. It does, however, prohibit the wearing of masks on public property if the intent is to commit a crime, intimidate, or threaten others. It's based on an officer's reasonable suspicion. It's reasonable, for example, for an officer to be suspicious of someone wearing a woolen mask on a summer's day while loitering in a known drug zone.

This proposal could also be useful when police are overseeing demonstrations, given that attendees may be more apt to engage in criminal activity because of their perceived protection of anonymity.

Lessens the restrictions on police restraining techniques

While officers would still be prohibited from using techniques that cause asphyxiation, this proposal would remove some of the rigid language in the current law. Given that each police encounter varies and is unpredictable, allowing officers a reasonable amount of latitude in accordance with the U.S. Constitution and their training, is essential. This is especially critical when confronting a subject that poses a threat to officers and the citizenry.

Renews privacy rights for police officers

Under the 2022 law, MPD officers have fewer privacy rights than is afforded to convicted offenders. While transparency and accountability in policing are essential to establishing the public's trust, it needs to be balanced with an officer's privacy. Automatically releasing an officer's private information, especially after a high-profile officer-involved incident, subjects officers and their families to harassment and harm. When police officers fear the public's wrath for reasonably performing their work, they're less inclined to engage proactively.

This proposal acknowledges an officer's right to privacy while sustaining the public's right to transparency. Measures like redacting officers' faces from body-worn-camera releases and prohibiting the release of personally identifiable information, are reasonable. Officers involved in use-of-force incidents would still be named publicly and held accountable for malfeasance in accordance with their right to due process.

While the ACT Now Amendment isn't a panacea for Washington D.C.'s public safety crisis, it provides solid measures that equip police officers with the tools they need to better protect the public. Supporting police officers and allowing them to fulfill their obligations without the interference of overly rigid policies can also positively impact recruitment and retention efforts. For these reasons, the National Police Association supports The Act Now Amendment.

The National Police Association is a 501(c)3 non-profit Educational/Advocacy organization. For additional information visit https://nationalpolice.org/main/.

Testimony of Eboni-Rose Thompson
Ward 7 Representative, DC State Board of Education
Committee on the Judiciary and Public Safety
Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023
Wednesday, November 29, 2023

Greetings esteemed council members,

My name is Eboni-Rose Thompson, and I have the privilege of representing Ward 7 on the DC State Board of Education and serving as president. I am testifying today in my personal capacity. Thank you for providing me with the opportunity to speak today regarding the Addressing Crime Trends (ACT) Now Amendment Act of 2023. I approach this issue not only as a concerned resident but also as someone whose family has recently experienced the harsh reality of crime. This month my aunt, a retired teacher who has been in her home over 30 years, became a victim of a break-in while she was peacefully asleep in her home. Someone climbed through a window in her kitchen, walked upstairs into her bedroom where she was sleeping, found and went through her purse and took her cash and keys. She was violated. I feel deeply the urgency of adopting a comprehensive, smart-on-crime strategy that prioritizes both prevention and reasonable responses.

First I ask that we consider the importance of a holistic prevention approach. Investing in programs that tackle the root causes of crime, such as poverty, mental health, and addiction, can significantly reduce the occurrence of criminal activities. While a chokehold would not have prevented my aunt's experience, it is likely a truly preventive approach would have. The person who broke into her house took one thing: money. They used the keys to leave through the front door and rifled through her car but ultimately left the vehicle. This sounds like someone who was in desperate need. Addressing underlying issues is crucial for creating a safer community for all.

Now, let's address the proposed changes to transparency regarding MPD discipline and police complaints. Full transparency is not only a fundamental aspect of accountability but also crucial for fostering unbiased policing. Rolling back on transparency measures may compromise public trust and negatively impact public safety. We must strive for a system where accountability and transparency go hand in hand, ensuring the community's confidence in the police force.

Another key element of the bill that deserves our attention is the reintroduction of drug-free zones. While these zones were intended to enhance public safety, I am a child of the 90s, and I remember what these zones looked and felt like in our city. The previous implementation contributed to systemic inequalities. We must consider if the zones are targeted and effective rather than disproportionately impacting specific communities. Selling drugs is already illegal. A

more nuanced approach and the recently declared Opioid emergency will go further to improve the health and safety of our residents and help create a fair and just system.

Secondly, the proposed changes to the prohibition on chokeholds warrant careful consideration. While it is essential to prioritize the safety of law enforcement officers, unnecessary and dangerous alterations to policies can have severe consequences. No documented incidents of officers being charged or disciplined for "incidental contact" with anyone's neck have been cited. We must strike a balance between ensuring officer safety and avoiding unnecessary risks that may endanger the lives of community members.

Lastly, I urge the committee to take seriously the recommendations of the recent Police Commission. The insights and suggestions provided by the commission can serve as valuable guidance in shaping a more effective and responsive public safety framework. By incorporating these recommendations, we can foster collaboration between the community and law enforcement, creating a system that is better equipped to meet the evolving needs of our city.

In conclusion, as we deliberate on the proposed public safety bill, let us remain focused on a smart-on-crime strategy that prioritizes prevention, transparency, and reasonable responses. My aunt's experience serves as a poignant reminder of the real impact that crime has on individuals and families. By working together, we can build a safer, more just community that benefits everyone.

Thank you for your time and consideration.

Eboni-Rose Thompson
Ward 7 Representative
DC State Board of Education

Edgar Haughton

Subject: Support for Mayor Bowser's Addressing Crime Trends, ACT Now Legislation

Dear DC City Council Members,

I am writing to express my strong support for Mayor Muriel Bowser's Addressing Crime Trends, ACT Now legislation. This legislation is a crucial and much-needed step to ensure the public safety of all Washingtonians, particularly those of us residing in Ward 8, where many of the most dangerous crimes are committed. While I recognize that it may not be the sole solution to the complex issue of rising crime rates, I believe it is a welcomed and necessary start that can significantly contribute to curbing the soaring crime issues in our city.

Living in Ward 8, I have experienced firsthand the impact of the escalating crime rates on our community. It is disheartening to witness the toll it has taken on the sense of safety and security that every resident deserves. Mayor Bowser's ACT Now legislation provides a comprehensive approach to address crime trends, combining increased resources for law enforcement with strategic community engagement initiatives.

I appreciate that the legislation is not presented as a singular solution but rather as a part of a multifaceted effort to create a safer environment for all residents. It is a welcomed start that, I believe, can help lay the foundation for a more secure and resilient community.

Given the urgency of the situation, I strongly encourage you, as a dedicated member of the City Council, to collaborate with Mayor Bowser and your fellow council members to swiftly enact the provisions outlined in the Addressing Crime Trends, ACT Now legislation. By doing so, we can take significant strides toward fostering a safer and more secure Washington, D.C., for everyone.

Thank you for your attention to this critical matter, and I trust in your commitment to the well-being of our community.

Sincerely,

Edgar Haughton

Elicia Yoffee

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

My name is Elicia Yoffee and I am a resident of Ward 1. I am submitting testimony in opposition the the Addressing Crime Trends ("ACT") Now Act of 2023. As a resident of DC, a student of conflict dynamics, a restorative justice practitioner, and a disabled person, I am extremely alarmed by the legislation that has been introduced this year that echoes the disastrous and harmful crime bills of 30 years ago that led to mass incarceration and criminalization of poor communities and black and brown communities. We know the root causes of crime are poverty and disenfranchisement. The ACT now Act will not keep us safe, and will harm marginalized communities in the district rather than supporting them in developing safer communities.

As a disabled DC resident, I must speak out against legislation that will make it easier for police officers to physically harm community members. It is potentially disabling, if not fatal, to allow officers to restrict airways, breathing, to apply pressure to their neck. The DC Council should NOT make it easier for DC police to harm community members. The DC Council should NOT be reducing transparency, accountability, and oversight over MPD, which this act will do. In addition, the DC council should not revive old surveillance practices that are ineffective and racist.

As a Ward 1 resident who is concerned about the overall well being of my community and city, I would like the DC Council to invest in our community's basic needs, like providing basic public goods, or establishing violence intervention worker programs. I am a restorative justice practitioner who is involved with unarmed civilian protection work in the district, and I would like to see the DC council establish programs that continue to support work like this. In addition, I would like to see the DC council reject punitive and carceral strategies that just don't work (they didn't work in the 90's and they don't keep us safe!!).

I am asking for a commitment from the DC Council to move forward, away from the heavy criminalization and incarceration of our past, and toward a DC that is full of opportunity and collective safety for all it's residents. We know, and research shows, that to address violence, we must address root causes. Please vote NO on ACT Now and choose instead to invest in resources that keep us safe!!

Elizabeth Goodman

I have been living in Ward 6 since 1984 and a homeowner since 1989. I believe that the best way to keep us safe is to prioritize spending for support and positive activities, not creating zones and vague prohibitions on mask-wearing (as one who needs to wear a mask in public for my health).

As a survivor of crimes in the city and one who has deep concerns about inequitable and biased treatment of my Black neighbors, I am strongly opposed to chokeholds without oversight, “drug-free” areas, increased camera surveillance, and use of my tax dollars for more policing and more violent policing than in community services.

Safety means investing in food and housing support for our neediest, schools with more support and less policing, more social work and mental health services, more and better maintained green and play spaces, especially in neighborhoods with higher crime.

Please respond not react and emphasize our humanity not stoking fear and decisiveness and allowing for more government violence and inequality.

November 29, 2023

Good morning Madam Chairwoman Pinto and honorable members of the committee.

Thank you for allowing us to be part of this public discourse.

I come to you today on behalf of the colleagues of the Motto DC, at the heart of and the geographical center of Chinatown. As part of our corporate culture, we ensure that new colleagues are introduced to our community and the neighborhood so we can both take part in it and share it with our guests. From historical anecdotes of the present to the origins of Chinatown on Pennsylvania Avenue just outside these doors. Our team takes great pride in sharing local venues to visit, highlighting the Friendship Arch spanning H St. and telling guests the story of the Chinese Mercantile Association building just across the street. That notion and pride however, has become more and more difficult to uphold with the current condition of our streets. It has become increasingly more difficult to avoid the topic during recruiting of candidates, speaking with guests and speaking with stakeholders of our business. It has become increasingly difficult to avoid the headlines and the articles that describe our community in a negative light. For us at the Motto DC, these are not simply headlines or footnotes. The reality of those facts is at our front doors. It's the welcome and the farewell our team and our guests receive on a daily basis. The window-front counter of our Cafe is routinely first row seating to an arrest, a fight, a drug sale or worse. No guest wants to have a side of violence with their latte. In fact, no one expects that.

This community is so much more than vehicular and drug crime statistics or measuring success in those numbers by a drop of percentage points year over year. It's a community of residents, businesses and visitors. It's a neighborhood where business leaders and owners still know each other by first names and share a coffee or a story. It's where I personally came to know DC from the inside out as a new transplant to the District. It’s also where the city comes to cheer for their favorite team and artists. It's more importantly where my team goes out to lunch or dinner and commutes into work so they can provide for their families

I bring you this statement today to relay the frustration of our colleagues, our guests and our stakeholders with the current state of the H St. NW corridor. The legislation being discussed today has many aspects to be considered and argued. We are not here representing any political view or ideal. Instead we wanted to bring you the face of what the other side of the headlines looks like. We ask this council to consider any action such as this legislation that would support the efforts of the Metro Police, local Advisory Neighborhood Commissions and business owner and managers to improve their communities. We highly encourage any initiative except that of inaction.

Elliot Ollie Figueroa
Assistant General Manager
Motto by Hilton DC, City Center

December 13, 2023

Chairperson Pinto and Members of the Committee on Judiciary and Public Safety,

My name is Ellora Israni, and I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. My family and I have lived in the District of Columbia since 2020. I am also a practicing civil rights attorney here in D.C. (though I am submitting this testimony in a personal, not professional, capacity). Through my work I have gained a deep knowledge of historical responses to "crime." I am deeply concerned by all of the regressive legislation that has been introduced this year to the D.C. Council. It is reminiscent of the "tough on crime" and "law and order" bills of the 80s and 90s. Those bills did not make our communities safer. They targeted Black, brown, and poor folks. They resulted in mass incarceration. The ACT Now Act, the ACTIVE Act, Safer Stronger, and other similar bills that have come before the Council this year will not keep us safe. They will not reduce "crime." They are racist and classist, and will harm the most marginalized people in the District. I am strongly opposed.

As a civil rights attorney, I know that the policies proposed by the ACT Now Act will result in serious harm to our community. First, I have personally submitted numerous FOIA requests to MPD, reviewed police reports, consulted bodycam footage, and relied on OPC reports. Each of these are important accountability mechanisms for an agency that has a horrible track record of harming our community. I can think of no reason that holding MPD accountable would somehow run counter to public safety. Second, the ACT Now Act revives decades-old tactics, like "drug-free zones" and anti-mask laws, that we know from experience will be implemented in racially biased ways. Plenty of wealthy, white people in the District use drugs, but they are not criminalized; only Black, brown, and poor people are. "Drug-free zones" will criminalize people simply for being people of color or being poor. Third, the policing practices which the ACT Now Act endorses - chokeholds, car chases - are draconian and deadly. Not four years ago our community was up in arms about the ways in which these tactics have allowed police to murder Black people with impunity. How short our collective memory is.

In order to keep our community safe, we need to shift resources away from the violence of policing, prosecution, and prisons, and toward making sure that every person has their basic needs met. We know, because the evidence has shown us, that investing in housing, education, mental health and substance abuse treatment, and other non-carceral solutions are the things that keep communities safe. I urge the Council to pass the Drug Policy Reform Act to decriminalize personal possession of drugs, invest in harm reduction centers, and remove collateral consequences of drug convictions. I urge the Council to support Black families in Wards 7 and 8 with a pilot universal basic income program, as recommended by DC's Gun Violence Reduction Strategic Plan. I urge the Council to support the opening of more grocery stores south of the river so folks in our community have access to healthy food. Invest in violence interrupters, not cops. DC schools should have counselors, not cops (as previously planned). Pass the Traffic Safety Enforcement Act to ban traffic stops for minor infractions (broken lights, tinted windows, etc.), and transfer enforcement of traffic violations that don't imminently threaten public safety from MPD to DDOT. Finally, fund the measures we already have in place - like the Second Chance Act of 2021.

It is horrifying to me that D.C. is somehow able to come up with unlimited funds for policing - and hundreds of millions of dollars for a sports arena at the drop of a hat - but that we refuse to invest in

meeting our neighbors' basic needs. That we are somehow ok with letting our neighbors live on the street. That we disappear Black, brown, and poor people into the D.C. jail instead of confronting our own complicity in the systems that drive "crime." D.C. is supposed to be one of the most progressive, diverse cities in the country. I thought we were better than this. We cannot backslide into our "tough on crime," "law and order" past. I urge you to vote NO on the ACT Now Act.

Sincerely,

Ellora Israni
Ward 1 Resident

ACT Now Written Testimony

Ms. Erica Green, MSED
8C Advisory Neighborhood Commissioner
Commissioner on Climate Change & Resiliency
2730 Martin Luther King, Jr. Ave. Southeast
RISE Demonstration Center
Washington, DC 20032

Wednesday, November 29, 2023; 9:00AM Hearing

To: The Committee on the Judiciary and Public Safety

RE: Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023."

Dear Honorable Mayor and City Council,

Thank much for gathering DC residents per this public hearing; our voices need to be heard. As strong advocates working to combat crime and other public safety hazards plaguing Ward 8 and our City, we are writing to provide support per the following legislation: Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023." We are excited to be a part of an active solution to dissolve danger in our beloved District of Columbia.

We are in favor of amending the Comprehensive Policing and Justice Amendment Act focusing on safe and effective policing vital to addressing public safety challenges. Law enforcement officials in the District must be equipped with the necessary tools and capacities to be highly effective in serving our City which requires specialized care and concern from exceedingly effective team members. The Metropolitan Police Department's hiring and retention and of fully qualified officers is important as increased staffing and capacity building within MPD will progressively allow for city leaders to hold criminals accountable for choices that endanger themselves and others.

DC does not have a loitering law. Reinstating our MPD Chief's ability to declare drug free zones for 120 hours is a measure that will disrupt large gatherings outside of stores making it difficult for patrons to shop while discouraging the congregating leading to presence of illegal drug sales, purchases, and use. Residents have expressed, time and time again, that they are not able to enjoy such public spaces because of these issues.

Our establishments suffer losses due to theft. Quality grocers and other staples contemplate vacating; leaving residents, especially limited in resources such as transportation, those living with disabilities, seniors, and other populations that can be vulnerable with scarcity. Creating a new crime for "directing organized retail theft" and criminal consequences for those who choose to steal from our businesses is essential to prevent further costs and threats to local commerce.

Concealing one's face with a mask with the intent to be in disguise "for the purpose of committing of criminal acts, intimating and threatening other people, or causing fear" is a peril and we must have legislature in place that disciplines every calculation computed to cause harm in the Nation's Capital. Every strategy designed to inflict oppression in our District should be labeled as a crime.

We are in support of Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023."

Salaams/Peace,

Ms. Erica Green, MSED

ACT Now Written Testimony

Ms. Erica Green, MSED
8C Advisory Neighborhood Commissioner
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2730 Martin Luther King, Jr. Ave. Southeast
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Wednesday, November 29, 2023; 9:00AM Hearing

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We are in support of Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023."

Salaams/Peace,

Ms. Erica Green, MSED

Erin O'Reilly

My name is Erin O'Reilly, I am a Ward 4 resident living in Brightwood Park and I am writing to the Council today to strongly oppose the adoption of the ACT Now bill which will further criminalize Washingtonians while limiting accountability for a police force which has already inflicted serious harm on my community. How many times must jurisdictions around this country employ "tough on crime" bills, which has been happening for decades, before even a single elected representative comes to their senses and realizes it's not working? Our communities need investment in jobs, mental health services, social services, recreational activities, food, housing and education - NOT draconian crime bills that seek to double down on punitive and carceral strategies that DON'T WORK. As someone who has been a victim of two hate crimes right here in the District I can say with utmost certainty that the presence of police made those situations worse and only compounded on the trauma, these officers need to be held accountable for their actions - not given free reign to use deadly force, employ chokeholds, engage in often fatal car chases and review their own body camera footage before writing reports.

Living in a highly policed and rapidly gentrifying neighborhood I see firsthand how officers who patrol my community use their power to target my PoC neighbors and protect the interests of the white middle class businesses. Emboldening these same officers to engage in deadly use of force and write biased reports is unacceptable.

This bill will do absolutely nothing to actually keep our communities safe and I don't want my elected officials or my tax money supporting it.

Eskedar Girmash

My name is Eskedar Girmash and I am a Ward 4 resident. I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I will not deny that crime rates in the District are concerning; however, as a public health professional, I know that increasing incarceration and criminalization do not curb crime and only further harm communities that have been systemically violated by this country's carceral system. Our communities are heavily struggling. As the mayor herself pointed out, the COVID-19 pandemic has put an enormous strain on District residents. Families are struggling to meet the rising costs of inflation while dealing with long-term physical, mental, and emotional health burdens of COVID. Our neighbors need solutions that are rooted in care such as an increase in SNAP allotments; more affordable and supportive housing; buildings that are free of mold; investment in mental health resources for students; harm reduction resources; improved health care facilities; robust community centers; and leaders who meet these challenging moments with care and solutions: not harm, othering, and policing.

History has shown time and time again that a police state does not yield safer communities. Our country has one of the highest rates of mass incarceration while having some of the worst health, education, housing, and safety outcomes. What does that tell us? It tells us that we need to shift our focus away from policing and to care-based solutions. How does allowing officers to increase physical restraints get our communities to healthier and safer outcomes? How does removing accountability and oversight from MPD officers lead our communities to healthier and safer outcomes? Why have our leaders learned nothing from the lessons of 2020, the lessons of the War on Drugs, the lessons of the countless Black individuals harmed at the hands of our police system? Why does this mean nothing in this moment? We cannot continue to let fear guide our policies. It can no longer be scary to invest in life-affirming policies.

Having worked closely with District residents, I have seen how deeply folks are struggling to pay rent, afford food and medicine, navigate the District's housing system, deal with slumlords, access support for disabilities, navigate senior services, and life in a city that is being rapidly gentrified. Our neighbors deserve care, they deserve support, they deserve investment in evidence-based solutions, not fear-mongering tactics that uphold the carceral state. I urge the City Council to move money into affordable housing, support for unhoused individuals, SNAP, ERAP, fixing up our schools, harm reduction services, support for survivors of sexual and domestic violence, investment in reproductive health services: and investment in life.

I am tired of seeing community members die because our leaders refuse to choose policies that address an ongoing mass disabling pandemic; housing crisis; and food insecurity crisis. I am tired of seeing community members die because of shootings and stabbings and thefts and mold and poverty and lack of shelter and drug overdose and pregnancy complications and lack of health access and hunger and mental health crises. Why are you choosing to invest in developers, deforestation, policing, and K street while your constituents can barely make ends meet? Why do you not choose to invest directly into them and listen to years of evidence that points that denounces incarceration and policing as a means to curb crime? It is never too late to choose policies that support individuals live and thrive, that support safety, that support DC residents. I urge you, Chairman Pinto, to consider the immediate and long-term consequences of this legislation. Generations will be harmed by the trauma of your actions. I am not urging you to not act or to ignore crime rates: I am urging you to invest in policies that actually address the issues at hand instead of criminalizing individuals for the results of you and your colleagues inaction in solving root causes of crime.

Essence Reid

Subject: Strong Endorsement for Mayor Bowser's Addressing Crime Trends, ACT Now Legislation

Dear City Council Members;

I am writing to express my firm support for Mayor Muriel Bowser's Addressing Crime Trends, ACT Now legislation, recognizing it as a crucial and much-needed step toward ensuring the public safety of all Washingtonians, with a particular emphasis on those residing in Ward 8, where many of the most dangerous crimes are unfortunately prevalent.

While I acknowledge that this legislation may not be the sole solution to the complex issue of rising crime rates, I firmly believe it represents a welcomed and necessary start that can significantly contribute to curbing the soaring crime issues in our city. The comprehensive approach outlined in the ACT Now legislation, combining increased resources for law enforcement with strategic community engagement initiatives, demonstrates a commitment to addressing the root causes of crime.

Living in Ward 8, I have seen firsthand the impact of escalating crime on our community. It is disheartening to witness the toll it has taken on the sense of safety and security that every resident deserves. Mayor Bowser's proposed legislation recognizes the urgency of the situation and presents a multifaceted strategy to create a safer environment for all residents.

I understand that addressing crime requires a collaborative effort, and I urge you, as a dedicated member of the City Council, to work closely with Mayor Bowser and your fellow council members to swiftly enact the provisions outlined in the Addressing Crime Trends, ACT Now legislation. Timing is of the essence, and by taking prompt action, we can make significant strides toward fostering a safer and more secure Washington, D.C., for everyone.

Thank you for your attention to this critical matter. I am confident in your commitment to the well-being of our community, and I trust that your support for this legislation will contribute to the enhancement of public safety in our great city.

Sincerely,

Essence Reid

FEDERAL CITY COUNCIL

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1310 L Street, NW Suite 325
Washington, DC 20005
www.federalcitycouncil.org

Testimony of Rebecca Strauss
Director of Economic Initiatives
Federal City Council

Committee on Business and Economic Development
Councilmember Brooke Pinto, Chair

B 25-555 – "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

November 29, 2023

Good afternoon. I am the Director of Economic Initiatives at the Federal City Council, which is a business civic organization whose 240 members are some of the District's most civically engaged CEO-level leaders. Our purpose is to work towards making the District a better place for all its residents.

I, myself, am a long-time downtown resident and I am the ANC Commissioner for ANC 2C02, which covers downtown's K street district. At our ANC meeting this month, we passed a resolution supporting both Councilmember Pinto's ACTIVE Act and this ACT Now bill.

I'm testifying today in broad support of the Act Now bill, as I did two weeks ago in support of the ACTIVE Act. The status quo of spiraling crime is unacceptable—and the median voter agrees.

Opportunity DC conducted a poll this last September of 803 registered voters across the city. Here is what it found that a clear majority say:

- MPD needs more tools and resources to address crime, including majorities of every demographic subgroup and in each ward of the District.
- They want more police in their neighborhoods.
- They considered moving to a different neighborhood or out of DC: Of those people, nearly half said public safety was the main reason.
- They don't feel very safe going about daily life.
- They changed their day-to-day activities for public safety concerns.
- Took steps to enhance the safety of their home, vehicle, or workplace in the last year.

To be sure, we understand that a real solution must be holistic and tackle the root causes of violence. Young people need more job opportunities, they need to feel safe and excited to go to school, and the city needs better violence interruption programs.

But stronger enforcement is an essential piece of the larger approach to enhancing public safety. We know that deterring criminals requires that punishment be swift and certain. Right now, the deterrence-

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through-enforcement piece has been degraded. It's time to put it back into place. This bill will give the Metropolitan Police Department (MPD) what it needs to make the city safer.

MPD First District Citizens' Advisory Council, Inc.

Connecting MPD through People, Technology and Information

Testimony

of

Robert Pittman

Chairman

First District Police Citizens' Advisory Council, Inc.

Before

The Committee on the Judiciary and Public Safety

Brooke Pinto, Esq.

Chairwoman

Anita Bonds, At-Large Member

Christina Henderson, At-Large Member

Charles Allen, Ward 6 Member

Vincent Gray, Ward 7 Member

Phil Mendelson, Council Chairman

Kenyan McDuffie, Esq. Chairman Pro Tempore

Robert White, Jr., Esq. At-Large Member

Brianne K. Nadeau ,Ward 1 Member

Matthew Frumin, Esq. Ward 3 Member

Janeese Lewis George, Ward 4 Member

Zachary Parker, Ward 5 Member

Trayon White, Sr. Ward 8 Member

On the Matter of

Bill 25-555 "Addressing Crime Trends Now Act (ACT Now) Amendment Act of 2023"

Wednesday, 29 November 2023

9:00 AM

101 M Street, SW 3rd Fl.
Washington, DC 20024-3609
202.681.2764 cell
MPD Front Desk: 202.698.0555

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Greetings Chairwoman Pinto, Members of the Judiciary Committee, Staff, Members of the Metropolitan Police Department, fellow CACs', and those viewing this important discussion. I am Bobby Pittman and in this matter the ACT Now legislation before us, I present my views based on what I know, understand happens with causality and intended and unintended consequences.

Among Police Advisory Council there are many views on how we should move forward so I will limit the discussion to what I think. Today, I will refer all of you to my previous testimony which captured a number of the elements which are encapsulated in the legislation that is before this body. Generally, I support the Act Now legislation with some amendments. The Judges at Superior Court and in Appellant Court along with AG and USAO must be on board with this legislation. It is my hope that these parties will convene a discussion to ensure that appellant decision don't lead to defense attorneys getting convictions overturn. I want to emphasize some voices that are not testifying and some that have already testified.

- **The voices on the Wharf in Ward 6**, 1st District want – The wharf just as other areas of city has been hit with violent crime since July 2023 and need to ensure proactive policing and strong collaboration with private security and communication like alerts and lookouts etc. This is important to them.
- **The Pursuit Wine Bar and Kitchen** – is of great concern to us and the challenges there has been about the hardening of structural security. Our police conducted an intensive review of the corridor (H) Street and found many vulnerabilities that the ownerships needed to correct. H Street Main Street has invested in new safety measures at the Pursuit Bar and Kitchen and MPD will continue to patrol the area. It is important to point out we don't have enough police to be everywhere we would want them to be.
- **Police and Emergency Officials** should not get tickets in a bus lane - An emergency amendment is requested to the **Clear Lanes Program of DDOT and WMATA** to exempt emergency vehicles from getting tickets. Police are getting warning tickets already and simply stating that in an emergency the officer is exempt is not adequate. Failure to amend the current law and modify the regulation will decrease response times to calls of those in need. I've seen this story before. What happens if a Violence Interrupters or Mental Health Specialists respond to an emergency in their private vehicle and have to park in a bus zone? Is there a provision to assist them? Please don't repeat the mistakes of the past.
- **Neck Restraints are not Chokeholds** – Please have revised this provision. Everyone understands the sensitive nature of what I have just said and I understand the arguments made around this issue. It is not a black or white issue it is understanding the harm that can come to a person who needs to be restrained and the harm that can come to an officer that is forced to restrain someone who is in distress or simply refuses to comply with commands to stop and surrender. It is a complex set of circumstances that while oversight is required by police managers and supervisors and by the community, the current standard is causing far more harm and creating unnecessary Internal Affairs investigations.

- **The Residences at Gallery Place Condominium Association** has made a case for how we need Metro Transit Police to take a more active role in what is happening at Gallery Place. Drug dealing and gang activity is something this CAC hears about monthly from that area. Despite many arrests and many meetings with MPD officials it continues. MPD and the CAC has pleaded with the United States Attorneys current and previous to prosecute cases there. That is not always easy. Even then after adjudication they come back. The residents and businesses are angry, but what else can the police do when the judicial system simply fails to support the efforts of the police?
- **While Title X creates Drug Free Zones**, I know we have to be mindful of developing legal quagmire and simply moving the intended target a few blocks away. While the opposition to these measure will make this a black or white issue the reality is most people don't want this type of activity happening around them. My focus is on reaching an adequate compromise with those who oppose this measure, ensuring that the Judges and prosecutors can have an acceptable standard for the litigation of cases that do move forward and upon successful conviction appeals are found to show no violation of the Rights of the Accused. In otherwords let's make sure we get the language of the law correct the first time around. This is not an attempt to violate civil liberties, its is an attempt to protect civil liberties on all sides of the issue.
- **The Motto DC Center City** – States that their guests are often in the front row seat watching fights, drug sales and arrests. We must put an end to these behaviors.
- **Title II Subtitle B Criteria for detaining Children Sec. 211. Section 16-2310 of the District of Columbia Official Code** "(A) Committed a dangerous crime or a crime of violence; or "(B) Committed CPWL, carrying a pistol without a license For the purposes of this subsection, the terms "dangerous crime" and "crime of violence" shall have the same meanings as provided in section 23-1331. This is very important for judges as they need a better understanding of what is a dangerous juvenile.
- **SUBTITLE B. ENHANCED PENALTIES TO PROTECT PUBLIC TRANSIT Sec. 412. Section 4 of the Transit Operator Protection and Enhanced Penalty Amendment Act of 2008**, effective July 23, 2008 (D.C. Law 17-206; D.C. Official Code § 35-261), The impact on WMATA and Department of Recreation are important.
- **Title V REBUTTABLE PRESUMPTION; GPS DATA FOR PROSECUTION** – The language here speaks to MPD what about other police agencies? Also how do we ensure the GPS devices are monitored and we get data?

- **TITLE VI. GPS DATA FOR PERSONS UNDER SUPERVISION Sec. 601. (a) Supervisory agencies** responsible for pretrial services, parole, probation, or offender supervision shall, upon request of the Metropolitan Police Department, provide the Metropolitan Police Department with location and identification data collected from any detection device that a person is required to wear while incarcerated or committed, while subject to a protection order, - Strike Metropolitan Police Department and insert relevant Law Enforcement Agency. It is important to note that while MPD is the Sheriff, and all LEAs coordinate with MPD on GPS data. However, I believe it is more germane that the law use the language I prose for obvious reasons.
- **TITLE VII. STRANGULATION I support this measure.**
- **TITLE XI. INCARCERATION REDUCTION AMENDMENT ACT - Sec. 1101. Section 3c of An Act to Establish a Board of Indeterminate Sentence and Parole** for the District of Columbia and to determine its functions, and for other purposes effective April 4, 2016 (D.C. Law 21-238; D.C. Official Code § 24-403.03) – Why is this entity necessary? Can the DC Sentencing Commission absorb this responsibility?
- **Juveniles and Juvenile Criminal Responsibility** – Juveniles who kill, commit traumatic robberies, carjack, and beat people into a point of needing a hospital must be held accountable. Also, the community has community impact statements for adults, its time to have a community impact statement for juveniles. I have discussed this in past decades and its time to come back to the table on this issue. It can be done while maintaining the anonymity of the juvenile. This helps to bring closure to the neighborhood where a horrendous crime has occurred.
- **Darren Pasha** – **Stolen Scooter had a lock on the scooter**, a secure one. The screws on the pole where scooter was locked to , those screws were unscrewed via professional tools , this is what the investigation by MPD turned out to be. The CCTV camera also in the area outside MKL library (9th/G is where the crime happened) were not able to help locate the person who took my vehicle, A month later, I was shocked, I saw the person on my scooter riding around Dupont circle fountain area.. I took a video of the individual on my scooter. I started recording because as I got close to the scooter I recognized it and I had an app on my phone that once I pressed it, the Bluetooth connected. As I shout at him " it's my scooter" he drives it off . I then call 911. I shared the video with MPD, it went to a detective, who send it to the AG office. 4 month later the 14 year old took a plea deal. He was released back into the community, he is on probation . I expressed my frustration with the AG office " he is back in the community and he knows what I look like because I took a video of him ". AG office told me " he is on probation, he won't do anything to retaliate against you, if he does then he goes to jail " they said that to me to re assure me. it was not reassuring. I asked the AG office for " restitution" , AG office said they won't do that because of the financial situation his parents is in and he is 14 and he don't have a job, we can't ask for that for the value of your scooter which was $1100 as they had the receipt of my purchase. **Its time to stop this from happening.**

- **The Community bears a responsibility to deter crime**, not just police forces. As Community we must recognize that Part I offenses and Part II offenses each have negative impacts on the neighborhoods. When we minimize Part II offenses and the media publicizes those comments, we are sending messages to those who have nothing to lose that it's okay to steal, break into cars, play loud music all day or night, ride ATVs through traffic and all the other concerns fellow citizens complain about at our community meetings, tweets, and emails.
- We believe that in order to fully understand policing in this city-state we must have a wider net that looks at how security officers use their police powers, federal police agencies, our regional police (Metro Transit and Amtrak Police) and our other local police forces apply their police regulations and the impact that has on the community at-large. Comparing our city to San Francisco or New York has little value to us. Watching so-called experts talk about crime trends in our city is laughable. We can do better creating our on matrix.

This CAC believes the following must occur:

- **We must support the Rank and File** and let the remaining Sworn members know we have their backs. Most police are out day and night fighting for what citizens say they want safety, security, and fair justice in arrests.

- **We must ensure that police stations get renovated** or we build new facilities that meet code and have building certificates. Elevators must operate and toilets must flush. Lighting must be appropriate for the work environment.

- **We must ensure that facilities are comfortably air conditioned when needed and comfortably heated when needed,** regardless of the time of year. If parts are needed or there is a history of needing the parts in a specific building on an annual basis, then stockpile them! Locking prisoners in conditions that would be expected in Bogata will lead to the untimely death of someone especially one who is impaired or has a health condition. I think we all want to avoid that headline.

- **If Body Worn Camera Footage surfaces** that gives an angle of an event that appears to be an offense to the affected person and the community, consider waiting for more independent footage. If we cast doubt on our own police officers, without knowing the facts, we harm everyone involved. The presumption of innocence is given to citizens, shouldn't we do the same for citizens who wear badges and wait for adjudication?

- **Please reconsider the ability of an officer to review body worn camera footage for the ability to write a complete report of the incident.**

- **Chokeholds are not neck restraints!** To determine if the laws in place just protect the person being arrested and/or if the current laws produce regulations that put the arresting officer(s) in harms way. Weighing the costs of liability litigation to performance of duty injuries claims, police officer litigation and the cost to the officer and the taxpayer and its effects on police retention. There are no isolated events, and the unintended results are police will leave or simply not perform as the community expects for fear of adverse actions and possibly termination. Without a cost effectiveness analysis of the legislation and the resulting regulations we cannot adequately determine the true measure of the tool that has been implemented.

- ACT NOW takes into consideration that Metro Transit Police step up and patrol Metrobus, Metrobus shelters and Metro stations. This is very important.

- **Retail crime and parking garage attacks are increasing which also drain police resources**.
- **We must ensure that civilian employees have the tools they need to support the LEA side** in performing their roles and that the civilian employees feel whole and are treated with the respect and dignity they deserve.

- There has been a push for more data around policing. This CAC agrees with that assessment and has long sought those changes. Our recommendation is that while this legislative body reprograms monies to alternative programs, data shows there is a need for fixed funding in the areas of technology and data specialists dedicated to extrapolating the right information that is useable for all of us including police managers and directors to completely understand what is happening with our policing and how it affects all segments of the communities' police district by district.

- **Consider its time to raise the sworn officer number to 5000**. Here is why. Only looking at patrol or thinking that every nonpatrol officer should always be on the streets is not effectively understanding the organization. There is a need to understand limited duty officers and non-contact officers and how these categories impact staffing and planning. This assumption does not consider the number of officers in Roll Call on a day to day, does not include the vast number of cases created every day and the flow of investigations that require a detective.

- **Caseloads for detectives are too high**. In CAC meetings residents often complain that it takes too long for detectives to respond to them. We don't blame detectives; we blame the lack of personnel necessary to meet the demand. The stress on detectives, the burnout factor we believe, contributes to the lag time in developing leads and to close case timely.

- **Members need time for training** and if you pull them out for required training or remedial training, there is no longer anyone to backfill those positions, yet the calls for service continue to come in on an hourly basis. This is why staffing numbers is so important. Everyone says they want to see more officer training. If we continue this way, we will begin to look like other cities where it takes upward of an hour before police can respond to calls for service. Washington, DC, can't afford that for our citizens, our businesses, and our tourists.

Thank You for the opportunity to testify.....

Dear Washington, DC Council Members:

I am a resident the Fairlawn Community, in Ward 8. I am writing to you in support of the ACT NOW proposed legislation. It is imperative that you to pass this legislation. Crime in Washington, DC has reached epidemic levels. I have lived in Washington, DC for the past 23 years, and have not seem a crime wave like this before.

This bill is a start to reverse the criminal activity that's ravaging our city, across ALL wards. It's time DC has legislation that allows us to hold criminals accountable for their actions. I also support the language to declare drug free zones to address the open-air drug markets and the loitering problems the city is currently facing.

We see small businesses leaving the city all the time because overall crime in the city. We will not be a viable city if we can't keep tax-paying businesses running and your constituents employed. Please pass this legislation as a start to protect DC residents.

G.A. Cameron
Ward 8
Fairlawn Community (and DC taxpayer)

Gary Zottoli

I'm a decade-long resident of DC testifying against this awful bill. The constant parade of show legislation like ACT is a twisted sort of kabuki theater to watch. How many more of these bills, that all available research and common sense shows don't work, is this Council going to entertain? Just like ACTIVE, Safer Stronger, and the Prioritizing Public Safety Acts before it, none of these will work to address any of the problems we're actually seeing unfold in our city. Can this Council -- and specifically the private equity-heiress currently in charge of the Judiciary Committee -- get serious about all this?

The type of cheap propaganda rolled out in support of ACT is a good tell to the terrible intent behind this bill. Authorizing choke-holds and strangulation — which ACT does — are not "tool" in stopping crime. Anti-mask laws — which augments sentencing AFTER convincing — is not "acting" to deliver public safety. Haranguing people through "drug-free" zones will not address the sources of violence that come from our neighborhoods — it will reward the sort of lazy policing that allows cops to snooze or doomscroll in their police cruisers outside of parks and schools. Buying into "organized" retail theft panic is just giving hand-outs to big-box retailers, the sort of organized capital that's been pushing small businesses out of the city for decades. None of this will work.

A recent report published by the OSSE recently showed chronic truancy in DC's school systems — 37% city wide. If we want to act on crime, how about we start here? This is the sort of problem that prompts crime, violence and alienation across our city. We need to create clear pipelines to good, fulfilling municipal jobs that enriches the neighborhoods of our city and provides clear roadmaps for careers to our youth. Rents are still sky-high in the city. When will this city get serious about expanding renter protections — including rent control — so that our people aren't subjected to violence from landlords and corporations sucking wealth and prosperity out of our city? These are the problems that when addressed actually cuts out the pathways to violent or criminal behavior we are seeing unfold across our city.

We need a DC Council that is ORGANIZING the streets — not choking it to death. Anything short of strong public programs that address wealth inequality, housing insecurity, hunger, and collapse of our educational system will do little to solve the problems ACT is pretending to address. Should go without saying that, when looking at the boosters of this legislation we see a network of private school boosters, landlords, and finance lobbyists whining urging for its passage. These are the people who have destroyed our public school system, strangled our small businesses, and gentrified sectors of the city into high-income playpens. We need to the DC Council to stand up to these cretins — for the love of god, wake up!!

Geoff Gilbert
Beloved Community Incubator, Legal and Technical Assistance Director
November 29, 2023

Committee on the Judiciary and Public Safety
Bill B25-0555 - Addressing Crime Trends (ACT) Now Amendment Act of 2023

Dear Chairperson Pinto:

Thank you for the opportunity to speak today. My name is Geoff Gilbert and I am the Legal and Technical Assistance Director at Beloved Community Incubator (BCI), a DC-area worker self-directed nonprofit that incubates cooperatives and organizes workers' campaigns, including the campaign to decriminalize street vending in DC and the excluded worker coalition.

BCI acknowledges that violence in our city is an urgent issue. We ask that the Council focus on preventing violence by investing in communities - invest in affordable housing, quality public education, quality public health insurance and the creation of high-paying jobs that allow communities to have access to the resources we all need to thrive and to keep each other safe. Focusing on punishment has not and will not work.

BCI works directly with Black, Latine and other communities of color and many poor and working class workers of color who will be directly impacted by the Addressing Crime Trends (ACT) Now Amendment Act of 2023 (Henceforth "The Act"). The Act is not primarily about recognizing day-to-day operational challenges that police officers face - it is an attempt to simply expand police powers and discretion. BCI strongly opposes the Act for the following reasons:

1. **The Act expands police discretion without any demonstrated need or reasonable limits**.
    a. The Act would lessen restrictions on chokeholds and on police car chases - these are dangerous enhancements of police discretion. Past MPD behavior has shown us that when officers have discretion to engage in more violent behaviors, they use it.
    b. The Act would provide police with the power to institute temporary "drug-free zones," a failed police power that the DC Council previously took away from the police in 2014.[1] Drug-free zones were an advent of the War on Drugs often instituted across the U.S. near schools, playgrounds, or public housing projects.

[1] D.C. ACT 20-473: https://lims.dccouncil.gov/downloads/LIMS/31535/Signed_Act/B20-0760-SignedAct.pdf.

Research has shown they did not typically reduce drug use or sales but did increase rates of incarceration in Black communities.[2] Drug-free zones have been proven to be ineffective - there is no reason to expand police powers by re-granting MPD the ability to declare temporary drug-free zones where MPD is able to operate with enhanced discretion to arrest people.

c. In addition, the Act New proposes to create new penalties for organized retail theft. Retail theft is already a crime. What is the goal of creating a new additional penalty for retail theft?

2. **The Act will have a disproportionate racial impact**.
   a. DC is a city where 74.6% of police stops are on Black people, who make up 46.5% of the population.[3] Expanding police powers and discretion, as this Act does, is only going to disproportionately negatively impact Black people.
3. **The Act could even negatively impact exercise of free speech in the District**.
   a. The Act proposes to revive the law banning mask-wearing to commit a crime, which was ended in 2020 as a part of the council's reforms. Many people in DC wear masks to protests, where police often seek pretexts for arresting individuals who are legally exercising their free speech rights for offenses related to defacing property. We are deeply concerned that this provision of the Act will provide another pretext for police active in DC to repress constitutionally protected free speech rights.

