

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Executive Office of Mayor Muriel Bowser**



Public Roundtable on

**The Recommendations of the Police Reform Commission
B24-94, the “Bias in Threat Assessments Evaluation
Amendment Act of 2021”
B24-107, the “Metropolitan Police Department Requirement of Superior
Officer Present At Unoccupied Vehicle Search –
No Jumpout Searches Act of 2021”
B24-112, the “White Supremacy in Policing Prevention Act of 2021”
B24-213, the “Law Enforcement Vehicular Pursuit Reform Act of 2021”**

Testimony of
Chris Geldart
Acting Deputy Mayor for Public Safety and Justice

Before the
Committee of the Whole
Chairman Phil Mendelson
and
Committee on the Judiciary and Public Safety
Chairperson Charles Allen
Council of the District of Columbia

May 20, 2021
9:30 AM

Good afternoon, Chairman Mendelson, Chairperson Allen, members and staff of the Committees, and everyone watching the hearing virtually. I am Chris Geldart, Acting Deputy Mayor for Public Safety and Justice. I appreciate the opportunity to testify before the Committees today regarding the recommendations of the Police Reform Commission and the four proposed bills.

In July 2020, the Council enacted legislation that established a 20-person Police Reform Commission. Its mission was to examine and provide recommendations on the following issues related to policing: the role of sworn and special police officers in District schools; alternatives to police responses to incidents, such as community-based, behavioral health, or social services co-responders; police discipline; the integration of conflict resolution strategies and restorative justice practices into policing; and the provisions of the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020.

In April 2021, the Commission issued a report with almost 300 recommendations on a wide variety of issues, including substantial operating changes related to District agencies, the Council, and the judicial system. Generally speaking, the far-reaching recommendations can be broken out into three categories:

1. ***Recommendations the Administration generally supports or is already moving towards implementing.*** For example, as Mayor Muriel Bowser announced on May 17, the District is launching a pilot program with the Department of Behavioral Health, Metropolitan Police Department, and the Office of Unified Communications to shift 911 calls for emergency mental health services from an automatic police dispatch to a dispatch protocol that includes a mental health crisis response team. We look forward to discussing additional proposals as part of the Fiscal Year 2022 budget.
2. ***Recommendations that require substantially more community or stakeholder engagement.*** The Commission made a wide variety of recommendations on schools, ranging from investments in plants to Safe Passage programs. However, all of this was done without meaningful feedback from school principals, educators, or staff. My office is working with the Deputy Mayor for Education to conduct a survey of school principals and gauge their thoughts on the Commission's proposal to eliminate MPD's School Safety Division, a unit that does important work to support and protect District students and schools. I should note that the Commission took the drastic position that this should be done during the current fiscal year which, for the viewers at home, means by September 30, 2021. To be clear, this outreach to school principals, educators, Parent-Teacher Associations, and parents is the bare minimum of work that should have been done before making such an extreme recommendation.
3. ***Recommendations that are unreasonable and unsupportable.*** The Commission recommended the city reduce its police force by at least the rate of attrition for the next five years. MPD's police force is currently around 3,600 officers – that is the lowest level in more than 20 years. If the Council adopted the Commission's police reduction proposal, the District would have less than 2,000 police officers by 2026. While this proposal is supported



by the Commission and advocates of abolishing the police department, it is extremist, irresponsible, and lacking, as a whole, community support.

We believe it is imperative that Councilmembers – and the public – carefully review all the Commission’s recommendations and understand their implications. It is also critical that to ensure the legitimacy of policy decisions that will have major impacts on our residents’ safety, these recommendations are fully communicated to the public. While a single hearing on the issue is a good start, it requires much more intensive outreach to the communities most impacted by the decisions. As part of that commitment to transparency and engagement, we will be publicly releasing the results of our school principals’ survey once they’re compiled.

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I will briefly address the four bills before the Committees today.

Bias in Threat Assessments Evaluation Amendment Act

This bill requires the Office of the Attorney General (OAG) to conduct a study to determine if MPD has engaged in biased policing in threat assessments of First Amendment assemblies between 2017 and January 2021. The bill includes a detailed analysis of MPD’s response to each assembly; a determination of biased policing based on race, color, religion, sex, national origin, or gender; and recommendations based on those findings.

