

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE**



Public Hearing
on
B25-0291, the “Safer Stronger Amendment Act of 2023”

Testimony of
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Deputy Mayor for Public Safety and Justice

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

June 27, 2023
12 PM
Room 500

Good afternoon, Chairperson Pinto, members, and staff of the Committee on the Judiciary and Public Safety, I am Lindsey Appiah, Deputy Mayor for Public Safety and Justice, and I am here to present the Executive testimony in support of B25-0291, the “Safer Stronger Amendment Act of 2023.”

Councilmember Pinto, thank you for holding this hearing in a timeframe that demonstrates the urgency that the current state of public safety in our city demands. We are committed to partnering with you to reduce crime and advance policies that will help us to increase and enhance safety across the District.

I also want to acknowledge all the public witnesses who shared their perspectives in written testimony or by testifying at today’s hearing. We recognize that there is no one solution to ending violence and that the diverse perspectives and opinions represented today are a credit to our city. While we may not perfectly agree on how to best increase safety, it is clear that we align in our collective desire to see our youth excel, families thrive, and communities in all eight Wards both be and feel safe.

Samya Gill, Kevin Mason and Demarcos Pickney, Arianna Davis, Robert Cunningham, Christy Bautista. These are the names of several beloved people who have been the victims of crime in our city this year. I begin my testimony by saying their names. By orienting us to the sober, urgent nature of the moment we find ourselves in. By remembering and uplifting them and the thousands of other Washingtonians who have unfortunately been victimized by crime. Their experiences are but some of the evidence that the status quo is not working.

Throughout the course of this year, Mayor Bowser has led us in conversations with a variety of stakeholders across our city to discuss public safety, and more specifically to ask the question of how we can partner to reduce crime and increase conditions by which everyone in our city can thrive. We have met with principals and school leaders, ANCs, criminal justice system partners, business leaders, community-based organizations, and residents in all eight wards. We have listened and learned and have asked everyone to be introspective about how we can work together and what must change. People have offered a host of ideas of how they can contribute to the safety

of our city, but they have also been clear that accountability for everyone, including those who do harm by committing crime, must be prioritized. We have heard a common refrain – people do not currently feel safe. And as those tasked with the most foundational responsibility of government – ensuring the safety of our residents and visitors – we must urgently respond to their legitimate fears.

Just as we've asked all partners to make changes, Mayor Bowser has tasked the whole of the Executive with critically evaluating the entirety of our public safety and justice ecosystem – which we believe consists of the whole of government – and making difficult but necessary adjustments to interventions that are not yielding the results that they must if we are to make safety gains. And now we come to you, the policy makers to ask for the same introspective, urgent action that so many across our city are putting forth to ensure that the hard-fought gains we have made over time in making our city safe and a place that people want to live, raise families, work, shop, visit are not reversed but instead we continue to move forward. Because the status quo is not working.

In the District, we are leaders in systemic reform; this is certainly true in the criminal justice space, where we lead in pushing the bounds of what is possible to achieve equal justice for all under the law. We can and should be proud of our progress. But we must not be so proud that we are unwilling to critically evaluate our reforms and adjust when unintended consequences are leading to harmful outcomes for those we serve. While we are a city that often leads the nation in instituting forward thinking reforms, we must never lose sight that we are first and foremost a local city and that our solutions must be tailored to the specific realities that we face.

While it is true that over time we have seen significant reductions in crime in our city through investments across our public safety and justice ecosystem, we are currently seeing unacceptable increases in crime - as of June 26, 2023, we have had 112 homicides, an increase of 8.7% as the same time as last year; we have 497 people shot this year, in 399 separate incidents, 358 incidents of robbery (up 35% over the last year) and 1,770 car thefts (up 112% from last year). We know these numbers are not just numbers, but are representative of real people – our families, friends, and neighbors – harmed in our city. These unacceptable crime increases are occurring amidst the

backdrop of significant decreases in MPD sworn staffing and despite historic and unmatched investments in violence intervention and prevention. It's time to pivot.

The Safer Stronger Amendment Act is a set of commonsense policy proposals aimed at providing additional tools across our system to combat crime, including against some of the most vulnerable in our city, increase systemic accountability and transparency, consider the community in critical criminal justice processes, and uplift the voices and experiences of victims across all parts of a case.