Thank you,

Geoffrey Gilbert

Geoff Gilbert
Beloved Community Incubator, Legal and Technical Assistance Director

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[2] See The Sentencing Project, "Drug-Free Zone Laws: An Overview of State Policies" (2013): https://www.sentencingproject.org/app/uploads/2022/08/Drug-Free-Zone-Laws.pdf. See Justice Strategies, "Disparity by Design: How drug-free zone laws impact racial disparity – and fail to protect youth" (2006): https://www.justicestrategies.org/publications/2006/disparity-design-how-drug-free-zone-laws-impact-racial-disparity-and-fail-protect-#:~:text=Drug%2Dfree%20zone%20laws%20erode,state%27s%20drug%2Dfree%20zone%20statute. See Justice Policy Institute, "Disparity by Design: How drug-free zone laws impact racial disparity – and fail to protect youth" (2006): https://static.prisonpolicy.org/scans/jpi/06-03_REP_DisparitybyDesign_DP-JJ-RD.pdf.

[3] ACLU Analytics & ACLU of the District of Columbia, "Racial Disparities in Stops by the Metropolitan Police Department: 2020 Data Update" (2020): https://www.acludc.org/sites/default/files/field_documents/2021_03_10_near_act_update_vf.pdf.

Statement by Howard S. Marks
Vice President
The Residences at Gallery Place Condominium Association
The District of Columbia Committee on the Judiciary and Public Safety
Hearing on Addressing Crime Trends Now Amendment Act of 2023
January 29, 2023

Madame Chairperson Pinto and Committee Members, my name is Howard Marks and I am the Vice President of the Residences at Gallery Place Condominium Association.

Before I start my formal statement, I wanted to thank Chairperson Pinto her for leadership in combatting crime in the District. Even though she has been committee chair for less than a year, Ms. Pinto has demonstrated effective leadership with her legislative initiatives including the emergency crime bill, her Secure DC Plan, her efforts to combat Metro fare evasion and her sponsorship earlier this year of a public forum on crime in Chinatown and just last week legislation to address the opioids and youth violence crises.

We are one of the largest downtown condominiums with approximately 300 residents. The building was delivered in 2004 as part of a mixed-use development including residential, office and commercial uses in one structure. We have a diverse, multiracial community which includes professionals, government officials, diplomats, and students. Many were attracted to our building because of the Chinese culture and our central location directly above three Metro Lines. As Washington Capitals part season-ticket holders, it was a dream come true for my wife and I to move into a building with all-weather access to the Capital One Arena.

I am here today to testify in favor of Council passage of Addressing Crime Trends (ACT) Now Amendment Act of 2023, bill 25-0555 introduced by Chairperson Mendelson on behalf of the Mayor on November 2nd. It addresses the need for stronger legislation to curb the frightening increase in crime in our city which seemingly worsens daily.

I have several suggestions on how the bill could be strengthened and by eliminating loopholes which will make enforcement difficult.

I want to focus on Title X which creates Drug Free Zones. We thank Mayor Bowser for this bold initiative. Since the possession of cannabis was decriminalized by the Council, a thriving around-the-clock open air drug market has emerged under our building at the southeast corner of 7th and H Streets, NW. The base of operations for drug dealers is at the south anchor of the Chinese Friendship Arch, a gift from the Chinese government to people of Washington. How ironical drug dealers would choose the arch to sell their illicit wares after the Chinese people fought two wars unsuccessfully in the nineteenth century to stop the importation of opium into their country by the European powers—the so-called Opium Wars.

Our residents daily are faced with a gauntlet of dealers who regularly jump the faregates at the Gallery Place-Chinatown Metro Station. Often, they set up shop at the top of the three sets of Metro escalators leading to the street. The rights of Metro passengers to have unimpeded access to the station or the street are arrogantly denied by these dealers. Metro Police enforcement is spotty and the dealers know if they are caught blocking the escalators nothing will happen to them. Drug couriers drive at dangerously high speeds on e-scooters and e-bikes on narrow, crowded sidewalks threatening the safety

of pedestrians. When it's too cold or rainy, the dealers descend to the mezzanine level of the station to smoke and continue their illegal activities. And now merchandise stolen from local stores like paper towels and laundry detergent is sold in the drug market.

Section 3 should be amended to eliminate the limit of 120-hours or five days on declaring a drug free zone by the Metropolitan Police Department. A five-day moratorium on drug sales will not solve the problem as the dealers will simply move to the next block during that short period. We need a **permanent ban** on drug sales in highly trafficked locations such as near Metro stations, sports arenas, and federal and DC government buildings, including leased space. It should be like the 1,000-foot restricted zone we have for schools. Feel good solutions will not solve the takeover of parts of our city by drug dealers. The requirement to notify the Council every time a drug free zone is declared is unnecessary and will only create a bureaucratic hurdle for the police to act to shutdown these illegal markets.

These are the other changes we would like to see:

--Section 3 (4) lays out the criteria for establishing drug-free zone. It should be expanded to include the economic impact of drug dealing on local businesses and residents. Especially hard hit is one local Chinese restaurant where customers must fight through the dealers to enter the restaurant. The value of nearby residential properties is also adversely affected by the presence of the illicit drug market;

--Section 5 limits enforcement to the Metropolitan Police Department. This should be expanded to include MPD partner federal police departments and Metro Police;

--Section 6 exempts waiting bus passengers from the provision against congregating in a drug-free zone. This loophole will allow dealers to claim they are simply waiting for a Metrobus with police unable to disprove the assertion. It is a loophole you can literally drive a bus through. This provision should be stricken.

That concludes my statement, I would be happy to respond to your questions.

Isabella LeBlanc

My name is Isabella LeBlanc and I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I am currently a senior undergraduate student at GWU and have been incredibly disheartened by the ACT Now Act, the ACTIVE Act, and many of the retributive acts in the Secure DC plan at large. Rather than addressing the rise in crime, these bills further exacerbate the over-criminalization of Black and brown Washingtonians, particularly children. This bill was authored with the intention of "keeping us safe," but I feel less safe and secure under a government that is comfortable harming marginalized communities to appease business owners and powerful actors who have a fundamental misunderstanding of why crime occurs.

No actor of the state should be allowed to put community members, especially children, into chokeholds with no oversight and no accountability. For you to address the murder of George Floyd in your campaign promises and statements and then to enact a policy that would allow officers to recreate the same conditions that led to his death is disappointing, cruel, and hypocritical. How does brutalizing someone who commits a crime address the root causes of that crime in the first place? I have spent the past semester learning about victimology, where among many things, we learned that there's strong statistical evidence to suggest that police mistreatment—from physical abuse like the ACT Now Act would permit to a lack of empathy or understanding—of offenders will lead to higher rates of victimization in the future. With this bill, you are not only creating the potential for assault and even homicide at the hands of the police, but also creating future crime victims.

As a member of the DC community, I would like to see the effort, intelligence, and time put into this bill refocused into restorative and sustainable measures, like the SafeAndFreeDC agenda, providing victims with resources that are not contingent on their reporting to police, and providing meaningful investment into the basic needs of our community. I am a college student, and my experience of communal safety in a local network that knows and depends on each other is what pushes me to testify today. The safety on my campus happens when my community's basic needs are met—and this is also true for DC at large. I implore you to think critically about how to respond to crime increases in a way that does not punish harm, but seeks to repair and restore all involved parties.

Vote NO on Act Now. Vote NO to the future statement of regret your office will issue if this bill passes and a police officer brutally assaults a community member. Choose instead to enact research-supported policies that address root causes like access to food and healthcare. Thank you.

Janelle Andrew

I, Janelle Andrew, of Ward 5, support this legislation. Thanks.

November 28, 2023

The Honorable Phil Mendelson
Chairman, and Members of the Council
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Re: Addressing Crime Trends Now Act (ACT Now)

Dear Chairman Mendelson and Distinguished Council Members,

My name is Jean Homza and I've been a resident of D.C. for more than 40 years and live in Ward 5. I have worked in D.C. since the early 80's in various bars, The Washington City Paper and I have been an employee of the 9:30 Club since 1997.

In all these years I have witnessed the blight and then the revitalization of the city's commercial corridors. Prior to the pandemic, our industry – the service industry and our city's main industry - was thriving and exciting. Since the pandemic, the service industry is struggling, and I am extremely concerned about the increase in empty store fronts on H St NE and U St NW. Yes, the pandemic has impacted the attrition of businesses; but what I hear mostly from small business owners is that crime is what is keeping their customers away.

So, I am here to express my strong support for the "Addressing Crime Trends Now Act (ACT Now)." I believe this act is essential to increasing public safety and effective policing in our city. While this act is not a panacea, it certainly is a step in the right direction in helping MPD and the courts have better tools for enforcing the law and making our neighborhoods safer.

I am particularly supportive of the following key provisions:

<u>Addressing Loitering Around Open-Air Drug Markets:</u> The reinstatement of the MPD Chief's authority to declare temporary drug-free zones and instituting a no-loitering law will substantially disrupt drug-related activities and allow for the reclamation of public spaces for community use.

<u>Supporting Safe and Effective Policing:</u> The distinction between serious use of force and incidental neck contact is vital. Allowing officers to review body-worn camera footage before writing reports and permanently clarifying policies on vehicular pursuits and officer discipline are critical measures for enhancing operational efficiency and accountability.

<u>Combatting Organized Retail Theft:</u> The creation of criminal penalties for organizing retail theft is essential for the security and sustainability of our local businesses, directly

affecting the safety around these commercial areas.

I strongly urge the Council to act swiftly to pass the ACT Now Amendment Act. This legislation is an important first step toward enhancing the safety, security, and hopefully the prosperity of our community.

Thank you Councilmembers for listening and for your dedication to making our city a better and safer place.

Sincerely,

Jean Homza
26 Seaton Pl NW
WDC 20001
jean@930.com

Jeanette Mendes

I, Jeanette Mendes, of Ward 5 approve the ACT NOW legislation.'

John Payne

My name is John Payne and I am submitting this testimony to oppose in the strongest possible terms the Addressing Crime Trends ("ACT") Now Act of 2023. I am a born and raised Washingtonian and have lived here most of my life. I have seen how DC has changed over the past 40 years and I am tired of attempts by members of the city government to push discredited and racist policies that do not keep us safe, but instead target the working class and people of color. This bill will not help keep us safe. Just like the other poor excuses for public safely legislation that have come up this year, (ACTIVE, Safer Stronger, Prioritizing Public Safety) the ACT bill is doubling down on harmful polices that didn't work before and will not work now.

The drug free zone laws of the 90s did nothing to reduce harm in our communities. Instead, they led to police harassing young people of color and pushing more and more of our city's kids in prison. I have been mugged here in DC. Family members have had cars broken into. My church has been vandalized and broken into. But knowing that our young people will be pushed into prison, that police will be able to use deadly force, choke holds, and be able to doctor their testimony does not make me feel safer. Neither I, my family, or the members of my congregation want to see more people targeted or in jail. In fact, this bill makes us feel less safe. We don't want our friends, family, and neighbors abused by police in my name or in the name of my safety. This is not want public safety looks like.

Instead of putting more money into these racist fear tactics, DC should be investing in our communities. There are so many ways we can increase safety here in DC that do no rely on police or put residents at risk. We need to be investing in more violence and the Violence Intervention Working Training Academy. We need to invest in mental health and behavior counseling in each and every public schools. We need to move traffic enforcement out of the MPD and to the the Department of Transportation so that people trained in public safety and not violence are interacting with the pedestrians and motorists. We need to listen to the survivors of sexual and domestic violence about what they need to feel safe. These are the types of policies will lead to a safer and better city.

In closing, thank you for taking the time to read this testimony. The city cannot move back into the past to solve the current problems with public safety. These racist policies are what got us here in the first place. They do not address the root causes of crime and only lead to more pain and harm within our city. If we want a truly safe and peaceful Washington, we need invest directly into our communities and not our police. Please invest in us and not the MPD.

Testimony in Support of the ACT NOW Bill 11/29/2023

To whom it may concern or the DC Council:

I have lived in WARD 1 for nearly 10 years, and in that time, I have not seen the levels of crimes and lawlessness rise to the current levels. The entire U Street strip and 14th St near Irving and Columbia Heights Plaza have become open air illegal drug markets, and something needs to be done to strengthen the ability of MPD to keep our streets and residents safe.

Several years back, teenagers who attended Cardozo High threw rocks at me while was walking home at 11th Street. I gave chase and caught one, handing him over to an officer who was on U and 11th, who then promptly put this kid on a bus and dd not even bother to call his parents.

A few weeks later, these same teenagers, who previously faced no consequences, through a heavy liquor bottle through the windshield of my parked car in the alley of my home. I filed a police report and submitted video taken from my surveillance cameras. The perpetrators were caught and I was initially granted restitution. However, after one check was sent, which I did not cash, a judge ruled that I could not get restitution due to the financial hardship. So again, no consequences for the criminals.

During the pandemic, my home has been broken into twice, on the first occasion, I was initially able to apprehend the perpetrator, who walked through an unlocked front door, had taken several items from my living room space while I was upstairs. I caught him outside, and when I was able to wrest away one item, I let him go as there was no police in sight, but after returning home, I realized a few more items were missing.

I went back out to look for the perpetrator again, and luckily my wife was able to flag down a patrol car, who drove me around the block where we were able to spot the perpetrator and then MPD made the arrest.

It turns out the perpetrator had committed the same crime in several instances within the SE Capitol Hill area the year before and had also physically broken into a home on Kenyon St and terrorized an autistic child while stealing a game console, just before breaking into my home. So again, this perpetrator, faced no consequences and was able to repeat and escalate the nature of their crimes.

Though relieved that this criminal received 8 years in prison, I am worried that once he gets out, he'll be out for revenge, even though he does not directly know it was me who got him taken into custody.

My tenant apartment which is the ground floor of my home was broken into this last summer, through the only window without bars on it. The burglary remains unresolved.

I went to see our Ward Councilmember absolutely livid, that both these crimes occurring in broad daylight are an example of her and the DC Councils' ineffective and uniformed policies, to which her response was a typical speech read off a queue card or one of the useless wasteful mailers she prints out to lull people into a false sense of security. She then asked me what she could do.

One of the things I asked her to do was clean up Columbia Heights Plaza and Irving St and her answer was "I've pretty much already done that." The sheer audacity of such an uninformed stance, and contempt for anyone to challenge her about her policy stances is a constant when speaking to the WARD1 CM. The nerve she has to say I don't know what laws are negatively affecting the community, I live here!!!!!!!! Well, you could imagine my surprise that our own tone-deaf CM, is now proposing opening a "Sobering Center" located right off of the plaza. I thought you cleaned it up NADINE?

The entire DC Council and especially WARD 1's CM should hang your heads in SHAME!! You have failed me on so many occasions, which I tried to briefly summarize here, but essentially is to keep our residents safe and the streets clean. You want statehood and can't do the basics, no wonder we are not a state!!! Why do I pay taxes to be so utterly and completely underserved. I am so sure that I am not the only DC resident who feels this way. Your adherence to your political dogma should not come at the cost of the lives and safety of your constituents. You work for US, take our concerns seriously, and take actions that will contribute towards resolving those concerns!!!!

However, at the moment, what you can do is support this ACT in its entirety, without modification as I do. However, if you did want to modify it you should:

- Have the mayor invoke the National Guard to enhance and augment the MPD PSAs
- Amend or Revoke the Youth Rehabilitation Amendment of 2018 to combat the constant recidivism currently contributing to our current state of lawlessness.
- Include an amendment to not allow the DC Council to interfere with MPD operations and policies. Create an accountability organization made up of ANC or other residents.
- Make the entire city a permanent drug free zone. I can't walk down the street without getting a cannabis contact high, thanks to you.

If you can't do those, then approve the ACT NOW and get out of the way!!!

John Satyabhashak

ANGRY Home Owner/DCWARD 1 Resident and now DEMOCRAT!!!

Jonathan Gibbs

There have been many sophiticated petty criminal acts reported to have been perprated by teenagers but likely organized by adults.

I would like to suggest prosecuters use the RICO act to prosecute adults who organize teenagers and younger children to commit petty crime.

The likely premise of the explosion of criminal acts is that they acts are too small to warrent prosecutoral resources. By using the RICO act, one may deter adults from continuing to organize such acts.

Good morning esteemed members of the Council. I appreciate the opportunity to address you today. My name is Josh Baker, and I am a proud native Washingtonian. Currently residing in Ward 4, I am here to express my support for the Addressing Crime Trends (ACT) Now Amendment Act of 2023. Our city is undeniably grappling with a crime crisis, and any legislation aimed at addressing the immediate or underlying causes of this surge deserves the backing of this council. While acknowledging that no legislation is flawless, it is crucial that we endorse measures taking even incremental steps towards resolving the issues they target.

Over the years in the District, I've witnessed the positive transformation that occurs when crime is effectively managed, leading to prosperity for our city. I am hopeful that with prompt and decisive action from this body, we can swiftly return to that state. However, it's essential to note that there are various crimes not adequately addressed by this legislation. Murders, carjackings, retail theft, and other offenses continue to plague our citizens and visitors. As elected officials, your responsibility is to address these significant issues. I urge you to promptly support this legislation and, once enacted, expeditiously work on drafting, evaluating, and implementing additional measures that contribute to public safety, targeting the reduction of these crimes and addressing the root causes of this crisis.

I am aware that you have heard from numerous individuals and organizations today, and there are more perspectives to consider. Therefore, I will quickly yield my time, leaving you with this final thought: Your endorsement of crime reduction legislation is an investment in the future of our city. Creating an environment that tackles the root causes of criminal behavior, supports law enforcement, holds wrongdoers accountable, and emphasizes rehabilitation is crucial for building a safer, more resilient community for generations to come. I implore you to lead by example, demonstrating unity in your commitment to prioritize this legislation and allocate your time towards additional efforts aimed at solving our crime problems. Thank you.

Juliana Barnet

My name is Juliana Barnet. I live in MD just at the line with NE DC Ward 5. I am against jump-outs, stop-and- frisk, and the general repressive atmosphere created with laws like the proposed anti-loitering legislation.

That said, I have personal experience with the danger of police chase, which I am dismayed to see is being made more acceptable in the proposed ACT Now law.

In 2017 I was carjacked on Rhode Island Ave, just a couple blocks from DC, at 10 AM. A man came in through the window of my car brandishing a knife and threatening my life. I managed to get out of the car with my purse but he got the keys and drove off. When the PG police finally came they radioed the DC police, who located and pursued my car.

As a result of the chase, the carjacker crashed into another vehicle and wounded two other people. He was hurt himself, arrested and eventually tried and convicted. The result is that these innocent people were severely injured and my car was totaled. I was never able to find out what happened to the injured citizens.

That result was not a net gain of public safety, even though the perpetrator was caught. It seems that a safer, more skillful way of stopping a car should have been sought. I would hate to see such dangerous chases made even more likely to occur through passage of this law.

11.27.2023

ATTN: City Council Committee of the Whole of Washington, DC

Dear Council Members:

I am a resident the Fairlawn Community, in Ward 8. I am writing to you in support of the ACT NOW proposed legislation. I am imploring you, no, begging you to pass this legislation. Crime in Washington, DC has reached a level that I have never seen before. I have lived in Washington, DC for the past 20 years, and have **never** felt so insecure in the city as I do now.

I support the language to declare drug free zones to address the overwhelming open air drug markets (using and selling) and the overwhelming loitering problem DC has. This legislation will also help our seniors feel safe to leave their homes and our children, those who are actively trying to get to school, feel safe and secure. It is imperative we get crime under control, and that starts with the city council, the mayor's office and Deputy Mayor Appiah tackling this epidemic. The Fairlawn Community in Ward 8 has two elementary schools, and because of the open-air drug markets, the illegal street vending and the overwhelming amount of detrimental loitering, children and parents in our community cannot safely get to and from school without the fear of being attacked.

This bill is a start to reverse some of the detrimental actions of the 2020 legislation passed that emboldens the criminal activity that's ravaging our city, across ALL wards. However, Wards 7 + 8 see the most violent crime and we have the least amount of resources to deal with it. To have our brave first responders (police, EMS, fire, etc…) effectively serve the city, we **MUST** pass legislation that allows them to practice at the top of their scope. We **must** have legislation that allows the city to hold criminals (adults and juveniles) accountable for their actions.

We see small businesses leaving the city almost weekly because of organized retail theft and overall crime in the city. If we can't protect our small businesses, which employe thousands of residents across all wards and pay taxes, then how can the city grow and thrive? We are seeing our city die before our eyes because the are not effective laws to hold criminals accountable. We are the nation's capital, we need to protect the city, our citizens and the millions of visitors we **NEED** every year to keep the city alive.

Please pass this legislation as a start to protect the constituents that you are elected to represent.

Julie Cameron
Ward 8
Fairlawn Community (and DC taxpayer)

Karen Hylton

Request for Bowser to demonstrate the choke hole she wants police to assault individual with. Iam asking for this demonstrate to be done to her as officer that chase harrass beat up then slam on ground while being choke hole. I am requesting that the mayor and her adopted child be placed in on going traffic as these officers chase these individuals

Kate Sugarman

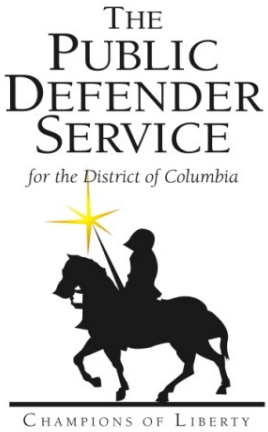
I have been a DC family physician in public health clinics since 2003. I am quite upset by the Mayor's latest crime bill. I see on a regular basis how my patients of color are negatively impacted by punitive police practices. These practices are so severe that sometimes my patients and their families never recover.

I urge you to NOT curtail transparency.

- Do NOT revive racist surveillance practices
- Do NOT make it easier to harm my patients.
- DO invest in health care, housing, addiction treatments and mental health services for my patients.
- DO reject punitive strategies.

As a family doctor I want my patients and all DC residents to thrive rather than be excessively punished.

Kate Sugarman, MD



COMMENTS OF THE PUBLIC DEFENDER SERVICE
FOR THE DISTRICT OF COLUMBIA
concerning

Addressing Crime Trends (ACT) Now Amendment Act of 2023
Bill 25-0555

Presented by

Katerina Semyonova

before

COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY
COUNCIL OF THE DISTRICT OF COLUMBIA

Chairwoman Brooke Pinto

November 29, 2023

Heather N. Pinckney, Director
Public Defender Service
633 Indiana Avenue, N.W.
Washington, D.C. 20004
(202) 628-1200

Good morning. I am Katerina Semyonova, Special Counsel for Policy and Legislation at the Public Defender Service for the District of Columbia. PDS opposes the Addressing Crime Trends (ACT) Now Amendment Act. This legislation is a remarkable and cynical departure from where we were less than three years ago when the Mayor painted "Black Lives Matter" on 16th Street. This legislation inexplicably walks back a prohibition on chokeholds by law enforcement, it decreases community trust by limiting public access to police disciplinary findings and limits the public from even learning whether disciplined officers remain employed, and allows police unfettered access to their own body worn camera prior to writing initial reports. With respect to each of these provisions, the bill would reverse legislation passed unanimously by the Council less than a year ago, and passed as emergency and temporary policing reform legislation. Like the other crime bills that the Council has already considered this year, this one does not address the root causes of violence, nor does it have anything to do with dedicating resources to implementing the Gun Violence Reduction Strategic Plan.[1] Residents want real strategies to reduce violent crime. Decreasing police accountability, allowing police to use neck restraints, displacing and harassing residents who police believe may be engaged in a drug offense from one block to another will do nothing to make the District safer. Given today's time limitations, PDS's oral testimony will address only some of the provisions of the proposed legislation, PDS's written testimony will address the remaining provisions.

Allowing Neck Restraints – Chokeholds – to Control Movement

The legislation allows neck restraints - meaning chokeholds - by law enforcement when done to restrict someone's movement. Since no law enforcement officer will ever state that they

[1] *Gun Violence Reduction Strategic Plan*, National Institute for Criminal Justice Reform, 2022. Available at: https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/page_content/attachments/DC%20Violence%20Reduction%20Strategic%20Plan%20-%20April%202022.pdf.

are choking someone in order to restrict their breathing, it was the prohibition on the use of neck restraints for the purposes of controlling movement that actually did the work of banning chokeholds by law enforcement. If this restriction is lifted, law enforcement would be able to grab D.C. residents by the neck for the purpose of preventing what they allege is conduct like resisting arrest. This is exactly the type of police action and justification that resulted in the murders of Eric Garner and George Floyd. This legislation has nothing to do with "incidental contact with the neck," as stated in the Mayor's letter introducing this legislation. Under current law, incidental contact with the neck is not prohibited, but if the Council wanted to address concerns about incidental contact, it could pass specific language about "incidental contact." In its ban on all neck restraints, passed unanimously less than a year ago, the Council included this explanation: "Police brutality is abhorrent and antithetical to the District's values."[2] It can't be that police brutality is no longer abhorrent and antithetical to the District's values. The Council should reject this change.

Police Accountability - Removing Information from the Yet-to-Be-Created or Funded Public Database

Maintaining public trust is essential for a functioning law enforcement system and this legislation violates that public trust by shielding law enforcement misconduct from public view. The Mayor's legislation would unwind the Council's progress in police reform by removing officer names, duty status, and replacing disciplinary decisions with MPD-created summaries in a yet-to-be-created, or even funded, police misconduct public database.

[2] Bill 25-0163, Comprehensive Policing and Justice Reform Emergency Amendment Act of 2023. Available at: https://lims.dccouncil.gov/Legislation/B25-0163.

D.C. Code § 5-1116(a) was promulgated as part of the Comprehensive Police Reform Amendment Act of 2022.[3] To date, this legislation has not been funded by the Mayor. Once funded, D.C. Code § 5-1116(a) would create an online database of sustained complaints against police officers. As passed by the Council, the database would provide the following information with respect to **sustained** complaints: the officer's name, badge number, length of service, and current duty status; the complaint or conduct that was the foundation of the sustained allegation; how the complaint was initiated, meaning whether a government entity or a civilian initiated the complaint; the final disposition of the complaint; the final order or written determination pertaining to the sustained complaint; and the discipline recommended by the Office of Police Complaints.

This database would not include any private medical records of the police officer. It would not include any officer's home address or other personal information. It would include basic accountability information that is available about officers in connection with sustained complaints against them in many other jurisdictions.

Dozens of licensed professionals in the District have their names and license status available to the public. The public can see sustained and complete disciplinary findings for lawyers and doctors in D.C. on public websites.[4] As Karen Dale of AmeriHealth Caritas testified at the hearing on the Comprehensive Policing and Justice Reform Amendment Act, "public

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[3] D.C. Law 24-0345, introduced as Bill 24-0320, Revised Criminal Code Bill of 2022.

[4] See D.C. Bar at https://www.dcbar.org/Attorney-Discipline/Disciplinary-Decisions and D.C. Health at https://dchealth.dc.gov/service/medicine-disciplinary-actions-taken.

accountability and transparency have long been standard in health care." [5] It should be no different for police officers.

In crafting policing reform legislation – that the Mayor now seeks to effectively repeal – the Council struck a balance between the privacy interests of law enforcement officers as employees and its constituents' public safety needs for law enforcement transparency and accountability. Responding specifically to testimony from Gregg Pemberton, Chief of the MPD Police Union, the Council limited the public database to sustained allegations of misconduct involving interactions with the public, the integrity of the officer, or the officer's commission of a crime.[6] Allegations that are not sustained, or that are in the investigation process would not be included. Sustained infractions solely related to employment, rather than interaction with the public, for example arriving late to work, also would not be available for public view.

This was a laudable and entirely reasonable reform that needs to be funded by the Mayor's office, not overturned. Michael Tobin, the Director of the Office of Police Complaints, rightly praised the police reform legislation in his testimony, stating: "The proposed legislation offers a significant step toward transparency with the requirement for MPD to publish a database of the disciplinary history of each officer. In addition, the [FOIA] exemptions for officer's individual disciplinary records and complaints will also improve community trust in the disciplinary process by eliminating the cloak of secrecy that has long shielded the public's understanding of police misconduct."[7]

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[5] Bill 24-0320, the Comprehensive Policing and Justice Reform Amendment Act of 2022. Available at: https://lims.dccouncil.gov/downloads/LIMS/47448/Committee_Report/B24-0320-Committee_Report1.pdf?Id=151042 at page 1412.

[6] Committee Report, page 45, Bill 24-0320. Available at https://lims.dccouncil.gov/downloads/LIMS/47448/Committee_Report/B24-0320-Committee_Report1.pdf?Id=151042.

[7] *Id*.

This database reform was also in line with reforms in other jurisdictions. Hundreds of thousands of records for sustained allegations are available in New York.[8] California budgeted more than six million dollars for the creation of a public database of police complaints and instances of use of force.[9] According to the Pulitzer Center, nineteen states now have laws that allow these records to be mostly available to the public.[10]

The Executive has framed this amendment as addressing officer recruitment and retention, but removing accountability and transparency is not an acceptable retention or recruiting tactic for police officers and cadets. It would be concerning to learn that the persons responsible for recruiting MPD officers were willing to accept an applicant for whom it's important that any sustained misconduct of theirs would be hidden from the residents and communities they will police; but it is alarming to learn that Mayor actually thinks it acceptable to actively seek candidates for whom lack of misconduct transparency is a selling point. With hiring bonuses, consensual overtime, 0% interest loans for housing, and other benefits, the District should be attracting officers who want to be part of an accountable police force.[11] Further, there is no meaningful evidence that accountability and transparency reforms are behind MPD attrition. Reporting by Jenny Gathright at WAMU documented that the primary drivers of attrition were mandatory overtime and canceled planned time off that showed how little MPD

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[8] See NYPD Misconduct Complaint Database: 302,801 complaints about NYPD misconduct. (Last checked on 12/4/2023). Available at: https://www.nyclu.org/en/campaigns/nypd-misconduct-database.

[9] Rachel Leven, *State funds development of first-of-its-kind police misconduct database,* Berkeley, College of Computing, Data Science, and Society, June 28, 2023. Available at: https://data.berkeley.edu/news/state-funds-development-first-its-kind-police-misconduct-database.

[10] Kallie Cox and William Freivogel, *Police Misconduct Records Secret, Difficult to Access*, AP, January 24, 2022. Available at: https://pulitzercenter.org/stories/police-misconduct-records-secret-difficult-access.

[11] MPD currently offers a $25,000 bonus for joining, delivered as $15,000 at the start of training and $10,000 at the time of graduation and other significant benefits. See https://joinmpd.dc.gov/basic-page-2020/mpd-benefits#:~:text=All%20new%20hires%20will%20receive,at%20time%20of%20academy%20graduation.

valued quality of life for officers.[12] A report by the nonprofit Police Executive Research Forum surveyed officers and found that "two of the greatest contributors to low morale are cancelling employees' days off and requiring them to repeatedly work overtime, often without prior notice."[13] CNN reported on lawsuits filed against MPD by more than 20 employees alleging a toxic work culture including racial and sexual discrimination and a culture of intimidation.[14] As reported by Gathright, one former MPD assistant chief said that "solving MPD's attrition problem requires the department to address deep and ongoing wounds caused by decades of discrimination, favoritism, and retaliation."[15]

The District must not give up transparency and accountability reforms for the illusion of employee retention, a problem that is caused by an entirely different set of circumstances that needs to be addressed through internal reforms of MPD, not by giving up the right to see inside government institutions. The Council should stick with what it enacted unanimously less than 12 months ago – for all the reasons that it had then for doing so.

Denying Public Access Under the Freedom of Information Act

The ACT Now Amendment Act would also significantly undermine the goal of open records and public access to information about police officers despite the extraordinary power wielded by officers and the more than 526 million dollars[16] in taxpayer money used to fund

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[12] Jenny Gathright, *Like A Tiny Cog In A Broken Machine': Overtime, Mismanagement Plummet Morale And Push Cops Out Of MPD*, WAMU October 26, 2023. Available at: https://dcist.com/story/23/10/26/mpd-overtime-attrition-why-cops-leave/.

[13] *Id*.

[14] Maya Brown, *Fourth lawsuit makes 20 employees alleging a toxic culture within the DC police department*, CNN, February 19, 2022. Available at: https://www.cnn.com/2022/02/19/us/washington-dc-police-toxic-culture-investigation/index.html.

[15] *Id*.

[16] See D.C. Fiscal Policy Institute Report. Available at: https://www.dcfpi.org/all/police-budget-remains-flat-despite-big-investments-in-officer-recruitment-and-

MPD. Again, despite claims on behalf of the Executive, these amendments to the Freedom of Information Act have nothing to do with protecting "officers' therapy records" from public view. These proposed changes instead attack a basic feature of democracy: access to information about the agencies and employees that act of the behalf of the public and at public expense.

ACT Now would undo a reform made in Title X of the Comprehensive Policing and Justice Reform Amendment Act, which amended the Freedom of Information Act of 1976 to clarify that the personal privacy exemption does not preclude the release of disciplinary records for MPD, Housing Authority Police Department, or Office of the Inspector General. As explained in the Committee Report for the Comprehensive Policing and Justice Reform Amendment Act, Niquelle Allen, Director of the District's Office of Open Government, and the ACLU lamented MPD's reliance on the personal privacy exemption to redact information pertaining to officer discipline. To address this issue, the Comprehensive Policing and Justice Reform Amendment Act made clear that the personal privacy exemption did not allow the categorical denial of disciplinary records of MPD, HAPD, or OIG. The law defined "disciplinary record" as "any record created in furtherance of a disciplinary proceeding," including the names of officers, the complaints or allegations against them, and the transcript and disposition of any disciplinary proceeding. In addition, the law granted responding entities the ability to redact specifically enumerated types of information when responding to FOIA requests related to disciplinary records such as "technical infractions" that do not involve interactions with members

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retention/#:~:text=DC%20Council%20approved%20nearly%20%24526.1,2022%20budget%2C%20adjusted%20for%20inflation.

of the public (e.g., tardiness or improper dress), and officer's medical history in cases where it is not a material issue in the complaint or allegations of wrongdoing.[17]

The Mayor's opposition to this reform – which favored transparency and open government – is apparent in the Mayor's decision not to fund these reforms to FOIA.[18] Therefore, although the Comprehensive Policing and Justice Reform Amendment Act passed the Council unanimously and survived a veto by the House and Senate, when President Biden overturned the veto to support the District's right to self-determination, this law has still not been provided the necessary tax payer funds to implement the will of District residents.[19] Less than five million dollars over the course of four years is all that is required to fund the Comprehensive Policing and Justice Reform legislation.[20] To the extent that it helps reform police conduct, it is a bargain compared to the more than 40 million dollars that the District has spent to settle police misconduct lawsuits between 2016 and December 2020.[21] Funding the police reform legislation

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[17] Committee Report, Bill 24-0320, page 43-44. Available at: https://lims.dccouncil.gov/downloads/LIMS/47448/Committee_Report/B24-0320-Committee_Report1.pdf?Id=151042.

[18] The Mayor can absorb the costs associated with the bill at any time or include them in a budget.

[19] Martin Austermuhl, *President Biden vetoes attempt by Congress to block D.C. police bill*, WAMU, May 26, 2023. Available at: https://www.npr.org/local/305/2023/05/26/1178354102/president-biden-vetoes-attempt-by-congress-to-block-d-c-police-bill.

[20] See Committee Report at page 1500. Available at: https://lims.dccouncil.gov/downloads/LIMS/47448/Committee_Report/B24-0320-Committee_Report1.pdf?Id=151042.

[21] Paul Schwartzman, *These are the police misconduct lawsuits the public hears little about,* Washington Post, December 25, 2020. Noting more than 40 million in payments for police misconduct lawsuits. Available at: https://www.washingtonpost.com/local/legal-issues/dc-police-lawsuits/2020/12/24/e986472c-2375-11eb-8672-c281c7a2c96e_story.html. Additional high profile cases have been settled since 2020 or are still pending. See Colleen Grablick, *D.C. To Pay $1.6M In Police Misconduct Lawsuit Filed After 2017 Inauguration Protests*, WAMU, April 26, 2021. Available at: https://www.npr.org/local/305/2021/04/26/990904174/d-c-to-pay-1-6-m-in-police-misconduct-lawsuit-filed-after-2017-inauguration-protests. The mother of Karon Hylton-Brown's daughter filed a lawsuit seeking 100 million in damages alleging that the officers who chased Mr. Hylton-Brown while he was riding a scooter without a helmet did so with a "conscious disregard for an extreme risk of death…" The officers who chased him have since been convicted for second degree murder. See *Jenny Gathright, D.C., MPD Officers Sued For $100M Over Karon Hylton-Brown's Death In Police Chase*, WAMU, October 21, 2021. Available at: https://dcist.com/story/21/10/20/dc-mpd-officers-lawsuit-karon-hylton-brown-death-police-chase-moped/.

would also cost a fraction of the 600 million in taxpayer funding being considered to refurbish Capital One Arena.[22]

Going beyond refusing to fund the passed legislation, the Mayor's bill would permanently hinder the reform. The Policing Reform legislation prohibited MPD from "categorically denying" a FOIA request for disciplinary records on the basis of privacy. The Mayor's bill would change the definition of "disciplinary records" to allow only the smallest sliver of information to reach the public. The Mayor's bill would redefine disciplinary record as a "sustained disciplinary proceeding" … that resulted in "a penalty of suspension, demotion, or termination…" Thus, any time an allegation is not sustained, or an allegation is still pending, or MPD leadership chooses to impose a sanction that is less than "suspension, demotion, or termination," or MPD's union wins a sanction that is less than "suspension, demotion or termination," the public would lose FOIA access to information about the disciplinary proceeding. This is particularly concerning given the overwhelming success of MPD's union in having officers who commit even the most egregious misconduct reinstated to duty. Between October 2015 and April 2021, MPD fired 49 officers but had to reinstate 37 of those officers including one officer who was fired on three separate occasions and had been arrested for assault with a dangerous weapon and another officer who was convicted of simple assault.[23] Thus with the amended definition in ACT Now, the disciplinary records of all of these officers, who successfully overturned their sanctions, could potentially be shielded from public view, despite

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[22] Matt Blitz, *Capital One Arena Forever Changed Chinatown. Can It Reverse Downtown's Post-Pandemic Slump?*, WAMU, November 30, 2023. Available at: https://dcist.com/story/23/11/30/capital-one-arena-revitalize-downtown/.

[23] Jenny Gathright, *D.C. Police Were Forced To Rehire More Than Three Dozen Officers Accused Of Misconduct, Auditor Finds*, WAMU, October 6, 2022. Available at: https://dcist.com/story/22/10/06/dc-police-auditor-report-hiring-firing-misconduct/.

the public's interest in their conduct and the great public expense in paying millions of dollars of backpay for these officers.[24]

The Executive claimed at the hearing on this matter that the change was necessary for the purposes of protecting private medical information, but private medical information is already largely redacted under the Comprehensive Policing Reform legislation. That legislation provides that "when providing records or information related to disciplinary records, the responding public body may redact … [the officer's] medical history, except in cases where the medical history is a material issue in the basis of the complaint." It also allows redacting information about "the use of an employee assistance program, including mental health treatment, substance abuse treatment service, counseling, or therapy, unless such use is mandated by a disciplinary proceeding that may be otherwise disclosed pursuant to this subsection." Personal information including address, telephone numbers, email addresses, social security numbers would already be redactable under the Comprehensive Policing and Justice Reform Act: the personal privacy of officers is already scrupulously protected.

However, if the issue really concerns the "therapy records" of officers, then the Executive should propose a narrower limitation of FOIA, potentially proposing a redaction of all therapy records, regardless of their relevance to the disciplinary complaint, and not shrinking the entire universe of accessible information by redefining "disciplinary record." That proposed reform would at least maintain the accountability and transparency that are valued by District residents and enshrined in District law.

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[24] *Id*. According to the D.C. Auditor, each reinstatement had a price tag to the District of $520,000 including arbitration fees, attorney fees and interest.

Viewing Body Worn Camera Prior to Writing Initial Reports

The proposed legislation would repeal a provision that prohibits law enforcement officers from reviewing their own body worn camera footage prior to writing initial police reports. This provision was included in the Comprehensive Police and Justice Reform Amendment Act and was based on a recommendation of the Police Reform Commission.[25] The Police Reform Commission concluded that "the law should strictly limit officers' access to body-worn camera footage (their own as well as footage from their colleagues' cameras) so as not to bias their initial reports."[26] Research supports this position: "viewing BWC video of an event introduced multiple changes in officers' event memory and memory for their state of mind during the event … [therefore] there should be constraints on permitting officers to view their BWC video even after they complete their initial report."[27]

As discussed at the hearing on ACT Now, BWC provides an important source of evidence in a case. But it is not the only piece of evidence. The full scope of what a witness perceives is relevant. That evidence should not be supplanted by BWC at the stage of initial report writing. As explained by researchers and experts in the field:

> "…[A] review of BWC footage has the potential to impair memory for aspects of the event that are not shown, due to a cognitive process called retrieval-induced forgetting. **For example, if a police officer sees only one of the two get-away cars on the footage, this may lead the officer to provide a detailed description of that car in the police report, but completely forget to mention the other car (which the officer probably would have done if the officer had simply started reporting based on their own memory).**

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[25] Report of the Police Reform Commission, pages 26-27. Available at: https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf.

[26] Id. See Brittany Blaskovits and Craig Bennell, "*Exploring the Potential Impact of Body Worn Cameras on Memory in Officer-Involved Critical Incidents: a Literature Review*," Journal of Police and Criminal Psychology, 35(3) (2020), 255-259, https://link.springer.com/article/10.1007%2Fs11896-019-09354-1.

[27] Pezdek, K., Shapland, T., & Barragan, J. (2022). *Memory outcomes of police officers viewing their body-worn camera video*. Journal of Applied Research in Memory and Cognition. Available at: https://psycnet.apa.org/manuscript/2022-42983-001.pdf.

> Reviewing BWC footage can also result in confusion about the source of specific memories. Police officers can become convinced that they observed a certain detail during the event, whereas they actually only saw it later in the footage. In addition to these memory processes, the existence and review of BWC footage can lead to intentional restriction of information, such as making the description less detailed to reduce the risk that the officer will be 'caught' making a mistake. Or intentional misrepresentations of the event, such as downplaying potentially illegitimate use of force because it was not captured on camera."[28]

Omitting critical offense details, because the memory or focus on those detail is obscured by BWC, could lead to wrongful convictions or failures by police to pursue additional suspects. The consequences would be enormous for the administration of justice.

The impetus behind reversing the law that prohibits officers from viewing BWC prior to writing initial reports appears to be a concern that jurors or judges will have a negative opinion of officers whose initial reports contradict, even slightly, the BWC. This concern is misplaced. It is important to note that the limitation on watching BWC only applies to watching BWC before writing initial reports. Officers nearly always view their own BWC and other relevant BWC before testifying at trial or at hearings and there is no limitation on doing so. It is apparent to judges and frequently noted on initial reports that the report was written without access to BWC. This lack of access to BWC at the time of the initial report writing has not had a detrimental impact on the administration of justice – it does not cause cases to be unfairly dismissed or unfairly create contradictions in officer testimony.

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[28] Annelies Vredeveldt, Ph.D., and Linda Kesteloo, LL.M, *Researchers: Allow officers to watch BWC footage after writing an initial report*. Available at: https://www.police1.com/police-products/body-cameras/articles/researchers-allow-officers-to-watch-bwc-footage-after-writing-an-initial-report-LJ71oIXTYYgpeMAN/.