I defer to Attorney General Karl Racine on the operational impacts on his office to implement this legislation, but as an initial matter, it will be an exhaustive task. Over the past four years, MPD has facilitated more than 4,200 First Amendment assemblies. The vast majority of these demonstrations were facilitated safely and peacefully for all those involved. They represent the normal situation for any First Amendment gathering: People of all backgrounds and opinions come to the District, make their voices heard, and go home safely.

We understand the terrible events of January 6, 2021 invite many questions. Indeed, Police Chief Robert Contee has testified before Congress three times this year to address questions related to the insurrection at the Capitol. And although there is discussion about the U.S. Capitol Police not having been prepared for the event, it is well acknowledged that the District and MPD assumed a posture of maximum preparedness for the week of January 3rd. It is critical to understand that under federal law, MPD is prohibited from entering the Capitol complex or its grounds to patrol, make arrests, or serve warrants without the consent or request of the Capitol Police Board. (2 U.S. Code § 1961). Therefore defending the Capitol was not part of our planning. On the morning of January 6, MPD was prepared to support its federal partners on DC streets during a First Amendment assembly that was held primarily on federal land, and to safeguard the city if the participants became violent after dark, while continuing to patrol and respond to calls for service throughout city neighborhoods.

In preparation for the anticipated demonstrations and the possibility of violence on city streets, MPD was fully deployed on 12-hour shifts the week of January 3rd, with days-off and leave canceled. Our federal partners each had their primary areas of responsibility: the U.S. Secret



Service was focused on the security of the former President and the White House area, U.S. Park Police was focused on the Ellipse and the National Mall, and the U.S. Capitol Police had responsibility for the Capitol, including both the building and grounds.

At Mayor Bowser's request, and in advance of the scheduled demonstrations, mutual aid was requested from several area police departments, including Arlington County Police Department, Prince George's County Police Department, and Montgomery County Police Department for January 5 and 6. Additionally, MPD had discussions with the Maryland State Police and Virginia State Police on their ability to provide assistance on January 5 and 6, if needed. More than 300 members of the DC National Guard were deployed on District streets providing traffic control and other services to allow MPD to support the First Amendment assembly and continue to provide services to DC neighborhoods.

I want to reiterate that while we do not oppose an independent review of MPD practices that may lead to positive change, neither this past year nor prior history indicates disparate preparation for First Amendment assemblies. Although ill-informed media coverage has attempted to contrast responses to the January 6th Insurrection and the few riots declared last summer, this coverage paints all the events and the many responding law enforcement agencies with too broad a brush. MPD had far more resources available in response to the January 6 Insurrection than to the events of last summer. I believe this bill would unnecessarily divert scarce public safety resources away from the critical work that MPD and the OAG are doing every day to keep the city safe.

MPD Requirement of Superior Officer Present at Unoccupied Vehicle Search

This bill requires MPD adhere to certain requirements when conducting searches of unoccupied vehicles. In order to search an unoccupied vehicle, a superior officer must be present, all officers present have their body-worn cameras (BWC) on, the reason for the search must be recorded on the BWC, a report must be prepared about the results of the search, and the owner of the vehicle must be notified of the reason for the search, and would have the right to sue the officer in their individual capacity for any violation of this law.

Chief Contee has spoken at length with Councilmember Trayon White, who proposed this legislation, and has heard his concerns and those of other community members. In response, he has been reviewing and revising MPD's strategies related to illegal guns and gun violence. Chief Contee has shifted resources to focus on an intelligence-based policing approach to identify, interdict, and interrupt violent offenders within the District. The goal is to build strong criminal cases on violent offenders to ensure those repeat offenders cannot continue to endanger our communities. Officers working on these issues have already begun receiving enhanced training.

To address the specifics of the bill, MPD policy already requires that all officers equipped with body-worn cameras activate their BWC when conducting a vehicle search. The unoccupied search, however, could apply in a variety of circumstances, for example, when MPD impounds a vehicle and hold it for a search warrant. It is unclear if the bill would apply in that setting. Certainly, once a judge issues approval for a search, the approval of a superior officer would be redundant. This requirement is also going to be increasingly challenging given reductions in



police staffing. It would instead make sense to require pre-approval from a supervisor or watch commander, but not that they must be present at the search.

The proposal also requires *all officers* present during a search have their BWCs activated. However, some MPD officers who do not regularly engage the public, such as detectives, are not equipped with BWCs. Department directives do already stipulate that *all BWC-equipped officers* activate their BWCs for searches of person or property, including vehicle searches. Since more than 3,200 members have BWCs, it would seem sufficient to require that at least one member be equipped and all BWC-equipped officers activate it.