We recognize that there are those who are concerned that this set of policy proposals will not substantially reduce crime and will instead turn back the clock to the bygone era of tough on crime rhetoric and practices and mass incarceration. This is not the case. We are vehemently opposed to perpetuating those past policies which we know do not work. This is not about making a political statement but honestly evaluating the impacts of our current policies and making pragmatic, necessary adjustments where we are seeing harm and believe that change can reduce crime. Our position remains the same as it has always been throughout the Mayor's tenure – we are a second chance city that firmly believes in justice and equality for all, including respect for the constitutional rights of those accused of crime, that no person is the sum total of their worst decision, that positive life change is possible and we are here to provide support and opportunity to those who wish to take a different path, that restorative justice is the correct model but that accountability is a critical part of restoration. We also believe that as leaders, we have a duty and responsibility to do everything in our power to protect our communities from those who choose to engage in repeated violent offenses.

I now turn to briefly discuss some specific parts of the proposed legislation. First, Mayor Bowser has advanced two proposals related to pretrial detention – one aimed at adults and another at youth. For adults, we propose adding one additional category of consideration for pretrial detention to the current rebuttable presumption statute for those defendants arrested for a crime of violence who have previously been convicted of a violent crime. We recognize that everyone is innocent until proven guilty and that in general, District law presumes that arrestees should be released pending trial. The proposal does not mandate automatic detention but rather provides the Court with

additional discretion to consider whether detention is appropriate for those allegedly engaged in repeated violent offenses. We have faith in the judgment of the Court to decide the risk to the public based upon the evidence presented.

For juveniles, we propose removing the requirement that a youth possess a firearm in order for the Court to determine if secure detention is appropriate for youth who commit a crime of violence or dangerous crime. We also propose restoring the ability of the Court to consider whether youth charged with a crime of violence or dangerous crime are themselves at significant risk of harm such that detention is appropriate. As adults, we have a responsibility to keep young people safe. The existence of a juvenile justice system is an acknowledgment of the inherent difference in young people when compared with adults and we must consider how to safeguard and provide for the mental, emotional, and physical needs of youth, including those charged with serious crimes.

To date there have been 65 juveniles shot in the District, compared with 32 youth at this same time last year and 22 in 2021. These massive increases are not acceptable. Retaliatory violence amongst our youth is driving harm to both them and others and we must act. We must ask ourselves, “What does love look like in policy when it comes to protecting children?” Creating necessary boundaries is loving. We do not want young people to be in secure detention, and we are working to find ways in a challenging system to identify and provide rehabilitative services and supports to more at-risk youth over whom the Executive has no legal nexus. But we cannot fail to act on our current reality in which our youth are being shot and killed. We cannot provide them with the services they need if they are not alive, and no group is at higher risk of harm than those engaging in the most risky and dangerous criminal activity. We must do everything we can to ensure that our youth live and that includes giving Courts the ability to consider risks mitigating against their safety and the corresponding safety of the public as a result.

Additionally, we have proposed several new offenses and penalty enhancements, including for gun offenses, strangulation, crimes against vulnerable populations, and those committed against those in safe spaces, like on transit and in our recreation facilities. There are far too many illegal guns and those willing to use them. There is an unacceptable increase in violence in safe spaces – on Metro trains and buses, in DPR recreation centers, and during rideshares. Domestic violence has

also increased significantly in the past few years since the pandemic. We must act to have tools in our system to address these realities.

We often hear that it is not lengthy sentences that reduce crime but rather surety of consequence. We agree and are not proposing lengthy sentences. Instead, we are proposing appropriate sentences considering the serious nature of the offenses and providing prosecutors with tools to help bolster surety. For example, we are proposing stronger penalties for some of the most dangerous guns: ghost guns, machine guns, and sawed-off shotguns, as well as tools to deal with trafficking firearms. The impact of these weapons is immeasurable in our city. Last week, I visited the Department of Forensic Sciences where I saw the bullet-riddled car from the incident in which two people used automatic weapons during the middle of the day to take the life of pregnant Samya Gill. Her life, and all the lives of the victims of crime in the District, are invaluable, and it is our duty to ensure that those who would use weapons in our city are held accountable.

And so, I end where I began – with a focus on those impacted by crime in our city. Percents and numbers provide critical context; however, we can never lose sight that each statistic on a website or read during a hearing is more than a number. It's someone's son, daughter, sister, brother, mother, best friend, or neighbor. The reality is there are no victimless crimes. We recognize the harm and trauma so many have experienced. We acknowledge our responsibility to respond soberly and urgently. We vow to work together to move forward this legislation and other proposals that will help to make our city safe, stronger, and a place of collective flourishing.

Thank you for this opportunity and I appreciate Interim Chief of Police Ashan Benedict for joining me to answer questions about the subtitles of Mayor Bowser's proposed legislation.

