

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Executive Office of Mayor Muriel Bowser



Public Hearing on

B23-723, the “Rioting Modernization Amendment Act of 2020”

**B23-771, the “Internationally Banned Chemical Weapon
Prohibition Amendment Act of 2020”**

**B23-882, the “Comprehensive Policing and Justice Reform
Amendment Act of 2020”**

Testimony of

Dr. Roger A. Mitchell, Jr.

Interim Deputy Mayor for Public Safety and Justice

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

October 15, 2020
3:00 PM

Good afternoon Chairperson Allen and members of the Committee on the Judiciary and Public Safety. I am Dr. Roger A. Mitchell, Jr., Interim Deputy Mayor for Public Safety and Justice, and I will be providing testimony on Bill 23-882, the “Comprehensive Policing and Justice Reform Amendment Act,” and Bill 23-723, the “Rioting Modernization Amendment Act.” Joining me is Metropolitan Police Department Chief Peter Newsham to present additional testimony on the bills.

“Let us test and examine our ways.”

– Lamentations 3:40

We all understand the importance of ensuring our police department and criminal justice system reflect our values, protect the sanctity of life, and recognize the dignity of every individual. We all have seen the numerous traumatizing videos of Black men and women being murdered, assaulted, and grossly disrespected by police officers. We see the anguish and hear the pain in far too many of our Black and Latinx communities, both in our city and across the nation. While we firmly believe that the role of a police department is to protect and serve, far too many of our family, friends, and neighbors who are persons of color don’t see the police that way. Many of our residents have personal, lived experiences with police officers where they felt they were treated unfairly, unjustly, or unconstitutionally. Our duty is to constantly review our laws, policies, and practices to ensure they meet the evolving values of our city. This is an opportune time for a careful, thoughtful, and collaborative review.

In my role as the District’s Chief Medical Examiner, I constantly see the impact of violence on our communities. Like a number of other large cities, the District is seeing a significant increase in gun-related violence. And as we tragically well know, this violence leaves a residual traumatic impact on survivors, their families, friends, neighbors, classmates, and their community.

Just in the past seven days, eight people died as a result of gun violence in our city. This is unacceptable. Each one of those murdered men and women had people who loved them and are mourning their loss. It requires all of us – elected officials, agency leaders, schools, faith leaders, nonprofit and community-based organizations, health providers, housing providers, private sector employers, and law enforcement – to develop, institute, and sustain a coordinated, multiyear strategy to reduce and stop cyclical, retaliatory violence and to begin healing our residents who have been suffering from years of untreated trauma. In the coming weeks, I will be speaking more on these critical issues.

This hearing is an important byproduct of the demonstrations happening here and in many cities across the country. It is an opportunity to improve police practice where necessary, to highlight good police practices, and to build deeper relationships between law enforcement and the communities they serve. We must use this opportunity to examine what it actually means to do community policing. Our goal must be to look at our own systems to ensure our residents are living in communities that are safe, raising their children with opportunities, and serve as foundations for those families to grow and thrive. We must examine all of our service delivery systems to ensure each is operating with transparency, compassion, and effectively carrying out its mission. We must continue to examine our court systems, our government services, and our healthcare delivery to residents to ensure each is responsive to the changing needs of our city.

I want to be clear: We have a good police force. The men and women of the Metropolitan Police Department risk their lives daily in service of the community.

The Metropolitan Police Department's demographics more closely match those of its residents than any other large city in the country. Since her first year in office, Mayor Bowser has continuously expanded the size of the police cadet program, which hires DC public school graduates, pays for their education at the University of the District of Columbia to earn academic credits, and puts them on track to entering the Police Academy. Cadets embody the goals of community policing – including understanding the needs, customs, and cultures of our neighborhoods – which makes them critical assets to the future of the Metropolitan Police Department. Having our residents serve as MPD officers is an important step in reforming police practices from within.

But we all know that we are not going to arrest our way out of the current increase in gun violence. And for the past five years, Mayor Bowser has focused on a variety of non-law enforcement efforts to treat the needs of our most vulnerable residents and communities. In the interest of time, I will mention just a few of those efforts.