Criminal allegations must be proven beyond a reasonable doubt given the incredibly weighty consequences that convictions have for the charged individuals, their families, and our community. To that end, the Council should not repeal a prohibition that helps to preserve the independent recollection and perception of police officers, and with it lose potentially relevant evidence. All evidence is important to the community and to the charged individual. District jurors and judges can and should be trusted to understand nuance and consider all of the evidence. They don't need the Council to pass laws to prevent evidence from being complicated and to create initial police reports that exactly narrate the BWC and exclude all other evidence. The Council should leave its own legislation in this area intact.

Jury Trial Rights Where Police Are Complaining Witnesses

ACT Now would also repeal a provision of the Comprehensive Policing and Justice Reform Amendment Act that grants defendants the right to a jury trial in all cases where the complainant is a police officer. ACT Now would limit those newly granted jury trial rights to misdemeanor cases where the complainant is acting in their role as a police officer and preclude jury trials in misdemeanor cases where a police officer is a complainant but is not on duty or in uniform. The Revised Criminal Code, which this Council approved nearly unanimously on three separate votes, would have eventually expanded the right to a jury trial to all criminal offenses that carried the possibility of incarceration.[29] In this manner, the District broadly embraced the non-controversial principle already practiced across the country: that jurors rather than judges should be the factfinders in deciding the fates of fellow residents who are charged with offenses

[29] The Revised Criminal Code Amendment Act, Bill 24-789.

that carry the penalty of incarceration.[30] Despite the veto of Code Reform by the federal government, the Council should not walk back reforms that expanded jury trial rights. Jury trials create greater fairness and more transparency, and support democratic ideals. As stated by the former Chief Judge of the D.C. Court of Appeals, the Honorable Eric Washington, about the Council's decision, in 1995, to do away with jury trials for most misdemeanor offenses:

> "… [T]he Council could reconsider its decision to value judicial economy above the right to a jury trial. Restoring the right to a jury trial in misdemeanor cases could have the salutary effect of elevating the public's trust and confidence that the government is more concerned with courts protecting individual rights and freedoms than in ensuring that courts are as efficient as possible in bringing defendants to trial. This may be an important message to send at this time because many communities, especially communities of color, are openly questioning whether courts are truly independent or are merely the end game in the exercise of police powers by the state."[31]

It is essential to provide jury trials in cases involving police officers regardless of whether the officers were acting in their official capacity. There are serious concerns for the public about legitimacy and fairness in all cases involving police. Unlike cases involving any other type of complainant, complainants who are police officers will have close ties to law enforcement and likely will have close ties to the entity that is investigating the case. Police officers will also have deep familiarity with judges, prosecutors, and the system writ large, and the potential for unfairness and the potential for the appearance of unfairness is particularly high. On the other hand, the administrative cost of potential jury trials will be low. Most cases never reach trial and instead end in plea agreements. It is also likely that the entire pool of cases where police are complainants in their individual capacity is very small. The Council should therefore

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[30] Committee Report, B24-789. Available at: https://lims.dccouncil.gov/downloads/LIMS/47954/Committee_Report/B24-0416-Committee_Report1.pdf?Id=148331.

[31] *Bado v. United States*, 186 A.3d 1243, 1264 (D.C. 2018).

preserve this reform since it has the overwhelming benefit of increasing fairness and the perception of fairness for the community and repealing it will have minimal, if any, impact on court functioning and absolutely no impact on officer recruiting.

Retail Theft

Amendments to the D.C. Code to create a new offense criminalizing organized retail theft should not proceed in this manner or at this time. Controlling retail theft will require studying the problem, collaborating on solutions, and only then potentially writing a statue that fills any gaps in liability. Prior to legislating, the District should create a task force to work with industry and residents to address and understand issues surrounding retail theft, such as the use of self-checkout, retail staffing decisions, and the role of on-line resellers of merchandise.[32]

In the meantime, organized retail theft and all theft from stores can already be prosecuted under D.C. Code § 22-3111 and as second degree burglary under D.C. Code § 22-801, because individuals have an unlawful intent at the time of entry. The District's existing theft statute criminalizes wrongfully taking the property of another. When the value of the property is less than $1,000, the crime is a misdemeanor punishable by a maximum term of 180 days of incarceration and a fine of $1,000 or both. If the value is over $1,000, the theft is a felony punishable by 10 years of incarceration and a fine of $25,000 or both. If an individual has two

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[32] See statement of California Attorney General on the collaboration involved in combatting retail crime. Efforts include collaborating with retailers and acquiring intelligence about online marketplaces. Available at: https://oag.ca.gov/bi/retail-crime.

See Combatting Retail Theft, Report of New York City Mayor Eric Adams, March 2023, page 29. "Accountability by online re-sale websites can help curb the incentive for organized retail theft and protect consumers. By adding authentication procedures prior to sellers listing products on their sites, online businesses can prevent the sale of stolen or adulterated products before they reach consumers. Several online companies already employ this tactic for high-end merchandise to ensure quality and verify authenticity." Available at: https://www.nyc.gov/assets/home/downloads/pdf/office-of-the-mayor/2023/combating-retail-theft-report-may-17-2023.pdf.

prior misdemeanor or felony convictions for theft, the prosecution can charge the offense such that it is punished by a maximum term of 15 years of incarceration,[33] a mandatory minimum sentence of one year of incarceration, and a fine of $37,500[34], or both. If an individual is on pretrial release for theft and they are alleged to have committed a subsequent theft, they can be detained under D.C. Code §23-1329. The individual would then be subject to conviction for the first theft offense, the subsequent theft offense, and the offense of committing an offense while on release. Under existing District law, aiders and abettors can receive the same punishment as principals,[35] and coconspirators can be punished for the separate offense of conspiracy to commit a crime[36] and charged with the same offenses as the principal under a theory of co-conspirator liability. Prosecutors have the legal means to severely prosecute individuals for offenses related to organized retail theft. Thus, the Council should refrain from passing new criminal offenses in a patchwork fashion when there is insufficient evidence to support the need for the offense.

The same section of the Mayor's bill that addresses retail theft includes a provision that would have the Council order the Mayor to conduct a study of the impact of decriminalization of street vending on public safety, pedestrian safety, and public health. Street vending was just decriminalized in 2022, and the questions for this purported study appear to attempt to make the case for the repeal of that law. Nothing in this unnecessary study considers the harm caused by criminalizing street vending, the discriminatory effect of criminalization, or how community support could be improved for street vendors. This study should also be rejected by the Council and those resources should be directed toward better use.

Re-Instating Drug Free Zones

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[33] D.C. Code § 22-3212.Penalties for theft.
[34] D.C. Code § 22–3571.01. Fines for criminal offenses.
[35] § 22–1805. Persons advising, inciting, or conniving at criminal offense to be charged as principals.
[36] § 22–1805a. Conspiracy to commit crime

Finally, this legislation takes the baffling step of reinstating drug free zones, legislation that the Council, with then-Councilmember Bowser's support, unanimously repealed in 2014.[37] Then-Attorney General Irvin Nathan's office testified for the repeal, because the office had "substantial concerns about the constitutional soundness of the prostitution free zones law"[38] which were written identically to the drug free zone laws.[39] The resurrected statute would criminalize the failure to disperse from a designated drug free zone after being instructed to do so by an officer who "reasonably believes the person is congregating for the purpose of committing" a drug offense. The legislation would directly lead to police harassment of certain people in designated zones. And it is not necessary: officers who have probable cause can already make arrests.

While the legislation will result in constitutional challenges, protracted litigation, and police harassment, it is clear that it will do nothing to improve public safety. Individuals intent on selling and buying drugs may merely move 1000 feet after being ordered to disperse from any newly declared drug free zone. The legislation does not address drug use, help individuals struggling with drug abuse and addiction, prevent drug-related deaths, or improve public safety. As the District faces a crisis in opioid use and drug- related deaths, the focus needs to be centered on a public health approach to drug activity, not diverting resources to ineffective policies that will result in costly and protracted litigation and invite harassment by law enforcement.

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[37] The Repeal of Prostitution Free Zones and Drug Free Zones Amendment Act of 2014 unanimously passed second reading with Councilmember Marion Barry noted as absent. See: https://lims.dccouncil.gov/Legislation/B20-0760

[38] Committee Report, The Repeal of Prostitution Free Zones and Drug Free Zones Amendment Act of 2014. Available at: https://lims.dccouncil.gov/Legislation/B20-0760.

[39] *See also* Cuneyt Dill, *How Mayor Bowser's "drug-free zones" would work in D.C.*, available at https://www.axios.com/local/washington-dc/2023/10/24/dc-crime-drug-free-zones-muriel-bowser.

Reinstating a Ban on Masks and Hoods

ACT Now would reinstate and amend an anti-mask law that was repealed during the pandemic. As previously enacted in 1982, the offense had a maximum penalty of one year of incarceration.[40] Like similar laws in other jurisdictions, the District's prior mask law was primarily targeted toward preventing intimidation and denial of civil rights by hate groups such as the Ku Klux Klan.[41] Each section of the prior mask law, D.C. Code 22-3112, prohibited mask wearing with the specific intent to engage in wrongful conduct where wearing of the mask furthered the conduct. The 1982 version of the law prohibited wearing "any mask, hood, or device whereby any portion of the face is hidden, concealed, or covered as to conceal the identity of the wearer" and entering public land or holding a demonstration with the intent to engage in particular conduct enumerated in the offense.

In striking contrast, the proposed version of the new anti-mask law does not link wearing a mask to the specific intent to harm another person or even to avoid detection by using a mask. Rather it functions as an additional penalty for engaging in certain prohibited conduct while the person happens to be wearing something that even partially covers their face. As written, a person could be convicted of the offense despite the fact that the circumstance that the person was wearing a mask had no connection to the conduct in which the person engaged. It would be like making it a crime for a person to wear a skirt while intimidating, threatening, abusing, or harassing another person.

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[40] See: https://code.dccouncil.gov/us/dc/council/laws/docs/4-203.pdf.

[41] Thomas Fuller, *Before the pandemic, many states had anti-mask laws on the books. Repealing them could be a challenge*, New York Times, June 5, 2021. Available at: https://www.nytimes.com/2021/06/05/us/mask-mandate-kkk-coronavirus-pandemic.html#:~:text=More%20than%20a%20dozen%20states,became%20a%20public%20health%20exigency.

As written, the new anti-mask law would allow for the absurd result that someone who punches a neighbor while wearing a hooded sweatshirt that covers their forehead is guilty of simple assault **and** the offense of wearing a mask and that another person who punches a neighbor while wearing a scarf only around their neck is guilty only of the one offense of simple assault. This is the case because there is no link between the mask wearing and the enumerated conduct.

Further, the Council should strike any the language that would hold a person criminally liable if they wear a mask or hood and "it is probable that reasonable persons will be put in fear for their personal safety by the defendant's actions, with reckless disregard for that possibility." In an article about the pervasive fear of Black men, Shayne Lee, professor of sociology at the University of Houston, noted: "As a six-foot-three Black man, it's possible that I haven't gone a day in the last ten years without someone showing fear in my presence."[42] This demands the question of whether the reasonable person standard would encompass the day-to-day reality of racism. Under this proposed law, is someone like Professor Lee never permitted to wear a hat, scarf, hood, or mask, regardless of the temperature, regardless of his personal preference because he knows that his presence – even without anything obscuring any part of his face – creates fear and he is recklessly disregarding the possibility of that fear? The proposed offense does not even require that a person have been put in fear of their personal safety. It would literally make it a crime for a tall Black man, such as Professor Lee, to wear a scarf covering his face on a February day and "enter upon public property," for example, by walking down any street in D.C. That's it – that's

[42] John Blake, *There's One Epidemic We May Never Find a Vaccine for: Fear of Black Men in Public Spaces*. CNN May 27, 2020. Available at: https://www.cnn.com/2020/05/26/us/fear-black-men-blake/index.html

the crime – because when he walks down the street with his face partially covered, it is "probable" that "reasonable persons will be put in fear for their personal safety by the [man's] actions," and if a tall Black man likely knows the effect he has on most Americans, his walking down the street could be said to be in "reckless disregard" of that effect. Further, the law doesn't require any unlawful action by the individual who could be stopped, arrested, and detained for wearing a mask. The law would allow detention based on innocent actions that cause fear in a "reasonable person." It would require individuals who have been harmed by race-based fear to change their behavior to comport with the racism around them and at the same time it would give police and prosecutors unfettered discretion to arrest and prosecute people of color when they fail to adjust their behavior to comport with the racism that surrounds them.

Further, if the legislation is aimed at arresting individuals who are using masks to commit crimes and avoid detention, police can already stop people, without any mask law, when they have reasonable articulable suspicion that the individual is engaged in wrongdoing, for example by wearing a mask and peering through the windows of a private dwelling.[43] These existing tools should be deployed instead of passing this legislation. However, if the District is going to punish wearing a mask or hood or covering any part of the face, just years after everyone was told that they had to wear a mask in public at all times, the Council must closely link the prohibited conduct, which should be limited to wearing a full face mask that covers the entirety of the face with the exception of eyes, mouth, and nose, with the intent of avoiding detention during the commission of a crime of violence or dangerous crime.

[43] *Terry v. Ohio*, 392 U.S. 1 (1968).

Conclusion

ACT Now fails to meaningfully address the issues District residents confront with respect to crime and violence. Making the Metropolitan Police Department less accountable to residents will harm MPD and the District and will not prevent crime or make cases easier to solve. The lack of qualified candidates to serve as police officers cannot be the impetus for undoing police reform and creating a worse police department. The amendments proposed in ACT Now will be more costly in the long run in terms of settlements for police misconduct and lost public trust, than exploring other financial incentives that can drive recruitment of MPD officers. The changes to criminal law in ACT Now such as separately punishing organized retail theft and bringing back repealed statutes and tactics do not advance crime prevention or address the root causes of criminal system involvement. The new and reinstated provisions would duplicate laws that already allow police and prosecutors to punish and incarcerate residents for illegal conduct. The Council should look for solutions, prevention, and ways to uplift all District communities. PDS thanks the Committee for this opportunity to testify and welcomes any questions.

Kathleen O'Donnell

I'm Kathleen O'Donnell, a Ward 1 resident who has lived in DC for 9 years. I'm submitting testimony in opposition to the ACT Now Act of 2023, because of the inhumane and often fatal policing practices it would allow including neck restraints, chokeholds, and use of deadly force and vehicular pursuit. These practices are themselves acts of violence. They disproportionatly target Black and Brown community members in our city and in others throughout the country. They will increase overall acts of violence, engender more fear and not keep us safe.

As a taxpaying resident of the District of Columbia and someone who deeply cares about uplifting everyone in my community, I do not want this legislation to pass in the city I call home. The ACT Now Act would permit MPD to enact devestating types of physical abuse including neck restraint or kneeling that can lead to asphxiation. I simply do not want to live in a city where the government allows its police to take actions that can easily cause death or permanent damage to peoples' body. Furthermore, the ACT Now Act would reduce transparancy and give police more control over their reporting techniques and what happens to surveillance footage. Reducing transparancy reduces accountability. Enabling the people who's duty it is to "keep us safe" to cause physical harm to others and potential withold evidence of that harm does not, in fact, make our city safer. It makes our society more fear-based, more punative, more violent.

Instead of these harmful practices, I would like to see the Council heavily invest in full time violence interruptors in all Wards, particularly Ward 8 which had zero full time violence interruptors last year. I also urge the Council to pass the Drug Policy Reform Act and fund laws that already been passed - including the Second Chance Amendment Act of 2021 and the Fund the Corrections Oversight Improvement Omnibus Amendment Act of 2022.

These programs and policies have the power to address the root causes of violent crime in the District, ultimately leading to a DC that is safer for everyone, which I believe is a vision we all share.

Keeli Mallory

My name is Keeli Mallory and I live in Ward 1 but have lived across DC for the last 6 years. I am testifying AGAIN against another bill that is just a reactive bandaid to the fearmongering spreading about crime in this. I am not naive to the crime happening around us but the "solutions" proposed in this repackaged version lean on sterotypes and ridiculous "fixes" that will not make us any safer - it'll just look like the Council is doing something to help.

The Council made some steps forward after 2020 but many of the specifics in this bill are moving us backwards. We need MORE transparency and oversight for MPD not less - just because it's hard doesn't mean we should give up.

FOIA requests for MPD are hard enough as it is to get them to tell the public what's going on - the ACT Now Act will limit the records released to just the transcript of the hearing, including limiting the release of information that would identify the officer involved - how are we to know if they are repeat offenders if they are being protected and shielded in this way?

Body camera footage is supposed to be an addition to the officer's report - the Reform Commission recommended that we should prohibit officers from being able to view it before their reports - why are we doing the exact opposite in this Act? It also takes away the requirement to release the footage for when officers negligently discharges their firearm - if an officer is doing that??? while wearing a body camera??? shouldn't we want to see that??? wouldn't that be a warning that we should be paying attention to??

This bill also limits the office of police complaints DRASTICALLY - that doesn't make sense!! The public wants accountability and if the OPC is supposed to help in that - why would we allow this act to limit how much access to information they deem relevant to their investigations?

Don't allow these practices to be put in place! They don't help anything - they make hard situations worse.

Not to mention this bill brings back to life old, racist surveillance practices that for decades have not helped! The Council already voted in 2014 to end the practice of drug-free zones and their enforcement because of unconstitutionality and of course the discrimination that comes from it - Many of you were on that council - don't go back to this in the face of fear!

Also these anti-mask campaigns are so wildly racist and stereotypical - we just repealed a statue in regards to these LAST YEAR - why is your memory so short is how these practices have always been used? People wearing masks is the default now - for all activities! I wear a mask while I bike and walk around when it's cold? If I'm in the wrong place at the wrong time with a warm face - what happens then?

Don't bring back neck restraints and chokeholds!!! Did you not live through the same horrifying murder of George Floyd that I did? Not to mention trying to re-allow deadly force and vehicular pursuit - such as ramming a car, which this ACT does not consider deadly force? There are stories at least once a year about police chases resulting in deaths of young black men here in DC - IDK about you but any time a car is rammed - it usually results in death or horrible injury to those involved and innocent people around - don't allow this!!

These practices are bandaids - they wont work - they haven't worked - stop trying to hide them in this onslaught of bills as a facade of things that will work.

You're wasting our time doing these things instead of investing in our community and their needs! There are so many people with so many reports suggesting better root fixes and bandaids that work better than these decade long practices that have so much data proving they don't work.

Work on the food deserts in Wards 7 and 8. Make sure there are activities and jobs and places to be for the youth. Stop making our youth walk among cops in schools where they deserve to have a safe space and refuge to learn. Help our unhoused neighbors. Invest in violence interrupters rather than continuing to heavily police neighborhoods. Pass a Black-led legislative agenda that is evidence-based and directly responsive to community needs and goals to improve public safety and quality of life for all DC residents. Fund the Corrections Oversight Improvement Omnibus Amendment Act of 2022, which increases transparency requirements for the Department of Corrections and creates mechanisms for more robust oversight of jails through the Corrections Information Council.

Be honest about what's happening, back up your choices with data and stand up for what numerous of you have already done in the past - don't bend to the knee of right-wing fearmongering. Do fight for actual solutions and realize there are people in this city who don't agree with these crime bills and their proposed solutions - they are willing to provide solutions and work with you on data-proven results. Do listen to them!

I've spent the last months trying to understand all these crime bills and what they all entail - It's time for the Council to take steps to find actual root-cause solutions. Be brave, fight back with evidence and vote No on ACT NOW. Choose to invest in our communities - year after year we fund these horrible practices and year after year, we are not safer. Try something new, stop running into the same wall over and over hoping for different solutions. your re-election shouldn't be your first-priority, instead prioritize the job you promised to do - invest in our community and work towards making us safer.

KELVIN MANURS - Arm & Arm Inc.

Good monring Honorable Council Memebers,

Arm & Arm is a behavioral heallth organization with a staff of Trained Peers (individuals with lived experience involving trauma, mental health and substance use disorder). on November 1, 2023 we have acquired a location in ward 8 at 2412 Ainger Place SE, Washington, DC. We have partnered with Ainger Place Development Corporation, Emanuel Baptist Church, Anacostia Smithsonian Museum and other Community Stakeholders to assist youth, families and the community of Woodland Terrace with self-empowering tools that lead to personal and community involvement and commitment as alifestyle. We see much of these acts of violence as acts of desperation and thrill seeking behavior characterized by a "Super Optimistic" mindset very common in youth and individuals in crisis. We would like to present to the counsel and community stakeholders some of the efforts that we have used and that have made great impacts throughout the DMV through our "Boots on the Ground Outreach efforts, peer support groups, training and other services. Let us add that the measure that we have seen suggested on the news only adds to the problem of young blacks being incarated and real personal growth to include a positive self-veiw going being overlooked. Let's not give up on anyone and let's not also become desparate because it leads to haste and regret for our youth and communities.

In, Purpose,

Kelvin Manurs

Founder and Director of Community Relations

Arm & Arm Inc.

Testimony of Kenyattah A. Robinson
President & CEO, Mount Vernon Triangle Community Improvement District & Chair, DC BID Council
Committee on the Judiciary and Public Safety
Addressing Crime Trends Now Amendment Act of 2023 (ACT Now)
Wednesday, November 29 at 9:00 AM EDT

Good morning Councilmember Pinto and members of the committee. My name is Kenyattah Robinson and I'm the President & CEO of the Mount Vernon Triangle Community Improvement District ("Mount Vernon Triangle CID" and "MVT CID"), established 20 years ago to enhance the overall quality of life for residents, employees, and visitors in the Mount Vernon Triangle neighborhood of downtown Washington, DC.

I also serve as Chair of the DC BID Council, which is an association of Washington, DC's now-12 Business Improvement Districts that sit at the intersection of the public and private sectors and strives to serve as an effective catalyst for growth and improvement on behalf of our stakeholders. It is in this role and on behalf of my colleagues that I come before you today to testify in support of the *Addressing Crime Trends Now Amendment Act of 2023* ("ACT Now") for the stated purpose of addressing recent public safety challenges and keeping our neighborhoods safe.

We also come before you not as experts in the practice of safe and effective policing – although we can all agree that it should be an essential part of the economic recovery strategy for any city – but rather as professionals who are passionate about the creation and sustainment of clean, safe, and welcoming spaces. In other words: vibrant places that people want to be. (Because when was the last time you heard anyone say they wanted to be in a place that was *not* one of these things?). Thank you for giving us this opportunity to speak constructively about the nexus between place management and public safety, and public safety and economic recovery.

As practitioners who are intimately connected to the communities we serve, we understand our stakeholders to recognize the inseparable relationship between safety and other leading quality of life indicators, and therefore believe that our BIDs have unique experiences and perspectives to lend to this conversation. We know from conversations with stakeholders the following two things. First, public safety has become *the* primary topic discussed in just about every discussion. And if not the first item discussed, it's usually not far behind. Second, our communities believe that both their personal safety – and that of their families and employees – and economic security are being put at heightened risk due to what is perceived to be a lack of focus on the problems that make them feel unsafe. Issues such as being unable to buy basic necessities because organized retail theft has rendered store shelves bare, to having to navigate open-air drug markets while walking a child from school, to fears of being robbed or carjacked by masked criminals while enjoying a night out on the town, all contribute to heightened

perceptions that things are out of control. Increases in personal anxiety about safety then lead to decreases in public perceptions about safety, which combined contribute to a downward spiral that will lead to municipal disinvestment. And the negative cycle continues.

We believe there to be other systemic and structural reforms that, when combined with *ACT Now*, could create the types of cumulative effects that will return DC back to the positive economic and public safety glidepath that was profoundly disrupted by 2020's global pandemic and other events that, speaking personally, stimulated a much-needed and long-overdue debate regarding the optimal and appropriate role of police in our society. What followed was a rethinking, reformulation, and reimagination of public safety strategies in cities across America including passage of the *Comprehensive Policing and Justice Amendment Act* in Washington, DC. And while we recognize there are varying perspectives on this specific legislation, we also know that there is significant public urgency for our leaders to act now and in a way that aligns with our civic values.

The DC BID Council fundamentally believes that we all deserve to live in a safe and just city. That we should do all that we can to prevent crime before it happens. That we should provide help and support to those who ask for and need it. And that – as a basic societal organizing principle and operating agreement – we must hold accountable those who commit crime.

It is therefore our consensus view that, on balance, both ACT Now and the specific tools aimed at eliminating retail theft from our stores, removing drug dealing on our corners, and increasing the consequences for wearing masks for the purpose of committing criminal acts, are positive significant steps toward enhancing public confidence in our public safety environment. And this public confidence is critical toward promoting the city's robust and sustained economic recovery; and creating the safe, welcoming, high-quality public environment that is vital to Washington, DC's ongoing attractiveness within what has become an extremely competitive regional landscape.

Thank you again for allowing me to testify on this very important issue that we deem to be a critical priority for our city. We appreciate your consideration of our perspective and are happy to answer any questions that you may have.

Submitted to:	DC Council
RE:	Written Testimony in Support of ACTNow Legislation
Submitted by:	Advisory Neighborhood Commissioner Kim, Patterson, 4A05, Brightwood
Date:	November 27, 2023

I, Kim Patterson, Advisory Neighborhood Commissioner, 4A05 support the Mayor's ACTNow Legislation and request members of the DC Council pass this legislation in order to support the Metropolitan Police Department's (MPD) ability to address current crime trends that threaten and harm DC residents, businesses, and neighborhoods.

I especially support the provision of the legislation that calls for limiting loitering by reinstating the ability of MPD to declare drug-free zones to prohibit people from congregating on public spaces for the purchase, sale, or use of illegal drugs. The establishment of temporary drug-free zones can interrupt this activity and allow neighborhoods to clean up and reclaim public space.

In my Single Member District, there is a major problem with individuals loitering while using and selling drugs, exhibiting public intoxication, using abusive language, passing out on the sidewalks, sleeping on the sidewalks, and publicly relieving themselves. This illegal and degrading activity attracts more illegal behavior which then grows taking over streets and neighborhoods.

The ACTNow legislation Mayor Bowser sent to the DC Council to approve will help MPD reduce this type of illegal activity and allow DC residents and business owners to live comfortably in their neighborhoods with a feeling of safety and security.

I urge the DC Council to support the Mayor's ACTNow Legislation and help DC reduce its crime rate and allow its residents to feel safe in their homes and communities.

Kimberly Lockett

Good day! My name is Kim Lockett. I am a native Washingtonian, born and raised in the Northwest section of Washington DC. I have lived in DC my entire life with the exception of going away to college. I have never ever seen crime this bad. I had a conversation with one of my neighbors and he said with surely it had to be worse during the 90's. I quickly responded, no it was not. I feel as though we are a city under seige. I have never been afraid to walk the streets, yet I find myself fearful. There was a time recently when we planned our errands I.e going to the ATM or getting gas during daylight. But that doesn't matter these days. We are half a block away from an elementary school and there were two robberies at gunpoint between 3 and 4 PM this summer as the kids left school. While on a zoom call this summer there was a loud boom boom boom. My colleagues asked if I was OK, and after my call was over, I saw a lot of police officers. I walked down to find that a young young man had been murdered at 4 PM in the afternoon. I have a special needs older sibling who lives with us. One of his joys is putting on the leash and taking our 13-year-old Shih Tzu out for walks. We no longer allow him to do that by himself for fear that someone might stick a gun in his face, take our beloved dog, and harm my brother. We are a city under siege. My neighbors move in and they don't stay. They are gone in less than five years. I asked my young neighbors across the street why they were leaving after less than two years, and they said the crime. It's really bad here. We want to start a family and we don't want to do it here. That seems to be the sentiment of a lot of people these days. We have worked in this Community over 30 years trying to make this a safe place for people to live and raise their families. I'm often baffled by some of the actions of this Council to combat the crime we now deal with on a daily basis. Clearly, your policies are not working for the residents of the District of Columbia. There is a way to weed out bad police officers so that black and brown people aren't brutalized and murdered by the police and yet still allow good police officers to effectively police our communities. Some of these restrictions you have put on MPD need to be revisted. We have to work with not against them. We have effectively disarmed the police and armed the criminals and juveniles. When speaking to returning citizens they agree that as a city we have been too soft on crime and that slap on the wrist is not working. We are not proponents of people being locked away for minor crimes for life BUT THEY HAVE TO BE HELD ACCOUNTABLE. Somehow community involvement has gotten lost. We can come together for bike lanes and dog parks. Yet, we can't seem to work together as a community to combat our city's crime. Everyone continues to point fingers and that only further puts all of the residents in our city at risk. This is not about taking a position of what is perceived as the popular stance at this time. This is about doing what is sensible. This is about accountability. This is about saving the lives of your constituents so that they and their families have a future! Please support our Mayor on this, if not every single crime that is committed is on each and every one of you. Thank you for your time.

Kory Stuer

Thank you members of the committee for the chance to provide testimony. My name is Kory Stuer and I am a Ward 1 resident living in the U Street NW area. I am submitting testimony today to encourage you to not support Mayor Bowser's ACT Now Act and to instead invest in genuine solutions to these issues.

I have seen an increase in violence in my neighborhood in the past few years and I am very interested in seeing the District government act to prevent this violence, but unfortunately the proposals included in this bill would do nothing to that end. The bill proposes removing oversight from MPD and undoing restrictions on use of force that were enacted as a result of MPD's history of police brutality and to ensure transparency within the agency. I am thoroughly confused about how enabling police to use chokeholds prevents the gun violence this bill purports to address. As someone who works professionally in public health, the proposals for 'drug-free zones' and to recriminalize are astounding. There is overwhelming evidence showing that those policies are counter to the promotion of public health, and will only serve to increase surveillance and criminalization of DC's Black community. We know that the policies included in this bill will not lessen violence or improve community outcomes because none of the proposals are new. They have been tried and failed, and it's exactly War on Drugs-era policies like these ones that laid a foundation for mass incarceration in our society and enabled rampant levels of police brutality. The reality is that Mayor Bowser's proposals are more political posturing so she can say she's doing something instead of actually doing the difficult work of finding solutions. Frankly, we deserve so much better.

We can look to other cities in our region for examples. Just a few weeks ago, Richmond released its 2023 Gun Violence Prevention and Intervention Annual Report, showing a 75% decrease in homicides with victims under 18 and a 29% reduction in non-fatal shootings, contributing to an overall 9% decrease in violent crime this year. The cornerstone of these successes has been treating gun violence as the public health issue it is and responding accordingly, instead of the enforcement-dominated approach Mayor Bowser has insisted upon. Even the Richmond Chief of Police has admitted the single most impactful policy to achieve these reductions in violence was sufficient investment in their community mediator program, which uses a violence interruption approach centered in public health. If we want to improve public safety in DC, we should be talking about how to strengthen DC's violence interruption programs, and not the Mayor's proposals that MPD should be able to refuse inquiries related to officers' disciplinary history.

I urge you to consider a public health framework while addressing public safety, as well as other pressing issues impacting the safety and wellbeing of DC residents, such as how 5,000 of our neighbors are homeless, opioid deaths have doubled in the last five years, and "Vision Zero" has not come to pass and traffic deaths continue to mount. Public safety means getting people housed, and the Council should focus on oversight of the voucher program to ensure investments equal results. Public safety means providing care, not criminalization for drug users, and the Council should consider opening overdose prevention sites as have worked well and saved lives in New York. Public safety means a traffic policy that actually protects our residents, and the Council should pass the Traffic Safety Enforcement Act to move us forward.

Please do not be distracted by the proposals in this bill that will not actually address the problems we face. It is difficult to do the hard work of digging in on solutions, but that is what we need from our elected leaders, not just reviving failed policies so you can say you're doing something.

Thank you for your consideration.

Kush Kharod

Hello, My name is Kush and I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I have lived in MD and DC my entire life and have dealt with systemic issues my entire life, from lack of housing to inadequate funding to our schools. Growing up, it was not surprising to see some of my friends be so desperate to take actions to protect themselves and their families. Rents and food were too high. Parents would have to start two three jobs. Kids would have to leave school early to help pay the bills and take care of their siblings. Many were at peace knowing that they won't be able to afford college and high school is as far as we can go. So, today, when I see the carjacking, robberies, and other cases, it does not feel as different than when I was young. The issues are the same. The solutions are the same. The ACT Now Act, like the ACTIVE, Safer Stronger, Prioritizing Public Safety Acts before it, may make some of us feel safe, but the question is, who? Are these actions data-driven, centering our most vulnerable Black and brown neighbors? How are we making sure our children and residents don't go into the prison pipeline? These are the questions Councilmembers must reckon with.

As a brown DC resident, this legislation does not make me feel safe. Let's be real here. How does granting MPD the power to deny FOIA requests or cutting Office of Police Complaints access make us safer? Safety comes in the form of transparency and honesty, not secrecy. Why are we considering drug-free zones when DC Council, including CM Bonds, CM McDuffie, and CM Bowser, ended this practice because of unconstitutionality concerns. Chokeholds? George Floyd? Police chases? Karon Hylton-Brown? Come on, yall.

I understand the pressure you all face every day. I get it. But, that will never go away until we address the root causes of violence. You can go pass ACT Now, ACTIVE, Safer Stronger, Prioritizing Public Safety, and something else today, and tomorrow, a mother and her four kids will be evicted from their apartment. The mom will have to start working three jobs to get by. The kids won't have supervision anymore and will have to take care of each other, which means that they'll start struggling in school. The school does not have a lot of support, plus teachers are feeling a bit unmotivated because they also are working two jobs. The kids recognize school won't be able to provide what they need for their family. They link up with a gang to make a few more bucks to pay for dinner every night. They may feel uncomfortable doing this, but what else are they supposed to do, no one else is helping them. They start carjacking on their own and one day a police officer catches and rams into them. They put them in for a night and when the kid comes out, they're not a kid anymore. They see the world differently - not one that provides safety, comfort, care, and love - but rather punishment, loneliness, desperation.

This is not a hypothetical - this is every day. And, it will only worsen with these bills passing with more Black and brown residents going through this funnel and unfortunately, many will face death too. These are the consequences of our actions. Councilmembers, I have seen you work over and over again to address those root causes, why pass something that will only worsen it? Let's be bold, let's take care of every child in the city. Let's provide needed resources, let's fix up the sidewalk, let's get everyone a job, let's get everyone a home. This is courage. This is love. This is good *policymaking*. I urge CMs and staffers (yes, you, the one who is reading this), to be courageous and ask if you, thirty years from now, will feel comfortable seeing the impacts of this legislation. Be loving, graceful, kind, and oppose ACT Now and the rest of these punitive crime bills.

GREATER WASHINGTON
Board of Trade

Committee on the Judiciary and Public Safety
B25-0555 The Addressing Crime Trends (ACT) Now Amendment Act of 2023
Greater Washington Board of Trade
Kyle McColgan, SVP, Policy
November 29th, 2023

Good afternoon, Chairwoman Pinto, committee members, and staff. My name is Kyle McColgan, and I serve as the Senior Vice President of Policy at the Greater Washington Board of Trade. We are a pro-business and non-partisan organization supporting all industry sectors in the District of Columbia, suburban Maryland, and Northern Virginia, having done so for the last 134 years. I appreciate the opportunity to testify in front of you all today in support of Mayor Bowser's bill B25-555, the ACT Now Amendment of 2023.

I would first like to thank Chairwoman Pinto on her efforts thus far to address the issue of crime, particularly that of violent crime, and the many challenges it creates for citizens and businesses alike within the District. The emergency legislation passed and extended this year was a step in the right direction, as was the introduction of the Secure DC Plan.

With homicides topping 250 this year already, a two-decade high, roughly 900 carjackings – 77% of which involved a firearm, and a rise in youth related crime, public safety has quickly risen to the most concerning and pressing issue shared amongst the business community.

We at the Greater Washington Board of trade are firm believers that a comprehensive approach, that includes both addressing the underlying structures which lead to crime and more immediate actions to hold offenders accountable, is the only way to solve this complex and challenging issue.

While addressing violent crime must be a priority for our communities and businesses to thrive, we cannot disregard other criminal activity. This proposed legislation takes aim at addressing a concern our members have been impacted by – organized retail theft. Retailers of all shapes and sizes have been negatively impacted by increases in theft – with some choosing to implement costly internal security measures to help mitigate the issue themselves. While protecting their goods is a priority – most important is the safety and security of their employees and customers, who are at risk of becoming victims themselves as these thefts are carried out. The business community would greatly appreciate increased efforts and means to hold those who commit these crimes accountable.

It is also necessary to have an adequately staffed law enforcement entity who is provided with the resources and means to effectively do their jobs. This legislation would help to support an environment where this is possible.

Without addressing crime and public safety, there will be no meaningful recovery, not just in the District's downtown area, but in its entirety. While this bill is a component in assisting with the recovery, we urge the Council to continue their efforts to comprehensively resolve this issue.

Thank you for the opportunity to testify, I am happy to answer any questions.

Lavern Carr

Does District law allow for the District or victims of crimes, to hold accountable minors found guilty of commiting crimes?

U.S. Department of Justice

Matthew M. Graves
United States Attorney

District of Columbia

Patrick Henry Building
601 D Street, N.W.
Washington, D.C. 20530

December 13, 2023

The Honorable Brooke Pinto
Chairwoman
Committee on the Judiciary and Public Safety
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Chairwoman Pinto:

Thank you for the opportunity to submit comments on behalf of the United States Attorney's Office for the District of Columbia (USAO-DC) on Bill 25-0555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023."

USAO-DC is generally supportive of the provisions in this bill. We appreciate that this bill demonstrates a continued focus on our shared desire to continue to improve public safety, support law enforcement and prosecutions, and work together to combat the crimes that the District is currently experiencing. We want to draw attention to several provisions that we believe would be particularly helpful given our current environment.

First, we note the bill's proposal to permit officers of the Metropolitan Police Department (MPD) to review body-worn camera footage before writing their initial police report, *unless* the incident involves an officer-involved death, an officer use of force resulting in serious bodily injury, or a related type of incident. This proposal addresses the significant concerns we raised in a letter to the Council on June 8, 2020, and testimony before the Council on October 15, 2020, when the bills prohibiting officers from watching the footage before writing all initial police reports were proposed. As we stated then, and re-emphasize here, our primary objective is to ensure the accuracy of the initial police report, and therefore the accuracy of the information upon which we make charging decisions. Particularly in less serious cases, where a detective may not be assigned, the initial police report is a crucial way to inform prosecutors, the defense, and judges about the facts of the case. Officer accuracy in report writing is paramount, and this barrier infringes on accuracy. For example, an officer responding to a report of an assault may

interview multiple witnesses during an on-scene investigation. But to write their report about the assault, the officer is prohibited by current law from reviewing the most accurate record of what those witnesses said: the body-worn camera recording. Instead, the officer must rely only on their memory and/or handwritten notes to recall what each witness said. This is particularly problematic as, frequently, the language in the initial police report is the same language used in a *Gerstein* affidavit filed in court or in an arrest or search warrant, upon which judges rely when making decisions that affect a person's liberty and privacy.[1]

Further, BWC footage may contain exculpatory material that is favorable to a defendant. This could include exculpatory statements made by civilian witnesses, exculpatory evidence captured on video, and misidentification of an arrestee. The law should encourage police to discover and capture exculpatory material at the earliest opportunity, and should not prohibit police from reviewing BWC footage where exculpatory material may exist. Moreover, if officers are not permitted—outside of the context of officer conduct that results in serious bodily injury or death—to review BWC footage before writing a report, officers may be incentivized to write very brief initial reports that do not contain meaningful details, to the detriment of prosecutors seeking to make just charging decisions, defense counsel arguing probable cause and release conditions, and judges making probable cause and hold determinations.

Second, we note the bill's proposal that certain offenses committed against law enforcement officers are jury demandable only if the law enforcement officer was in uniform or acting in an official capacity at the time of the offense. Under this proposal, for example, an arrestee's assault of an on-duty law enforcement officer in the course of that arrest would be jury demandable, but a bar fight involving a person who punches a stranger who happens to be an off-duty law enforcement officer would not be jury demandable.

Third, we note the bill's focus on organized retail theft, and how our laws can respond to this concern. We appreciate the bill's proposals to ensure appropriate liability for theft, including proposals that would increase liability for theft when a person commits assault or intentionally destroys or damages the property of the retail establishment in the course of a theft. Our Office pursues investigations and prosecutions of retail theft, and has engaged the community on issues involving retail theft. We look forward to continuing to work with the community and our law enforcement partners to address this issue.

Fourth, we note the proposal with respect to neck restraints and asphyxiating restraints, which would clarify that officer contacts that have the "effect of" incidental contact with the neck—without any criminal intent—should not fall under these prohibitions. This is a common-sense revision and addresses a number of incidents that are needlessly being referred for investigation where there is brief, incidental contact with the neck region. We believe that limitations on the use of neck restraints and asphyxiating restraints should be limited to situations

[1] A *Gerstein* affidavit, which is sworn to by a law enforcement officer, is a document filed in court setting forth the facts of a cases that provides a basis for the judicial finding of probable cause. A judicial finding of probable cause is required for pretrial detention.

where an officer purposefully, intentionally, *or recklessly* engages in a neck restraint or asphyxiating restraint.

Additionally, since we are refining the scope of this provision, we urge the Council to address a gap in the provision that was introduced in 2023, pursuant to the "Comprehensive Policing and Justice Reform Amendment Act of 2022." This law removed the criminal penalties that were previously in place for illegally using chokeholds, which were defined to include "trachea holds" and "carotid artery holds." In 1986, the Council had created a criminal penalty, with a one-year statutory maximum, where an officer, under color of authority, willfully and intentionally violated the limitation on chokeholds prescribed by that law or any subsequent implementing regulations. In 2020, following the murder of George Floyd, the Council passed a series of emergency and temporary legislation, which modified this criminal provision to ban "neck restraints" and create a criminal penalty with a ten-year statutory maximum for applying a neck restraint. As things currently stand, there is no stated criminal penalty for use of a chokehold, to include use of a trachea hold or carotid artery hold. Given the gravity of those types of chokeholds, there should be a specific criminal penalty that applies to that provision. Accordingly, USAO-DC supports reinstating a criminal penalty with a one-year statutory maximum for use of a chokehold, which was previously in place for over 35 years.

We appreciate the Council's consideration of this legislation, alongside other legislation that will work together to support our criminal justice system. We look forward to continuing to work with our partners on the critical public safety issues facing the District.

Sincerely,

MATTHEW M. GRAVES
United States Attorney

Testimony of Ms. Lisa Haythe, Resident of Brookland Manor Apartments, in Support of B25-0555 Addressing Crime Trends (ACT) Now Amendment Act of 2023

Good morning members of the Committee. My name is Ms. Lisa Haythe and I am a resident of Brookland Manor Apartments. I have lived at the property all of my life and I am submitting my testimony in support of B25-0555.

There is a loitering problem in the public spaces surrounding Brookland Manor Apartments. This has led to violent crime in the neighborhood. This makes it hard for residents to feel safe when we go outside.

On September 27, 2023 my nephew and my childhood friend were murdered on the corner of 14th and Saratoga Ave. NE. Two weeks after that on October 12, 2023 my youngest son was murdered on 14th and Downing St. NE. The crime is out of control at Brookland Manor.

I am asking you to make Brookland Manor Apartments and the surrounding neighborhood a drug-free zone. Thank you for your time.

Testimony of Liz Komar

Sentencing Reform Counsel
The Sentencing Project

Public Hearing on Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

Before the D.C. Counsel's Committee on Judiciary and Public Safety

November 30, 2023

My name is Liz Komar and I am the Sentencing Reform Counsel at The Sentencing Project and a Ward 3 resident. The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice. Thank you for your time.