Supplemental Written Testimony

Title I: Sentencing Commission Representation. Currently, the Commission is heavily slanted toward the federal agencies – yet another instance of the District's voice being lost in these debates. Of 12 voting positions, only three represent District voters, while six are appointed by the Court alone. As the Commission makes critical decisions about the range of sentences for individuals

convicted of crimes, it is important that its membership reflects the interests of District residents. This provision increases the number of District residents on the commission from two to four and includes the Chief of Police (who is also required to be a District resident). Simply put, more local representation will result in recommendations that robustly reflect District values, with consideration of the impact on District residents informed by District residents.

Title II: Safe Schools and Safe Students: This title enhances protection for youth in the District in two primary ways. First, Subtitle A expands protections for students in the District by including consultants and contractors as individuals determined to have a “significant relationship” to the student, which is a requirement in the law for the USAO to bring charges of sexual abuse against a minor. This would close a gap that would cover thousands of contractors and consultants who have access to students as schools. This provision is about protecting children, and enabling the criminal justice ecosystem to go after perpetrators that harm our children will result in more accountability for those who operate in and around schools.

Next, Subtitle B would give a judge the ability to detain a child if the judge determined detention could protect the child from any kind of harm to themselves, or from the community. Additionally, it shifts the rebuttable presumption to detention of a child, if the judge finds by substantial probability the child committed a dangerous crime or crime of violence. This subtitle removes the requirement that the child was armed while committing the crime of violence or dangerous crime and removes exceptions to use detention in the cases of felony drug possession or distribution, burglary, and prostitution.

Subtitle B is a proposed solution for the retaliatory violence we are seeing committed by youth, often fueled by social media disputes. No one wants to lock up kids, but we need to connect these kids, whose support systems like parents, grandparents, and church, have collapsed during the pandemic, to the services they so desperately need. And they need to be safe and alive so we can do that. They have fallen through the cracks and are being connected to multiple dangerous crimes and crimes of violence.

Title III: Illegal Discharge of Firearm and Ammunition Penalties: Addressing violence in DC means we need to address illegal guns, and the fact that people using illegal guns are creating havoc in our neighborhoods. Fatal shootings, this year-to-date, have increased by 12 percent when compared to 2022 and increased by 38 percent when compared to 2021. The total number of gunshot wound victims, across all offenses, has increased 20 percent versus 2022 and increased 32 percent since 2021.

This legislation helps in a few ways. One, it creates stronger penalties for some of the most dangerous guns: ghost guns, machine guns, and sawed-off shotguns. Last year, 17% of guns recovered were untraceable, privately made guns, or ghost guns. The number of guns recovered with Glock switches, which converts them to fully automatic weapons, went from 66 in 2021, to 127 in 2022, nearly doubling. Furthermore, we need better tools for the criminal justice ecosystem to go after gun traffickers. This title creates penalties to address possession of stolen guns or guns in which the serial number was obliterated, removed, or altered – scenarios which are hallmarks of gun trafficking, and enable prosecutors to bring charges in the Superior Court instead of the District Court, which increases the chances the case goes to trial.

Title IV: Penalty Enhancements: This title enhances penalties for violent crimes that victimize or target vulnerable residents with physical or mental impairments, as well as expanded protections for transit and for-hire vehicle employees, transit passengers, and people at recreation centers. The Executive will not tolerate crime that impacts our residents’ livelihoods, like their ability to move about the city, to take care of their families, to go to school, or to work.

Title V & VI: Rebuttable Presumption, GPS Data for Prosecution, GPS data for persons under supervision: These titles can be easier explained together. Title V would create a rebuttable presumption that someone is dangerous if someone has previously committed a crime of violence,¹

¹ DC Official Code § 23-1334(3): The term “dangerous crime” means: Any felony offense under [Chapter 45 of Title 22](#) (Weapons) or Unit A of [Chapter 25 of Title 7](#) (Firearms Control); Any felony offense under [Chapter 27 of Title 22](#) (Prostitution, Pandering); Any felony offense under Unit A of [Chapter 9 of Title 48](#) (Controlled Substances); Arson or attempted arson of any premises adaptable for overnight accommodation of persons or for carrying on business; Burglary or attempted burglary; Cruelty to children; Robbery or attempted robbery; Sexual abuse in the first degree, or assault with intent to commit first degree sexual abuse; Any felony offense established by the Prohibition Against Human Trafficking

and they are being charged again for crime of violence. The defendant would need to demonstrate to the judge why they should be released to the community pending trial. Currently, there are a few scenarios in the law where there is a presumption that someone is dangerous and cannot be released because any condition of release would endanger the community.² But right now, being convicted of a crime of violence, and being charged for another crime of violence does not trigger this rebuttable presumption of detainment. The Executive believes this is a gap, and if closed, would have an immediate impact on community and resident safety by giving judges the discretion to detain individuals who are likely to endanger the community even while they are pending trial. Title V and VI would also empower MPD to utilize GPS data from a device an individual is required to wear, in any criminal trials, or as a condition of release. This would close information gaps for MPD and allow for better coordination amongst our criminal justice ecosystem partners to monitor persons of interest to the Court.