The bill also proposes that the vehicle owner have the right to sue individual officers not adhering to this law in their individual capacity. First, a piecemeal approach to officer liability – or the liability of any government worker – is not good policy or practice. Second, officers are not operating in their individual capacity, but rather as agents of the District of Columbia. As such, they are subject to internal investigation and progressive disciplinary action for violations of policy, and the Department will hold them accountable.

White Supremacy in Policing Prevention Act of 2021

This bill requires the Office of District of Columbia Auditor (ODCA) to conduct an assessment of ties between MPD and white supremacist or other hate groups. It also requires ODCA to recommend reforms to MPD policy, practice, and personnel to better detect and prevent ties to hate groups.

Chief Contee is at the forefront of working to address this issue head on. MPD has commissioned the Police Executive Research Forum, a respected independent organization, to conduct a yearlong organizational health assessment to review MPD's policies and practices related to diversity, inclusion, and equity in multiple areas, including race, gender, and sexual orientation, in functional domains such as recruiting and training, supervision, promotional processes, EEO processes, and internal investigations. External to the agency, the review will focus on the delivery of police services and ensuring unbiased policing efforts. The review will include a specific focus on extremism, hate speech, and white supremacy – assessing processes and practices to eliminate the impacts of each within the Department.

This bill requires ODCA to review things like the social media or gatherings of officers, while also respecting their First Amendment rights, which is challenging. Many others are looking at this issue and have not yet found a way to balance this mandate for current employees. One critical challenge is that while the bill defines hate groups and white supremacy, the US government does not have a list identifying domestic hate groups or white supremacist groups. It would be very helpful to hear the DC Auditor's thoughts on how her office would balance the First Amendment issues that are inherent in this legislation.

While we share a common goal of ensuring extremism has no cover in MPD, we believe it is premature and unnecessary to legislate this process at this time.



Law Enforcement Vehicular Pursuit Reform Act

This bill would prohibit law enforcement officers from engaging in vehicular pursuits of an individual operating a motor vehicle, unless the officer reasonably believes that:

- The fleeing suspect has committed or attempted to commit a crime of violence;
- The pursuit is necessary to prevent an imminent death or serious bodily injury; and
- The pursuit is not likely to put others in danger of death or serious bodily injury.

The bill also prohibits MPD from engaging in conduct like caravanning, paralleling, ramming, and discharging a firearm from a moving vehicle.

While the bill largely mirrors current MPD policy, I need to flag three elements in this bill that would hinder public safety goals.

First, the outright ban on discharging a firearm at or from a moving vehicle is too restrictive. MPD's policy prohibits officers from firing their guns either at or from a moving vehicle unless it is being used to conduct a vehicle ramming attack. This is a situation where a perpetrator deliberately rams, or attempts to ram, a vehicle at a crowd of people with the intent to inflict fatal injuries. We saw this situation happen on April 2, 2021, when U.S. Capitol Police Officer William Evans was killed after a man intentionally drove his vehicle into a security barricade. In New York City in October 2017, a man in a rented truck drove onto the Hudson River Park bicycle path, running over cyclists and runners, killing eight people and injuring 11 others. Additionally, on August 12, 2017, Heather Heyer was killed in Charlottesville, Virginia after a driver intentionally drove into a crowd of peaceful demonstrators. This exception to MPD's policy is unfortunately necessary in those instances when an officer is facing a terrorist using a vehicle to try to kill pedestrians and the officer may have no other tool at their disposal than their gun to stop the violent act. Similarly, tactics such as roadblocks and ramming may be necessary to stop a terrorist attack. Second, the bill's prohibition on caravanning, the practice of more than two law enforcement vehicles following each other "in relative single file," is important in some cases to prevent endangering opposing traffic flow. Finally, the prohibition on paralleling may need further clarification so as not implicate the practice of monitoring and responding to potential bailout situations where suspects have abandoned and run from a vehicle.

While these tactics are not used frequently, certain circumstances merit their use to protect the public. I ask the Council to not move forward with these prohibitions and give careful consideration of MPD's current policy, which is already very restrictive.

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In closing, I appreciate this opportunity to discuss public safety in our city. I look forward to continuing to work with our communities and the Council on our shared goal of making the District safer for everyone.

I look forward to your questions.