We write to express concerns regarding the Addressing Crime Trends Now Act, which would reinstate the ability of the Metropolitan Police Department Chief to declare drug-free zones, and to clarify our position. During Mayor Bowser's October 23, 2023 press conference announcing this Act, Deputy Mayor Lindsey Appiah cited The Sentencing Project's work while defending the Act. Our 2013 brief on this topic, "Drug-Free Zone Laws: An Overview of State Policies," however, concludes that drug-free zone sentencing enhancement laws deepen racial disparities in sentencing and recommends that they be scaled back.[1] Drug-free zone sentencing enhancement laws are also legally distinct from drug-free zone anti-loitering laws, such as those in the ACT Now Act, which our 2013 brief did not address. The Sentencing Project does not endorse either form of drug-free zone law, rather we urge the Council to move beyond the failed tactics of the drug war and pursue public health responses to drug use.

Anti-Loitering Drug-Free Zones Raise Serious Constitutional Concerns

In 2014, the D.C. Council voted to repeal the Anti-Loitering/Drug-Free Zone Act of 1996,[2] which permitted the MPD chief, for up to 120 hours, to designate zones where two or more people would be prohibited from congregating if police suspected them of engaging in the drug trade. In practice, anti-loitering drug-free zone laws can criminalize the mere act of standing while Black and deepen racial disparities in the criminal legal system. As such, according to then-Councilmember David Grosso, who introduced the bill to repeal the Act, the Committee on Judiciary and Public Safety had reached the conclusion that the law was "likely unconstitutional."[3] That conclusion was consistent with concerns expressed by legal scholars that anti-loitering drug-free zone laws "represent a clear departure from longstanding constitutional principles which forbid laws that criminalize mere suspicion of future unlawful conduct."[4] In 2011, an anti-loitering drug-free zone law in Annapolis, Maryland even faced a successful challenge and was blocked by a federal court.[5] The Sentencing Project urges the D.C. Council to not step backwards by reviving this failed policy.

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[1] Porter, N. & Clemons, T. (2013). *Drug-Free Zone Laws: An Overview of State Policies*. The Sentencing Project.

[2] Anti-Loitering/Drug Free Zone Act of 1996, D.C. Act 11-321.

[3] David Gross D.C. Council-At-Large (Sept. 18, 2014). *Grosso's Criminal Justice Bills Pass through Committee* [Press Release].

[4] *See, e.g.,* Trosch, W. (1993). The Third Generation of Loitering Laws Goes to Court: Do Laws That Criminalize Loitering with the Intent to Sell Drugs Pass Constitutional Muster*. North Carolina Law Review. 71(2).*

[5] Crawford, A. (Mar. 31, 2001). *Annapolis' anti-loitering law aimed at drugs is struck down by U.S. judge*,*The Baltimore Sun.*

Anti-Loitering Drug-Free Zones Perpetuate the Failed War on Drugs

The drug war has resulted in a skyrocketing number of Americans imprisoned for drug offenses – from roughly 19,000 in 1980[6] to 193,848 in 2021[7] – and for increasingly lengthy periods of time.[8] The United States' choice to prioritize punishment over evidence-based responses to substance use disorders has also cost hundreds of thousands of lives, as overdose deaths have reached all-time highs.[9]

The War on Drugs, and its extremely punitive focus, disproportionately harms Black, Latinx, and Indigenous communities.[10] This proposed expansion of anti-loitering drug-free zone laws is likely to continue that trend. We urge the Council to remember the lessons and harms of the drug war and to pursue evidence-based solutions rooted in public health, not further criminalization.

Thank you for this opportunity to express our concerns and please do not hesitate to contact us with any questions.

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[6] Bureau of Justice Statistics (1995). *Correctional Populations in the United States.*

[7] As of December 31, 2021, there were 127,348 sentenced individuals under the jurisdiction of state correctional authorities for drug offenses. Bureau of Justice Statistics (2023). *Prisoners in 2022*. As of September 30, 2021, 66,500 individuals in federal prisons were serving time for a drug offense. Bureau of Justice Statistics (2022). *Prisoners in 2021*.

[8] The Sentencing Project (2022). *Trends in US Corrections*.

[9] Center for Disease Control and Prevention (2023). *Drug Overdose Deaths*; Centers for Disease Control and Prevention (2023). *Vital Statistics Rapid Release - Monthly Provisional Drug Overdose Death Counts*.

[10] Ghandnoosh, N. (2022). *Opioids: Treating an Illness, Ending a War.* The Sentencing Project.

The Lamond-Riggs Public Safety Group

5719 6th St., NE
Washington, DC 20011

December 13, 2003

Dear Sir/Madam,

The Lamond-Riggs Public Safety Group (LRPSG) is writing in support of Mayor Bowser's ACT Now Amendment Act of 2023. The LRPSG recognizes that reducing crime in our City and Community is a multifaceted effort, that involves parents/family, schools, MPD, the courts, the Mayor's Office, churches, the Community, friends, etc. Given the above, we believe that ACT Now offers new "tools", that can be used as one part of that effort, to improve Public Safety in the City and in the Lamond-Riggs Community.

We are especially pleased that ACT Now includes: • Ensuring officers can review their body worn camera footage prior to writing their initial police report in certain circumstances, • Making permanent clarification of vehicular pursuit, • Creating criminal penalties for organized retail theft, • Limiting loitering by reinstating the ability of the MPD Chief to declare drug-free zones, • Reinstate the law that makes it unlawful to wear a mask for the purpose of committing criminal acts, intimidating and threatening other people, or causing fear and • Clarifying the distinction between a serious use of force and incidental contact with the neck.

ACT Now's intent to improve Public Safety compliments the LRPSG's efforts to make our Community safer. As such we've proposed and intend to implement, a series of things that can be done, to improve Public Safety in our Community. We believe our *Strategies to Improve Public Safety in Lamond-Riggs* (attached) reflects basic, practical and realistic strategies that can be implemented in our Community in concert with other partners.

The LRPSG is composed of residents from across the Lamond-Riggs Community who're focused on <u>developing and implementing realistic and practical strategies</u> to improve Public Safety in our Community, *in partnership with our neighbors, all law enforcement and related organizations.* Most of our members are long-term residents with past experiences in improving Public Safety in our Community and believe we have some responsibility to help make Lamond-Riggs safer! **We are not bystanders** and are the only organization in Lamond-Riggs, with a functioning effort to Improve Public Safety. Our proposed strategies note <u>specific actions that can be implemented</u>, and *the need for a more coordinated, partnership-based approach to Public Safety in our Community*!

Our efforts include:

- Analyzing MPD's Crime Card Data for our Community, sharing that with our neighbors.
- Leafletting several blocks around 2 of the 3 areas in our Community with the highest incidents of violent crime twice, with fliers re: the City's Free Security Camera Program. We also leafletted other areas as well.

- Meeting with both our Councilmembers Lewis-George (the WD 4 part of our Community) and Parker (the WD 5 part of our Community), Commander Lavenhouse (4th District) and are scheduling meetings with Metro Transit Police (the Ft. Totten Metro is in our Community), the OAG's Office, the Deputy Mayor for Public Safety and Justice and the US Attorney's Office re: implementing our strategies and agree on how we can work better together as partners in Improving Public Safety in Lamond-Riggs.

- In addition, we held a Community-Wide *Improving Public Safety in Lamond-Riggs* meeting on Dec. 2 and received lots of feedback re: additional short and long-term strategies, that our neighbors thought would also work. Here's a few that we thought were really good for Improving Public Safety:

    - Implement or strengthen existing holistic approaches to Public Safety by offering Conflict Resolution classes/workshops, etc. to all kids and to youth in training/GED/other programs and to incarcerated youth and adults.

    - Implement or strengthen existing efforts, that enhances parental responsibility and parenting classes, to inform/remind parents re: their responsibilities for their kids, encouraging them to implement their own curfew for their kids, where to go for resources, how to "spot" warning signs of kids "being in trouble", potential outcomes if their kids are "in trouble", etc. This includes adding language to existing measures or creating new ones, that will legally hold parents more responsible for their kid's actions and implement related, sustained public service campaigns re: all the above.

    - Provide more Truancy Officers with more resources, along with better coordination/reporting between schools and all law enforcement and related agencies, including the courts, parole/probation, OAG, U.S Attorney, etc.

    - If legal, routinely publicize names of those with outstanding warrants for violent crimes and crimes with weapons, with any rewards for info leading to an arrest.

We strongly support the ACT Now Amendments and encourage the Council's Committee on the Judiciary and Public Safety, to consider incorporating any of the strategies noted above, along with our Strategies attached, into its final draft bill and! Please feel to contact us if there are any questions.

Regards,

The Lamond-Riggs Public Safety Group (LRPSG)

Co-Conveners,

Marsha Pender, 2-276-0475
Rodney Foxworth, 2-997-1875

The Lamond-Riggs Public Safety Group

5719 6th St., NE
Washington, DC 20011

Attached: Strategies for Improving Public Safety in Lamond-Riggs

Public Safety Group Recommendations to Fight Crime in Lamond-Riggs

(Sent to WD 4 Councilmember Janeese Lewis-George Feb 15 and April 30, 2023)

For June 12th 4pm meeting with Councilmember Lewis-George and Commander Hearud at the Lamond-Riggs/Lillian J. Huff Library

Marsha Pender, Rodney Foxworth Co-Conveners

The goal is to partner with our WD 4 and 5 Councilmembers to think thru, refine the following and figure out how to implement the appropriate strategies/action steps (short/long term), in concert with City Agencies/AG's Ofc. and others as needed to make our Community safer.

Recommendation to Improve Public Safety in Lamond-Riggs with Practical Strategies and Tools

Recommendation: Increase Public Safety in Lamond-Riggs by improving coordination between MPD, Metro Police, the Dept. of Rec., the Attorney General's Office, the Dept. of General Services, The Deputy Mayor for Public Safety/EOM and residents to target "problem areas" in our Community <u>during day/night hours when crimes are usually committed.</u>

Strategy: Councilmember Lewis-George in consultation with Councilmember Zachary Parker, convenes a meeting with MPD, Metro Police, the Dept. of Rec., the Attorney General's Office (AG), the Dept. of General Services, The Deputy Mayor for Public Safety/EOM and those initial residents who requested assistance to significantly improve public safety. We think the combined knowledge, experiences and resources of the above, would help a lot!

Tools: The available resources from each organization with residents, who in an anonymous manner, will provide on-going intelligence re: crime in our Community. This includes having:

<u>MPD</u>: Revise its policing in consultation with residents, to better reflect current public safety issues in targeted areas of Lamond-Riggs and redeploy resources accordingly (uniformed/ undercover officers, shot spotters, cameras, etc.).

- Move the camera that's at 6th and Oglethorpe Sts. to another area in our Community, that's more challenging (e.g. Chillum Pl. between Riggs Rd. and 3rd St., etc.).

- Identify combination of patrol officers and command staff on each shift, that residents can anonymously share info re: suspicious and/or criminal activity in our Community*.

- Direct the "feed" from MPD cameras in our Community to desks in the 4th District, ensuring

24-hour live monitoring*.

- Have marked cars, parked in problem blocks in our Community*.

Metro Police: Use marked/unmarked cars along bus routes in targeted areas daily, day and night.

- Have officers park/walk along those routes for periods of time.

- Have marked cars, parked in problem blocks along bus routes in our Community*.

The Dept. of Rec.: Reassign Roving Leaders to targeted areas in Lamond-Riggs.
The AG's Office**:** Continue, increase its efforts to ID and prosecute those addresses for seizure/asset forfeiture as quickly as possible.

- Identify staff(s), that residents can anonymously share info re: suspicious and/or criminal activity in our Community that's address specific*.

- Assign Violence Interrupters to targeted areas in Lamond-Riggs*.

- Explore legislatively how to reduce the threshold to warn owners that their property is a nuisance.

Dept. of General Services: Keep the armed security services in the Riggs LaSalle Rec. Ctr. indefinitely until staff, the Community and MPD have a consensus that the area is safe. After that time, they should return on a weekly basis randomly between 3:30pm and closing.

The Deputy Mayor for Public Safety/EOM**:** Develop/organize a Ward 4 Youth Task Force, in concert with youth, churches, citizen's Associations, tenant councils, HOAs, business assocs., ANCs, residents, schools, etc.

- Provide staff, other resources to Councilmember Lewis-George in coordinating public safety efforts in Lamond-Riggs and Ward 4*.

- Have the Office of Neighborhood Safety and Engagement to support this effort and coordinate community oriented, public health approaches to violence prevention in partnership with Lamond-Riggs Community groups, ANCs, churches, residents, etc.

- Identify, distribute resources to those parents/grandparents, who're having major problems with their children/grandchildren. Distribute to the Community and schools in Lamond-Riggs*.

- Create new or enhance existing violence prevention programs/curriculum in all schools in, near Lamond-Riggs. If creating new program/curriculum, model here and in Ward 8*.

- Assign the 2 MOCRS who work in Lamond-Riggs to support both Councilmembers and the Community in this effort.

Councilmember Lewis-George and Zachary Parker

- Coordinate this effort in partnership with residents who initially requested assistance. Others may be added by the initial group later.

- Employ targeted outreach to those businesses, apartments (like Ft. Totten apts. especially given its retail) and residents in affected blocks based on "calls for service" and resident's local knowledge, to get exterior cameras (via DC's Camera Rebate Program or privately) and ensure where possible, those cameras "cover" the specific problem areas. For those that have cameras, we can engage them to adjust their cameras if possible.

- Add really visible signage (sidewalk/street) to blocks where MPD or private cameras are used in targeted areas, basically stating "this area is under video surveillance", as another crime prevention strategy.

- Clarify and promote how/where residents get "real time" info from MPD re: violent/major and other crimes in our Community. The info can be widely distributed in Lamond-Riggs, residents will be better informed with the facts, with that info they can better protect themselves/their loved ones and it'll reduce confusion/anxiety, especially for Seniors who comprise about 50% of the adult population in our Community.

- We request that your office work with us and MPD's Fourth District, to develop a "crime map" of PSA 406. The map can show named streets in the PSA and cumulative "calls for service" per address, that includes violent and major crimes, reports of "shots fired", burglaries, thefts from auto and stolen auto incidents for the last 24 months. We're hoping that your office can send us the map for review before we meet. It'll provide a "baseline" re: specific locations, frequency, number, etc. for those of crimes, in our Community. The baseline will be further refined, by our local knowledge.

Luke Bostian-Valle

orwAs a longtime DC resident, I am writing in opposition to the Mayor's proposed Addressing Crime Trends NOW Act. Creating more pretenses for the police to harass, arrest, and imprison people -- especially black people, because no matter how much the Mayor's office crows about MPD being allegedly "fair and constitutional," black people are going to suffer most from ACT NOW -- hasn't ever gotten anyone anywhere good. Tough on crime has always been a failure and it defies belief that people in positions to know better are still harping on it. Bowser wants to criminalize mask wearing because it makes some people nervous when some people do it? Give me a break. All this law will do is widen the gap between how the city treats the poor and nonwhite and how it treats the rich and white. If you want to reduce crime, invest in housing, and decent jobs, and education, and traffic safety, and worker protection, and tentant protection.

M Smith

To the Honorable Members of the Committee on the Judiciary and Public Safety,

Subject: Enhancement Proposal for the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

As a committed business owner, parent, and lifelong resident of Ward 8 in Washington, D.C., I stand in support of Mayor Muriel Bowser's ACT Now Amendment Act. This legislation is crucial for addressing the rising crime in our communities. However, I propose an additional dimension to this bill – the integration of mental health reform and mandatory therapy for offenders, focusing on both preventative and rehabilitative measures.

The increase in crime in the post-COVID-19 era indicates deeper societal issues, likely exacerbated by the pandemic's psychological impacts. Many involved in criminal activities are, in a sense, reaching out for help, signaling unaddressed mental health needs. To respond effectively, we must consider preventative strategies alongside more holistic and therapeutic measures, such as mental and physical therapy, as part of our crime reduction toolkit.

I propose the implementation of a mandatory therapy program for individuals convicted of crimes. This program would aim to address underlying mental health challenges and encourage rehabilitation. While we recognize the necessity of accountability, we also acknowledge the potential of therapy in transforming lives and preventing future criminal behavior.

Regarding the legal consequences, I suggest that not all crimes should be eligible for expungement upon the completion of therapy. The nature and severity of the crime must be considered. However, for lesser offenses, successful completion or ongoing participation in therapy could lead to a reduction in sentencing or other legal benefits. This approach balances the need for justice with the opportunity for rehabilitation and societal reintegration.

In conclusion, I believe that by adopting a more comprehensive approach that includes mental health interventions and tailored legal consequences, the ACT Now Amendment Act can more effectively address the root causes of crime and promote long-term community well-being.

Thank you for considering this enhancement to the legislation. I am confident that with these additional measures, we can foster a safer, healthier, and more just community in Ward 8 and beyond.

Sincerely,

M. Y. Smith

DC Council Committee on the Judiciary and Public Safety
Public Hearing on the Addressing Crime Trends ("ACT") Now Act of 2023 (B25-0555)

November 29th, 2023

Testimony of Madhvi Bahl
Migrant Solidarity Mutual Aid

Good afternoon Chairperson Pinto and Members of the Judiciary Committee,

My name is Madhvi Bahl and I am testifying today in strong opposition to the Addressing Crime Trends Now or "ACT Now" Act of 2023. This bill is a clear attempt to expand police power and limit oversight and has nothing to do with public safety. ACT Now is such an egregious power grab by MPD that it even rolls back recent reforms made by the Comprehensive Policing and Justice Reform Amendment Act of 2022, going against recommendations from the Police Reform Commission.

ACT Now will drastically reduce transparency around police misconduct and abuse. This legislation no longer requires MPD to release body camera footage when an officer negligently discharges their firearm, if it doesn't put the public at risk or if they're targeting an animal. What purpose do these provisions serve, other than to protect cops who fire their weapons for no reason and shoot people's pets? **Less transparency around cops carelessly firing guns and killing animals very clearly will make us less safe, not more.**

ACT Now also allows MPD to categorically deny or redact FOIA requests for any disciplinary record that is not sustained or that occurred prior to the effective date of this act, thereby shielding cops with a pattern of repeated prior misconduct from liability. Another provision that's only function is to protect cops who have harmed our neighbors, and allow them to harm many more going forward.

Perhaps most egregiously, ACT Now will allow MPD to restrict someone's airway and apply pressure to their neck, including their trachea, carotid artery, or jugular vein, to stop them from moving. There is not one single, even halfway legitimate reason for this change. **Did we learn nothing from the murder of George Floyd?** Was the Mayor's plan always to paint a street, wait a couple of years, and try to bring back cops asphyxiating people? Yesterday, Chief Smith said that ACT Now will give her officers the tools they need. If chokeholds and asphyxiation are the tools MPD needs to do their job, it is clear that their job is nothing more than violence, and violence makes us less safe, not more.

The ACT Now Act is another piece of legislation in the long line of deeply concerning "crime bills" that the DC Council and Mayor have introduced this year in the name of safety. **And that is by design** — to overwhelm community members and advocates with countless new bills and endless hearings, thereby making the process inaccessible to many people and limiting dissent. If expanding criminalization, pretrial detention, surveillance, and police brutality had strong support, this strategy would not be necessary.

This legislation is reminiscent of the 1990s, relying heavily on punishment, rather than care. In fact, this very hearing opened with a former Councilmember who passed crime bills back in the 90s advocating for ACT Now because of how similar it is to the bills he worked on. **If that isn't a red flag, I don't know what is.** This approach didn't work back then, and it won't work today. It is time to abandon the old, ineffective carceral framework, and focus on root causes instead.

Councilmembers, I urge you to reject the ACT Now Act and any future bills that contains its provisions.

Unleashing unchecked state violence on this city will not make us safe.

Thank you for your time.

Margaret Cunningham

As a public health practitioner, a data scientist, a nurse, and a District resident and taxpayer, I am dismayed to read that the Council is considering a move away from accountability and transparency; history shows that reduced police accountability is tied to increased expenses, which would be unconscionable to introduce during this affordable housing crisis. The proposed bill, if passed, would increase violence, decrease social to cohesion, further burden the health care system, disrupt family lives, and make the city less safe for myself and my neighbors. This council knows better and should act accordingly.

Maryam Saleh

My name is Maryam Saleh, and I have lived in D.C. for more than three years. As a Ward 4 resident, I am deeply concerned by the ACT Now Act, which will curtail transparency and oversight of the Metropolitan Police Department while also enabling surveillance and abuse that will disproportionately impact DC's Black and brown residents.

The ACT Now Act will make it easier for police officers to physically harm community members by loosening restrictions on the use of deadly force and reinstate officers' ability to place people in chokeholds. At the same time, the legislation will make it harder for residents and journalists to obtain records about police encounters, cutting off an important avenue for oversight.

Rather than passing laws that will increase criminalization and surveillance, the Council should invest in the basic needs of DC residents. Improve access to health care, shelter for the unhoused, mental health practicioners, and other social service providers.

I urge the Council to vote NO on the ACT Now Act and to choose instead to invest in providing goods and services that will keep our communities safe.

Testimony of Maura Brophy
President & CEO, NoMa Business Improvement District
Committee on the Judiciary and Public Safety
Addressing Crime Trends Now Amendment Act of 2023 (ACT Now)

I would like to thank Councilmember Pinto and esteemed members of the committee on the Judiciary and Public Safety for the chance to offer testimony in support of the Addressing Crime Trends Now Amendment Act of 2023 ("ACT Now"). My name is Maura Brophy, and I'm honored to represent the NoMa Business Improvement District, an organization that is dedicated to enhancing the quality of life for residents, employees, and visitors in the NoMa neighborhood of DC.

I also serve as a member of the DC BID Council, a collective of 12 Business Improvement Districts in the District of Columbia that work at the intersection of the public and private sectors as catalysts for growth and improvement in our respective communities. It is in this dual capacity that I come before you today to testify in support of ACT Now. This legislation is crucial for addressing recent public safety challenges and ensuring the vibrancy of our neighborhoods.

NoMa is a neighborhood that is thriving. The zip code that includes NoMa—20002—was recently named the fastest growing neighborhood in the country by apartment count. We are welcoming new residents and businesses on a daily basis, and we have become a model of a vibrant, mixed-use community. That said, public safety has emerged as the foremost concern expressed by stakeholders in NoMa and the broader business community—and is the biggest potential threat to thriving neighborhoods that have become such an important piece of the District's urban fabric in light of the challenges in DC's Central Business District.

As practitioners intimately connected to the communities we serve, we have direct on-the-ground experience witnessing and being adversely affected by these crimes. One piece of this legislation that is particularly relevant in NoMa is the piece that addresses open air drug markets. I have such an area in NoMa—in and around the Unit Block of P Street Northeast. This area has become a pressing issue, creating an environment fraught with safety concerns. Residents (including parents of students at a nearby school) express heightened concerns over safety and adjacent businesses have raised concerns about their ability to serve customers. Additionally, the negative impact of organized retail crime compounds these challenges in every area of the city and presents an additional threat to fostering a thriving business climate and a robust local economy.

I appreciate the Mayor's dedication to addressing these pressing issues, and very much appreciate the committee's attention to this and all legislation aimed at increasing the safety of our communities.

Thank you for your time, consideration, and commitment to ensuring the safety and prosperity of our city.

Meghan McKenna

My name is Meghan McKenna and I am submitting testimony in opposition to the Addressing Crime Trends (“ACT”) Now Act of 2023. I've lived in Ward 1 in Washington DC for nearly 5 years, and I love my city, neighbors, and community because we keep us safe -- NOT the police. I cannot use strong enough wording to vehemently oppose the ACT Now Act, and the insidious and pervasive harm it will cause to DC residents, specifically Black residents and DC Natives.

It is so deeply disrespectful and disgusting that the DC Council is attempting to pass legislation that essentially overturns the ""reforms"" that the Council passed in the wake of George Floyd's murder. I want each of you to sit with that fact: the ACT Now Act would make it easier for DC Police to murder people in the exact same way that Derek Chauvin murdered George Floyd. If you vote Yes on the Act NOW Act, YOU would be complicit in each person that *WILL* be murdered by the DC police.

By enabling MPD to baselessly deny or redact FOIA requests, the ACT Now Act is blatantly obfuscating transparency and accountability. Similarly, if the Office of Police Complaints does not have full and unfettered access to the information relevant to their investigation -- which would be the case if this Act passes -- the DC Council would be legally condoning and codifying restricting oversight and accountability.

As a DC resident and community member, I believe in and trust my community, and am excited about the future we're building today. We collectively want DC Council to invest in our communities and our futures, not the police. I dream of a future for DC where the council invests in:

- Quality, public housing and stabilized rent in private housing

- Increased, tangible resources for unhoused community members that center their desires and needs

- Improved public transportation infrastructure

- Food access -- particularly in food deserts like East of the River in wards 7 and 8

- Libraries to connect and support our community

- Increased access to reproductive health care, including more protections for abortion care as DC is a hub for people traveling from states with abortion bans

- More support for DC public schools, students, and teachers

You have the opportunity to choose to invest in our communities, and I urge you to do so

As DC Council, your responsibility is to the community. To our safety and well-being and to the bright future DC holds. However, the ACT Now Act directly jeopardizes all of that, while also undermining any previous attempts at futile police ""reform"" that were purported to be borne out of justice and equity.

You have a moral obligation and responsibility to vote NO on the ACT Now Act, which would put our community in harm's way, reduce oversight and accountability, and decrease protections from lethal uses of force like chokeholds.

For your community and for the safety and future of DC, I urge you to vote NO on the ACT Now Act.

Micah Moody

My name is Micha Clark Moody and I've lived in Ward 6 for 18 months. I am testifying today on behalf of myself and my neighbors at H and 7th who believe that increasing pretrial detention and police stop and frisk in the District will make all of us less safe.

I am strongly opposed to B25-0555. I am opposed to ineffective and racist surveillance systems including drug free zones that make DC even more hostile to people who have had past police interactions, disproportinoately black people. And I am extremly opposed to anti-mask laws because, regardless of intent during the criminal proceeding, what matters most to me is the increased excuses anti-mask laws give police to interact with people especially immunocompromised DC citizens most vulnerable to police interaction and even short periods in jail without a mask.

I am also extremly disturbed by the attempt to decrease transparency and make it easier for police to harm people. Loosening policies around neck restraints, deadly force, and vehicular pursuits make everyone in DC - particularly people most likely to interact with police - much less safe. Police already have extroidinary access to force, we cannot expand access to these tools and lower accountability for killing people under arrest and by standers.

I am also saddened by the councils focus on these false promises when there are real solutions to instability and stress that drive violence. I am particularly committed to support permenant supportive housing and connection to that housing, the #SafeandFreeDC agenda, and the Drug Policy Reform Act to decriminalize drugs in the district.

I care about these issues for so many reasons, but particularly today as I think about the people at my church and who I talk with on H street that are suffering from homelessness. Homelessness makes managing addiction and contemplating recovery so difficult. And policing - fear, harrassment, violence, and the instability caused by jail stays - makes all of this worse. I care about my neighbors and I've seen the apartment and job loss pretrial jailing causes. It is so important for my neighbors and for all of our safety we do not expand this policing system and instead invest in resources and stability that help people thrive.

As a DC and Ward 6 resident, I strongly as that you VOTE NO ON ACT NOW. The status quo is better than this destabilizing, punishing, backsliding, violent law. As someone who values my safety and the safety of my neighbors, I hope you will go beyond voting no on ACT Now and instead choose to invest in housing and community resourcces that actually make our lives stable and safe.

PUBLIC HEARING:

B25-255, The "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

BEFORE THE

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY
& PUBLIC SAFETY
BROOKE PINTO, CHAIR

Testimony of Michael G. Tobin, Executive Director
Office of Police Complaints

November 29, 2023

TESTIMONY OF

MICHAEL G. TOBIN,
EXECUTIVE DIRECTOR
OFFICE OF POLICE COMPLAINTS

November 29, 2023

Good morning, Chairwoman Pinto and members of the Committee on the Judiciary and Public Safety. I am Michael G. Tobin, the executive director of the Office of Police Complaints (OPC). I appreciate the opportunity to provide testimony regarding police accountibility in the District of Columbia.

The mission of OPC is to improve community trust in the District's police departments through effective civilian oversight over the Metropolitan Police Department (MPD) and the District of Columbia Housing Authority Police Department (DCHAPD). OPC's mission of improving public trust has arrived at an important crossroad not envisioned by its current statutory authority.

Today my allotted time for speaking will be utilized to address the provisions of the proposed bill as they relate to police oversight in the District, the Police Complaints Board (PCB) and OPC.

The OPC and PCB were created to provide an effective and efficient review mechanism to oversee the "extraordinary powers" of the District's sworn police officers. At the time of their creation some twenty years ago it was considered a significant step forward in police oversight. The enabling statute created by the DC Council was the next step in the evolution of a long history

of oversight in the District that extends back to World War II and even the Civil War. On August 15, 1861. President Lincoln appointed 5 community members as Commissioners of Police for the Metropolitan Police Board of the District of Columbia. This was part of the same Congressional Act of August 6, 1861, that established MPD as the first regular federal police force for DC and created our first civilian oversight agency, the Metropolitan Police Board. By interpretation of these documents, it is reasonable to say that civilian oversight of MPD in the District began with the official establishment of MPD in 1861.

Since 1861 many iterations of police oversight have come and gone in the District. Today we have an oversight agency that is primarily investigative in its function and limited in its jurisdiction, and a civilian board that has little authority to provide meaningful community input into police policy, procedure, discipline, and training.

The Police Reform Commission (PRC) made multiple recommendations to update the authority and jurisdiction of the PCB and OPC to reflect the current needs and desires of our community. The DC Council gave these recommendations serious consideration and enacted several improvements in police accountability in the District. In a sense, these improvements were simply returning our system of police oversight to what was intended by Congress in 1861. When President Lincoln appointed the first civilian board it was granted far greater responsibility and oversight than most boards in the country currently have. The first five Commissioners of Police appointed to the Metropolitan Police Board did not have any of the jurisdictional or authority limitations that currently restrict civilian oversight to a nominal existence.

This current proposal now seeks to walk back these very improvements, most of which have not even taken effect yet in the District. The curiously named "Addressing Crime Trends (Act) Now Amendment Act of 2023" has very little to do with addressing crime in the District. Instead, this proposal could more aptly be titled the "Handcuffing Police Oversight in the Nation's Capital Act." Most of the proposal has nothing to do with addressing crime trends and everything to do with reducing police accountability in our community.

Reducing police accountability in our community will not contribute in any way to addressing crime trends or making us safer. In fact, it will have the opposite effect. There are large segments of our community that do not trust the police. Rolling back these nominal police accountability measures will only exacerbate the mistrust experienced by many parts of our community.

If we want a safer community, trust in the police must be improved. An integral part of the formula to increase safety is to have effective policing. Effective policing starts with the community trusting the police. We cannot effectively move toward a safer community without a basic underlying trust in the police.

If you want to support the police in making our community safer, then you should support effective police oversight. Effective police oversight leads to increased trust in the police, which in turn leads to more effective policing. This is the essential and overarching concept of police oversight- effective oversight leads to effective policing which in turn leads to safer communities. It is short-sighted and imprudent to believe that reducing the authority of OPC and limiting the ability of the public to participate and understand the workings of its own police force will somehow reduce crime and make us safer.

The provisions of this proposal that pertain to OPC and police oversight in general are detrimental to community trust and effective policing include:

- Removing unfettered access to all information
- Removing the requirement for public review of MPD directives
- Removing the requirement for officers to notify the public that they are being recorded by an officer's body-worn camera
- Concealing the identity of officers that have committed misconduct by limiting public posting of disciplinary information, preventing release of disciplinary records information through FOIA, and hiding the names and badges numbers of officers in serious misconduct hearings
- Removing the prohibition against neck restraints that are used by officers when the purpose is to prevent movement
- Restricting the release of officer disciplinary records information by the OPC executive director

None of these proposals serve the stated purpose of addressing crime trends. All of these proposals serve the purpose of further insulating MPD from public scrutiny and further eroding community trust in its police department.

OPC will support this Committee in its effort to implement meaningful and lasting improvements to police oversight in our community. I thank the Committee for its time, and we will be happy to answer any questions you may have.

Council of the District of Columbia
Committee on the Judiciary and Public Safety
November 29, 2023

On behalf of Moms of Black Boys (M.O.B.B.) United, Inc. I stand before you as the DC Chapter Lead for M.O.B.B. United and MOBB United for Social Change (MUSC). We are a movement of concerned mothers who have joined together to uplift and protect Black boys and men. We represent every race, age, socioeconomic background, marital status and education level.

MOBB United was founded in July of 2016 after the back-to-back murders of Alton Sterling and Philando Castile on July 5th and 6th. Philando Castile was murdered during a traffic stop on a Facebook Live feed, while many of us watched in horror, as the passenger in the car went live to record the aftermath.

The officer involved discharged his firearm seven (7) times at close range. Five (5) of those shots hit Philando Castile and took his life. It was the cell phone video, the advocacy of the Castile Family and the community unity that ultimately led to the release of the police dash cam video. Both videos were paramount in unearthing the facts throughout the investigation.

I am here today, also, as a Black and Blue Mom who has a unique multidimensional perspective as it relates to body worn cameras, community unity, and fostering a proactive dialogue as we strive to serve our DC residents. Transparency and accountability are NON-NEGOTIABLE.

I spent more than twenty-five (25) years on the sworn side of law enforcement in service as a patrol officer, training officer, sergeant, a Criminal Investigator to include a Supervisory Special Agent/ Criminal Investigator but my biggest responsibility, and most important title, is MOM. These last seven (7) years, I have worked within the Metropolitan Police Department as a Professional/Civilian employee to include a three- and half-year assignment within the agency's Internal Affairs Division (IAD) as the first ever Civilian Agent to take on the role as an Agent/Investigator in IAD. I investigated police misconduct and/or use of force allegations which led to countless hours of reviewing body worn camera (BWC) footage. It was the first time in MPD's history that a "civilian" was a part of IAD staff who was responsible for investigating the misconduct of sworn members. It was not received well by all from within, but it was a great stride in the right direction especially from the perspective of the people that we serve, and a few visionary leaders within the police department. MPD was building bridges, through the Police for Tomorrow program, via a collaboration with Georgetown Law School, with a goal to be proactively transparent. This new mission would help to forge new relationships with DC stakeholders, rebuild broken trust and hopefully help provide much needed resources to many that were slowly conquering their distrust of the police.

The BWC review is critical in this process. In order to maintain the integrity of IAD investigations, or any investigations as they relate to one's professional responsibilities as a public servant, it is our belief as

Moms of Black Boys United that the BWC camera footage, for targeted police officers who are under investigation, MUST be withheld until after the officer provides his/her initial statement.

To give said officers the opportunity to review their BWC prior to giving any statement is likened to handing out the answers to the captain's exam as the members walk in to take the test. If I am proctoring the test, I am not going to hand out the answer key as the exam begins. Likewise, investigations into police misconduct, or serious use of force matters, must not be an OPEN BOOK TEST either. The officer needs to provide his initial statement from his "recollection", not from the images of the BWC he just observed. To view the incident first totally negates the purpose of learning what our officers were thinking "in the moment" that they made a decision to use force.

There are some districts that have a higher volume of calls for service than others. Certainly, this may impede an officer from remembering the call initially, but other facts, such as date, time and location of the call can be provided to help jog the memory of the call for the targeted officer before the statement is taken. The stated goal of any police department is to protect and serve. In doing so, the police officers have taken an oath to uphold an ethical standard, with integrity, which mandates honesty. This includes being truthful regardless of the totality of the circumstances. Throughout any investigation there may be discrepancies that need further clarification, but at no time should the statement from the officers completely miss the mark. When that happens, more likely than not, lies have been told. The community has an absolute right to know **AND A NEED TO KNOW** about any police officer that knowingly has lied.

Why? Officers who lie may not be guilty of a crime, but it is **"disturbing and unethical."** It erodes what little trust has been built and completely undermines all the progress that some stakeholders have worked tirelessly to achieve through community engagement activities. More importantly, in some cases, the police officer's conduct **may, indeed, constitute a crime!** If that is the case, that bad actor needs to be swiftly held accountable, publicly and with transparency. All public safety stakeholders have a need to know as they continue to collaboratively define processes that promote "equity and inclusivity."

In closing, to flip flop on the progress we have made over the last few years and revert to a past practice, that can be interpreted as a tool to protect the officer is counterproductive, disingenuous, and will do more damage than good. In fact, it could be viewed as hypocrisy at its best to say one thing and turn around and do another.

In order to achieve community unity there must be an earnest effort to seek community empowerment by taking into account the voices of the people who reside in the District of Columbia. In our case, as Moms of Black Boys we raise our voices to say, **"walk the talk"**, as the Police Department in the Nation's Capital, lead with true integrity by implementing processes that institute real accountability and change. As former Chief Contee would say, "excellence is transferrable", not reversible. Let's push forward to a better day and do what needs to be done.

Moms of Black Boys United, Inc.
M.O.B.B. United for Social Change, Inc.
20180 Park Row Drive, #6176
Katy, TX 77491
1-877-91-MOBBU
Media@MOBBUNITED.ORG

To back track now brings to mind the words of the late great James Baldwin, "**I can't believe what you say, because I see what you do".**

Our DC residents deserve better, no turning back…forward we go.

I thank you for your time and attention.

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Nadia Shebaro

I am writing to oppose the ACT Now Act (B25-0555), as I believe it is a misguided piece of legislation that will not serve to make our community safer. There are several components of the legislation that I find concerning. Placing greater restrictions on police transparency through 1) further restricting access to police records through FOIA requests, 2) allowing officers to view body-worn camera footage prior to writing reports (in direct opposition to the D.C. Police Reform Commission's recommendation), and 3) further inhibiting the Office of Police Complaints in their access to police information during investigations is not a policy direction that I believe is good for community safety and will ultimately not be beneficial in achieving the stated goal of the police to keep people safe. Additionally, the bill is reviving old practices that have been debunked as ineffective, deemed potentially unconstitutional, and are widely considered to have racist, otherwise discriminatory, and severely damaging impacts to communities, such as the creation of wide-ranging "drug free zones" and introduction of anti-mask laws, which have no underlying foundation of effectiveness in improving the conditions of communities. Further, allowing police officers to engage in physically harmful and dangerous practices including chokeholds, deadly force, and vehicular pursuit does not improve their ability to keep our communities safe. In particular, vehicular pursuits present a great threat to our city, in which far too many people already die or are injured due to vehicle-related incidents. There are many alternative approaches that should be taken in this moment instead of simply reviving outdated and debunked approaches to dealing with crime. No one is denying that we have a problem in our community that needs a solution, but the approach that simply dehumanizes and further vilifies certain members of our community is not going to work in the long run. In particular, criminalization and incarceration of young people is proven to have harmful impacts for those people and their communities down the line, increasing rather than decreasing their likelihood to be convicted of additional crimes in the future. We must not be shortsighted in this moment and revert to an approach that will only prolong the problem and not ultimately contribute to creating safer, healthier, and more thriving communities. I urge the Council to consider investing in other approaches such as violence prevention, alternative spaces for young people, improved access to employment and basic needs for living a healthy life, mental health services for young people in our communities, and more. Thank you.

Nadia Shebaro

I am writing to oppose the ACT Now Act (B25-0555), as I believe it is a misguided piece of legislation that will not serve to make our community safer. There are several components of the legislation that I find concerning. Placing greater restrictions on police transparency through 1) further restricting access to police records through FOIA requests, 2) allowing officers to view body-worn camera footage prior to writing reports (in direct opposition to the D.C. Police Reform Commission's recommendation), and 3) further inhibiting the Office of Police Complaints in their access to police information during investigations is not a policy direction that I believe is good for community safety and will ultimately not be beneficial in achieving the stated goal of the police to keep people safe. Additionally, the bill is reviving old practices that have been debunked as ineffective, deemed potentially unconstitutional, and are widely considered to have racist, otherwise discriminatory, and severely damaging impacts to communities, such as the creation of wide-ranging "drug free zones" and introduction of anti-mask laws, which have no underlying foundation of effectiveness in improving the conditions of communities. Further, allowing police officers to engage in physically harmful and dangerous practices including chokeholds, deadly force, and vehicular pursuit does not improve their ability to keep our communities safe. In particular, vehicular pursuits present a great threat to our city, in which far too many people already die or are injured due to vehicle-related incidents. There are many alternative approaches that should be taken in this moment instead of simply reviving outdated and debunked approaches to dealing with crime. No one is denying that we have a problem in our community that needs a solution, but the approach that simply dehumanizes and further vilifies certain members of our community is not going to work in the long run. In particular, criminalization and incarceration of young people is proven to have harmful impacts for those people and their communities down the line, increasing rather than decreasing their likelihood to be convicted of additional crimes in the future. We must not be shortsighted in this moment and revert to an approach that will only prolong the problem and not ultimately contribute to creating safer, healthier, and more thriving communities. I urge the Council to consider investing in other approaches such as violence prevention, alternative spaces for young people, improved access to employment and basic needs for living a healthy life, mental health services for young people in our communities, and more. Thank you.

Nathan Krieg

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

My name is Nathan Krieg and I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I have lived in DC for the past 19 years and I worry about the numerous pieces of legislation this year that seem like a return to the 90s "tough on crime" bills — which lead to ballooning prison populations by incarcerating Black and brown communities seemingly en masse. The ACT Now Act, like those before it, will probably not make us any safer. It's more likely to harm our most marginalized communities.

The ACT Now Act reinstates MPD practices that result in serious physical harm to DC citizens. This bill allows officers to restrict someone's airway, restrict their breathing, and apply pressure to their neck, trachea, carotid artery, or jugular vein, to stop them from moving. These changes allow officers to kneel on a person's neck and restrict their movement, the way George Floyd was murdered. Since actions like this would not be considered a neck restraint or asphyxiation, the bill also means MPD won't have to release body camera footage of these incidents. Adding to MPD's arsenal while reducing their accountability doesn't sound like a good idea.

- Invest in the community's basic needs by addressing things like food desert and truly affordable housing.
- Support survivors of sexual assault and domestic violence expanding prevention by education in schools and maybe even providing resources regardless of a police report
- Rejecting punitive and carceral strategies that have been shown not to work, pass the #SafeAndFreeDC agenda
- Remove police from where they may unduly escalate a situation like in schools, traffic, and mental health and overdose crises?

I need the Council to take the steps towards re-envisioning our collective safety. Research shows addressing root causes reduces violence, not criminalization. Council Members, instead of backsliding, will you be bold and vote NO on ACT Now? Choose instead to invest in housing, access to food, health care, and other things that will keep us safe.

Nell Geiser

My name is Nell Geiser and I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I am a resident of Ward 1 since 2018 when I moved to DC from New York City. It is extremely disheartening to see DC's elected leaders propose a series of crime bills pushing for adoption of disproven policing strategies rather than addressing the root causes of crime and using public health strategies to address substance use disorders. While New York has a long way to go in this respect as well, the City in 2021 opened two harm reduction sites that have prevented a thousand overdoses and offer a model for humane policy (https://onpointnyc.org/onpoint-nyc-releases-its-2023-baseline-annual-report/).

The ACT Now Act reverses reforms that created greater accountability for police in the district and reinstitutes disproven policing practices. For example, as the highly respected Sentencing Project pointed out in testimony on November 30, DC adopted the Anti-Loitering/Drug Free Zones Act in 1996 and repealed the law in 2014 because the Judiciary Committee had concluded it was likely unconstitutional. We are reenacting the cycle of hysteria today that has driven the failed war on drugs for too many decades.

When tens of thousands of people marched in the streets of DC for police accountability and racial justice in 2020, our call was to reimagine public safety to support human needs rather than locking up more people in a racist bid to make the problem disappear. The District should be investing in violence interruption and alternatives to the police at a much larger scale to demonstrate the viability of non-carceral responses to violence.