Title VII: Strangulation: This title is an unacceptable gap in current law that needs to be amended, and frankly, should have been passed into law when the Mayor first introduced it in

Amendment Act of 2010 [[D.C. Law 18-239](#); [§ 22-1831](#) et seq.] or any conspiracy to commit such an offense; or Fleeing from an officer in a motor vehicle (felony).

DC Official Code § 23-1331(4) The term “crime of violence” means aggravated assault; act of terrorism; arson; assault on a police officer (felony); assault with a dangerous weapon; assault with intent to kill, commit first degree sexual abuse, commit second degree sexual abuse, or commit child sexual abuse; assault with significant bodily injury; assault with intent to commit any other offense; burglary; carjacking; armed carjacking; child sexual abuse; cruelty to children in the first degree; extortion or blackmail accompanied by threats of violence; gang recruitment, participation, or retention by the use or threatened use of force, coercion, or intimidation; kidnapping; malicious disfigurement; manslaughter; manufacture or possession of a weapon of mass destruction; mayhem; murder; robbery; sexual abuse in the first, second, or third degrees; use, dissemination, or detonation of a weapon of mass destruction; or an attempt, solicitation, or conspiracy to commit any of the foregoing offenses.

² Other rebuttable presumptions in DC Official Code § 23-1322: No condition of release will reasonably assure the safety of any other person and the community if probable cause that the person:

1. Committed a dangerous crime or a crime of violence while armed with a pistol, firearm, imitation firearm, or other deadly or dangerous weapon;
2. Threatened, injured, intimidated a LEO, officer of the court, prospective witness;
3. Committed a dangerous crime or a crime of violence and has previously been convicted of a dangerous crime or crime of violence while on release pending trial;
4. Committed a dangerous crime or a crime of violence while on release pending trial;
5. Committed 2 or more dangerous crimes or crimes of violence in separate incidents that are joined in the case before a judge;
6. Committed a robbery in which the victim sustained a physical injury;
7. Violated CPWL, possession of a firearm during the commission of a crime of violence or dangerous crime; unlawful possession of a firearm; or

Violated gun offender registry while on probation, supervised release for committing a dangerous crime or crime of violence and while armed with or having available a firearm or other dangerous weapon.

Council Period 23³ and 24.⁴ Strangulation is charged as a felony criminal offense in all 50 states.⁵ This legislation is critical because strangulation is among the most lethal forms of domestic violence. In addition, it is one of the most common. Of women at high risk, according to the Family Justice Center Alliance, between 68-80% will experience near-fatal strangulation by their partner. One of the complicated factors of strangulation is that oftentimes, even in fatal cases, there may be no external signs of injury, making these cases even harder to prove. This legislation will be another tool that responding officers can use to intervene when responding to calls and prosecutors can use to get convictions for longer sentences. We hope this necessary change will mean better case results for domestic violence survivors.

Title VIII: Private Security Camera Incentive Program: The Private Security Camera Incentive Program, administered by the Office of Victim Services and Justice Grants (OVSJG), encourages residents, businesses, non-profits, and religious institutions to install security camera systems on their property and register them with MPD. This program is intended to help deter crime and assist law enforcement with investigations. This title would allow OVSJG to make changes to the program through rulemaking, instead of the legislative process, which is much longer, and requires congressional approval. If enacted, OVSJG would be able to update the prices of rebates and vouchers to better reflect the market prices of cameras and give residents the ability to choose from a wider selection of cameras that better suit their public safety needs. Additionally, as OVSJG thinks through potential expansions of the program to other types of cameras, rulemaking would allow for faster implementation of new programming, while still providing feedback and community participation through the comment period.

Title IX: Criminal Justice Coordinating Council: In 2001, the Statistical Analysis Center for the District of Columbia (DC SAC) was established by a Mayoral Executive Order to provide a division dedicated to the collection, analysis, and dissemination of criminal justice system information. The DC SAC was originally a unit of the Office of Research, Analysis, and Evaluation under DMPSJ. In March 2006, a transfer occurred that organizationally realigned the DC SAC to

³ B23-607, January 9, 2020.

⁴ B24-116, February 26, 2021.