It's time for Council to be bold and reject the failed strategies of policing our way out of social problems. Vote no on ACT Now and reinvest in DC communities so all people can thrive.

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It's time for Council to be bold and reject the failed strategies of policing our way out of social problems. Vote no on ACT Now and reinvest in DC communities so all people can thrive.

COMMITTEE ON JUDICIARY & PUBLIC SAFETY

COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARING

BILL 25-0555, ADDRESSING CRIME TRENDS (ACT) NOW AMENDMENT OF 2023

Comments for the Record

Niquelle M. Allen, Esq.
Director of Open Government
Board of Ethics and Government Accountability

Wednesday, November 29, 2023
9:00 a.m.
Virtual Meeting Platform
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Good afternoon, Chairperson Pinto and members of the Committee on Judiciary and Public Safety ("Committee"). I am Niquelle M. Allen, Director of Open Government, Board of Ethics and Government Accountability ("BEGA"), and I lead the Office of Open Government ("OOG"). OOG is an office within BEGA that enforces the Open Meetings Act ("OMA") and provides guidance on the implementation of the District of Columbia Freedom of Information Act ("D.C. FOIA"). I am respectfully providing comments on Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023" (the "bill") in the interest of maintaining transparency in the Metropolitan Police Department's (MPD) operations. With my comments, I request that the Committee consider the implications the bill will have on the public's trust in government, the rules that govern access to its records, and MPD's requirements for producing and releasing their records to the public.

I commend the Committee for attempting to address the increase in crime in the District of Columbia (the "District") with the bill. With efforts toward greater effectiveness of law enforcement, the Committee must however maintain the checks and balances that the Council, in its wisdom, put in place with the Comprehensive Policing and Justice Reform Amendment Act of 2022 to increase the public's trust in government, generally, and MPD, particularly. I am addressing the areas of the bill that I recommend the Committee reject or revise to maintain government transparency.

Why Do We Need Excessive Body Worn Camera ("BWC") Redaction?

OOG has consistently rejected the notion that MPD officers have a right to an expectation of privacy when executing their duties as state actors.[1] I request that the Committee be guided by that principle as it works to address crime in the city. Most people in the District have cell phones, ring cameras, dashboard cameras - any other type of camera you can think of - that can record anything in public, including police officers. MPD officers are trained to display their badges as they perform their duties in public. Redaction of their faces and badges should not be permitted under the FOIA personal privacy exemption. No other D.C. government employees are permitted to shield their identities in the performance of their duties under this exemption. The law enforcement exemptions may apply, but personal privacy is a misapplication here, and certainly should not be codified.

Moreover, the Committee should consider that the D.C. Court of Appeals has rejected the notion of MPD officers having a privacy interest in their likeness appearing on BWC footage while performing their duties in public. In *Fraternal Order of Police Metro. Police Dep't Labor Comm. v. Dist. of Columbia*, 290 A.3d 29 (March 2, 2023). The D.C. Court of Appeals expressly held

[1] Metropolitan Police Department — Body-Worn Camera Footage Under the Freedom of Information Act of 1976, # OOG-2023-002_AO, Sept. 15, 2023; MPD District of Columbia Freedom of Information Act Compliance, OOG-002-10.1.19-AO.

that the release of BWC footage did not implicate MPD police officer's privacy rights. In that case, the Mayor and D.C. Police Union challenged the reforms of the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020, which required the release of the names of officers who were "committed [an] officer-involved death since the BWC Program was launched on October 1, 2014."[2] While the Mayor complied, the resultant lawsuit sought to end the practice on the ground that it violated the individual officers' privacy rights and releasing their identities could result in harm to them and their reputations. [3] The D.C. Court of Appeals rejected this notion of officer privacy. First, the court noted the public's rights under the First Amendment to record police officers performing their official duties (if they are not interfering with the execution of those duties). Second, the court disagreed with the notion of a state actor having a privacy interest: "no court has ever held that police officers have a fundamental right to the privacy of information about their involvement – while on duty and while in contact with the public they serve in a shooting or other serious use of force."[4] The Committee should consider the D.C. Court of Appeals' decision regarding police officers' expectation of privacy when performing their duties.

As the Committee addresses the important issue of increased crime in the city, I respectfully request that these state actors not be permitted to act anonymously when working on behalf of the government, in public, under the reasoning that state actors have a privacy right.

Categorical Exclusion for Disciplinary Records Still Requires Consideration of the Public Interest

My comments here regard the public policy of the District and the purpose of D.C. FOIA. D.C. Official Code § 2–531states "[t]he public policy of the District of Columbia is that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. To that end, provisions of this subchapter shall be construed with the view toward expansion of public access and the minimization of costs and time delays to persons requesting information." This bill, as currently drafted, requires MPD's FOIA Officers to start with a categorical exclusion from disclosure in the case of a request for disciplinary and related records. This is antithetical to the role of a D.C. FOIA Officer. Analysis is required when a record request is received. Up to now, well-settled case law requires D.C. FOIA Officers to consider whether the public interest in the request outweighs any privacy interest.[5] This legislation effectively does nothing other than prejudice, in the classical meaning of the word, the MPD FOIA Officer that there is always a privacy interest. The MPD Officer will still have to determine if the public's interest in a record outweighs the privacy interest and then decide whether to release a record or not. D.C. FOIA exemptions are

[2] *FOP Metro. Police Dep't Labor Comm. v. District of Columbia*, 290 A.3d 29, 35.
[3] *Id.* at 36.
[4] *Id.* at 44.
[5] https://www.open-dc.gov/sites/default/files/OOG-2023-002_AO_MPD_BWC_Sept152023.pdf

never categorical exclusions; they always require analysis of the situation, especially in light of the public policy of the District at § 2-531.

If the Committee seeks to clarify this issue from the D.C. FOIA perspective, I recommend either rejecting this provision or considering a codification of the balancing test.

BWC Footage Must Remain Primarily a Safeguard Not an Evidentiary Tool

Body Worn Cameras are a "check" of police officers' conduct and should not be used to write actual police reports. Police officers should watch BWC footage only after they have written down their actual memories of any incident. If officers are permitted to revise their incident report after watching BWC footage, as the bill permits, the resultant record should clearly identify where the revisions were made in the report. As a matter of record-keeping, MPD officers must be required to differentiate between their present sense impressions and any revisions made as a result of viewing BWC footage. If revisions are made, the source and date of those revisions must be noted in the police report to maintain the integrity of the record. This would address the concerns of critics regarding the possible impact of incident reports on case closure and prosecution rates while still preserving the necessary oversight element of the BWC footage.

OOG Endorses D.C. Open Government Coalition's Testimony

OOG fully supports the testimony provided by the D.C. Open Government Coalition and we strongly suggest that the Committee consider all of their input and recommendations.

Thank you for the opportunity to comment on this important legislation.

Patricia Stamper

My name is Patricia Stamper and I am the Advisory neighborhood commissioner for 7C06. Thank you to the DC Council and Judiciary and Public Safety committee for allowing me to provide my testimony regarding the ACT ONE proposed legislation. My understanding of this proposal is that it is to combat organized retail theft, address loitering around open-air drug markets and make it unlawful to use masks for committing criminal acts. Ward 7 is my home and as a resident that travels down Minnesota Ave NE between Clay St NE and Dix St NE it is alarming to see so many unhoused residents openly using drugs and hanging out in front of the McDonalds located in this area. I believe that applying more preventative measures such as ensuring the property owners keep their property cleaned and fenced off to prevent people from loitering in this commercial corridor. I am in support of ACT ONE because I believe it will address the open air drug markets in this specific corridor. Thank you for reading my testimony.

Patricia Stamper

Advisory Neighborhood Commissioner 7C06

TESTIMONY OF

PATRICK POWELL, CHIEF OF STAFF
GOLDEN TRIANGLE BUSINESS IMPROVEMENT DISTRICT

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE

Bill 25-555: Addressing Crime Trends (ACT) Now Amendment Act of 2023

November 29, 2023

Thank you, Chairperson Mendelson, members of the Council, and staff. My name is Patrick Powell, and I am the Chief of Staff at the Golden Triangle Business Improvement District ("BID"). The BID is a nonprofit established by District law to provide clean, safe, and vibrant environments, and retain and attract businesses to one of our core D.C. neighborhoods, the Golden Triangle. I appreciate the opportunity to testify today in support of Bill 25-555, the Addressing Crime Trends (ACT) Now Amendment Act of 2023. And more specifically, the portion of the bill that addresses retail theft.

The Golden Triangle continues to hear from businesses of all sizes about concerns regarding the impact of crime on the health and safety of their employees and customers, as well as their ability to successfully operate their business. Like many neighborhoods, the BID has seen an increase in many crime categories The District, as well as our businesses, need every tool at their disposal to address the current crime wave and its impact on a downtown and central business district that are already struggling under the weight of the post-pandemic environment.

One such tool which has proven successful in other jurisdictions for combatting retail theft is outlined in Mayor Bowser's bill and would establish a new crime for "directing organized retail theft." This would make it illegal for any person to act as the organizer of a theft for profit by recruiting or directing individuals to commit organized retail theft. This would also create a felony charge for individuals found guilty of breaking this law.

As you may be aware, the District was recently listed as number two on a list of U.S. areas impacted the most by retail theft, according to a survey by Forbes Advisor. The same survey states that this level of retail theft costs residents an average of $336 per person. To make matters worse, 56% of the small business owners surveyed expect retail theft to increase during this holiday season. More often than not, organized retail crime involves a criminal enterprise which uses a group of individuals to steal large quantities of merchandise, which they are then able to sell for cash to be used to further criminal activity. These types of thefts are bold, leaving business owners helpless to fight back, less they also become a target.

This bill provides urgent and targeted actions to address public safety in our commercial corridors. Thank you for the opportunity to testify today. I am happy to answer any questions you may have.

R Payne

Crime trends in DC

Greetings Mayor Bowser, Chairmen Mendelson and members of the Washington, D.C. Council. My name is Mr.Payne and as a DC business owner and resident of ward 8. I’ve been a victim of a home invasion and attempted armed robbery. I am a witness to the psychological and physical effects it can have on you, Having your life in the hands of a criminal one could only imagine the outcome.

When I consider the provisions of Bill 25-555 and the rising crime rate in Washington, D.C., there are valid reasons for support from both business owners and victims within the community:

- Public Safety Concerns: The prohibition of wearing hoods and masks on public property or during demonstrations for the purpose of committing crimes directly addresses safety concerns for me. Business owners and victims in the community often feel threatened or intimidated when criminals conceal their identities, making it difficult to report or identify them, thus impacting public safety.
- Retail Theft and Organized Crime: Establishing a felony offense for directing organized retail theft is crucial for business owners. This provision helps combat theft-for-profit schemes by targeting the organizers, often shielding smaller retail establishments that suffer due to organized theft. Victims of these crimes, especially small businesses, face significant financial losses and disruption of operations due to organized theft activities.
- Drug-Free Zones and Loitering: Authorizing the establishment of temporary drug-free zones allowing law enforcement to limit loitering in specific areas affected by drug-related activities I feel should be enforced. This provision is vital for improving safety in these areas, making them more conducive to business operations and ensuring the safety of residents and customers.

From a business owner's perspective:

- Increased crime rates often result in decreased foot traffic and consumer confidence, affecting sales and overall business operations.
- Theft and organized crime impact profits and pose significant challenges for smaller businesses, making it harder to recover financially from losses.

From a victim's perspective:

- Victims of crimes, especially those that involve intimidation, threats, or masked perpetrators, feel unsafe and may experience long-term psychological impacts.
- The inability to feel secure impacts their quality of life and may hinder community engagement and economic activities.

Therefore, I support Bill 25-555, business owners and victims in the community should have a vested interest in the Bill as it directly addresses crucial safety concerns, helps in tackling organized crime, and aims to make public spaces safer for everyone, fostering a conducive environment for businesses to thrive and ensuring community well-being.

I thank you for your time and the opportunity to be apart of the conversation sincerely Mr, R. Payne ward 8 community member

Reed Southard

Hi, I live on Marion St NW and like a lot of people I am now a single issue voter on crime. We've had our car broken into, an outdoor shed broken into, and a dozen packages stolen this past year. I realize how inconsequential that is compared to what other people in this city our going through but I see the reports of car jackings and shootings every day and all I can think about is what if it happens to my family. You can't fix any other issue in this city without security.

RAMW
RESTAURANT ASSOCIATION
METROPOLITAN WASHINGTON

2112 Pennsylvania Avenue NW
Suite 450
Washington, DC 20037
T: 202-331-5990
info@ramw.org

Nov. 8, 2023

Councilmember Brooke Pinto
Chair, Committee on the Judiciary and Public Safety
John A. Wilson Building
1350 Pennsylvania Avenue NW, Suite 106
Washington, DC 20004

Re: Bill 25-555 *Addressing Crime Trends (ACT) Now Amendment Act of 2023*

Dear Honorable Committee Chair Pinto,

The Restaurant Association Metropolitan Washington (RAMW) thanks you and the Committee on the Judiciary and Public Safety for the opportunity to provide comment for the Addressing Crime Trends (ACT) Now Amendment Act of 2023.

For more than 100 years, RAMW has advocated and provided community for more than 1,400 entrepreneurs and small businesses in the greater Washington area. We count among our members favorite neighborhood spots, family-owned businesses, homegrown restaurant groups, and national and regional favorites. Together we are one of the largest job creators in the District and leading contributors to revenues.

Small businesses, especially our local restaurant operators, feel like every day they are on the front lines of the District's historic year of violence. Public safety tops the concerns of our operators, some of whom have been repeatedly robbed at gunpoint or in smash and grab burglaries. In a survey of RAMW members, 72 percent rank violent crime as a paramount concern, and almost 3 out of 5 restaurants said violent crime is affecting their ability to hire and retain staff.

The damages are more than just the immediate financial costs. Crime deters investment in our community and furthers an environment where violence persists. Some operators pay hundreds of thousands of dollars to hire off-duty officers and private security to keep their guests and workers safe, money that could otherwise be re-invested in their businesses. Violence is so regular in some neighborhoods that one of our members paid tens of thousands of dollars to break her restaurant lease to move to a safer area. Operators have shared with me their struggles to console workers after shootings outside of their restaurants, as well as the ensuing challenge to keep their teams feeling safe enough to return to their jobs.

With the Addressing Crime Trends Now Act, Mayor Muriel Bowser seeks to send a strong message that violence is not tolerated and that those who commit crimes will be held accountable, and RAMW supports its passage.

Among other measures, the proposed ACT Now legislation would create new penalties for organized retail theft, including increased accountability for the individuals responsible for directing it. Thriving retail businesses are central to vibrant mixed-use corridors, and these penalties would help to ensure that not only retail, but also restaurants and entertainment venues, can all operate and flourish in a safe environment.

The proposed legislation would also limit loitering and allow the Metropolitan Police Department Chief to declare temporary drug-free zones to disrupt public drug dealing. Many of these open-air drug markets have set-up shops across or adjacent to our neighborhood restaurants, threatening everyone's safety in the area. The bill would reinstate the law making it unlawful to wear a mask for the purpose of committing a crime, to intimidate, or to cause fear. Lastly, the bill also seeks to improve the recruitment and retention of police officers, who are critical to providing our public safety.

There is an additional measure that would further bolster the safety of workers and diners: Pausing the Cashless Retailers Prohibition Act until the District's gun violence is brought in line. This law, first introduced in 2018, passed by Council in 2020, and taking effect this year, requires District businesses to accept cash payments or else be levied with a $1,000 fine. We support the goal of the legislation, which is to ensure that those who are unbanked or without access to financial services are not shut out from purchasing necessities such as food and clothing; however, requiring businesses to accept cash during the sharpest rise in crime in two decades needlessly risks the safety of restaurant workers and diners. Given the current climate, one of the surest things our small businesses can do to protect the safety of their employees is to hang a sign that says, "No cash kept on premises."

The proposed ACT Now legislation, taken with other proposals Council is considering and combined with long term investments in violence prevention and community-driven solutions, can help to restore the public safety and ensure that those who commit crimes are held accountable, and RAMW supports its passage.

Sincerely,

Shawn Townsend
President and CEO

Rev. Wanda Thompson

Good Day Councilmembers,

I am writing to support the ACT NOW proposed legislation because I, like others, believe crime is out of hand in our communities and I particularly support the actions to declare drug free zones in order to address the loitering problem we have that makes our citizens, especially our seniors, reluctant to walk the streets of our city.

is it a perfect bill? No, but it is a start to hold criminals accountable for their actions. I do worry that the restrictions on using masks when committing a crime in this era of COVID and other respiratory illnesses when some people still legitimately wear masks could be problematic, but overall I support the bill.

it will be important to ensure the law is applied equitably and that it will not be used to profile or harass members of the community.

Thank you for your attention.

Commissioner Robbie Woodland 8C06

Dear Councilmembers,

I am writing to express my sincere concern and urgency regarding the rising incidents of carjackings and planned shootings in our community. As a concerned resident and Commissioner, I strongly advocate for the inclusion of these specific offenses in the ACT Now bill, underlining the critical need to address and combat these dangerous crime trends.

Carjackings have become an increasingly prevalent threat to the safety and security of our community members. These incidents not only jeopardize the well-being of individuals directly affected but also contribute to a pervasive atmosphere of fear and vulnerability among residents. By explicitly including carjackings in the ACT Now bill, we send a powerful message that our community prioritizes the safety of its citizens and is committed to taking decisive action against this alarming trend.

Likewise, the planned shootings that have occurred demand our immediate attention. These premeditated acts of violence not only pose a direct threat to the lives of those involved but also erode the sense of security that every community member deserves. By incorporating planned shootings into the ACT Now bill, we strengthen our legal framework to address and prevent such heinous crimes, sending a clear message that our community stands united against all forms of violence.

Furthermore, I urge the council to ensure that the language used in the ACT Now bill provides clear interpretation and meaning of the violations it encompasses. A precise and comprehensive legal framework is essential for effective law enforcement and judicial proceedings. Ambiguities in the legislation could hinder the efforts of law enforcement agencies and compromise the intended impact of the bill. Clarity in interpretation is paramount to the success of the legislation and its ability to serve as a deterrent to potential offenders.

In conclusion, I implore the council to consider the gravity of the current crime trends and take bold steps to address them by including carjackings and planned shootings in the ACT Now bill. Your commitment to the safety and well-being of our community is crucial in creating an environment where residents can live without the constant fear of falling victim to these reprehensible acts.

Thank you for your time and dedication to the betterment of our community. I trust that your thoughtful consideration of this matter will lead to positive and impactful changes.

D.C. Open Government Coalition
3901 Argyle Terrace, N.W.
Washington, D.C. 20011
www.dcogc.org

Testimony of
Robert S. Becker

On behalf of the D.C. Open Government Coalition
November 29, 2023

Before the Committee on the Judiciary and Public Safety
Council of the District of Columbia

Public Hearing: Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023"

On behalf of the D.C. Open Government Coalition, thank you for the opportunity to explain the very negative consequences of Bill 25-555 proposed by the mayor, the Metropolitan Police Department (MPD), and the police union. I am Robert Becker, a member of the Coalition board and a Ward 4 resident.

Nearly a year ago, the Council enacted the Comprehensive Policing and Justice Reform Amendment Act of 2022, Law 24-0345 (Bill B24-320, as amended). As permanent legislation, it reflected the Council's unanimous agreement on key details of the justice system District residents want. It was the result of years of work by this committee and the Police Reform Commission, and included provisions the Council enacted and repeatedly renewed through emergency and temporary legislation, some dating back to 2019.

The police reform act didn't provide as much transparency as the Coalition would have liked, but it promised to lift the tight shroud of secrecy the MPD has maintained over police misconduct investigations, officer-involved shootings, and other use-of-force incidents.

By enacting the law in January without the mayor's signature, the Council did the right thing for all D.C. residents and, ultimately, for the MPD. It concluded that, to restore public confidence in policing, it is necessary to set additional rules for police conduct, including uses of force, and grant D.C. residents access to information showing whether the rules are followed — facts about police disciplinary cases and body-worn camera (BWC) videos of officer-involved shootings and use-of-force incidents. Today's bill reverses key parts of that Council conclusion, a mistake in our view.

Making BWC videos and officer disciplinary records public will have benefits well beyond improving community trust. For example, the amendments provide invaluable investigative tools for criminal defense lawyers, who for decades have been forced to rely on prosecutors to disclose that potential MPD witnesses are on the U.S. Attorney's so-called *Lewis* List of officers under disciplinary or criminal scrutiny, who the government would not put on the witness stand.[1]

In enacting the police reform act, the Council rejected dire, unsupported claims that greater transparency would impair the MPD's ability to hire and retain officers, violate officers' privacy rights, and jeopardize officer safety. Undeterred by that rejection, the mayor, the MPD and the union are making exactly the same arguments, for passage of Titles II, III and VII of Bill 25-555. Once again, they provide no supporting evidence for their dire warnings.[2]

The D.C. Court of Appeals,[3] the Office of Open Government (OOG),[4] and this committee[5] have firmly rejected the administration and union claims that on-duty officers have a right of privacy as they perform their assigned duties, and that, as a general principle, officers' faces and badge numbers must be redacted for safety reasons. As the court said, citing prior legislation granting the public access to BWC video:

> [The law reflects] a balancing of the goals of public accountability and transparency on the one hand, and the (relative) ease of investigation of use-of-force incidents, on the other. … We are not aware that any court has ever held that police officers have a fundamental right to the privacy of information about their involvement — while on duty and while in contact with the public they serve — in a shooting or other serious use of force.

Anti-crime provisions in the mayor's bill may have merit and may deserve careful Council consideration. That said, we urge you to retain all of the transparency reforms embodied in Law

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[1] *"D.C.'s Bad Cop List Is Shrouded in Secrecy — and Could Be Impacting Criminal Cases,"* VICE NEWS, June 24, 2020, https://www.vice.com/en/article/k7qzma/dcs-bad-cops-list-is-shrouded-in-secrecyand-could-be-impacting-criminal-cases.

[2] High costs are another favorite administration objection. Transparency provisions of the police reform law still have not taken effect because the mayor did not request funding, and MPD refuses to follow them until the Council adds millions of dollars to its budget. Such costs are an estimate for which there is no basis except a redacted MPD email the Office of the Chief Financial Officer (OCFO) refused to disclose in response to the Coalition's request for all facts and analyses supporting a multi-million-dollar fiscal impact statement.

[3] *Fraternal Order of Police (FOP) v. District of Columbia*, 290 A.3d 29, 43 – 44 (D.C. 2023) (rejecting union view that earlier legislation mandating BWC video release invades mayoral authority, jeopardizes officer's safety and infringes officers' privacy).

[4] Metropolitan Police Department — Body-Worn Camera Footage Under the Freedom of Information Act of 1976, # OOG-2023-002_AO, Sept. 15, 2023; MPD District of Columbia Freedom of Information Act Compliance, OOG-002-10.1.19-AO.

[5] Bill 24-320, *Committee Report*, 18 – 19 (Nov. 30, 2022), https://lims.dccouncil.gov/downloads/LIMS/47448/Committee_Report/B24-0320-Committee_Report1.pdf?Id=151042.

24-0345, and reject the administration's attempt in Bill 25-555 to gut them.

We further implore you to commit to funding in this year's supplemental budget the MPD Freedom of Information Act (FOIA) and Office of Police Complaints (OPC) provisions of the law, because, as a result of the unsupported CFO Fiscal Impact Statement (see note 2), they cannot take effect until funded.

Finally, we ask that you rebuke the MPD for its blatant refusal to follow the Council's existing directive in the reform act amending D.C. Code § 5-116.33(f), which prohibits redaction of officers' faces and badge numbers before releasing BWC videos to the public. No cost issue should be involved as this is current law, and actually saves funds by prohibiting MPD from engaging in the costly and time-consuming process of heavily redacting videos before disclosing them.[6]

To help you understand the extent to which Bill 25-555 would undermine the Council's and Police Reform Commission's efforts, we have attached a redline starting with relevant statutes and regulations as amended by Law 24-0345 (Bill 24-320 as amended) and overlaying amendments in Bill 25-555. We needed to create the redline because the unfunded provisions do not appear in the published D.C. Code.

MAYOR'S BILL MAKES BWC VIDEO LESS USEFUL, UNDOING COUNCIL EFFORTS TO RESTORE CONFIDENCE

In an October 2019 public roundtable, the Washington Lawyers' Committee for Civil Rights and Urban Affairs told this committee that, due to lack of transparency, MPD's body-worn camera program was failing to fulfill two of its most important goals: to enhance public confidence and increase public safety. "The failures … are emblematic of deficiencies at MPD more generally: MPD is reflexively secretive…."[7] The American Civil Liberties Union of the District of Columbia agreed, saying the BWC program "has not led to any measurable improvements in police-community relations or in how officers conduct themselves."[8] At least a half dozen relatives and friends of young men fatally shot by MPD officers joined them in asking the Council to order MPD to release unredacted BWC videos.

In response, as part of the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020, the Council mandated public release of BWC videos in officer-

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[6] The Office of Open Government noted this in its 2019 opinion recommending against BWC redaction as both expensive and unlawful. See note 4. The confusing application of the fiscal impact analysis in this area is discussed in note 9.

[7] Testimony included unpaginated. Council Committee on Judiciary and Public Safety, *"Five Years of the Metropolitan Police Department's Body-Worn Camera Program: Reflections and Next Steps,"* CLOSING ROUNDTABLE RECORD (cited below as ROUNDTABLE), 12 (Memorandum from the Chairman, November 27, 2019), https://lims.dccouncil.gov/downloads/LIMS/43760/Hearing_Record/HR23-0124-HearingRecord.pdf?Id=58392.

[8] *Id*. at 17.

involved shootings and use-of-force incidents.[9] Within two weeks after the Council's July 2020 vote, MPD ignored the new law when it released "Community Briefings" regarding three 2018 fatal encounters between officers and civilians.

The "Community Briefings" presented in narrative form the MPD's version of events preceding, during and following the use of force or shooting, and used heavily edited excerpts from the videos to support that narrative. Close examination of the incomplete video clips was impossible, and no matter how many officers were involved in an incident, MPD provided clips from at most two of them. This selective release contradicted the Council intent and prompted further legislation.

The police reform act passed last December made clear that MPD must release the names and BWC videos of all officers "directly involved" in every police-involved shooting or use-of-force incident, and could redact faces only of undercover officers. It required MPD to create a searchable online database of the names and BWC videos of all officers directly involved in officer-involved deaths since October 2014.

The legislative history explains that the phrase "directly involved" includes "subject officers (the officers who committed the acts at issue)," and "all officers (not just subject officers) that capture any part of the events leading up to the incident, during the officer-involved death or serious use of force, and after the incident."[10]

The committee definitively ruled out redaction. The report states:[11]

> officers' faces should not be redacted from BWC footage. Police officers have tremendous power over members of the public…. They can stop and search people, make arrests, and are authorized to carry firearms and, when justified, use deadly force. The unique powers and functions of police officers … require a robust system of oversight to ensure they are not abused or misused.

Now, using the excuse of fiscal impact to justify a secrecy policy the mayor, the department and the union have long embraced, MPD has continued to redact faces and badge numbers of all officers and first responders from released body-worn camera videos.

Bill 25-555 would severely narrow the BWC disclosure requirements in several ways, to include:

- police-involved shootings;

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[9] Act A23-0336 (Bill 23-825). This was emergency legislation that expired in October 2020. Bill 24-320 permanently amended D.C. Code § 5-116.33, and made conforming changes to DCMR §§ 24-3900.10 and 24-3902.9. The fiscal impact statement doesn't mention BWC tasks among those predicted by MPD to add costs. But the bill makes all of Section 103 (on BWC details) effective only subject to appropriations.

[10] Committee Report, 18

[11] Committee Report, 19.

- other use-of-force incidents — but only if they result in serious bodily injury;[12] involve use of choke holds, head strikes with firearms or batons, or bites by police canines; and
- limiting required disclosure of officers' firearm negligence.[13]

Finally, the mayor's proposals would allow redaction of officers' faces and exclude their names from the database of officer-involved deaths. As a result, Bill 25-555 would render the database unsearchable and, therefore, useless as a tool for public oversight, criminal defense investigation, or civil litigation.

MAYOR'S PROPOSALS ROLL BACK COUNCIL'S EXPANDED ACCESS TO DISCIPLINE RECORDS AND NEW DATABASE INTENDED TO BUILD TRUST, PROTECT RESIDENTS

Law 24-0345 explicitly prohibited the MPD from continuing its long-standing practice of invoking the FOI Act's privacy exemption in response to requests seeking records of any past officer discipline investigations, and created a searchable database of all new disciplinary cases in which complaints against officers are sustained.

The Council intended that "the public database serve as [a] low-barrier entry point for quickly examining an officer's record of misconduct." It deliberately made the FOIA amendments applicable to all disciplinary records, past and present — not just records in sustained cases — as "a tool for gaining a more comprehensive understanding of complaints issued against an officer…"[14]

The Court of Appeals has disposed of privacy claims (see note 3), and this committee noted that Michael Tobin, director of the Office of Police Complaints, praised both expanded FOIA access and the new database, to be created by his office. Mr. Tobin said those provisions "will [] improve community trust in the disciplinary process by eliminating the cloak of secrecy that has long shielded the public's understanding of police misconduct."[15] That would be especially true where residents have long viewed the MPD Gun Recovery Units and Crime Suppression Teams

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[12] See evidence from California on the years of delay and legal wrangling that have resulted from using imprecise language such as "serious injury." Theresa Clift, *"California Law Mandates Access to Police Discipline Records. That Law is Weak in Sacramento."* SACRAMENTO BEE (November 17, 2023), https://www.sacbee.com/news/local/article280447434.html#storylink=cpy.

[13] Bill 25-555 would deny D.C. residents access to BWC video of incidents in which an officer, who has extensive training, negligently discharges a firearm if MPD deems the shot not to have "put members of the public at risk of injury or death," or the officer shot at an animal, which might be someone's pet. *See "Police shot their dog after entering their home without warrant. Now they want answers,"* THE WASHINGTON POST, Sept. 8. 2021. Untrained civilians face far greater liability for gun discharge in the District — two years in prison and/or a $12,500 fine for negligently discharge a firearm in a place open to the public, a common area of a multi-unit housing structure, or a public conveyance, whether occupied or not. D.C. Code § 22-3571,01(a).

[14] Committee Report, 45.

[15] ROUNDTABLE, 46.

as hostile, occupying forces in their neighborhoods.[16]

But if the Council enacts the mayor's amendments, the OPC database will be fatally hobbled. It will not include the officer's name, the final order or full written determination in the case. It would include only the rank, length of service, current duty status and "a description of the final disposition."

The database in the law as passed will include only sustained complaints and only certain types of misconduct. Other jurisdictions, among them New York and Maryland, include a broader range of misconduct cases.

The mayor's amendments would hide from public view in the database even more sustained cases that involve complaints of serious misconduct. Under Bill 25-555, the database would not include sustained cases that do not result in suspension, demotion or termination. For example, cases would be excluded if officers were required to undergo additional training or counseling. These minor wrist-slaps are so common, the Police Complaints Board detailed them in a policy report that was critical of the practice.[17]

The FOIA amendments in Bill 25-555 would allow MPD to continue to invoke the privacy exemption to withhold from public disclosure all disciplinary cases that predate passage of the bill, all future cases that are not sustained, and all future sustained cases that result in penalties short of suspension, demotion or termination.

Going forward, even in cases that must be disclosed under the FOI Act, the department could withhold personal identifying information, including officers' names; all medical records, including those material to the basis of the complaint; and all records of employee-assistance programs — mental health, substance abuse treatment, counseling, therapy — mandated by the disciplinary proceeding. In short, the mayor's bill would largely allow MPD to continue the bad FOIA practices about which D.C. residents, the Office of Police Complaints, the Police Reform Commission, and the Council have long complained.

Once the Council funds the transparency provisions of the police reform act, it is likely that most

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[16] Mitch Ryals, *"DC Court of Appeals Vacates Gun Conviction, Ruling MPD Conducted Illegal Stop and Search,"* WASHINGTON CITY PAPER (April 19, 2021), https://washingtoncitypaper.com/article/514777/dc-court-of-appeals-vacates-gun-conviction-ruling-mpd-conducted-illegal-stop-and-search/.

[17] "[MPD's sole authority for officer accountability] has led to an opaque system that can appear to the community as being too lenient. … The sanctions imposed by MPD in response to sustained community complaints suggest that the Department is reluctant to impose serious sanctions based on community complaints, and often goes outside of the Table of Penalties Guide. … [T]he majority of sustained complaints for the past two years have resulted in reprimands or education-based development. These minor disciplinary sanctions allow officers to believe that complaints from community members are unimportant and that MPD tolerates, or endorses, behaviors likely to produce complaints." D.C. Police Complaints Board (PCB), *Policy Report #21-2, "Discipline."* (October 2022).

FOIA requests will be filed for all disciplinary records related to one or more officers identified by name, or for officers involved in a particular incident. If the Council allows MPD to withhold officers' names, it is exceedingly difficult to predict how the department would respond to such a FOIA request. For example, would it redact the officers' names before releasing non-exempt portions of records, even though the requester knows the names? If the request involved more than one officer, but MPD redacts officers' names before disclosing records, it would be impossible to figure out which records relate to each officer.

Consider a request identifying an incident and four responding officers, one of whom later was fired and three of whom received minor discipline. Would MPD disclose anonymized records regarding the fired officer, and withhold records related to disciplinary cases against the other three?

Based on MPD's past practice, the more likely response would be to deny the request entirely, claiming that if it discloses the terminated officer's records without identifying information, the less culpable officers' reputations would be harmed because the public might believe one of them had been the bad actor? This outcome is exactly what the Council intended to prevent by prohibiting MPD from invoking the privacy exemption, redacting officers' names, and withholding cases based on the severity of the imposed penalty.

When the Council passed the police reform act, it intended that D.C. residents be able to use the database to identify MPD personnel who have been disciplined, and to use the FOI Act to build more detailed profiles of those officers. Bill 25-555 would allow MPD *carte blanche* to circumvent records access via the new database and FOIA. It would perpetuate practices the PCB criticized by encouraging the union, when representing members in disciplinary proceedings, and MPD to negotiate dispositions short of suspension, demotion or termination to avoid public scrutiny of how it handles complaints of serious misconduct.

Excluding from the database officers' names and details regarding case dispositions will make it a tool useful only for academic researchers, not as a means of inspiring D.C. residents' trust, encouraging residents to cooperate with law enforcement, or combating bad policing. Allowing MPD to invoke the privacy exemption to withhold officers' names, and all but the most egregious disciplinary violations, will prevent anyone from profiling any officer, including those fired for the most serious offenses.

Bill 25-555 includes other amendments that should be rejected as limiting access to information for no clear public safety benefit:

- The police reform act directs MPD to give the OPC "unfettered access to all information" as it investigates misconduct complaints. Bill 25-555 substitutes "timely and complete access to information," the weaker language from the prior version of D.C. Code § 5-1104(d-2)(2) that lent itself to endless controversy over the meaning of "timely and complete access."
- D.C. Code § 5-1031(c)(2) requires full public notice for any hearing for an officer challenging proposed termination. Bill 25-555 would remove the longstanding requirement that notices include the officer's name and badge number.

We urge you to recommend that the Council reject Titles II, III and VII of Bill 25-555 because, if enacted, they will further erode public trust in the MPD, and by doing so, they will make all D.C. residents less safe. We look forward to working with this committee to ensure that the MPD and other public safety agencies operate transparently because public accountability is essential to improve public trust. If you have questions, please let us know.

Thank you.

Formed in March 2009, the D.C. Open Government Coalition seeks to enhance public access to government information and transparency of government operations of the District. We believe transparency promotes civic engagement and is critical to a responsive and accountable government. We strive to improve the processes by which the public gains access to government records and proceedings, and to educate the public and government officials about the principles and benefits of open government.

For additional information call Robert Becker, (202) 306-2276.

ATTACHMENT

§ 5–116.33. Body-Worn Camera Program; reporting requirements; access.

(a) By October 1, 2015, and every 6 months thereafter, the Mayor shall collect, and make available in a publicly accessible format, data on the Metropolitan Police Department's Body-Worn Camera Program, including:

(1) How many hours of body-worn camera recordings were collected;

(2) How many times body-worn cameras failed while officers were on shift and the reasons for the failures;

(3) How many times internal investigations were opened for a failure to turn on body-worn cameras during interactions, and the results of those internal investigations, including any discipline imposed;

(4) How many times body-worn camera recordings were used by the Metropolitan Police Department in internal affairs investigations;

(5) How many times body-worn camera recordings were used by the Metropolitan Police Department to investigate complaints made by an individual or group;

(6) How many body-worn cameras are assigned to each police district and police unit for the reporting period;

(7) How many Freedom of Information Act requests the Metropolitan Police Department ("Department") received for body-worn camera recordings during the reporting period, the outcome of each request, including any reasons for denial, any costs invoiced to the requestor, the cost to the Department for complying with each request, including redaction, and the length of time between the initial request and the Department's final response; and

(8) How many recordings were assigned to each body-worn camera recording category.

(b) The Metropolitan Police Department shall provide the Office of Police Complaints with direct access to body-worn camera recordings.

(c) Notwithstanding any other law:

(1) Within 5 business days after a request from the Chairperson of the Council Committee with jurisdiction over the Metropolitan Police Department ("Chairperson"), the Metropolitan Police Department shall provide unredacted copies of the requested body-worn camera recordings to the Chairperson and the Councilmember elected by the Ward in which the incident occurred. Such body-worn camera recordings shall not be publicly disclosed by the Chairperson or the Council; and

(2) The Mayor:

(A) Shall, except as provided in paragraph (3) of this subsection:

(i) Within 5 business days after

(I) ~~an~~ An officer-involved death;

(II) A Metropolitan Police Department officer discharges a firearm, with the exception of a negligent discharge that does not otherwise put members of the public at risk of injury or death, a discharge at an animal, or a range or training incident;~~or the serious use of force, publicly release:~~

(III) A Metropolitan Police Department officer applies a head strike with an impact weapon;

(IV) A Metropolitan Police Department officer engages in use of force resulting in serious bodily injury; resulting in loss of consciousness or creating a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ; or involving the use of a prohibited technique, as that term is defined in section 3(6) of the Limitation on the Use of the Chokehold Act of 1985, effective January 25, 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.02(6)); or

(V) A Metropolitan Police Department canine bites a person;

(ii) Publicly Releases

(I) The names and body-worn camera recordings of all officers directly involved in the officer-involved death or ~~serious use of force~~incident described in paragraph (2)(A)(i) of this subsection; and

(II) A description of the incident; and

(iii) Maintain, on the website of the Metropolitan Police Department in a format readily accessible and searchable by the public, the ~~names and~~ body-worn camera recordings of all officers who were directly involved in an officer-involved death since the Body-Worn Camera Program was launched on October 1, 2014; and

(B) May, on a case-by-case basis in matters of significant public interest and after consultation with the Chief of Police, the Office of the Attorney General, and the United States Attorney's Office for the District of Columbia, publicly release any other body-worn camera recordings that may not otherwise be releasable pursuant to a FOIA request or subparagraph (A) of this paragraph.

(3)(A) The Mayor shall not release a body-worn camera recording pursuant to paragraph (1)(A) of this subsection if the following persons inform the Mayor, orally or in writing, that they do not consent to its release:

(i) For a body-worn camera recording of an officer-involved death, the decedent's next of kin; and

(ii) For a body-worn camera recording of a serious use of force, the individual against whom the serious use of force was used, or if the individual is a minor or unable to consent, the individual's next of kin.

(B)(i) In the event of a disagreement between the persons who must consent to the release of a body-worn camera recording pursuant to subparagraph (A) of this paragraph, the Mayor shall seek a resolution in the Superior Court of the District of Columbia.

(ii) The Superior Court of the District of Columbia shall order the release of the body-worn camera recording if it finds that the release is in the interest of justice.

(d) Before publicly releasing a body-worn camera recording of an officer-involved death, the Metropolitan Police Department shall:

(1) Consult with an organization with expertise in trauma and grief on best practices for providing the decedent's next of kin with a reasonable opportunity to view the body-worn camera recording privately in a non-law enforcement setting prior to its release; and

(2) In a manner that is informed by the consultation described in paragraph (1) of this subsection:

(A) Provide actual notice to the decedent's next of kin at least 24 hours before the release, including the date on and the manner in which it will be released;

(B) Offer the decedent's next of kin a reasonable opportunity to view the body-worn camera recording privately in a non-law enforcement setting; and

(C) If the next of kin accepts the offer in subparagraph (B) of this paragraph, provide the decedent's next of kin a reasonable opportunity to view the body-worn camera recording privately in a non-law enforcement setting.

…

~~(f) When releasing body-worn camera recordings, the likenesses of any local, county, state, or federal government employees acting in their professional capacities, other than those acting undercover, shall not be redacted or otherwise obscured.~~

(g) For the purposes of this section, the term:

(1) "FOIA" means subchapter II of Chapter 5 of Title 2.

(2) "Next of kin" means the priority for next of kin as provided in Metropolitan Police Department General Order 401.08, or its successor directives.

~~(3) "Serious use of force" means any:~~

~~(A) Firearm discharges by a Metropolitan Police Department officer, with the exception of range and training incidents;~~

~~(B) Head strikes by a Metropolitan Police Department officer with an impact weapon;~~

~~(C) Use of force by a Metropolitan Police Department officer:~~

~~(i) Resulting in serious bodily injury;~~

~~(ii) Resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ;~~

~~(iii) Involving the use of a prohibited technique, as that term is defined in § 5-125.02(6); and~~

~~(iv) Resulting in a death; and~~

~~(D) Incidents in which a Metropolitan Police Department canine bites a person.~~

(4) "Serious bodily injury" means extreme physical pain, illness, or impairment of physical condition including physical injury that involves: a substantial risk of death; protracted and obvious disfigurement; protracted loss or impairment 120 of the function of a bodily member or organ; or protracted loss of consciousness.

"DCMR 24-3900.10.

(a) Notwithstanding any other law, the Mayor:

"(1) Shall, except as provided in paragraph (b) of this subsection:

"(A) Within 5 business days after

(i) ~~an~~ An officer-involved death;

(ii) An MPD officer discharges a firearm, with the exception of a negligent discharge that does not otherwise put members of the public at risk of injury or death, a discharge at animals, or a range or training incident;~~or the serious use of force, publicly release:~~

(iii) An MPD officer applies a head strike with an impact weapon;

(iv) An MPD officer engages in use of force resulting in serious bodily injury; resulting in loss of consciousness or creating a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ; or involving the use of a prohibited technique, as that term is defined in section 3(6) of the Limitation on the Use of the Chokehold Act of 1985, effective January 25, 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.02(6)); or

(v) An MPD canine bites a person.

(B) Publicly release:

~~"~~(i) The names and body-worn camera recordings of all officers directly involved in the officer-involved death or incidents described in subparagraph (1)(A) of this paragraph;~~serious use of force;~~ and

(~~"~~ii) A description of the incident.~~; and~~

"(~~B~~C) Maintain, on the website of the Metropolitan Police Department in a format readily accessible and searchable by the public, the ~~names and~~ body-worn camera recordings of all officers who were directly involved in an officer-involved death since the Body-Worn Camera Program was launched on October 1, 2014; and

"(2) May, on a case-by-case basis in matters of significant public interest and after consultation with the Chief of Police, the Office of the Attorney General, and the United States Attorney's Office for the District of Columbia, publicly release any other body-worn camera recordings that may not otherwise be releasable pursuant to a FOIA request or paragraph ~~(2)~~(1)(A) of this subsection.