⁵ <https://www.familyjusticecenter.org/resources/strangulation-intimate-partner-violence-fact-sheet/>

be housed as a unit within the Criminal Justice Coordinating Council (CJCC),⁶ an independent District agency. The CJCC's mission is to serve as the forum for identifying and addressing juvenile and criminal justice issues while working collectively with all components of the District of Columbia's criminal justice system. The DC SAC, as the research arm of the CJCC, provides the data, research and analytical support needed by the CJCC to inform their activities and support decisions. The DC SAC also provides statistical information and technical support to District agencies. The changes to this title are designed to leverage the unique position of the CJCC to help residents navigate the reality that the criminal justice system of the District is a complicated, interwoven minefield of jurisdiction, programming, and authority. It is complicated for government officials to navigate and nearly impossible for residents to access the information they need in a centralized location. With this thought in mind, the Mayor wanted an empowered, centralized authority, one that would have access to information on programming and outcomes for all the major actors in the District's criminal justice ecosystem and would be able to compile a centralized report for this information. District agencies are a piece of the puzzle, and full transparency is needed to determine what is working and what is not.

Title X: DNA Sample Collection: Based on RAINN survey (2020) of states: 31 states and the federal government collect DNA either at arrest or at a probable cause hearing and then enter the information into the Combined DNA Index System (CODIS). This bill would limit the collection to those charged with the most serious sexual assaults because sexual violence too often escalates, and they are difficult crimes to get a conviction. When a survivor has taken the very difficult step of reporting a sexual assault, we need to be doing all we can do to try to solve it. By identifying the true perpetrator quickly, DNA identification will help law enforcement focus their investigations—saving time, manpower, money, and lives. The process is simple and no more invasive than fingerprinting or photographing arrestees. Fingerprints aren't always intact or present. The chances of finding material with DNA is far greater. Along with Maryland and Virginia, the District should pass this title to enhance protections for rape survivors and help prevent serial rapists from remaining free to terrorize our community.

⁶ DC Code 22-4233

Title XI: Incarceration Reduction Amendment Act: The title will allow or require judges to consider important factors before deciding whether to grant the petition for early release, such as the nature of the crime, whether it was brutal or cold-blooded, and whether the defendant shows remorse, which a crucial part of accountability and rehabilitation.

It is crucial that the statute expressly requires the court to consider the nature of the offense. The only reason that a defendant is incarcerated at all is because of the “nature of the offense” that the defendant committed. It is only the most serious violent crimes in the District that would have received sentences of more than 15 years – murder, violent sexual assaults, or other violent crimes such as assault with intent to kill while armed and kidnapping while armed – and may involve either single victims or multiple victims. Although other factors such as a defendant’s rehabilitation, remorse, and maturity are important factors that a court should consider, a second look takes place in a vacuum if the nature of the offense is not considered. Additionally, remorse is a crucial part of accountability, growth, rehabilitation, and maturity. The court should be directed to consider whether a defendant has accepted responsibility for their actions that harmed another person because remorse is an essential component of whether the defendant has been rehabilitated and is fit to reenter society. The IRAA statute provides that a court shall consider a victim impact statement from a victim or a victim’s family member provided pursuant to D.C. Official Code § 23-1904. That section of the Code also allows a “representative of a community affected by the crime of which the defendant has been convicted” to submit a statement prior to imposition of sentence. This title clarifies that the IRAA also includes consideration of **any community impact statement** submitted, which ensures that voices of victims *and* the community receive proper consideration, as well as the opinion of the USAO. Why does this title matter?

In 1992, Kristen Hubbard (18-year-old student at the time) and a close friend parked near a nightclub in Southeast. As she got out of the car, she noticed someone pointing a gun in the passenger side window at her friend’s face and felt an object pressed into her own head. Two teenagers took her and her friend hostage at gunpoint, repeatedly beating and sexually assaulting the women overnight at a Maryland motel. These women were forced to dig graves for themselves but were ultimately released. Joshua Haggins, 16 at the time of the attacks, pleaded guilty to several crimes, including armed rape and armed kidnapping, and was sentenced to 34 years to life in the

District and 30 years in a separate case in MD. This year, the Superior Court heard arguments on whether Mr. Haggins deserved to be released early under IRAA. (The case has since been reassigned to a new judge because the first judge was visibly disturbed during the proceeding.) The survivor, Ms. Hubbard opposed the possible release, stating “it is not fair at all that we have to be here, all these years later, reliving that nightmare because he now says he’s a changed person. The young women that we would have been is gone, where is our resentencing? Who will speak for us?”⁷

⁷ <https://www.washingtonpost.com/dc-md-va/2023/02/02/rapist-sentence-reduction-dc-judge/>