"(b)(1) The Mayor shall not release a body-worn camera recording pursuant to paragraph (a)(1)(A) of this subsection if the following persons inform the Mayor, orally or in writing, that they do not consent to its release:

"(A) For a body-worn camera recording of an officer-involved death, the decedent's next of kin; and

"(B) For a body-worn camera recording of a serious use of force, the individual against whom the serious use of force was used, o rif the individual is a minor or unable to consent, the individual's next of kin.

"(2)(A) In the event of a disagreement between the persons who must consent to the release of a body-worn camera recording pursuant to subparagraph (1) of this paragraph, the Mayor shall seek a resolution in the Superior Court of the District of Columbia

"(B) The Superior Court of the District of Columbia shall order the release of the body-worn camera recording if it finds that the release is in the interest of justice.

"(c) Before publicly releasing a body-worn camera recording of an officer involved death, the Metropolitan Police Department shall:

"(1) Consult with an organization with expertise in trauma and grief on best practices for providing the decedent's next of kin with a reasonable opportunity to view the body-worn camera recording privately in a non-law enforcement setting prior to its release; and

"(2) In a manner that is informed by the consultation described in subparagraph (1)of this paragraph:

"(A) Provide actual notice to the decedent's next of kin at least 24 hours before the release, including the date on which it will be released;

"(B) Offer the decedent's next of kin a reasonable opportunity to view the body-worn camera recording privately in a non-law enforcement setting; and

"(C)If the next of kin accepts the offer in sub-subparagraph (B) of this subparagraph, provide the decedent's next of kin a reasonable opportunity to view the body-worn camera recording privately in a non-law enforcement setting.".

DCMR 24 -3902.9

When releasing body-worn camera recordings, the likenesses of any local, county, state, or federal government employees acting in their professional capacities, other than those acting undercover, shall not be redacted or otherwise obscured.

DCMR 24-3999.1

…

"Serious bodily injury" means extreme physical pain, illness, or impairment of physical condition including physical injury that involves: a substantial risk of death; protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member or organ; or protracted loss of consciousness.

~~""Serious use of force" means any:~~

~~"(1) Firearm discharges by a Metropolitan Police Department officer, with the exception of range and training incidents;~~

~~"(2) Head strikes by a Metropolitan Police Department officer with an impact weapon;~~

~~"(3) Use of force by a Metropolitan Police Department officer:~~

~~"(A) Resulting in serious physical injury;~~

~~"(B) Resulting in a loss of consciousness, or that create a substantial risk of death, serious disfigurement, disability or impairment of the functioning of any body part or organ;~~

~~"(C) Involving the use of a prohibited technique, as that term is defined in section 3(6) of the Limitation on the Use of the Chokehold Act of 1985, effective January 25, 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.02(6)); and "(D) Resulting in a death; and~~

~~"(4) Incidents in which a Metropolitan Police Department canine bites a person.~~

D.C. Code § 2-534. Exemptions from disclosure

…

(d-1)(1) Notwithstanding any provision of this act, a request under this act for disciplinary records, sustained on or after the effective date of the Addressing Crime Trends 238 (ACT) Now Amendment Act of 2023, passed on 2nd reading on _____ (Enrolled version 239 of Bill 25-____), shall not be categorically denied or redacted on the basis that it constitutes an unwarranted invasion of a personal privacy for officers within the Metropolitan Police Department ("MPD"), the District of Columbia Housing Authority Police Department ("HAPD"), or the Office of the Inspector General ("OIG"), except as described in paragraph (3) of this subsection.
(2) For the purposes of this subsection, the term "disciplinary records" means any record created in furtherance of a sustained disciplinary proceeding for, or an Office of Police Complaints ("OPC") investigation of, an MPD, HAPD, or OIG officer, that resulted in a penalty of suspension, demotion, or termination~~regardless of whether the matter was fully adjudicated or resulted in policy training~~, including:

(A) The ~~name~~ rank of the officer complained of, investigated, or charged;

(B) The complaints, allegations, and charges against the officer;

(C) The transcript of any disciplinary trial or hearing, including any exhibits introduced at the trial or hearing;

(D) The disposition of any disciplinary proceeding; and

(E) The final written opinion or memorandum supporting the disposition and any discipline imposed, including the MPD's, HAPD's, or OIG's complete factual findings and its analysis of the conduct and appropriate discipline of the officer~~; and~~

~~(F) Any other record or document created by OPC, MPD, HAPD, or OIG in anticipation of, or in preparation for, any disciplinary proceeding~~.

(3) When providing records or information related to disciplinary records, the responding public body may redact:

(A) ~~With respect to the officer or the complainant, records or information related to:~~

~~(i)~~ Technical infractions solely pertaining to the enforcement of administrative departmental rules that do not involve interactions with members of the public and are not otherwise connected to the officer's investigative, enforcement, training, supervision, or reporting responsibilities;

(~~ii~~B) Their medical history~~, except in cases where the medical history is a material issue in the basis of the complaint; and~~;

(~~iii~~C) Their use of an employee assistance program, including mental health treatment, substance abuse treatment service, counseling, or therapy~~, unless such use is mandated by a disciplinary proceeding that may be otherwise disclosed pursuant to this subsection; and~~;

(D) Any personally identifyable information; and

(E) Any other records or information otherwise exempt from disclosure under this section other than subsection (a)(2) of this section.".

~~(B) With respect to any person:~~

~~(i) Personal contact information, including home addresses, telephone numbers, and email addresses;~~

~~(ii) Any social security numbers;~~

~~(iii) Any records or information that preserves the anonymity of whistleblowers, complainants, victims, and witnesses; and~~

~~(iv) Any other records or information otherwise exempt from disclosure under this section other than subsection (a)(2) of this section.~~

(d-2) Notwithstanding any other provision of law, agencies shall not categorically treat law enforcement disciplinary records as falling within any exemption listed in this section.

D.C. Code § 5-1104. Police Complaint Board

…

(d-2)(1) The Board shall review, with respect to the MPD:

….

(2) The Executive Director, acting on behalf of the Board, shall have timely and complete access to information~~have unfettered access to all information~~ and supporting documentation specifically related to the Board's duties under paragraph (1) of this subsection.

(3) The Executive Director shall keep confidential the identity of all person's names in any documents transferred from the MPD to the Office pursuant to paragraphs (1) and (2) of this subsection.

(4) The disclosure or transfer of any public record, document, or information from the MPD, the DCHAPD, or the OIG to the Office pursuant to paragraph (1) of this subsection shall not constitute a waiver of any privilege or exemption that otherwise could be asserted by the MPD, the DCHAPD, or the OIG to prevent disclosure to the general public or in a judicial or administrative proceeding.

(5) A Freedom of Information Act request for public records collected pursuant to paragraph (1) of this subsection may only be submitted to the MPD, the DCHAPD, or the OIG.

(6) Beginning on December 31, 2017, and by December 31 of each year thereafter, the Board shall deliver a report to the Mayor and the Council that analyzes the information evaluated by the Board under paragraph (1) of this subsection.

(7) In its review of in-custody deaths described in paragraph (1)(E) of this subsection, the Board shall issue findings related to, and recommendations in response to, each death.

D.C. Code § 5-1116 Officer disciplinary records database.

(a) Notwithstanding section 3105 of the District of Columbia Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-631.05), by December 31, 2024, the Office shall maintain a publicly accessible database that contains the following information related to sustained allegations of misconduct pertaining to an officer's commission of a crime, the officer's interactions with members of the public, or the officer's integrity in criminal investigations, as determined by the Office, MPD, DCHAPD, or OIG for incidents that occurred on or after the effective date of the Comprehensive Policing and Justice Reform Amendment Act of 2022, passed on 2nd reading on December 20, 2022 (Enrolled version of Bill 24-320):

(1) The ~~name, badge number,~~ rank, length of service, and current duty status of an officer against whom an allegation of misconduct has been sustained;

(2) A description of:

(A) The complaint that is the basis of the sustained allegation of misconduct, if initiated by a complaint; or

(B) The conduct that is the basis of the sustained allegation of misconduct, if initiated by another means;

(3) Whether the allegation of misconduct was initiated by:

(A) MPD;

(B) DCHAPD;

(C) OIG;

(D) A complaint submitted to the Office pursuant to section 8(a);

(E) The Executive Director as described in section 8(g-1); or

(F) Other entity;

(4) A description of the final disposition~~ and a copy of the final order or written determination~~;

(5) The discipline imposed on the officer in response to the sustained allegation of misconduct and the date on which it was imposed;

(6) If applicable, the discipline recommended by the Office, as described in section 12(i)(1)(A); and

(7) Whether the officer or another entity has requested an appeal regarding the sustained allegation of misconduct.

(b) In the event a sustained allegation is successfully appealed, overturned, vacated, or otherwise invalidated, the Office shall remove database entries related to the initial sustained allegation of misconduct.

(c) MPD shall maintain records necessary to update the database as needed and furnish that information to the Office as requested.

Good morning and thank you, Council member Pinto and esteemed members of the District of Columbia Council's Committee on the Judiciary and Public Safety. My name is Bob Murphy, representing MRP Realty, a real estate operating company deeply invested in the District's well-being. And I am here to support Mayor Bowser's Addressing Crime Trends Now Act. We manage an extensive portfolio, comprising approximately 2 million square feet of office space and 3500 multifamily units across the District, to include in Wards 1, 2, 5, 6, 7 and 8.

However, despite our commitment to fostering a safe and thriving environment, we are facing a daunting challenge—a concerning surge in violent crimes and property theft across our properties. The spectrum of these crimes spans from murder and assault to rampant automobile and property theft. Specifically, year to date in 2023, our residential properties have experienced 1 murder, 7 shootings, 11 armed robberies, 5 assaults, 6 car thefts including 3 car jackings, 46 property break ins, 12 property thefts and 22 incidents of vandalism. These criminal activities not only jeopardize the safety and well-being of our residents and businesses but also pose a severe threat to the fabric of our community.

The impact of this significantly reduced public safety is far-reaching. It tarnishes the day-to-day living and working experiences of those within our properties, creating an atmosphere of fear and insecurity. Furthermore, the ripple effect is felt in the broader context of investment and economic development.

The specter of crime drives potential investors away, diverting investment opportunities to surrounding jurisdictions. This exodus of investment has grave implications for the District's growth and prosperity. For the vast majority of my 35 year career in the DC area, the District was consistently ranked in the top 5 cities in the US to invest in by both domestic and foreign investors, this is no longer the case…we are barely in the top 20…and that has impact when it comes to the ability to add more housing and also decreasing revenue streams that have been used by the District to invest and help our citizens in all wards.

We urgently need comprehensive and decisive action to address these crime trends. The safety of our residents and the vitality of our businesses depend on it. Measures must be put in place to enhance law enforcement, bolster community engagement initiatives, and implement effective strategies for crime prevention and swift resolution. The mayor's bill does this.

We, as stakeholders invested in the District's growth, implore this committee to consider the gravity of the situation and to enact measures that safeguard our communities and

support the Mayor’s crime bill. Collaboration between law enforcement, policymakers, and community leaders is essential in curbing this rise in crime and restoring confidence in the District as a safe and thriving place to live and do business.

The time to act is now. We stand ready to support and collaborate in any way possible to ensure the safety and prosperity of the District for all its residents and businesses. Thank you for the opportunity to share our concerns and insights on this critical matter."

ROBERT VINSON BRANNUM

Prepared testimony presented and submitted for the hearing record before the

Committee on the Judiciary and Public Safety

Ward 2 Councilmember Brooke Pinto, Chair
Ward 6 Councilmember Charles Allen, Member
At-Large Councilmember Anita Bonds, Member
Ward 7 Councilmember Vincent C. Gray, Member
At-Large Councilmember Christina Henderson, Member

Council of the District of Columbia on B25-0555 - Addressing Crime Trends (ACT) Now Amendment Act of 2023

29 November 2023
9:00 AM
John A. Wilson Building
1350 Pennsylvania Avenue, NW,
Washington, D.C. 20004

Good morning, Chairwoman Pinto, and members of the Committee. I am Robert Vinson Brannum, Chairman of the Ward 5 Leadership Council Public Safety Committee, At-large member of the MPD Chiefs' Citizen Advisory Council, 3rd Vice President, NAACPDC Branch, member of the board of the DC Open Government Coalition, former president of the Bloomingdale Civic Association, President Emeritus of the DC Federation of Civic Associations, and former Advisory Neighborhood Commissioner, 5CO4 and 5C08.

I appear before the Committee to offer testimony on ***B25-0555 - Addressing Crime Trends (ACT) Now Amendment Act of 2023.*** **Several weeks ago I had the opportunity to appear at a press conference for the mayoral announcement of this legislation, along with Councilmembers Anita Bonds, Kenyan McDuffie, Janeese Lewis George, and other residents of the District of Columbia.** ***[https://www.youtube.com/watch?v=NXwnDSP7hng]***

Public safety is a paramount duty of government and when effective it helps to lead to a high quality of life for all citizens. Madame Chair, to foster public safety three things are certain, those perpetrating crimes must be held accountable, the rights of those accused must be protected, and victims of crimes must be

respected and supported - not devalued by disconnected activism and advocacy. Community reform advocates for *"effective and humane responses to crime minimizing imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice"* must not ignore the devasting impact of crime to people and in our communities. While there has to be a concern about mass incarceration of Black Washingtonians, there must be a concern for the many Black Washingtonians as victims of crimes. Gang oriented shoplifting, assaults, and carjackings must be addressed aggressively, purposefully, but within the boundaries of commonsense public policy, the Constitution, and respect for the victims of crimes.

Madame Chair, I do not ignore published reports which lists *"Drug laws, Habitual offender and three strikes laws, Hot Spots Policing, the Zero Tolerance policy, and the "Broken Windows" model as culprits of modern attempts to disproportionately criminalize Black people."* Nor am I prepared to discount wholly reports asserting, *"…crime is measured in a way that focuses primarily on low-income communities of color, contributing to the paradigm of the prevalence of "black on black crime."*

But District officials and community advocates for police/public safety reform must respond with a coordinated plan to address the rise of violent crime in the District of Columbia. Carjackings, domestic violence, sexual assault, gun violence, and dognapping are not minor or trivial offenses. They have a devasting impact on victims, victims' families, and the District of Columbia at large.

While anti-crime laws must be balanced with Constitutional protections and services to address crime avoidance such jobs, housing, education, and health care to those in need of assistance; advocates for police reform must recognize and be sensitive to the plight crime has on its victims and the sense of criminal vulnerability of communities, particularly Black and Brown communities.

B25-0555 - Addressing Crime Trends (ACT) Now Amendment Act of 2023 is but one step toward striking a balance between bringing justice for the victim and bringing justice to the perpetrator. Fighting crime is not an intellectual synonymic support for mass incarceration of Black Washingtonians nor a racist public safety policy endeavor. I have protested, rallied, and written against all forms of racism, bigotry, and injustice since my

younger years growing up in Ward 7, DC, attending J.C. Nalle Elementary School, Kelly Miller Junior High School, and Joel Elias Spingarn High School in Ward 5. I know what racism and bigotry feel like. I also know what it means to be a victim of crime, even as I was sitting in a Virginia courtroom with a young person and later called to pick up this young person who lived in my community from a Virginia jail. I have responded to a mother's plea and held vigil with her at the DYRS facility working for the release of her child from DYRS custody. I have marched for equality, justice, and civil rights protection for all, even the accused. My heart and mind are clear. To be clear, community measures and governmental initiatives for adequate education, health care, mental health care, employment, and housing are necessary for a safe and vibrant city. However, it would be irresponsible to walk away from recognizing there is a crime problem in our City. Our young people are hurting, confused, distracted via social media, growing up physically before their minds are fully developed.

This legislation, while not addressing the specific social dilemma of growing up, will help to restore confidence city leaders hear a community's call and respond. However, constitutional protection for all

cannot be sacrificed or surrendered because of alleged criminal acts committed by those accused of crimes.

Reversing law enforcement transparency because certain officers fear accountability and identification is not a justification for government secrecy. Transparency and oversight are not anathemas to sound public safety policy. Similar to ethics concerns of Supreme Court Justices, members of Congress, and yes Councilmebers, those called and who have taken an oath to serve armed with a weapon have a higher responsibility for care and should be expected to be held to a higher standard than those accused of a crime or a developing child. The oaths each take upon entering government service is to the people.

Finally, I urge the Committee and the Council not to forsake rational and needed public safety measures because they are opposed by zealot police reform advocates. I also urge the Committee and the Council to go over the legislation word by word, line by line, paragraph by paragraph, and comma by comma to assure and ensure Constitutional rights are protected for the accused and the victim.

With these caveats, I am in support of the legislation. Thank you for your time.

References: https://www.annualreviews.org/doi/10.1146/annurev-criminol-060520-033306
https://www.sentencingproject.org/about/?gad_source=1&gclid=CjwKCAiAsIGrBhAAEiwAEzMlC65amQY8sX81J5Zx4CNJWaNp72TuzNsMAQUyav0JctT6VlKJljW7iRoC288QAvD_BwE

Roberta Shapiro, ANC Commissioner 6A03

I am offering this testimony in qualified support of the proposed ActNow legislation. I have lived in DC, Northeast, for 10 years. However, due to the upsurge in crime, my husband and I have begun to modify what we do and when we do it. Unli previous years, we now hesitate to walk to local restaurants, shops and art venues after dark. Even during daytime hours, we are appalled by open air drug markets and by the crowding out of other businesses by an explosion of currently illegal marijuana shop. , soon to be legalized under an ambiguous and lose set of emergency regs. As businesses suffer and our neighbors relocate from DC, the City's tax base will suffer, as will our ability to fund responses to the root causes of many of our problems, such as: lack of sufficient social and mental health services; shortages of affordable housing; lack of adequate staff to work with at risk students, truants and dropou; lack of programs to engage youths and keep them off the streets and away from criminal activit; etc.

So while I support the components ActNow legisilation, this support is contingent on its equitable application across racial and social economic groups and a renewed commitment by DC government torobust concomitent efforts to address root causes.

Finally, we can pass all the laws in the world, but without enforcement and timely and fair adjudication by the US Attorney or AG and the courts, these laws will be meaningless.

My name is Sarah Jane Shoenfeld. I am DC native, resident of Ward 4, and a public historian who has researched and written about the history of anti-Black policing in DC. **I am writing to urge AGAINST passage of the Addressing Crime Trends Now Act of 2023** because it will revive some of the same policies that have historically led police to injure and kill an innumerable number of Black Washingtonians.

In October 2020 Karon Hylton-Brown became at least the fifth person who had died in the District since 2009 as the result of vehicle chases that violated police policy. The 20-year-old was chased to his death in the Kennedy Street neighborhood where I live. As is typical in such cases, **the officer who killed Karon, Terrence Sutton, blamed the young man for causing his own death by refusing to be stopped.** I was grateful when Sutton was found guilty of second-degree murder, but this was the first time a District officer had ever been convicted for killing someone in the line of duty.

The MPD initially stopped allowing vehicular pursuits except in extreme cases more than two decades ago after nine people were chased to their deaths in the mid-1990s, a decade in which DC police shot to death 85 people in eight years (more than were killed by police in much larger U.S. cities). Calls for U.S. Park Police to adopt the same policy followed the 1996 death of two 16-year old girls who crashed as the result of a car chase through Southeast DC And just two years ago, the Council again put severe limits on vehicular pursuits following the deaths of Karon and of 22-year-old Jeffrey Price, who was chased to death on a dirt bike. **One in three people who are killed by police are shot while attempting to flee,** which is of course the most natural reaction to life-threatening danger.

Police in DC killed more people in 2021 than in almost any year since 2013. Policies already on the books to help stem this carnage are not enforced; Terrence Sutton's own supervisor testified that an officer could not "go a week on the street and follow [MPD General Orders] entirely." Audits completed in 2016 and 2021 confirm that **officers themselves often initiate and escalate the conflicts that lead them to killing people,** and that internal reviews serve to protect these officers from losing their jobs or even being demoted or disciplined. **So why is the Council considering a bill that will allow police to act with even more impunity?**

Officers almost never face charges for killing District citizens; as the Post reported following Sutton's conviction, neither DC police officials or prosecutors could recall an MPD officer ever before being indicted for killing someone while on duty. (Newspaper archives and historic reports on policing in DC bear this out: The last and apparently only time someone was ever charged was in 1938, when an officer was acquitted of manslaughter after shooting a young man in the back.) Mass protests, investigations, hearings, and other efforts to stem police violence have led to minimal reforms that have barely made a dent in the number of people (almost all of them Black) killed by police in DC since the 1920s.

Instead of making it easier for officers to harm and kill citizens without fear of punishment, I would implore the Council to reject punitive strategies that encourage violent policing and do nothing to reduce crime or make the city safer overall. In the face of pro-gentrification policies that have increased the racial wealth gap and continue to destabilize black communities, I would urge the Council to take a more progressive, compassionate, and holistic approach to the problems you are attempting to address. Specifically, I would ask you to **support #SafeAndFreeDC,** an evidence-based, Black-led legislative agenda that directly responds to community needs and to the goal of improving public safety for all DC residents. This agenda includes passage of the Drug Policy Reform Act, which would reduce the liklihood of dangerous interactions between citizens and police; the School Safety Enhancement Amendment Act, which would proactively address potential infractions within schools, reducing the chances for dangerous police behavior toward children; the removal of all police from schools by 2025; the Traffic Safety Enforcement Act, which would ban traffic stops for minor infractions; and the **transfer of enforcement of traffic violations that don't imminently threaten public safety from MPD to DDOT.**

I would also urge that the Council put into place effective mechanisms for holding police accountable for unnecessarily aggressive behavior and for the unneccessary use of force that characterizes policing in the District. This is all being done in the name of public safety, but none of it is making any of us safer.

Thank you.

Sam Myszkowski

Dear council members,

My name is Sam Myszkowski and I am a resident of Columbia Heights. I am involved in housing activism, which has brought me canvassing in communities around the city. I do not believe that the ACT NOW Act will make the city safer. I believe it will come at a high cost of increasing police violence and harassment against the communities I live and work in.

I understand worries about safety in our city – both my partner and I have been in the vicinity of shootings this year. But the incoherent approach of the ACT NOW Act is a testament to its unseriousness. It will not solve the problems of safety in this city. A grab bag of tools that will only empower police to engage in violent and unconstitutional practices is not a solution to real problems.

If we are looking for real solutions, it is more important to start at criminogenic level than imagining the failed policies of the 90s Drug War will make a difference. DC needs to be serious about investing in supportive services for kids in and out of school — every school in the city, not just the public charters. We need to ensure that housing costs are affordable and jobs are attainable. The dynamic that puts teens with poor judgement on the streets is that they don't want to stay at home in cramped, substandard conditions, but they can't afford to move out. There is not a single policy within this bill that addresses that, so like other looking-tough-on-crime bills before it, it will fail.

Please think seriously about how to make the city safer. Don't pursue harmful policies just for appearances.

Respectfully,

Sam Myszkowski

Samantha Lee

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

My name is Samantha Lee and I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I have lived in DC for the past 10 years and I am shocked by and deeply concerned by the numerous pieces of legislation introduced this year that are reminiscent of the 90s "tough on crime" bills — bills that led to the criminalization and mass incarceration of Black and brown communities. The ACT Now Act, like the ACTIVE, Safer Stronger, Prioritizing Public Safety Acts before it, will not keep us safe. Instead, it will just harm some of the most marginalized communities in the District.

The ACT Now Act will reinstate MPD practices that will result in serious physical harm to DC community members. This bill will allow officers to restrict someone's airway, restrict their breathing, and apply pressure to their neck, including their trachea, carotid artery, or jugular vein, to stop them from moving. These changes would allow officers to kneel on a person's neck to restrict their movement, the way that George Floyd was murdered. On top of this, because these actions would not be considered a neck restraint or asphyxiation, other parts of this bill will make it such that MPD is no longer required to release body camera footage of these incidents. So, MPD officers will be able to put community members into chokeholds without any oversight — how can you call that safety?

As a DC resident, I would like my tax-dollars to go toward addressing the root causes of violence rather than toward detaining more community members. You should invest in basic needs, like creating a universal basic income, providing basic public goods, or establishing a Violence Intervention Worker Training Academy. You should support survivors of sexual assault and domestic violence, like by providing resources regardless of a police report or expanding prevention education in schools. You should pass the #SafeAndFreeDC agenda and take cops out of schools, traffic, and mental health and overdose crises.

It is time for the Council to take the step towards re-envisioning our collective safety. We know, and research shows, that addressing root causes is what reduces violence, not criminalization. Councilmembers, instead of backsliding into this country's carceral past, will you be bold and vote NO on ACT Now? And choose instead to invest in housing, access to food, health care, and other things that actually keep us safe.

Sandra "SS" Seegars
Congress Heights, Ward 8, SE
202-561-6616
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November 29, 2023

B25-0555 "Addressing Crime Trends (ACT) Now Amendment Act of 2023."

I am the co-founder and convener of Concerned Residents Against Violence (CRAV), with seven members. I am co-host of the First Friday Group monthly virtual meeting to discuss ways to reduce crime. CRAV is a member of the East of the River Public Safety Consortium with a membership of 38 organizations.

1. Making it illegal for any person to act as the organizer of a theft-for-profit scheme by recruiting or directing individuals to commit organized retail theft which amounts to conspiracy. I hope it will be easy to prove in court.

2. The wearing a mask law and the drug-free zones law should have never stopped being enforced. This is an example of the inconsistency of elected officials and MPD. However, I am glad to see that the drug-free zone will be expanded to cover areas other than schools.

3. To be fair to an officer, I believe an officer should be allowed to review the camera footage prior to writing a report because they have so many cases they could confuse incidents, unless they write it immediately after the incident.

4. I believe in some cases the police should be allowed to pursue moving vehicles; however, I also believe that even though this law gives the police the authority to do so, the officer takes a risk to pursue because the cards are always stacked against the police.

5. I believe we do need to be flexible to be able to address crime trends, even if it is temporary.

6. I do believe the chokehold should be banned. I also believe that a suspect should follow a command by an officer.

7. Dispersing and ordering a person not to recongregate within the drugfree zone during the duration of the zone is absolutely impressive. However, I am not sure if marking the areas with barriers, tape, and officers posted is going to work. With the officer shortage, it would not be practical to post an officer. Depending on how the barriers are positioned, they may be too obstructive, and the tape could easily be removed. I suppose of the three, the barriers would be more permanent, and tamper-proof.

8. The language in the drug-free zone section is wordy. The part about "reasonably believes the person is congregating for the purpose of committing an offense" may need to be removed.

9. I believe there are too many restrictions imposed on the police, and the laws need to be written distinctly so the charge sticks, or else the police are going to look the other way.

END

November 28, 2023

The Honorable Phil Mendelson
Chairman, and Members of the Council
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Distinguished Councilmembers,

As a Ward 5 resident, Ward 6 business owner, and the Executive Director of the DC Nightlife Council, I welcome all ideas surrounding crime prevention and reduction and support elements of Mayor Bowser's ACT Now Bill as it pertains to our local economy, commercial areas, and small businesses, with the stipulation that modifications and careful attention are given to bring about sustainable and meaningful improvements. Businesses endorse and advocate for laws that empower MPD to serve and safeguard our community decisively, while also maintaining transparency to foster public confidence.

The alarming increase in crime in 2023—evidenced by 250 homicides, nearly 1,000 reported carjackings, and almost twice the violent crimes reported last year —poses a severe threat to local businesses and our local economy. Several established businesses cite escalating crime as a primary reason for recently closing their doors and leaving the District. As a small business owner on H st NE for the past 14 years, I have watched the majority of the remaining businesses on my block close this year.

Crime at any level directly impacts the safety and perception of our neighborhoods. When people feel unsafe, they are less likely to visit and spend time in areas where our businesses operate. This reduced foot traffic and patronage has been devastating to our local businesses who have struggled to recover to pre-pandemic levels.

The nightlife and restaurant sector in DC is a significant contributor to the city's economy and cultural appeal. These venues provide jobs and create vibrant, dynamic neighborhoods that attract tourists and retain residents. However, the current crime wave undermines this appeal, deterring potential visitors, and new businesses and compelling long-time residents to reconsider their living choices.

This bill does not address the lack of prosecution for over half of the criminal arrests in D.C. in fiscal year 2023-which sends a concerning message affecting the confidence of visitors, business owners, employees, and patrons alike. If people do not feel safe coming to our city or venues to work or enjoy their time, the very fabric of what makes DC a desirable place to live and visit is threatened.

This bill takes steps toward addressing organized retail theft and open-air drug markets. However, a more comprehensive approach is needed particularly when dealing with meaningful community engagement and investment, stolen goods markets, persistent reported issues around loitering and repeated burglaries, forcing businesses to keep cash on their premises, and finally, allowing local business operators a seat at the table when developing effective community-based legislation. As others have mentioned, the five-day limit for MPD to declare a drug-free zone isn't going to cut it. It's essential for MPD to have the authority to permanently disband chronic loitering hotspots as reported by the community.

The framework for devising solutions around consequences and deterrence must accurately address the actual effects on our businesses and the broader community. We don't just have a crime problem, we are dealing with a serious perception problem. The perception that DC is lost, that we have become lawless, and criminals can continue playing catch and release with MPD. And let's not limit the enforcement to just MPD. Let's make it easier to call in federal agencies like ATF, activate Metro Police, and bring in private agencies and organizations for a collaborative effort that can only strengthen our immediate responses.

We're not just talking policy here – we're talking about the future of our local economy and the preservation of our neighborhoods and local businesses. ACT Now represents a first step toward developing immediate tangible solutions to DC's crime crisis.

Thank you.

Sandra Basanti
Executive Director, DC Nightlife Council
sandra@dcnightlifecouncil.com

sangam 'alopeke

DC is my childhood home; I have seen it experience some of its most terrifying and bloody years as the murder rate skyrocketed during the crack epidemic, and seen it transform in ways both positive and negative as it grows. I have never been charged with a crime, but have personally experienced intense and traumatic violence at the hands of MPD. Measures to counteract police brutality -- which MPD commits overwhelmingly disproportionately against Black residents -- have been fought for hard for years by local activists. Our youth and our community need support, services, stability, and societal connection -- they do not need increased violence. They do not need police with increased license to kill and relaxed oversight. It is dispiriting and discouraging that the City Council is so very willing to roll back these hard won gains and put Black safety in jeopardy to protect monied interests.

Scott Thompson

The misguided actions of the council in 2020 when they jumped on the defund the police band wagon, cut funding for police personnel and instead used it for violence interrupters etc has left us with a crippled police force, low morale and rampant crime. Our Ward 1 council person Nadeau has left Ward 1 in shambles. I'm a 27 year resident and have never seen crime like this. Neighbors attacked and robbed, car jackings in my alley in broad daylight, and numerous homicides within blocks of my house. This is life altering for every resident and zaps the quality of life. The council, especially Mendelson and Nadeau, have errred in sacrificing the safety of residents over the criminals. The crime is affecting law abiding citizens' mental health. Just this past Monday in Ward 1 I was walking dogs with my partner and police swarmed around us as they apprehended a man with a gun. The ongoing trauma caused a mental break for my partner and he left town and went back to NC. He could no longer live with the fear and threat. This is what the bad policies of the council have done. The crime has wrecked my family. And the city has lost another high earner who will no longer be paying taxes to support the mess here. And I am also looking to move. I resent this council and the situation they've contributed to. I made my life here and now for the protection and safety of my family, we will all be leaving. If the council doesn't want honest, tax payors to leave and property values to drop, you better Act Now. Because for many us, it's too late. The council should publicly call on the mayor to request the national guard. But you all are too proud, too pompous like Mendelson, to do so. The sign of great leadership is knowing when to call for help. You've hamstrung MPD and the city needs help. Give it to her!!!! Stop sacrificing its citizens.

Sharlene Castle

My name is Sharlene Castle and I am a Ward 1 resident. I have worked in homeless services in the District since 2018. In the five years that I have been working in this field, I have witnessed several deeply concerning--and at times actively harmful--incidents between law enforcement and the mostly Black and Brown people with whom I work. For this reason, I am submitting testimony in opposition to the ACT Now Act of 2023.

Any legislation that allows MPD to not only physically harm community members but also do so with LESS oversight than exists already is a serious threat to public safety and should not be passed. In my work, I have repeatedly seen MPD use excessive force, especially against low-income, Black DC residents, knowing that there will be little retribution. I've seen them assault the most vulnerable person I work with--a less than 100 pound, 60+ year old woman and formerly homeless affordable housing resident--forcing her to the ground and cuffing her despite her complying with their requests and her social workers standing by and telling them to stop and trying to de-escalate. The communities I work with already face daily violence and surveillance--further sanctioning such practices and limiting oversight is a direct threat to their safety.

At the same time that this legislation is being considered, we as homeless service providers in the District are being told that funding cuts are coming, making it even harder to provide quality services to DC's most vulnerable residents--the same people who are often most subject to and harmed by police misconduct. More policing is not and has never been the answer to keeping our communities safe. The answer is making sure people have what they need: food, safe, decent, affordable housing, quality social supports, and fast and free access to appropriate behavioral health services when needed. Simultaneously cutting funding for such services in the District while attempting to increase MPD's ability to harm residents and decreasing oversight of the agency is shameful. If the DC Council truly wants to bolster public safety, it will focus on ensuring that ALL DC residents have what they need rather than surveilling and punishing those whose basic needs are not being met.

It is time for DC Council to protect the public safety of ALL DC residents--not just the white and wealthy. In a rapidly gentrifying city, it's imperative that we do everything in our power to support Black, Brown, and low-income native Washingtonians to meet their basic needs and be able to thrive in the city they call home and to be safe from harm, including at the hands of MPD. Giving police more leeway and less oversight is not the answer. I encourage you to vote NO on ACT Now and invest in the basic needs that we know keep our communities safe. People's lives depend on it.

Shirley Hopkinson

As a senior citizen living in Ward 5 of Washington, D.C. our city needs more policing. I am afraid for my grandkids when they go out in this city or whether it's just to the store or to come see me. They shouldn't have to fear the people in the city they grew up in. I am in support of ACT Now legislation.

STREET LINE

Founder CEO, Rickey D. Bryant

Street Line is a new program that never existed but is widely needed to give a chance for people on the street that need a voice designed to give a voice and positive feedback to the individuals in our urban community.

The design is to find and give hope to residents who find themselves hanging out on our community corners. This program is geared towards giving these individuals a voice and an outlet for their addiction, yes addictions. This voice is for those that being out on those corners that feel hopeless.They feel no one is listening, that they don't have any alternative but to hang out in a negative atmosphere. Street Line recognized that these hang out spots are addictive without therapeutic positive conversation. Street Line is designed to give those individuals a voice to communicate with a community of trained mentors, and/or people that can relate to their plight.

1) In the beginning, I describe hanging out on the corners as an addiction.
2) Let us define addiction:

Addiction is the fact or condition of being addicted to a particular substance, thing, or activity. Let's focus on the word activity for a moment. The conditions of which

things are happening and being done… Definition (a) A thing that a person or groups do or has done – habit forming.

The purpose on focusing on the definitions allows you to understand that the neighborhood corers are often the meeting place to plot and execute negative behavior. Neighborhood hangoutcorners often become addictive harboring places because of the comfortability, and false safety because one believes he knows everyone there, and that creates a false sense of trust. Therefore, it becomes addictive due to the familiarity of the environment.

Street Line can create an outlet for those who choose and expire for something greater than hanging out on the corner: they will have an outlet to receive positive encouraging informational ways to combat the addiction of hanging out on the corners. What makes Street Line unique is that no one has ever addressed this type of addiction. As they have done with suicide, gambling, alcoholism, and drugs, these are all well known addictions. They all have their own hotline that can address those issues. Street Line is the hotline where issues can be addressed for those who are addicted to hanging out on the neighborhood corners all over America's urban cities. Systematically there hasn't been any other organization that can handle this arena of services.

Street Line Synopsis:

Individuals would be able to call Street Line 24/7 with total confidentiality; the only exception to this would be if the individual discloses as a desire to harm him or herself. Street Line representative and or mentors, will be able to provide the following….

(1) General conversation:

(Where individuals just want to get something off their chest)

(2) Mentorship:

(Where individuals can have guidance for positive aspects on life)

(3) Referrals:

(Guiding individuals to school, job, opportunities)

(4) Violence Intervention:

(Where we talkto individuals about handling situations that they come across on those street corners that we can give them positive ideas that would lead to a non-violent resolution…)

(5) Amnesty Firearm Box:

(It is our hope that we can work with local governments and private concerns to authorize placement pf amnesty boxes.*It is my belief that one illegal firearm off the street is one life saved. Street Line will encourage residents in the DC Metropolitan Region to turn in all illegal weapons in an amnesty box.

(6) Addressing Addiction:

(Talking about and how to recognize the addictive behavioral traits of hanging out on neighborhood corners)

BUDGET SPACE: lease payments, equipment, salaries (staff/students), overhead costs, miscellaneous supplies, workspace furniture,

We ask and pray that you will give Street Line the opportunity so that those individuals in our community can have a voice in a confidential network

Street Line can and will provide b a microscopic look into the minds and cognitive behavioral thoughts andpatterns of those individuals that choose to hang on those street corners. Street Line will provide the patterns of those individuals that choose to hang on those street corners. Street Line will give you an unobstructed conversation and views and ideas of achieving a better outlook of life.

In conclusion, Street Line holds true to its confidentiality clause. Street Line would like to invite those universities and college students whom are studying in the field of human behavioral sciences. Street Line will help students obtain great benefitsfrom the firsthand knowledge of honest conversation experiencing skills working together while studying these cognitive behavioral patterns. However, I would reiterate that Street Line is a voice for those individuals that want their thoughts, or opinions heard with dignity and respect.

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Washington DC 20011

Suchi Mathur

My name is Suchi Mathur and I submit this written testimony to strongly oppose the "Addressing Crime Trends Now" (ACT) of 2023. I have lived in DC since May 2021, and before that lived here from 2008-2010. Currently I reside in Ward 6 with my husband and young daughter. I am an attorney. I am deeply troubled by the numerous pieces of legislation introduced this year in the DC Council that pander to "tough on crime" rhetoric, and work only to harm our Black and brown communities and endanger young people and people of color in this city.

The ACT Now bill, like many other bills proposed this year, will NOT keep our communities safe. It will lead to mass incarceration and perpetuate the cycle of harm that does NOTHING to address the reasons people engage in violence, property theft and drug use. This bill will bring back harmful, ineffective policies that people across DC have fought for years to end, like “drug-free zones”, bans on face coverings, and neck restraints or chokeholds.

As a parent and an attorney who has worked with many Black and brown clients who have been racially profiled, criminalized and harmed by many policies similar to ACT NOW, I strongly urge the Council to reject this bill. I also work with the Migrant Support Mutual Aid network to partner with immigrants in DC. These experiences have led me to believe that reinstating practices that curtail oversight over and transparency within MPD, expand surveillance of poor communities, and allow police officers to inflict literal physical harm on our community members without any accountability can only lead to more racially disparate outcomes, engender anger and more violence, and will not create actual safety for anyone.

As a resident who intends to raise my children in this city, I urge the council to invest in solutions that create meaningful safety and raise the standard of living for all our communities. The council must invest in communities' and people's basic needs, by creating a universal basic income, putting more funds in violence interruption work already being done by credible messengers and community members, and ensuring that all neighborhoods have access to basic public goods like affordable housing, employment opportunities, medical care, good schools, grocery stores, libraries, etc.

Please reject punitive strategies that rely on caging people - almost always people of color - instead of fostering sustainable solutions for community well-being. We do not need cops in our kids schools - we need real mental health solutions, economic opportunities, and a high quality of life for our young community members and all people in DC, not just the wealthy.

The Council must take real steps towards building public trust and encouraging collective safety in DC. There is no way to incarcerate ourselves out of this current spike in crime. Addressing poverty, racism, and lack of opportunity to thrive is what will reduce violence, drug use, and property crime.

PLEASE VOTE NO on ACT NOW.

Written Testimony concerning B25-0555 Addressing Crime Trends (ACT) Now Amendment Act of 2023

I, Sumayya Lane, resident of the District of Columbia, shall submit the following testimony to specifically disagree with **Amendments and Repeals of Legislation Regarding Metropolitan Police Office's Disciplinary Procedures.**

The Office of Citizen Complaint Review Establishment Act of 1998 must remain intact and given increased transparency and access to police records, files, medical information and pictures to assure that police are held accountable for their actions that may harm residents encountered during an incident. This action of narrowing or limiting access to police files may lead to overlooking inaccurate police filings of incidents, and officers not following MPD policy and procedures. This Amendment will cripple the oversight that is needed in investigations reported by citizens on wrongful police actions.

On September 21, 2023, CCN#23155768 was submitted to the US Attorney's Office for prosecution. Significant evidence was withheld concerning a domestic violence incident that took place between two adults. The information report submitted to the US Attorney's Office failed to provide a true account of the incident, leading to a probable conviction of the Defendant in the above CCN incident.

The police report also described that the defendant cut herself with pieces of glass, however, as in procedure during a domestic violence occurrence there was no advocate present at the scene nor was one requested. The defendant was mistreated by an arrest instead of providing psychiatric help, which was neglect on the part of MPD. The Defendant stated that she was strangled, which was confirmed by hospital records and pictures showing bruising around her neck, upper body and torso. However the Plaintiff was never arrested for the felony he committed of strangulation.

On October 19th, 2023 another incident occurred in which MPD was called (CCN23172138) for domestic violence. Again police protocol was not followed and an advocate was not called to gauge the incident. The defendant had been kicked in the face by the Plaintiff. It was observed by the police that blood covered the face of the defendant with clothes ripped and torn off her body. Yet the defendant was arrested. The defendant was assessed at George Washington University Hospital and diagnosed with a broken nose and 1.5 inch laceraton bewteen her eyes, where she received 7 stiches to her face. She is permanently disfigured in the face.

When asked why the defendant was arrested and not the plaintiff, the responding police officer stated that the Plaintiff had a stay away order and that the Defendant had pulled strands of hair from his head. The officer said that he had observed two pieces of hair locks held in the plaintiffs hand, which was enough for the police to arrest the defendant and not the plaintiff.

The MPD officer failed to fully read the order, falsely arresting the defendant, and neglecting the needs of the defendant There was limited documentation and medical information in the police report discovered by the defendant. The defendant was released from police custody and no papered after seeing the mistaken action on their part.

This Amendment is seeking to limit the investigative power and oversight that is needed to provide justice and protections for the residents of the District of Columbia in police encounters. Any attempt on the part of the DC Council to cripple police oversight is not addressing crime trends and should not be made a part of B25-0555 Addressing Crime Trends (ACT) Now Amendment Act of 2023.

COMPLAINT FORM

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF POLICE COMPLAINTS
1400 I Street, NW, Suite 700
Washington, DC 20005
Tel: (202) 727-3838
Fax: (202) 727-9182
24-Hour Toll-Free Hotline: (866) 588-0569
www.policecomplaints.dc.gov
dcpolice.complaintsoffice@dc.gov

To Be Completed by MPD Staff

Name | Rank | CAD No.

Incident Summary (IS) Number

Date & Time Complaint Received

To Be Completed by OPC Staff

OPC Control Number

Date & Time Complaint Received

Received: In Person | Fax | E-mail | U.S. Mail | MPD | Other (please specify below):

How Did You Hear About OPC (please specify): Referred from 1 D Police Station

Complainant's Name – Last, First, Middle	Date of Birth	Gender	Race or Ethnicity
Sumayya Lane	7-21-54	Female	Black

Home Address	Home Telephone Number
608 57th Street NW WDC 20019	404 645-2800

Email Address	Cell Number	Alternate Contact Information
sumayyalane6@gmail.com	4046452800	

Date of Incident	Location of Incident	Time of Incident	Day of Week Incident Occurred	Police Vehicle No. / Description
9-21-23 10-19-23	1151 4th St SW Wash. DC 20019	(2) 10-18-23 23:45	Wednesday Thursday	SUV

Officers Involved *(name, badge number, police district, if known)*
CCN 23182138 - 9-21-23 (1)
(2)
CCN #23172138 Anthony Vereen 6311 #3621 Brett Darnstead #10513

Physical Description of Officer(s) *(hair and eye color, height, sex, race/ethnicity, etc.)*
unknown

Describe Injuries *(if any)*	Where Treated *(name of hospital, doctor, etc.)*
Facial lacerations Broken nose	Georgetown Washington Univ. Hos. Emergency Dept

Name(s), Telephone Number(s) or Contact Information for Other People Present During the Incident *(including other police officers)*
Sumayya Lane - 404-645-2800 witness
Sarah Rashid victim (daughter) hospitalized with broken nose.

Preferred Language of Communication *(if other than English)*

Form OPC-1 (04/18) (Reverse Side)

Complainant's Name – Last, First, Middle

Lane, Sumayya I.

OPC Control Number

To Be Completed by OPC Staff

Describe the Incident:

At approximately 11:00 pm on Wednesday 10-18-23, I received (Sumayya Lane - mother) a telephone call from Sarah Rashid saying that her baby's father was starting an incident/aurguement about a difference of opinion. Sarah was saying Aquil Sudah was putting his hands on her at that I needed to call the police due to the escalation of violance between Sarah & Aquil Sudah. I, Sumayya Lane could hear Sarah Rashid saying to Aquil Sudah "get yours hands off me". Then the phone went dead. I, Sumayya Lane arrived at the scene of the fight at 1151 4th Street. Sw at 11:30 pm. I went to #812 and saw Sarah Rashid's face covered in blood. She was semi-conscience on the floor. The police had arrived and was assessing the scene. Ms Rashid was arrested and sent to the hospital for her injuries. Mr. Sudah had two strands of hair in his hand claiming Sarah Rashid had pulled them from his head. There was no witness that Ms. Rashid had pulled his hair; however there was evidence that Mr. Sudah bashed in Ms Rashid's face causing a broken nose and deep cut above her eye. Ms. Rashid was covered in blood from neck up. Mr. Sudah has a history of assault & battery documented by hospital reports but has not been arrested for his part in a physical fight. Mr. Sudah played upon Ms. Rashid's mental heatth condition and took advantage of her by telling her she was allowed to live at Sudah apartment 1151 4th St Sw irregardless of his CPO in place. Mr. Sudah is guilty of assault & battery

Attach Additional Pages if Necessary | Page 1 of 1

Complainant's Certification

I hereby certify that, to the best of my knowledge, the statements made herein are true. I acknowledge that the making of false statements is punishable by criminal penalties.

Sumayya Lane

Complainant's Signature

10-19-2023

Date

UNITED MEDICAL CENTER
1310 Southern Ave., SE, Washington, DC 20032
Main: 202-574-6000
Emergency Department: 202-574-6515

Patient: RASHID,SARAH
Account No: E00001434102
Unit No: MU1096274
Location: EMERGENCY ROOM UMC
Physican: CAMPBELL,ANDRE PA-C
Date: 09/22/23

Patient Visit Information

You were seen today for:

Contusion, multiple sites of trunk
Injury due to physical assault

Staff

Your caregivers today were:

Physician: CAMPBELL,ANDRE PA-C
Nurse: A_D

Patient Instructions Reviewed

Contusion in Adults

received 09/23/23 - 0517

Activity Restrictions or Additional Instructions

Apply ice to injury for 2 days then apply warm compress
Take pain medications as prescribed
Follow-up with your doctor or UMC primary care clinic for reeval
Return to ER if pain worsens or new symptoms occur

Medication Dose and Instructions

Acetaminophen With Codeine (Acetaminophen-Cod #3 Tablet) 300 MG-30 MG TABLET
1-2 TAB ORAL EVERY 6 HOURS As Needed for PAIN #16 TABLET REF 0
09/23/23 5:15am Status: PRINTED

Lidocaine 5 % ADH.,PATCH
1 PATCH TOPICAL DAILY As Needed for PAIN #5 PATCH REF 0
09/23/23 5:15am Status: VERIFIED
CVS/pharmacy #0022 (202)396-2331
320 40th St NE Washington,DC 200193372

Methocarbamol 500 MG TABLET
500 MG ORAL 3 TIMES A DAY As Needed for PAIN #15 TABLET REF 0
09/23/23 5:15am Status: VERIFIED
CVS/pharmacy #0022 (202)396-2331

CCN # 23155768 - Arrest Report

Sep 21, 2023 05:05 | Sep 21, 2023 12:18 - 04:10 | Jose Ferreira 12771 #4004

Other

Barron Rajbansh 10044 #3517 (Assisting Officer), Elias Dacho 8278 #L196 (Classifying Official - On scene), Jeremy Verdon 8175 #3837 (Assisting Officer), Kevin Douglas 12880 #4180 (Assisting Officer)

YES ☑ NO

STATEMENT OF FACTS

"This statement of facts is based on my best recollection without having the legal authorization to review any associated body-worn camera footage to assist in writing this statement."

Officers Ferreira and Verdon were working the Midnight tour of duty, dressed in full police uniform, operating a marked police car and assigned call sign 1052M. Officers Ferreira and Verdon received a radio run from the First District Dispatcher for an Assault in progress Stabbing at 1151 4th St SW apartment 812. The dispatcher advised the caller stated that there was a domestic violence assault in progress and further advised that there was an adult male that had been stabbed in the shoulder.
Officers Ferreira and Verdon arrived on scene and were on the 8th floor of the building. They were met by C-1. C-1 reports he was involved in a verbal altercation with D-1 over Instagram posts. C-1 states D-1 became angry and began throwing items around C-1's room. C-1 states D-1 picked up C-1's phone and threw it to the ground causing the screen to shatter. C-1 states in response he punched D-1's computer screen and threw her phone. C-1 states D-1 then went into the kitchen and began throwing plates to the ground and at C-1 causing them to shatter. C-1 states he attempted to restrain D-1 in an attempt to calm her down. C-1 states once D-1 appeared to be calmed down and he released her. C-1 states D-1 then returned to the kitchen and picked up a piece of broken glass and began to try and cut herself on her legs and chest area. C-1 states D-1 then picked up a knife from the dishwasher and began walking around the apartment stabbing items with the knife. C-1 states he then stated to D-1 that she had to leave. C-1 states D-1 became angry and swung the knife with her right hand at C-1 striking him on the left shoulder causing C-1 to receive a 1.5 cm laceration to his shoulder. C-1 states D-1 then stepped out into the hallway of the apartment building and began screaming for help. A neighbor heard D-1 screaming and called 911.
Officers Rajbansh and Douglas located D-1 and stopped and detained her. D-1 was placed under arrest for ADW Knife D/V and transported to the First District for processing.
DCFD Medic 7 responded to the scene and transported C-1 to GW Hospital where he was treated by Dr. Kanke for his injuries. C-1 received 1 stich for his laceration and after treatment was released.
DCFD Medic 13 responded to the scene and treatment was given to D-1 for light cuts on her legs, arm and upper chest area. D-1 refuse to go to the hospital.
C-1 and D-1 have been dating for 2 years and have one child (9 months old) in common. The child was not at the location during the offense.
D-1 was identified by her DC Drivers License as Rashid, Sarah Nannah from DOB: 02/14/1997 DLN# 4144628
Cruiser 1010 Worthington was on scene.
Cruiser 100 Dacho was notified.
1D18 Detective Grysko responded to the hospital.
DFS CSU 50 processed the scene and photographed C-1's injuries. The knife and C-1's clothes were taken for evidence and placed on DFS's property book.
OIC Maffolt #5538 was notify.
OCAP Rose RuachOut was notify.

REPORTING PARTY-1

REPORTING PARTY 1 (ORGANIZATION)

R-1 Reporting Officer

ORGANIZATION TYPE

Government

ARREST #012317869 (ON SCENE - NO WARRANT)

CAUTIONS: MENTAL HEALTH CONDITION

ARREST DATE / TIME	WITS ARRESTING UNIT OR OT-ER ARRESTING AGENCY	ARREST TYPE
Sep 21, 2023 03:50	1D - 01	On Scene - No Warrant

REPORTING OFFICER SIGNATURE / DATE	SUPERVISOR SIGNATURE / DATE
Jose Ferreira 12771 #4004 Sep 21, 2023 06:05 (e-signature)	SETH ANDERSON 6401 #S0603 Sep 21, 2023 06:11 (e-signature)
PRINT NAME	PRINT NAME
Jose Ferreira 12771 #4004	SETH ANDERSON 6401 #S0603

Gmail

Sumayya Lane <sumayyalane6@gmail.com>

Concerning Incident with MPD

Sumayya Lane <sumayyalane6@gmail.com> Thu, Nov 9 at 5:05 PM
To: Rodriguez La Brada, Eloy (Council) <erodriguezlabrada@dccouncil.gov>

Thank you for your rapid response. This incident is horrific, which happened to my daughter. Please reference complaint #24-0049. with the Office of Complaints, Samuel Davis, Investigator.

However what is more disturbing about this case is that the person who harmed my daughter is still free in the community after committing a felony when he strangled my daughter on September 19, 2023; pictures of bruising on her neck and hospital diagnosis state physical assault.

Because of the blatant bias exhibited by MPD, the perpetrator was able to do more harm on October 19, 2023 when he kicked my daughter in the face causing permanent damage to her upper forehead receiving 7 stitches, and a fractured nose. The perpetrator is still free and MPD falsely arrested my daughter, indicating in the police report that my daughter's injuries were self-inflicted.

There have been previous incidents where my daughter had to protect herself, however there was no advocate assigned to the case, as is proper procedure, to scale this event.

Your attention to this grave matter is greatly appreciated.

Sincerely yours,

Sumayya Lane, mother of victim Sarah Rashid
[Quoted text hidden]

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When asked why the defendant was arrested and not the plaintiff, the responding police officer stated that the Plaintiff had a stay away order and that the Defendant had pulled strands of hair from his head. The officer said that he had observed two pieces of hair locks held in the plaintiffs hand, which was enough for the police to arrest the defendant and not the plaintiff.

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This Amendment is seeking to limit the investigative power and oversight that is needed to provide justice and protections for the residents of the District of Columbia in police encounters. Any attempt on the part of the DC Council to cripple police oversight is not addressing crime trends and should not be made a part of B25-0555 Addressing Crime Trends (ACT) Now Amendment Act of 2023.

Sunrita Sarkar

DC is now officially a lawless city. Shootings, carjackings, retail theft, armed robberies, home invasions are a daily part of our lives. We live in fear in Columbia Heights and while we pay the highest taxes as homeowners, the little regard paid to our lives by the DC government is apalling. This city is the murder capital of the world and the homicides by now are 250+ in this year and carjackings 900 or so. Not to mention teenage gangs roaming the streets looting, shooting, beating everyone they see while the DC council and Attorney General keep coddling these juveniles and other criminals. In Ward 1, we have no faith in our representative Brianne Nadeau as her policies and tedious political standing is only aimed at improving the lives of criminals. She is tone deaf and her beliefs and values at this point is diametrically opposite to the safety and law and order we need as residents and she is actually jeopardizing our lives. If the DC council keeps going this way, DC will be a lost city with taxpayers moving out and commerce shutting down. The only agency trying to save us is MPD and that too with 700 officers down and working with their hands tied behind their backs thanks to the DC council's nonsensical policies/loosening laws and courts not prosecuting criminals. In which world can police do their jobs without 'chasing'?

In this context the Mayor's current ACT legislation is very welcome. Personally, I feel that this should've been even more stringent and have better provisions to help MPD address this state of anarchy that we are living in. The state that DC is in we actually need the National Guard brought in. An overworked, underresourced police force is not cutting it. At the end of the day, we as residents are trying not to become crime statistics. We don't get out of our houses, walk anywhere, cannot access the stores like CVs (where we are greeted by empty shelves). There are bullets going through our windows and sirens are the only noise we hear 24 hours a day!

I am 100% supportive of this legislation and would demand that the DC council pass this with no modiications whatsoever. Reinstate law and order!

Suzy Wang

I've had my car broken into on my street (back window smashed in, electronics stolen) and recently someone jumped over our back fence and stole two bikes from our shed. Homeless people regularly loiter in our alley and often ditch old furniture there (where our backyard faces).

T Vatnick

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

My name is T Vatnick and I am submitting testimony in opposition to the Addressing Crime Trends Now Act of 2023. I have lived in DC for the past 12 years and call this city my home. I want to feel safe and I want all of my neighbors to feel safe in this city, and this bill is not going to do that. There is a lot of data that shows that ""tough on crime"" bills DO result in mass incarceration of Black people and DO NOT result in a reduction in crime or an improvement in public safety. Focusing on punishment is not going to the root of the problem-- we need to put our resources into making sure that every DC resident has a home, can go to school, has enough to eat, can access healthcare, and most importantly, feels like they have a future to look forward to.

The ACT Now Act will curtail police accountability, which is the opposite of what is needed. A group of people with guns who face no consequences for their actions walking the streets of our city will not make us safer.

The Act will also criminalize wearing face masks ""with criminal intent""-- this can very easily slide into police arresting people wearing face masks to protect ourselves from COVID, something that is extremely important to do while gathering in groups, such as during peaceful protest. How is criminalizing our most important tool in preventing the spread of disease improving public safety?

The Act will also broaden the situations in which police are permitted to pursue people in vehicles. As a transportation professional who works a lot with safety data, this is a huge threat to public safety. Police cars speeding in pursuit of other people are extremely likely to cause crashes or hit pedestrians, resulting in injury and death. This is an increased threat to public safety, not an improvement.

As a DC resident, I have had someone break into my house before. The police did not prevent this from happening and they were not helpful after it occurred. What I want to invest my tax dollars in is providing resources to everyone in this city so that no one feels desperate enough to break into someone else's house, because everyone's basic needs are met.

I want my tax dollars to go toward housing everyone who needs a home. I want my tax dollars to ensure that everyone has enough to eat and that there are grocery stores providing nourishing food within walking distance of all DC residents. I want my tax dollars to go toward a public healthcare system so that everyone can see a doctor when they are sick. I want my tax dollars to go to our public schools and our public libraries so that people can build toward a future for themselves. I want my tax dollars to go toward our parks, our emergency services, our roads and transit system. There are SO MANY WAYS to invest in our community, to invest in each other, that would address the root causes of why people feel the need to break the law. Investing in punishing people through violence and incarceration has been proven not to reduce crime and investing in communities does reduce crime.

Councilmembers, I demand that you vote NO on Act NOW, and instead choose to actually invest in the ways that are proven to reduce crime: housing, food, health care, education, recreational spaces, and other things that actually keep us safe. I will end with a personal challenge for you: as one small example of investing in our community, put money into keeping our public pools open from April through October from the early morning to late at night. I am willing to bet that would do more to reduce crimes committed by young people than investing in more cops.

Alejandra Jolodosky

My name is Alejandra Jolodosky and I am Ward 3 resident submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. The DC community has endlessly fought to end harmful, ineffective policies such as drug-free-zones, bans on face coverings, and neck restraints and chokehold. Instead of continuing to remove additional harmful policies and working to address the root causes of violence (lack of needs for our communities), the DC government wants to reverse the end of these policies and create more harm to our communities, specially those that are the most marginalized in the District.

The ACT Now Act allows for MPD officers to abuse their power extensively and continuously without any liability and accountability from their misconduct. The bill allows MPD to categorically deny or redact a FOIA request for any records relating to a disciplinary violation that is not sustained or that occurred prior to the effective date of the act. Any details about the officer can be excluded since the bill only allows the transcript of the disciplinary hearing and final order of determination to be released. Additionally, unless a case included death, disfigurement, or serious bodily injury, officers will be allowed to view their body camera footage (BWC) before writing reports. The D.C. Police Reform Commission had recommended the opposite (prohibiting officers from viewing their BWC before writing reports) to prevent there being false narratives. The bill states that unless they are putting the public at risk, MPD is not required to release body camera footage when an officer negligently discharges a firearm, even when hey shoot someone's pet. Moreover, the bill restricts the Office of Police Complains unfettered access to MPD information relevant to their investigation. There will no longer be any requirements for MPD to acquire feedback for new orders or regulations from the Police Complaints Board before these orders/regulations are issued, as well as for MPD to maintain a public database that contains all sustained allegations against officers which includes their names and final order of determination. All of these things will prevent the public from holding officers accountable for misconduct and abuse. I cannot allow the DC government to remove all types of accountability and oversight from the actions of MPD. As an organizer in the city, I have seen how folks are directly impacted by the abuse of power from the police and having this bill to pass will basically allow MPD to do whatever they want without facing any consequences. Who are we actually protecting by passing this bill?

If we actually want to create real safety in our communities, we must invest in them. We must provide our communities with resources. I spend many days a month delivering groceries to families in Wards 7 and 8 because they lack universal basic income and access to full-service grocery stores. It should not have to be up to grassroots groups to meet all the needs of our community. Low income households in Wards 7 and 8 families should get a monthly stipend, such as the $750 recommended by DC's Gun Violence Reduction Strategic Plan. Additionally. the DC Council must invest in public goods and services so that residents have easy access to food, deeply affordable housing, healthcare, schools, public transit, and clean air and water. Healthcare also includes mental health. Currently, DC schools have more cops than counselors and three time as many security guards as psychologists. How is policing our youth instead of supporting them providing safety?

How can the Mayor create a "Black Lives Matter" art installation on two blocks of our city three years ago, and then want to pass a bill that gives police more power and freedom to criminalize our Black and brown neighbors? How can we defend this bill in the name of public safety? Time and time again, the research is clear on what actually creates safety for all: having the needs of the community met. It is not incarceration, or criminalization. It is extremely crucial that the **Council votes NO to the ACT Now Act** and chooses instead to invest in the actual resources that will bring collective safety.

Sarah Yergeau

My name is Sarah Yergeau and I live in Petworth in Ward 4. I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. This legislation will not improve community safety and is not what residents of the District need now. It wrongly puts Black and brown communities at even greater risk for unjust and inequitable targeting by law enforcement.

As a Christian and active member in the United Church of Christ, I don't believe this legislation will make communities safer or bring about the justice we seek to see in the world. I am particularly concerned that the ACT Now Act will create MPD policies that limit transparency, accountability, and oversight. The changes to records requests and power given to MPD to not adequately or completely respond to FOIA requests means that it will be harder to get information about officers with a history of repeated bad behaviors and hold those officers accountable. I strongly oppose the change to allow officers to view body camera footage before writing their reports. Not only does this make it easier for officers to match their reports to their narrative rather than the truth of the incident, it is also in direct opposition to the D.C. Police Reform Commission's recommendation.

DC should not be making it easier for MPD to engage in practices that more frequently result in bodily harm. The ACT Now Act is a move in the wrong direction, especially in the ways it allows officers to use neck restraints and chokeholds and engage in vehicular pursuits. In 2021, the Council severely limited vehicular pursuit after police chases resulted in the deaths of 2 young Black men, Karon Hylton-Brown and Jeffrey Price. There is no reason for these provisions to be repealed permanently when young Black and brown men already face risk of harm while driving and this would only increase the risk to them.

As a DC resident, I want my tax-dollars to go toward addressing the root causes of violence rather than toward detaining and attacking more community members. The Council should focus on investing in basic needs that support families and young people rather than criminalizing them. A pilot of Universal Basic Income (UBI), which is recommended DC’s Gun Violence Reduction Strategic Plan, would materially support families in Wards 7 and 8. Evidence from pilot UBI programs from across the country show that they work and improve the quality of life for recipients. Additionally, investing in services that should be a public goods like housing, food, child care, and public transit are a much better use of our tax dollars than the misguided priorities in the ACT Now Act. I strongly urge the Council to invest in early childhood education programs and increase compensation for child care providers. This is one of the best investments we as a society can make and achieves a high rate of return for violence prevention as children age. Child care is unaffordable and inaccessible for too many families, and providers are not paid a thriving wage to support their own families. These types of investments would result in true safety for our city and community members.

It is past time for the Council to act towards creating a city that prioritizes our collective safety over one that expands the power to criminalize and harm communities of color. I have seen firsthand the detrimental impacts police have in my neighborhood. Rather than my neighbors getting the services and support they need, they are harassed and chased away by MPD. ACT Now Act would do nothing to address this and will not make Petworth a safer place to live. I urge you to vote NO and to instead invest in housing, child care, access to health care and mental health support. Thank you for your time and consideration.

ANC 7D05 – Kingman Park
Commissioner Ebony Payne
7D05@anc.dc.gov
202-427-2068

Testimony RE: B25-0555 Addressing Crime Trends (ACT) Now Amendment Act of 2023

Dear Chair Mendelson and DC Councilmembers,

I am pleased to review and submit comments in support of Mayor Bowser's proposed legislation for the following reasons:

1. Retail theft is having a serious impact on the ability of businesses, particularly grocery stores, Black/Minority owned, and small businesses, to safely operate and continue to do business throughout Ward 7. As a business owner myself, I know that crime and theft make it too risky to open and operate a brick-and-mortar store which in turn negatively impacts the larger community through the loss of potential jobs and economic activity that small businesses bring. We must get a handle on the rampant theft and organized crime that is occurring in our retail and grocery stores that is putting at risk the ability of the few grocery stores we have from being able to continue to operate in our communities.
    a. This provision can be made stronger by adding language that encourages MPD to more closely monitor illicit markets of stolen goods and fake paper/temporary license plate tags online including on social media sites such as Facebook. Juveniles involved in criminal activities can purchase illegal firearms on these channels which gives them the tools necessary to commit violent crimes. Monitoring social media for criminal theft and disrupting those channels is essential to curbing our crime spike.
2. The use of face masks during robberies, car jackings, and other violent offenses has made it difficult to identify and catch suspects even if they are caught on surveillance camera. It is very intimidating to be approached by a person who has their face covered by a mask.
    a. I do see a need to clarify that medical masks, such as N95 masks and others needed for reasonable protection from COVID and other respiratory illnesses, are acceptable and not subject to arrest. I would also like to see clarification on how an arrest is deemed appropriate as the current language is vague.
3. Loitering has become a serious issue not only in Kingman Park, but all over Ward 7. I hear from families who describe feeling fear while walking into a grocery store because of loiterers standing outside, selling drugs, getting into fights, and participating in theft.
4. ANC 7D's Public Safety Committee recently passed a letter regarding an open-air drug market that has formed at the Verizon building located at 580 23rd Place NE at the intersection of Benning Road. The problem includes people dragging furniture such as chairs and couches to the side of the building so that they can shoot up drugs

comfortably, belligerent fights breaking out in the alleyways, and intimidation of residents who live nearby who must walk to their front door while living in fear.

a. The Drug Free Zone initiative can be made stronger by eliminating the bureaucratic hurdle requiring MPD to notify the Council Chair every time a new drug free zone is created. A more reasonable requirement would be a quarterly report. Outreach is also necessary to educate the public and ANCs about what resources will become available if an area is deemed to be a drug free zone.

14th St. Uptown Business Association

5401-14TH STREET, NW
WASHINGTON, DC 20011
202-421-8945

PUBLIC TESTIMONY – ADDENDUM

DECEMBER 05, 2023

BY

TAALIB-DIN UQDAH
Founder/President
obo/1-4 UBA (14th St. Uptown Business Assoc.)

(See Original Testimony Offered Virtually)

NOVEMBER 29, 2023
9:00 AM

BEFORE

WARD 2 DC COUNCILMEMBER BROOKE PINTO, CHAIRPERSON
Committee of the Judiciary and Public Safety
1350 Pennsylvania Avenue, NW Suite 106
Washington, DC 20004

BILL 25-555
"ADDRESSING CRIME TRENDS (ACT) NOW AMENDMENT ACT OF 2023"

The overwhelming response to Bill 25-555 placed time constraints on all witnesses, making this addendum necessary in qualifying my previous written testimony, offered virtually, November 29, 2023.

NOVEMBER 29, 2023 SUMMARY

"It takes a village to raise a child, but a child, abandoned by the village, will burn it down just to feel the warmth". What we're facing today are our children and young adults – who we have abandoned – burning down our city to get our attention, and they've got it, but this and other bills like it, leave our young people with no support system. If it leaves me with a feeling of abandonment, imagine how it makes them feel, at a time in their lives when they're crying out for the warmth of the community to embrace them – to show we care – not write them off as being "less than" or some other species of human being.

Our city, like many others around the world, are filled with children, teens and young adults, who have grown up to fast; like trying to put a square peg, in a round hole, they'll never fit in. Giving more power to MPD and judges to punish criminal behavior or creating legislation to punish offenders hasn't worked in the past and it won't work now because we're still fumbling around trying to envision the right formula – throwing stuff at the wall to see what sticks – what do we do to solve this problem of increased robberies, carjacking's auto thefts, assaults and gun violence?

DECEMBER 05, 2023 ADDENDUM – QUALIFYING MY TESTIMONY

My name is Taalib-Din Uqdah, native Washingtonian, Ward 4 resident of 16th St. Heights and a 1970 graduate of Eastern High School. I'm a longtime entrepreneur – 55-years – commercial property developer, co-owner of Cornrows & Co., (featured on the 4th Floor of the African American Museum of History and Culture). I testified in opposition to Bill 25-555 – Addressing Crime Trends (ACT) 2023 – because it is non-responsive to the issues our teens and young adults are facing in this crisis of behaviors. We are not going to legislate ourselves out of the violence of ignorance; that ignorance needs to be shown, instructively, alternatives that does not insult their intelligence – they want to know we see them. We need to meet these social misfits where they are, with care and recognition of their humanity. No one is born a criminal.

The first 16 years of my teenage /adult life, I purposely developed and carried out the mentality of a "street hustler" – always on money-time – then spent the next 16 years trying to rid myself of it. And while I haven't forgotten those days that served me well, I always remained a benefit to my family – blood and extended – my city and this nation; they've all benefited from me greatly. I wouldn't change a thing. *(Goggle or Bing my name for a glimpse of some of my decades-long activism).*

My entrepreneurial activism began in 1974, when I leased a dilapidated building to sell Xmas trees at the corner of MLK, Jr. Ave. and Good Hope Rd., (now) Marion Barry Ave., when I built and opened 1st Stop, SE's first 24-hour open air market. My activism with youth began in 1978 with Terrence Johnson, a 15-year-old, accused of killing two police officers in a Hyattsville jail, with their own gun. Asked by his mother to look out for her son, I became his friend, confidant, employer, and spokesperson for over a decade and was instrumental in gaining his release.

My activism continued in 1979, with a 19-year-old – Pamela Ferrell (now my wife) – who at 15, was shot in the face by a Providence, RI police officer – Washington Post/Donna Britt, September 17, 2020 https://www.washingtonpost.com/dc-md-va/2020/09/17/pamela-ferrell-police-shooting-hate/ – after stalling the case for 5-years, I got it reopened and settled.

From the mid-80's to the late 90's, while helping young, entrepreneurial women across the country maintain and grow their businesses, I guided and raised extended family – nieces and nephews – instilling in them the spirt of entrepreneurship. Now, in their 30's and 40's, they're all successful in their own right.

In 1993, as a member of the Alliance of Concerned Men and Righteous Mens' Commission, I represented the city, on behalf of Mayor Sharon Pratt and Nancy Ware – Mayor's Youth Initiative Office – at numerous National Gang Summits – the first in Kansas City – that spread to a dozen cities across the country. My role, after establishing truces amongst waring gangs, introduced the concept of financial empowerment through entrepreneurship, showing them how they could crossover from "the dark-side" of criminal and anti-social behavior, without losing any parts of themselves and become someone who could live and walk in both worlds.

In 2002, I founded and funded the 14th St. Uptown Business Association (1-4 UBA), training young adults in the art of "streetscape" – landscaping public tree boxes – along the 14th St. corridor, where I owned two commercial properties. It was expanded – 25 teens and young adults – and repeated in 2010 with a grant from the city to refurbish 77 tree boxes along the corridor. In 2008, I developed and taught a GED program – ***How to Make, Keep, Save, Spend and Blow Money*** – for Louis Henderson's National Association of Former Foster Care Children of America (NAFFCCA), young people aging out of the foster care system. In 2014, as an adjunct professor, I taught a Core Curriculum class for the construction trades, at UDC's Workforce Development and Lifelong Learning at their NE campus.

I offer my decades of experience, to work with city leaders and others, to provide the seeds for a new growth and development. Let's solve this problem with a vision for embracing our young people, not punishing them. Let's identify opportunities that offer innovative solutions, to produce positive impacts.

1155 F Street, N.W. ● Suite 400 ● Washington, DC 20004

The Council of the District of Columbia
Committee on the Judiciary & Public Safety
Chairperson Brooke Pinto
1350 Pennsylvania Ave.
Washington, DC 20004

November 30, 2023

Chairperson Pinto,

My name is Brian Gamberini and I'm the Sr. Manager, State and Local Government Relations for The Home Depot. On behalf of our nearly 300 associates at our Home Depot Rhode Island Ave. Store, we ask your Committee and the City Council to act decisively on the issue of Organized Retail Crime (ORC) in Washington DC.

Under consideration before the Committee is Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023." A portion of that bill (Title IX) relates to ORC and how it is defined within city code. We thank Chairman Mendelson and the Mayor for including these provisions in the ACT Now legislation. ORC presents an enormous challenge to retailers and consumers. As a low-risk, high-reward operation that appeals to criminal organizations, ORC poses both a financial and public safety risk in the district.

Organized Retail Crime is not petty shoplifting, nor is it victimless. It is a sophisticated operation where career criminals orchestrate the theft of large quantities of merchandise – typically targeting items that can easily be stolen, resold and monetized. These criminals are savvy and exploit the law, retailers, and public trust for financial gain while putting the safety of consumers and retail workers at risk.

At The Home Depot, we have seen the brazenness and threatening behavior of thieves increase over recent years at our Rhode Island Ave. store. All of this has occurred while our business has invested in improved technology, additional labor hours dedicated to asset protection and building a strong relationship with District Five MPD leadership and officers.

Specific the DC region, we know that criminals don't abide by the geographic borders of the District. We recommend that any efforts to combat ORC in DC coordinate with the surrounding DMV jurisdictions to go after these repeat offenders who are stealing from our stores.

We ask the Council to take decisive action to prevent the growth of ORC in the District and we look forward to being part of the law-making process going forward.

Thank you for your consideration.

Brian

Brian Gamberini
The Home Depot, Mid-Atlantic Region
Sr. Manager, State and Local Government Relations

Timothy Neal

My name is Angelo Neal and i'm submitting testimony against the ACT Now Act of 2023. I've been in DC for 3 years and have family that have been here for decades, and the amount that i've heard from them and my own research about how much of an issue over policing was due to bills passed just like this one has made it so that I must stand firmly against the passing of the act.

The ACT Now Act plans to revive the old anti-mask law that prohibits wearing masks with intent to commit crime or cause harm. That wording alone makes it obvious that the actual enforcement of that law will be completely reliant on individual officers judgement case by case, and that will and has always led to the unequal use of force by the police against black and brown people. This is especially dangerous with COVID still being around, putting many people in a position where they have to choose between their safety from exposure to the disease or their safety from being profiled and possibly harassed by law enforcement. Being a young african american person who many times presents masc, this is a choice I personally would be forced to make.

I as a DC resident would much rather see attention and funding be given to things that are actually beneficial to district. Things like addressing the rise in homelessness, or the lack of resources like grocery stores in Wards 7 and 8. Or rather give funding to bills and initiatives that have already passed, like the Second Chance Amendment Act of 2022 or the Corrections Act passed in 2022 that helps with the oversight and transparency of the police department.

You have a responsibility as people that decide how the system functions that impacts and even ends people's lives to take accountability for every part of that system your power touches, and striving to change it in every way you believe will actually help. The ACT Now Act of 2023 is so obviously not the path to anything better that to even consider it is counterproductive. It will lead to nothing but issues that have already been experienced and the impacts of them are still being felt. Ample research has been done to find out what actually helps, and you have the power to do it, so you have a duty to vote no on the ACT Now Act and do something that's actually going to help.

Titi Arowolo

Chairperson Pinto and Members of the Committee on the Judiciary and Public Safety,

My name is Titi Arowolo and I am submitting testimony in opposition to the Addressing Crime Trends ("ACT") Now Act of 2023. I have lived in DC for 3 months now and I am deeply disheartened by the numerous pieces of legislation introduced this year, for the sake of being "tough on crime". These bills are similar to the ones done in the 90s that only led to the mass incarceration of Black and brown communities. Moreso, having lived in Chicago for 4 years, another major city that acts "tough on crime", I saw the effects of harmful legislatures like ACT Now on neighbors and friends in BIPOC communities. The ACT Now Act, like the ACTIVE, Safer Stronger, Prioritizing Public Safety Acts before it, will not keep us safe. Instead, it will just harm some of the most marginalized communities in the District.

The ACT Now ACT will allow officers to view their body camera footage (BWC) before writing reports, except in certain cases, like death, disfigurement, or serious bodily injury. This is in direct opposition to the D.C. Police Reform Commission's recommendation prohibiting officers from viewing their BWC before writing reports will make it easier for officers to construct false narratives. The bill will also no longer require MPD to release body camera footage when an officer negligent discharges their firearm, if it doesn't put the public at risk or if they're targeting an animal. This will shield officers who carelessly fire their weapon or shoot someone's pet from accountability. There are checks and balances in every role to maintain accountability and transparency. Officers need this oversight as well. As a black woman, police presence has never made me feel safe. Taking away the means to hold them accountable, makes me feel even worse, because now how can I trust that they are being held to high ethical and moral standards?

True safety comes from having the needs of DC residents met. The DC Council should invest in making sure residents have easy and deeply affordable access to food, housing, healthcare, schools, public transit, clean air and water, and more. For example, and this is of high importance, As a DC resident, I would like my tax-dollars to go towards transportation. It takes me 45 mins every morning to get to my job that is 1.4 miles away and a 9 minute car ride, because every circulator bus is always delayed. Many people struggle to go to work because the transportation system in DC is subpar. That is where tax dollars should go, not increasing the policing budget

The DC council should re-envision safety. The world is moving forward, this is not the time to be revisiting old bills that only had a negative impact. We know, and research shows, that addressing root causes is what reduces violence, not criminalization. Councilmembers, instead of backsliding into this country's carceral past, will you be bold and vote NO on ACT Now? And choose instead to invest in housing, access to food, health care, and good transportation

Toi Francis

11/27/23

Subject: Support for Mayor Bowser's Addressing Crime Trends, ACT Now Legislation

Dear DC City Council Members

I am writing to express mystrongb support for Mayor Muriel Bowser's Addressing Crime Trends, ACT Now legislation, which I believe is a crucial and welcomed step towards ensuring the public safety of all Washingtonians, especially those residing in Ward 8. As a young woman of color in this city, the recent spike in crime has left me feeling not only frightened but also significantly restricted in my daily activities.

Simple tasks, such as taking public transportation or merely walking about the city, have become daunting and, at times, downright scary. It is disheartening to feel a sense of vulnerability while engaging in activities that should be basic and secure aspects of daily life. Mayor Bowser's proposed legislation addresses the urgency of our current crime trends, and I am particularly encouraged by the comprehensive approach it takes to enhance public safety.

The provisions in the ACT Now legislation, including increased resources for law enforcement, community engagement initiatives, and proactive strategies to address crime trends, are essential for fostering a safer and more secure environment for all residents, especially for marginalized communities like mine. By swiftly enacting this legislation, we can collectively work towards making our city a place where everyone, regardless of their background, can navigate public spaces without fear.

I urge you, as a dedicated member of the City Council, to work collaboratively with Mayor Bowser and your fellow council members to expedite the enactment of the Addressing Crime Trends, ACT Now legislation. Our city deserves to be a safe haven for all its residents, and your support for this legislation will undoubtedly contribute to achieving that goal.

Thank you for your dedication to the well-being of our community, and I trust that your advocacy for this legislation will make a meaningful impact on the safety and security of Washington, D.C.

Sincerely,

Toi Francis

Tom DeFranco - ANC SMD 4C03

Good morning and thank you for the opportunity to speak. My name is Tom DeFranco, I am the ANC Commissioner for SMD 4C03 and a resident of Petworth. I want to note that, while I am speaking in my capacity as an ANC Commissioner, my testimony is not given on behalf of my fellow commissioners in ANC 4C. It is, however, given on behalf of the many neighbors, Petworth residents, and District-wide residents I speak with on a regular basis who are extremely concerned by the wave of crime that has overtaken our city and which appears to only be worsening. It is not productive to point fingers and cast blame and that is not what I intend to do today. But it is imperative that the Council take action to pass this bill in some form.

My neighborhood is home to several schools, including Raymond Elementary and Roosevelt High School. I name those schools in particular because, as you likely know, children were shot at both in 2023. The response fit a familiar pattern: no arrests, no charges, no justice, and, perhaps most shockingly, no increase in police activity in the area surroudning either school. Just last month my neighbors were terrorized by two armed robberies at Randolph and Kansas NW - no arrests. Just the other week I spoke with a neighbor who was robbed at gunpoint in his alleyway while taking his dog to receive cancer treatment. Yet we see no increase in police activity.

I want to be clear: the fault for this does not lie with MPD. Their message to members of the community is clear and consistent: we are trying our best and working to identify patterns of crime to use our resources efficently and effectively, but we are understaffed and not supported. I don't need to tell you that MPD is in crisis at a time when crime has not been worse in two decades. We desperately need more officers, and our officers need to know that they have support to pursue criminals and make arrests - this legislation is a step in the right direction on the latter front.

Community policing works - I implore you to pass this legislation to empower our officers to effectively patrol communities that have been overtaken by crime and to pursue criminals when they flee. I will add that it is incredibly concerning to hear members of this Council and the public discuss the various public safety initiatives put forward as though they are in competition with each other, that one must be chosen at the expense of the other - every one of the bills up for consideration must be passed to ensure dedication of sufficient resources to the unchecked violent crime that has overtaken this city. Let me be clear: no member of this Council should delude themselves into believing that fixing the 911 line and obtaining accredidation for the crime lab, without more, are sufficient to address this crisis. I respectfully ask you to rise to the urgency of this moment - pass this bill. Thank you.

Trupti Patel

11/27/23

Subject: Support for Mayor Bowser's Addressing Crime Trends, ACT Now Legislation

Dear DC City Council Members

I am writing to express mystrongb support for Mayor Muriel Bowser's Addressing Crime Trends, ACT Now legislation, which I believe is a crucial and welcomed step towards ensuring the public safety of all Washingtonians, especially those residing in Ward 8. As a young woman of color in this city, the recent spike in crime has left me feeling not only frightened but also significantly restricted in my daily activities.

Simple tasks, such as taking public transportation or merely walking about the city, have become daunting and, at times, downright scary. It is disheartening to feel a sense of vulnerability while engaging in activities that should be basic and secure aspects of daily life. Mayor Bowser's proposed legislation addresses the urgency of our current crime trends, and I am particularly encouraged by the comprehensive approach it takes to enhance public safety.

The provisions in the ACT Now legislation, including increased resources for law enforcement, community engagement initiatives, and proactive strategies to address crime trends, are essential for fostering a safer and more secure environment for all residents, especially for marginalized communities like mine. By swiftly enacting this legislation, we can collectively work towards making our city a place where everyone, regardless of their background, can navigate public spaces without fear.

I urge you, as a dedicated member of the City Council, to work collaboratively with Mayor Bowser and your fellow council members to expedite the enactment of the Addressing Crime Trends, ACT Now legislation. Our city deserves to be a safe haven for all its residents, and your support for this legislation will undoubtedly contribute to achieving that goal.

Thank you for your dedication to the well-being of our community, and I trust that your advocacy for this legislation will make a meaningful impact on the safety and security of Washington, D.C.

Sincerely,

Toi Francis

Veronica Haughton

November 27th, 2023

Dear City Council Members

I am writing to express my strong support for Mayor Muriel Bowser's Addressing Crime Trends, ACT Now legislation, which represents a crucial step towards ensuring the safety and well-being of all residents of Washington, D.C. As a senior citizen residing in Ward 8, I have growing concerns surrounding public safety, and I believe that the proposed legislation is a welcomed and necessary initiative.

The recent spike in crime has left me, along with many of my neighbors, feeling scared and apprehensive about our daily activities. I am a senior citizen who used to enjoy the simple pleasure of walking my dogs in the neighborhood. However, the current state of insecurity has robbed me of this joy, as I am now afraid to even step foot outside my door. It is disheartening to spend my golden years in fear in the very community and city I call home.

Mayor Bowser's ACT Now legislation addresses the urgent need for comprehensive and effective measures to combat crime. I am particularly encouraged by the emphasis on proactive strategies, community engagement, and increased resources for law enforcement. These provisions are critical not only for the immediate safety of residents but also for fostering a sense of security and community well-being.

I implore you, as a dedicated member of the City Council, to collaborate with Mayor Bowser and your fellow council members to swiftly enact the provisions outlined in the Addressing Crime Trends, ACT Now legislation. By doing so, we can collectively take a stand against crime, providing a safer environment for residents, particularly vulnerable populations like senior citizens.

Thank you for your commitment to the well-being of our community, and I trust that your support for this legislation will contribute significantly to the safety and peace of mind of all residents in our great city.

Sincerely,

Veronica Haughton

Victoria Davis - Urban Atlantic

As an owner and developer in DC we are committed to our city, and have owned and operated here for over 27 years. We house families and seniors of all incomes and work in emerging and low income communities. We provide public housing, Section 8, LIHTC, Workforce and Market rate housing and homeownership, as well as parks and recreation areas.

Especially since Covid, it appears that our judicial system and the US attorney is not prosecuting these crimes, even when the police apprehend the offenders. We have had the following occurrences:

1. We have had a non-resident family member come into our building pour gasoline in the video surveilled hallway, leave and be arrested and released the same day. Then come back a week later pour gas again, lighted on fire, and get arrested and then be released again, and come back to the building. Through intense efforts with the ward eight police we were able to arrest the person again and he is awaiting trial. This process resulted in $500,000 of damage that otherwise would not have occurred, and six families being displaced for five months. It happened in the capital riverfront.
2. We have had a resident call the fire department and let them know that he was going to light his couch on fire and then proceeded to do so, and shot a gun through the window towards the outside. And then was arrested and also let go. It's almost impossible to evict this person from their home. Even with the new system.
3. We have had three incidences where our construction site at Walter Reed has been attacked by masked and armed assailants, and rob our construction personnel. They have also managed to pistol whip one of the workers. This is happening in all wards of the city, and the inability to properly follow up puts all of us at risk.

The police are certainly challenged if even after an onerous process they are able to arrest a perpetrator, but that person is then either released or not prosecuted. It is the general sentiment of the management companies and the construction companies and the owners, and the investors that the city lags far behind proper law enforcement. And more importantly fair and equitable and timely prosecution.

It appears that the rights of individuals to break laws and hurt others is more important than the safety and security and well-being of the remaining 95% majority. Worse than that this sets a precedent so that others don't feel any need to play by rules either. This extends to drug crimes, violent crimes, non payment of rent, physical abuse, and has already resulted in a significant percentage of investors and lenders no longer willing to do business in this jurisdiction. This hurts everybody and must be addressed.

Thank you for the opportunity to testify.

Vicki Davis

Managing Partner

Urban Atlantic Development LLC

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www.vidaseniorcenter.org

November 29, 2023

Esteemed members of the city council. My name is Maria Teresa McPhail, president & CEO of Vida Senior Centers, an organization serving Latino and other seniors' community in the city for over 52 years through its mission of **Maintaining and Improving the Quality of Life of Seniors**.
Vida is the oldest Non-Profit Organization serving Hispanic and other low-income seniors in the greater DC Area, filling the gap for multiple Social Determinants of Health (SDoH), Vida's clients are predominantly older women who are living at or below the DC poverty line while struggling to age in place. Vida is multicultural and multilingual - English and Spanish, serving around 700 seniors across ALL wards in the city, with physical presence in two wards, 1 and 4.
I am here today to testify about the importance of and great need of safety and security measures, especially for our elder community in Washington DC.

For more than a year, there has been a concerning disproportioned rise in violence targeting the elderly and other population in our neighborhoods, where seniors live and the wards where we have physical presence. This has left many of our elders feeling vulnerable and afraid to go about their daily lives. As a community, it is our responsibility to act and ensure the safety and well-being of our population and elders.
I strongly advocate for the implementation of **Public Hearing on Bill 25-555, the "Addressing Crime Trends (ACT) Now Amendment Act of 2023" and** any other initiatives that specifically address the safety and security of our elder community. This could include increased police presence in areas with high elder populations, as well as the establishment of neighborhood watch programs specifically tailored to meet the needs of our elders.

Furthermore, I believe there is a need for increased outreach and support services for our elders who may be experiencing fear or isolation due to the recent violence. This could include community engagement events, mental health resources, and educational programs on personal safety and self-defense.

Let's keep in mind that our elders have contributed so much to our city, and it is essential that we prioritize their safety and security. I urge the city council to consider these initiatives and take proactive measures to protect our elder community from the recent violence. Thank you for your time.

Respectfully submitted on behalf of Vida Senior Centers, Washington DC on November 29th, 2023.

Maria Teresa McPhail, MD
President & CEO
Vida Senior Center

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1842 Calvert Street, NW
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Vida Senior Centers - Brightwood
1330 Missouri Avenue NW
Washington, DC 20011

Testimony to Judiciary and Public Safety Committee, DC Council
Public Hearing on the Addressing Crime Trends ("ACT") Now Act of 2023 (B25-0555)

Virginia Avniel Spatz, Ward 6

I am testifying in opposition to B25-0555 and with a more general plea to the DC Council at this crucial time: The District must opt for strategies that create safety for everyone, instead of reinforcing a fear-driven crime focus which will not contribute to the well-being of our city.

My husband and I have lived in DC since 1988, longer than some DC Council members, including members of this committee, have been on this planet. We raised two children in Ward 6, and I served as care-giver to two children in Ward 7. Over those years, we have been victims and witnesses to numerous crimes, toward property and human life. I take seriously calls from other crime victims and those who feel afraid for themselves and for children, elders, and others who are most vulnerable.

I know, however, from my years here, that police-centered "safety" initiatives and a focus on punishment do not contribute to our collective safety. Moreover, as a white-skinned, gray-haired cishet woman, I am deeply concerned for the safety of my neighbors who are more often profiled, surveilled, and subject to dangerous treatment by MPD.

Changing rules about masking and "drug free zones" impedes all our basic civil rights and supports discriminatory enforcement and uneven surveillance in the District.

DC's collective safety cannot be improved by rolling back the already limited ways in which MPD officers are held to basic standards of transparency, accountability, and avoiding physical harm:

- Allowing more vehicular pursuit will only add more danger to our streets, prioritizing police convenience over safety for pedestrians and other drivers;
- Touching an individual's neck and windpipe cannot be a part of regular police work; rolling back this long-established basic policy would erode any sense of boundaries for police officers and shred any sense of safety for individuals, particularly those most often profiled as criminal;
- Removing language that insists on an immediate need when applying deadly force leaves every individual living, working, or visiting in the city less safe and fosters an environment that fails to value human life;
- Altering rules for body camera footage, record requests, and police complaints removes some of our most basic protections and signals to MPD offers that they operate free of accountability;

The District needs equitable and steady access to income, food, housing, and education. We need a Council that supports peace education, conflict-resolution, and violence interruption. The District must have leadership that looks beyond "trends," which is a marketing viewpoint, and "crime," which fuels discrimination and deficit-based thinking, to protect ALL our rights and psychological and physical well-being.

For all these reasons, I ask the committee to reject B25-0555 and offer, instead, real solutions that actually address what ails us.

Thank you for your time and attention in reading this testimony.

Virginia A. Spatz,
14th Street SE

Vonetta Dumas Jennings

Vonetta Dumas Jennings

Signature Image Salon, 1517 U St. NW

Trinidad, Ward 5 Resident

vonetta1274@gmail.com

202-271-6972

November 23, 2023

The Honorable Phil Mendelson

Chairman, and Members of the Council

Council of the District of Columbia

John A. Wilson Building

1350 Pennsylvania Avenue, NW, Suite 504

Washington, DC 20004

Dear Chairman Mendelson and Distinguished Council Members,

Please accept this letter as my testimony in support of the "Addressing Crime Trends Now Act (ACT Now)."

As a business owner at Signature Image Salon, a Trinidad resident in Ward 5, a former ANC Commissioner, former President of the DC Federation of Democratic Women, and an engaged community leader, I am writing to voice my strong endorsement of Mayor Bowser's "Addressing Crime Trends Now Act (ACT Now)." This act is a key advancement in our enduring quest to enhance public safety and bolster effective policing in our District.

The ACT Now Act is Mayor Bowser's proactive response to the current public safety challenges. It aims to fortify law enforcement with necessary tools and update key policies, thereby ensuring the safety of our neighborhoods in alignment with the practicalities of contemporary policing. I am particularly supportive of the following key provisions:

Supporting Safe and Effective Policing: The distinction between serious use of force and incidental neck contact is vital. Allowing officers to review body-worn camera footage before writing reports and permanently clarifying policies on vehicular pursuits and officer discipline are critical measures for enhancing operational efficiency and accountability.

Combatting Organized Retail Theft: The creation of criminal penalties for organizing retail theft is essential for the security and sustainability of our local businesses, directly affecting the safety around these commercial areas.

Addressing Loitering Around Open-Air Drug Markets: The reinstatement of the MPD Chief's authority to declare temporary drug-free zones and instituting a no-loitering law will substantially disrupt drug-related activities and allow for the reclamation of public spaces for community use.

My experience as an ANC Commissioner, particularly in public safety, where I contributed to a significant reduction in crime in Trinidad, reinforces my belief in the effectiveness of these measures.

Making it Unlawful to Use Masks for Criminal Acts: This is a crucial step in deterring crime while respecting civil liberties, thereby maintaining public order and safety.

The Metropolitan Police Department (MPD) has consistently been at the forefront of fair and constitutional policing. However, the Comprehensive Policing and Justice Amendment Act has presented challenges in maintaining community safety and holding criminals accountable. The ACT Now Act not only addresses these issues but also supports the creation of an environment conducive to community, victim support, and the MPD's ability to attract and retain qualified officers during times of low staffing.

As a former ANC Commissioner and a community leader, I understand the importance of balancing operational efficiency, police accountability, and public safety. This legislation is a comprehensive approach that acknowledges the daily challenges faced by our officers while maintaining the principles of justice and fairness.

I strongly urge the Council to act swiftly and favorably on the ACT Now Amendment Act. This legislation is a critical step toward enhancing the safety, security, and prosperity of our community.

Thank you for your consideration and continued commitment to the well-being of our District.

Sincerely,

Vonetta Dumas Jennings

WEDNESDAY, NOVEMBER 29, 2023

Council of the District of Columbia
Committee on the Judiciary and Public Safety

Hearing on B25-555: ADDRESSING CRIME TRENDS (ACT) NOW AMENDMENT ACT OF 2023

Room 500 of the John A. Wilson Building
1350 Pennsylvania Avenue, NW,
Washington, DC 20004

TESTIMONY OF
Washington Highland Civic Association

Good day Councilmember Pinto, Judiciary and public safety Committee and members of the committee. My name is Olivia Henderson and I'm here to testify in my capacity as the president of the Washington Highland Civic Association, I am deeply committed to fostering collaboration between our community and the government to address the pressing issue of crime within the Washington Highland Communities which is known to be amongst the most violent neighborhoods in the District of Columbia with probably the most children's and the highest rates of poverty that's overlook and never addressed by those officials that can bring about the necessary change required for all to survive and be alive at the same time. On behalf of the Washington Highland Civic Association, we stand in solidarity in support of Bill 25-555.

The collaboration between our community and government is paramount in effectively addressing the crime trend that has plagued Washington Highland. It is imperative that we work hand in hand with government agencies to create a safer environment for all residents. By standing in support of Bill 25-555, the "addressing Crime Trends (ACT) Now Amendment Act of 2023" we can collectively tackle the challenges posed by criminal activities and work towards sustainable solutions.

This collaborative approach is central to the effectiveness of the proposed Bill 25–555, aimed at addressing the crime trend within our neighborhood. The bill's provisions, including the establishment of temporary drug-free zones and enhanced policing measures, align with our community's efforts to work alongside all government officials in tackling crime head-on.

Through joint efforts, such as the implementation of temporary drug-free zones, we can take the shackles off and empower law enforcement to take targeted actions that directly address crime hotspots in which unwanted guest and drug boys sit lest than 25 feet from areas where children from both child development centers and elementary schools play within, small business corridors which are known to be the backbones of the community and now Senior Living

Assistance Facilities and Short Term Family Homes all in which the proposed Bill 25-555 will help support crime occurring in the District of Columbia, no matter if it's a high level or low level because crime is crime.

For example, children, customers of businesses, seniors, and residents have almost been ran over by cars, commercial trucks; to include DC own trucks; and the response from government, there is nothing we can do. Solution: bollards fixed this situation in the pass but removed for new sidewalk after waiting 15 years to repair. Guest what? It worked. Why does government have to be reactive rather than proactive? Someone is going to be killed or seriously injured. This is fixable. Especially knowing that pedestrian homicides are on the rise.

Moreover, by standing in support of the proposed Bill 25-555 serves as a demonstration of our shared commitment to fostering a safe and secure environment. By proactively engaging with government, we can effectively communicate the specific challenges and intricacies of our neighborhood, ultimately leading to more tailored and impactful strategies to combat crime.

Furthermore, standing in support of Bill 25-555 reinforces the idea that both the community and government share a vested interest in the well-being and safety when it pertains to the Washington Highland Community. By supporting and passing Bill 25-555, we can harness the strengths of both entities to implement comprehensive and sustainable solutions that address the root causes of crime while promoting a sense of security and unity within our neighborhood.

In conclusion, the collaboration between our community and government is fundamental in addressing the crime trend in the Washington Highland community. It is through this partnership that we can harness collective strengths, expertise, and resources to effectively combat crime, ultimately fostering a safer and more secure environment for all residents. I firmly believe that by continuing to work hand in hand with government, we can achieve meaningful and enduring change that benefits our entire community. To include being more transparent and hands on by hearing those who are closest to the crime that can play a great impact. Thanks to Councilmember Allen for at least coming to the community and experience the open air drug markets that we as residents experience every day. With Councilmember Allens insight of such neglectful areas provide all the reasons why we should all stand in support of Bill 25-555.

In Solidarity,

Ms. Henderson

WHCA President

Committee on the Judiciary and Public Safety
B25-0555 The Addressing Crime Trends (ACT) Now Amendment Act of 2023
Dennis A. Corkery[1]
Washington Lawyers' Committee for Civil Rights and Urban Affairs
November 29, 2023

The law before the Council today encourages more violence in the District. At a time when there is an urgent crisis of violence that District leaders need to face, rolling back hard fought police reforms is an unnecessary and dangerous distraction. Following our national reckoning on the persistent reality of racism, especially in policing, the DC Council became national leaders by immediately acting to create new systems of transparency and accountability for the Metropolitan Police Department ("MPD") and firmer restrictions on deadly force against DC residents and visitors. These reforms made the District safer by promoting responsible and Constitutional policing that focused on safety for officers, suspects, and the public. Now that violence is surging in our communities, the Mayor is calling for rolling back these reforms in the name of public safety. But unsafe policing by unaccountable officers will lead to more state violence and do nothing to stop the violence that we all want to prevent. Accordingly, on behalf of the Washington Lawyers' Committee for Civil Rights and Urban Affairs[2], I ask that this Council reject the Addressing Crime Trends (ACT) Now Amendment Act of 2023.

Among other things, The ACT Now Act rolls back transparency into officer discipline by limiting the timing for the release of records, what is released, and, worst of all, officer names so that there is no accountability or way for the public to know if repeat offenders are being disciplined. It legalizes chokeholds by making it legal for an officer to hold onto someone's neck in order to restrain their movement. The ACT Now Act instructs officers that they do not need to consider the life of a suspect when engaging in a car chase. The legislation would thwart Constitutional accountability by allowing officers to view body worn camera footage before writing reports except in delineated serious situations – meaning officers can add facts not known to them at the time they stopped and frisked individuals.

This ACT Now Act asks us to forget the serious need for reform and for greater police accountability. It asks us to forget that a police officer suffocated George Floyd in Minneapolis because he thought he could get away with it. It forgets that right here in DC, MPD officers murdered Karon Hylton-Brown because those officers did not value his life when they chased him. DC cannot hold claim to "Black Lives Matter Plaza" and then put into law that Black

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[1] Dennis A. Corkery is the Interim Supervisory Counsel of the Washington Lawyers' Committee's Police Abuse Project.

[2] The Washington Lawyers' Committee was founded in 1968, and works to create legal, economic, and social equity through litigation, client and public education, and public advocacy. While the Committee fights discrimination against all people, it recognizes the central role that current and historic race discrimination plays in sustaining inequity and the critical importance of identifying, exposing, combating, and dismantling the systems that sustain racial oppression.

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civilian lives do not matter. If we are committed to ending violence in the District and saving lives, then that means that the life of everyone – suspect or civilian or officer – needs to be protected. This bill sends the message that some lives are worth more than others.

The ACT Now Act is also an affront to the fight for statehood and home rule. As citizens of the District of Columbia, we are denied the fundamental human right of representative government. Our local laws are subject to the whim of Congress, in which we have no representation. We have seen this past year that not only are the usual enemies of DC home rule attacking the District's democratic process, but our allies have abandoned us as well.[3] Democrats hold both the Senate and the White House, and yet this Council's good governance modernization of our criminal code was overturned by both. Not long after, both Democrats and Republicans voted to overturn this Council's Comprehensive Policing and Justice Reform Amendment Act.[4] Only after successful lobbying to President Biden did he veto that disapproval resolution and allow DC's police reform bill to become permanent law.[5] The ACT Now Act would undo many of the important provisions of that legislation. To change them now would be to undo the fragile victory won on protecting home rule. Congress has shown enough disdain for the human rights of DC Citizens; this Council should not join them by passing this legislation.

I. <u>The ACT Now Act Will Not Reduce Violence in the District Because More MPD Officers Does Not Mean Less Violence</u>

This law will not solve our current crisis of violence in the District. More police and more policing does not mean greater safety. The District currently has the greatest number of police officers per capita—by far—of other cities with more than 35,000 residents.[6] There is a lot of discussion about the exact number of officers that MPD employs, but that discussion ignores the reality of the thousands of special police officers and federal police that enforce DC Code violations throughout the District. Further, police presence alone does not lower rates of violence.[7] In 2008 there were 186 homicides in DC.[8] That same year, MPD employed 4,022 officers. In 2012, there were 88 homicides, and MPD had 3,869 officers.[9] Accordingly, the District employed fewer officers and experienced fewer homicides. There are innumerable factors that could account for these different outcomes. The same factors are likely at play in the current crisis. But the size of MPD's police force cannot be the only factor involved. More MPD officers is not the solution.

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[3] Mary Clare Jalonick & Ashraf Khalil, *Senate votes to block DC crime laws, Biden supportive*, ASSOCIATED PRESS, Mar. 8, 2023, https://apnews.com/article/crime-district-of-columbia-biden-senate-0d9580c43711a42a3549419b23546726.

[4] Martin Austermuhle, *President Biden vetoes attempt by Congress to block D.C. police bill*, WAMU88.5, May 26, 2023, https://www.npr.org/local/305/2023/05/26/1178354102/president-biden-vetoes-attempt-by-congress-to-block-d-c-police-bill.

[5] *Id.*

[6] FBI. (2019, September 22). Table 78. FBI. https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/tables/table-78/table-78.xls/view.

[7] Martin Austermuhle, How Many Police Officers Does DC Really Need?, WAMU88.5, Apr. 7, 2022, https://www.npr.org/local/305/2022/04/07/1091462546/just-how-many-police-officers-does-d-c-really-need.

[8] 2023 Year-To-Date Crime Comparison, Metropolitan Police Department, https://mpdc.dc.gov/page/district-crime-data-glance.

[9] *Id.*

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Instead, the DC Council should ensure that the officers that DC does employ are effective and conscientious – the opposite of what the ACT Now Act promotes.

Further, the ACT Now Act will not grow MPD's ranks even if that was the solution to ending violence. MPD was facing difficulties in hiring officers long before the 2020 racial justice protests and the subsequent reforms that this Council enacted.[10] Cities across the United States are failing to attract as many officers to their forces as they used to.[11] Although some of these cities have similar reforms in place as the ones at issue here, others do not. For example, Missouri does not allow the release of police disciplinary records under any circumstances.[12] Yet the St. Louis Police Department is understaffed.[13] There are likely many reasons why MPD is not hiring as many officers as it wants.[14] To be sure, some officers are leaving the force because of the accountability measures that the Mayor wants to dismantle, but other officers are leaving because of the culture of disrespect within the force itself.[15] Police recruitment is also part of the same national economic forces that have transformed the job market following the COVID-19 pandemic. Bus drivers,[16] social workers,[17] and other workers that keep the District going are also in short supply. Allowing for less accountability and more violence is not going to inspire more effective individuals to stay or join MPD, and this Council must reject these efforts.

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[10] Peter Hermann, D.C. police force recovering from retirement surge, but more officers are quitting, WASH. POST, Mar 26 2020, https://www.washingtonpost.com/local/public-safety/dc-police-force-recovering-from-retirement-surge-but-more-officers-are-quitting/2020/03/26/5ff41286-623d-11ea-845d-e35b0234b136_story.html/

[11] *See, e.g.*, Rebecca Pryor, Baltimore Police Department offers hefty bonuses to cover staffing shortages and shift imbalances, FOX45 NEWS, Aug. 2, 2023, https://foxbaltimore.com/news/local/baltimore-police-department-turns-to-drastic-measures-amid-severe-staffing-shortages; Ubah Ali, Minneapolis Police Chief Brian O'Hara unveils new plan for hiring more police officers, WCCO NEWS, Nov. 10, 2023, https://www.cbsnews.com/minnesota/news/minneapolis-police-chief-brian-ohara-unveils-new-plan-for-hiring-more-police-officers; Mayor Breed Proposes Expanding San Francisco's Reserve Police Officer Program to Increase Foot Patrols, OFFICE OF THE MAYOR OF SAN FRANCISCO, Oct. 12, 2023, https://sf.gov/news/mayor-breed-proposes-expanding-san-franciscos-reserve-police-officer-program-increase-foot#:~:text=We%20still%20need%20to%20recruit,a%20low%20point%20in%202021.

[12] Amanda Hernadez, After George Floyd's murder, more states require release of police disciplinary records, MISSOURI INDEPENDENT, Aug. 3, 2023, https://missouriindependent.com/2023/08/03/after-george-floyds-murder-more-states-require-release-of-police-disciplinary-records.

[13] Mitch McCoy, St. Louis had only 2 officers for an entire district- Both called in sick, FOX 2, Sep. 28, 2023, https://fox2now.com/news/fox-files/st-louis-had-only-2-officers-for-an-entire-district-both-called-in-sick.

[14] Jenny Gaithright, Like A Tiny Cog In a Broken Machine': Overtime Mismanagement Plummet Morale and Push Cops Out of MPD, WAMU88.5, Oct. 26, 2023, https://dcist.com/story/23/10/26/mpd-overtime-attrition-why-cops-leave.

[15] *Id.*

[16] Delia Goncalves, "I'm surprised at the turnover": Employee claims low moreale and high turnover could be making DC bus driver shortage worse, WUSA9, Aug. 28, 2023, https://www.wusa9.com/article/news/local/dc/employee-claims-low-morale-high-turnover-making-dc-bus-driver-shortage-worse/65-6ac4d3d0-bc5d-48b5-a0e5-978e7b4c0f6d.

[17] Marissa J. Lang, D.C. to set up free social work degree to east case worker shortage, WASH. POST, Nov. 8, 2023, https://www.washingtonpost.com/dc-md-va/2023/11/08/dc-caseworker-shortage-free-degree.

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II. Full Transparency Is Vital for Accountability and Unbiased Policing

Rolling back on transparency about MPD discipline and police complaints will not keep good officers on the force and will negatively impact public safety. The public deserves to know if their police are acting with the highest standards. The database of officer discipline that this Council has already mandated allows members of the public to ensure that officers with a serious record of abuse are not allowed to continue on the force and to ensure that MPD leadership take police abuse seriously. In a civilized democracy, the police may only assert their powers with the informed consent of those that they police, and public insight into whether officers are exceeding their authority or acting with violence, bias, or disrespect is vital to informed consent. DC residents are already lacking in democratic rights that most of our country takes for granted, and this Council should not diminish those rights any more than Congress already has. This Council must reject the Mayor's call to dismantle the robust police transparency that is already in place. There cannot be true public safety without true police accountability.

The ACT Now Act undoes essential elements of police transparency. It prevents the release of records from prior to the effective date of this new law. It limits the release of records to just those for which there was a suspension, termination, or demotion. And it does not name the officer involved in the database of police discipline. In essence, it renders the release of records toothless. Putting a time restriction on the release of records under the Freedom of Information Act (FOIA) does not allow the public to review how officers have acted throughout their tenure. Not allowing the release of FOIAs about investigations that were not sustained or did not lead to discipline means the public cannot evaluate the effectiveness of the internal discipline process. Even worse, removing names from both the discipline database and FOIA responses means that it will be impossible for members of the public to determine if repeat offenders remain on the force. Full data means full understanding, and this Council must allow the public that full understanding in order to keep check on MPD.

The ACT Now Act's changes are unnecessary to protecting officers' privacy because current law is properly balanced for both the police and public. The database on officer discipline only contains incidents of "sustained allegations of misconduct pertaining to an officer's commission of a crime, the officer's interactions with members of the public, or the officer's integrity in criminal investigations."[18] Current FOIA law allows MPD to withhold any records of investigations or discipline for "[t]echnical infractions solely pertaining to the enforcement of administrative departmental rules that do not involve interactions with members of the public and are not otherwise connected to the officer's investigative, enforcement, training, supervision, or reporting responsibilities" and sensitive medical information.[19] Therefore officers are protected from intrusion into the medical information or employment issues that any other District employee could face. But as armed officers with the power to stop, arrest, injure, and kill, the public deserves insight into if they are abusing their power.[20] Public disclosure of

[18] DC Code § 5-1116(a).
[19] DC § Code 2-534(d-1)(2).
[20] Washington Post Editorial Board, Opinion: How to fight crime without scaling back officer accountability, WASH. POST, Oct. 27, 2023, https://www.washingtonpost.com/opinions/2023/10/27/boswer-policing-plan-dc-misconduct.

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disciplinary records is not unique to police officers. As an attorney licensed to practice in the District of Columbia, discipline administered against me and any related hearings would be made available to the public.[21] To be sure, unfounded bar complaints are kept confidential,[22] whereas any substantive complaints against MPD officer are available under FOIA whether or not the complaint proceeds to the disciplinary process.[23] Yet the same is true when an officer arrests an individual: the record of that person's name and the accusations against them are made public forever regardless if the arrest was frivolous or unfounded. Safe policing means that officers must subject themselves to scrutiny for how they do their jobs; and the ACT Now Act will take that away.

Transparency also supports conscientious and law-abiding officers in MPD just as much as it deters the most problematic officers. Two years ago, I was part of a group of attorneys who represented 12 officers of color and two affinity groups in their lawsuit for widespread discrimination by our neighbor, Prince George's County.[24] These officers were horrified by how PGPD's culture led to racist attitudes towards the community. As part of that lawsuit, we were able to view thousands of disciplinary records that the County shielded from public view because Maryland law was highly restrictive at the time.[25] PG County fought tooth and nail against the public release of those records, but after several community groups, the Public Defenders, and even the States' Attorney intervened, a federal judge decided that the expert report of Michael Graham analyzing those disciplinary records must be made public because the public had a significant interest in its contents.[26] The "Graham Report" as it was called detailed a troubling picture of how PGPD dealt with the public, but also how white officers got away with abuse and misconduct at much higher rates than their peers of color.[27] The lack of transparency in PGPD did not just protect the frequent abusers on the force, it masked how poorly officers of color were treated. MPD is currently under threat from several discrimination lawsuits,[28] and has been subject to significant penalties for discrimination in the past decade.[29] Transparency will allow an extra layer to ensure that our own police department is treating officers equally no matter race, gender, or other protected characteristic. Conscientious officers will be well served by public insight into the disciplinary process of MPD and a discrimination free culture.

The ACT Now Act's changes to access of records to the Office of Police Complaints is also troubling and sends the wrong message. MPD and DC Housing Authority Officers need robust and immediate oversight of their behavior because of the responsibilities with which they

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[21] DC Bar Rule XI § 17.
[22] *Id*.
[23] DC Code § 2-534(d-1)(2).
[24] *Hispanic Nat'l Law Enforcement Ass'n NCR v. Price George's Cnty.*, No. 18-3821, 2021 U.S. Dist. LEXIS 26546, at *5-6 (D. Md. Feb. 10, 2021).
[25] *Id*.
[26] *Id*. at 24.
[27] Expert Report of Michael E. Graham, Aug. 28, 2020, https://www.washlaw.org/wp-content/uploads/2021/02/HNLEA-v-PGC-Aug-28-Graham-Report-Unsealed.pdf.
[28] Maya Brown & Emma Tucker, Third lawsuit filed against DC police department alleging racism and a toxic culture, CNN, Dec. 9, 2021, https://www.cnn.com/2021/12/09/us/metropolitan-police-department-lawsuit-racism-white-officers/index.html.
[29] *See, e.g., Caudle v. District of Columbia*, No. 1:08-cv-00205-HHK (D.D.C.).

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are entrusted. To that end, the Office of Police Complaints needs "unfettered" access to any relevant information. Changing that provision in the code to "timely" sends a message that law enforcement can stonewall the Office of Police Complaints, which is a professional and vital part of District government.

There is no need to roll back transparency reforms. But there is a need to make sure they stay in place. This Council should reject these provisions outright.

III. **The ACT Now ACT Legalizes Chokeholds and Tells MPD that Black Lives Do Not Matter**

The changes to the prohibition on chokeholds are unnecessary and dangerous. No one has cited one incident of any officer being charged or disciplined for "incidental contact" with anyone's neck.[30] And despite the Mayor's description of the law's reforms as decriminalizing "incidental contact with the neck" it does no such thing.[31] Instead it allows a chokehold to restrain an individual's "movement" even if that restraint has the unintended effect of restricting that person's airway or breathing. Three short years after our nation watched George Floyd die in Minnesota while a police officer kneeled on him to restrict his movement and years after we all watched Eric Garner suffer a similar fate in New York, there is no reason for any MPD officer to put any person at risk of suffocating in order to restrain them. This Council has already heeded the Police Reform Commission's warnings about the proven medical dangers of even a light restriction (the weight of a housecat according to some doctors) on a person's airway, and there is no reason to go back.[32] Chokeholds are violent, and decriminalizing them cannot be the way to end violence in the District.

The changes to the prohibitions on police chases are equally dangerous and insulting to the community. The Act Now Act's provisions instruct officers that they need not concern themselves with the life of a suspect in deciding to engage in a police chase. District law does not outright ban vehicle pursuits.[33] Instead, it allows officers to use them as a last resort to save lives, and only after having taken into account all the circumstances and risks that a police chase can impose on all involved.[34] The amendments here explicitly remove a consideration of the lives of the fleeing suspect or suspects. What message does the District want to send during a spike in violent deaths by saying that its own officers do not have to consider whether a speeding suspect lives or dies?

The concern over deadly police chases in DC is not academic. In October 2020, I was asked to serve as the attorney for Karon Hylton-Brown's family while they viewed the footage of

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[30] Mayor Bowser Announces New Legislation to Support Safe and Effective Policing, Executive Office of the Mayor, Oct. 23, 2023, https://mayor.dc.gov/release/mayor-bowser-announces-new-legislation-support-safe-and-effective-policing.
[31] *Id.*
[32] District of Columbia Police Reform Commission, DECENTERING POLICE TO IMPROVE PUBLIC SAFETY: A REPORT OF THE DC POLICE REFORM COMMISSION, April 1, 2021, 120.
[33] D.C. Code § 5-365.02.
[34] *Id.*

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their son's death. Karon was chased on his moped by MPD officers until he crashed and died.[35] That evening the MPD officials who showed the video wanted to show as little of it as possible. It took a call from Councilmember Trayon White to then-Chief Newsham for MPD to show the full video to the grieving family. That demonstrated a clear anti-transparency culture in the police department. A culture that this law only perpetuates. Ironically, the officers involved in Karon's death initially indicated that they were chasing him because he was committing a violation of safety laws by not wearing a helmet, but cared nothing for his life when they started the chase. The MPD officer driving the cruiser was ultimately convicted of second degree murder, and he and his partner were convicted of trying to cover up the truth of what happened.[36] It has been three years since Karon was murdered. It is imperative that this Council reject any message to MPD that life is not precious and that they should not consider a suspect's life during a police chase.

IV. Changes to the Body Worn Camera Program Will Hurt Constitutional Policing and Officer Accountability

The ACT Now Act's provision allowing officers to review their body worn camera recordings before writing their reports will not improve policing, but it will hurt vulnerable communities. It is vital that officers, like any individual in any job, create accurate and timely records. But for police officers, there are Constitutional implications for why those records must be contemporaneous and wholly their own. Unless officers possess a warrant or witness a crime in progress, they may only stop an individual if the officer has "reasonable suspicion" of criminal activity, and may only frisk that person if there is "reasonable suspicion" that the person is armed and dangerous.[37] That reasonable suspicion must be based on facts that the officer making the stop *knows at the time of the stop*.[38] Allowing officers to review their body worn camera footage before writing their report gives allows them the chance to observe the situation after the fact and add details that never justified the stop to begin with – with little ability for the person stopped and searched to fight back.[39] Stop and frisk policies have a direct impact on race equity, which was the initial impetus for these reforms. MPD officers stop Black people at a highly disproportionate rate.[40] Such stops have very little chance of finding firearms.[41] But this constant intrusion on people of color has a weathering impact on communities of color.[42] For any individuals who want to challenge an unnecessary stop, a police report that contains after-the-fact impressions of an officer will make it difficult for an individual to make headway.

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[35]Jenny Gaithright, WAMU 88.5, D.C Police Officer Found Guilty of Second Degree Murder in Death of 20-Year-Old. Dec. 21, 2022, D.C Police Officer Found Guilty of Second Degree Murder in Death of 20-Year-Old.
[36] *Id*.
[37] *Terry v. Ohio*, 392 U.S. 1 (1968).
[38] *Kansas v. Glover*, 140 S. Ct. 1183, 1191 (2020).
[39] District of Columbia Police Reform Commission, DECENTERING POLICE TO IMPROVE PUBLIC SAFETY: A REPORT OF THE DC POLICE REFORM COMMISSION, April 1, 2021, 120.
[40] American Civil Liberties Union Analytics, *MPD Analysis 2021* 1, 11 (Apr. 13, 2022) (citing Metropolitan Police Department, *Stop Data 2019-2022*, available at https://mpdc.dc.gov/stopdata (updated Dec. 31, 2022.)
[41] *Id*.
[42] Ana Sandoiu, "Weathering"; What are the Health Effects of Stress and Discrimination?, MEDICAL NEWS TODAY, Feb. 26, 2021, https://www.medicalnewstoday.com/articles/weathering-what-are-the-health-effects-of-stress-and-discrimination.

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Indeed it is these smaller, less high profile encounters that need this restriction, not the high profile ones that this bill already sequesters from an officer's initial view.

To that end, the changes to the provisions on automatic release of body camera footage send a troubling message to MPD officers and the DC residents and visitors that they police. Just like the provisions about disciplinary records, the automatic release of body worn camera footage to the public for significant police actions allows DC residents and visitors to see how they are being policed and to take immediate political action if needed. Automatic release of footage allows for immediate accountability and quells any efforts of the District to hide problematic policing or of the public to assume that there is a cover-up. The ACT Now Act does not remove the automatic release provision generally, but in its new definition section it excludes a category of firearm incidents from automatic release, such as "negligent discharge" and "range incidents." In this current crisis of gun violence, any discharge of a weapon by anyone in the District is serious, and the public should be able to have immediate access and oversight of how weapons are being handled.[43]

DC residents and visitors deserve to live, work, and exist in a safe and vibrant city. That means communities free of violence from both civilians and the police. Creating accountability and transparency in MPD can safeguard against violent, aggressive, and unconstitutional police practices. Accountable and transparent policing garners community trust and supports good officers. The DC Council made significant strides in accountability, transparency, and in limiting state violence when it responded to the killing of George Floyd in 2020. The Council does not need to undo those reforms. Officers need to value the lives of all individuals if we want an end to our violence streak.

[43] More troubling is the exclusion of recordings of firing at animals. People's pets should not die at MPD Officer's whim. They are part of the family, and their loss can be devastating. If MPD officers are killing animals on duty, the public needs to have full access to those incidents. MPD officers have controversially killed pets before. Aja Beckham, D.C. Police Allegedly Shot a Dog at an Anacostia Residence, Then Gave the Owner a Ticket, WAMU88.5, Dec. 7, 2020, https://dcist.com/story/20/12/07/dc-police-dog-shooting-unleashed-ticket-november. The United States Department of Justice has expressed alarm over the use of deadly force against animals nationwide. Dale Chappell, DOJ: Police Shooting Family Dogs has Become "Epedemic," CRIMINAL LEGAL NEWS, June 16, 2018, https://www.criminallegalnews.org/news/2018/jun/16/doj-police-shooting-family-dogs-has-become-epidemic. It is also problematic, that this provision couples with the changes to officers reviewing their own footage. Allowing officers to review footage of animal shootings before they create reports allows them to the ability to conform their stories to what the camera shows and not the facts as they perceived them, because as the case with stop and frisk, the Constitution limits the ability of the police to kill pets based on what the officers knew at the time of the incident. *Robinson v. Pezzat*, 818 F.3d 1, 7-8 (D.C. Cir. 2016).

Wilbert Francis

Nov.27, 2023

Subject: Support for Mayor Bowser's Addressing Crime Trends, ACT Now Legislation

Dear DC City Council Member

I am writing to express my enthusiastic support for Mayor Muriel Bowser's Addressing Crime Trends, ACT Now legislation. It is evident that this legislation is a crucial and much-needed step to ensure the public safety of all Washingtonians, particularly those residing in Ward 8. The recent surge in crime necessitates immediate action, and I urge you, as a dedicated member of the City Council, to work collaboratively with Mayor Bowser and your fellow council members to swiftly enact the provisions outlined in this legislation.

The safety and security of our communities are paramount, and Mayor Bowser's proactive approach to addressing crime trends is commendable. The proposed measures, including increased resources for law enforcement and strategic community engagement initiatives, are essential components of a comprehensive strategy to create a safer environment for all residents.

Residents of Ward 8, in particular, have faced heightened challenges, and it is crucial that we prioritize their well-being through swift legislative action. By enacting the Addressing Crime Trends, ACT Now legislation, we can send a clear message that the City Council is committed to the safety and security of its constituents.

I believe that by working together to implement these provisions, we can make a significant impact on reducing crime and fostering a sense of safety in our community. Your support for this legislation is pivotal in ensuring the success of these efforts.

Thank you for your dedication to the well-being of our city, and I trust that your commitment to the swift enactment of the Addressing Crime Trends, ACT Now legislation will contribute to a safer and more secure Washington, D.C.

Sincerely,

Wilbert Francis

William McLeod - Dupont Circle BID

Testimony by Bill McLeod, Executive Director of the Dupont Circle Business Improvement District Before the Committee on the Judiciary and Public Safety Wednesday, November 29, 2023

Good morning, Councilmember Pinto and members of the Committee on the Judiciary and Public Safety. My name is Bill McLeod and I am the executive director of the Dupont Circle Business Improvement District.

Crime is up in Dupont Circle and all over the city. As a longtime resident in the District of Columbia, I am alarmed at what I am seeing. Since I moved to Washington in 1990, people have wanted to live and work in the District of Columbia. People put up with the crime and continued to invest in the city. However, that has now changed.

People are moving out of the city – selling their houses because they no longer want to deal with someone having a mental health crisis in front of their house. Residents don't want to shop at a pharmacy that is continually cleared out by organized shoplifters. And businesses are closing because people are no longer driving into the capital city to dine with the threat of car jackings.

In light of this, property values are going to drop. Sales are going to decline. And income tax will go down. If the city does not deal with crime now, all these associated sources of revenue will be negatively impacted: sales tax, property tax, and income tax.

The Dupont Circle BID has hired four safety ambassadors to work from 5:00 p.m. to 1:00 a.m. This is new just for the holidays so we can increase the eyes on the streets. We believe that a uniformed presence can show the public that people are watching. While our safety ambassadors are not police officers, they are the eyes and ears on the street sending a message that people care.

I am very concerned about crime in the District of Columbia and its immediate impact on the budget. I urge you to improve the performance of the 911 call center. Help MPD hire more officers. Work with the U.S. Attorney General's office to prosecute more cases. And ensure the Department of Forensic Sciences is accredited so prosecutors are not scrambling to find outside labs to process evidence.

Thank you for your time and I am happy to answer any questions at bmcleod(at)dupontcirclebid.org.

Bill 25-555, "Addressing Crime Trends (ACT) Now Amendment Act of 2023" TESTIMONY OF WILLIAM P. LIGHTFOOT

I am William P. Lightfoot, former DC Councilmember At-large 1988-1996. I am a sponsor of numerous criminal justice reforms passed during those years. One reform was the anti-loitering law. Mayor Bpwser's proposed criminal justice reforms called Addressing Crime Trends (ACT) contains a section substantially similar to the anti-loitering law. My testimony will focus on that part of ACT that authorizes the Metropolitan Police Department (MPD) to declare temporary drug-freezones, which would allow MPD to limit loitering in those zones.

The purpose of my testimony is to place current circumstances in an historical perspective, and to make recommendations for improvements.

I testify in support of ACT.

Parts of our city are plagued by criminal activity on public spaces. Innocent people are being shot. Homeowners are afraid to walk on their sidewalks. Similar conditions existed when the Council passed the anti-loitering law.

Posting no loitering zones causes disruption and confusion in criminal activity. Confusion among criminals is an effective tool for police to prevent street crimes. ACT provides MPD with tools to hold criminals accountable and to keep our neighborhoods safe.

In 1996 when the Council passed the anti-loitering law, we were reacting to criminal behavior on the streets. People demanded that changes be made to clean up the neighborhoods. Similarly, today the Council and Mayor are reacting to criminal behavior on the streets. The government reaction expresses a policy that the beatings will continue until the attitude improves. Such a policy may be appropriate for some criminals, but the Council must also act to prevent criminal behavior before it occurs. We need to adopt proactive policies, as well as reactive policies. I recommend two proactive policies that are based on educating people to change behavior.

First, I repeat a recommendation that all people who are arrested for possession of an illegal weapon, must successfully complete a mandatory gun safety course.

Second, when the Council first passed the anti-loitering law, we also created a Judiciary Committee working group to improve truancy. We believe that increasing student school attendance, while decreasing student absenteeism will cause a decrease in juvenile crime. Today, an effective truancy plan will cause a decrease in juvenile carjackings.

The working group of truancy stakeholders met monthly to review statistics describing student attendance. The working group included schools, courts, police, independent agencies and others. Regular meetings with a Councilmember helped coordinate information sharing among disparate government agencies.

I strongly encourage every Councilmember to exercise meaningful oversight of truancy. Please, Councilmembers conduct oversight of the implementation of the truancy plan. On paper, the plan is good; but the number of truants is unacceptable. Strong Council oversight will result in more students attending classes. We ask the Council to make and keep a promise that every child will be accounted for in DCPS.

/s/ William P. Lightfoot William.bill.lightfoot@gmail.com

November 29, 2023

Yilin Zhang - 1882 Foundation

Chairperson Pinto and Members of the Committee,

My name is Yilin Zhang. I am a long-time DC resident and resident of Ward 2. Today, I'm here on behalf of the 1882 Foundation, a non-profit established more than a decade ago that has made Chinatown its home and works to ensure Asian American Pacific Islander (AAPI) voices are shared and heard, and works to build cross-cultural understanding.

Throughout the years, we have seen the changes in Chinatown and have serious concerns about current and future safety. Concerns include open drug sales, loitering, and trashing of the sidewalks. The declaration of drug-free zones that would be allowed through the Addressing Crime Trends (ACT) Now Amendment Act of 2023 (B25-0555) would mitigate these concerns. In the long-term, we also believe in a public health approach that addresses the root causes of the current safety issues, and supports those experiencing homelessness, mental health conditions, and unemployment. As an organization, we would like to continue to work with the Mayor's Office, DC Council, other organizations, and residents to build a sense of community and safety.

We would like to thank the DowntownDC BID for working with the Department of Transportation (DOT) to make part of I Street by Chinatown Park pedestrian-friendly – we hope this will ultimately become a plaza and a place for community members to gather. Thank you to the Mayor's Office on Asian and Pacific Islander Affairs (MOAPIA) for working with us to hold community events – which contributes to revitalizing Chinatown and helping residents, commuters, and visitors feel safe. Thank you to Councilmember Pinto for bringing the community together to address public safety solutions for Chinatown this summer, and for your leadership across Ward 2.

We appreciate the opportunity to testify.

Zach Styles

My name is Zach Styles and, although I am not a resident of DC, I am a volunteer court-watcher for Harriet's Wildest Dreams and I have seen the DC Superior Court grind residents down and alienate them from their communities for about a year now. **I am testifying against the ACT Now Act in solidarity with those in the DC community who will be most targeted by the bill's punitive measures.**

Like many Americans since 2020, I have bore witness to the systematic racism, senseless brutality, blatant ineffectiveness, gross incompetence, and overall lack of accountability endemic to police forces across the nation. However, despite overwhelming evidence that policing does nothing but perpetuate mass violence and imprisonment, our elected officials, including Mayor Bowser and members of the DC Council, choose time and time again to pass bills that empower the police - and only the police - rather than the communities they persecute and detain. The rationale is always alarmist rhetoric regarding "violent crime", which always separates "crime" from its root causes for the purposes of maintaining oppressive law enforcement tactics (such as de facto stop-and-frisk) and racist surveillance. This law in particular further erodes whatever pretense MPD has left regarding oversight and restraint as their violence is expanded and the consequences for said violence are diminished.

If ACT Now passes, all it does is prove that the mayor and the DC Council are more willing to "serve and protect" MPD and its ability to deny DC residents their civil liberties than they are to reduce material harm in marginalized communities. That they are more willing to build up a security state that violently suppresses public dissent than they are to invest in housing, public health, food security, and basic infrastructure. That they are committed to state violence instead of actual evidence-based community protections such as Safe and Free DC, drug decriminalization, and transparency in law enforcement.

Please do not pass another law that will kill, maim, criminalize, and imprison countless community members.

Vote NO on ACT Now.