Since 2015, Mayor Bowser led a coordinated effort to reduce violent crime in specific areas in the District through strategic prevention and coordinated enforcement, referred to as “Safer Stronger DC.” These investments were done across multiple agencies, focusing on violence prevention, workforce development, neighborhood investments, and educational programming. The initiative incorporated an advisory board, comprised of government agencies, community organizations, academics, and community members. A second initiative that connects the work being done across agencies is the Violence Fatality Review Committee. This committee reviews all homicides and suicides to identify patterns, conduct a retrospective review of socioeconomic determinant risk factors, and recommend systemic changes. The third initiative is the Hospital-based Violence Intervention Program (HVIP), which is run out of the Office of Victim Services and Justice Grants. This program, which currently operates in five DC-area hospitals, engages victims and their families while they are in the hospital recovering from an intentional injury and seeks to create a support system that leads to long-term change.

Mayor Bowser has supported a public health approach to violence prevention and has tasked her agencies with working with partners inside and outside of government to develop solutions. We have expanded programming at the Office of Neighborhood Safety and Engagement through its Pathways Program. This program has provided intensive mentoring, cognitive therapy, and job training for residents who are justice involved. In addition, we provide administrative support to the Comprehensive Homicide Elimination Strategy Task Force which is working on a citywide approach to violence prevention.

Finally, we look forward to working with the Committee on record sealing reform and making sure it is passed by Council this year. Mayor Bowser's “Second Chance Amendment Act” (Bill 23-16) envisions a radical restructuring of the District's outdated criminal record sealing laws. It will simplify the process and greatly expand its reach. Enactment of record sealing reform will immediately impact tens of thousands of individuals, giving them a second chance at finding employment, housing, and educational opportunities.

Bill 23-882, the “Comprehensive Policing and Justice Reform Amendment Act”

The Executive is generally supportive of this bill and its provisions. We support the provision prohibiting the use of neck restraints as it reflects longstanding MPD policy on which all officers are trained. We support including members of the public on MPD’s Use of Force Review Board – their insight will be a valuable asset to this review. We are supportive of the inclusion of racism and white supremacy on the continuing education requirements for MPD officers, to give officers insight to their own potential biases. Finally, we support the enfranchisement of residents serving sentences for felonies. And I want to highlight the work being done by the Department of Corrections to ensure residents in their custody who were convicted of felonies are aware of their right to vote and are able to do so.

However, we believe that there are several provisions in the bill that require additional consideration.

First, we recommend flexibility on the timeline for MPD to release body-worn camera (BWC) footage. Five days may not be enough time to allow for other required actions – such as notifying a family, arranging their viewing of the footage, and obtaining their consent to publicly release the footage – in a manner that is trauma-informed and centers on the family and their needs. Conversely, the five days may also be too long to ensure that the public gets timely access to the details of the shooting. While the Executive recognizes the Council’s intent to increase transparency in deaths or serious encounters resulting from an interaction with a police officer, we believe the family of the decedent or the citizen themselves needs to be centered in this process. We are committed to working with the Council and trauma-informed specialists on a process that is focused on families’ needs and minimizes additional trauma to a grieving family. The Executive is committed to ensuring a timely release of BWC footage as recently demonstrated. We strongly recommend working with the Committee to develop a specific and intentional timeline for public release of such critical information while supporting the families of those involved.

Second, the Executive recommends allowing police officers to view their BWC footage as they write an incident report. We support the consensus view incorporated into the BWC law in 2016 that prohibited officers from viewing their BWC only in cases of a fatal shooting. We are unaware of any evidence-based practices or peer-reviewed research that supports the prohibition of officers from reviewing their BWC footage before they write their report on any incident, whether it is an officer-involved shooting, a sexual assault, a robbery, or a traffic collision.

Third, we believe Subtitle C of the bill should be amended to maintain MPD as a non-voting member of the Police Complaints Board. MPD is a valuable resource to the board and is able to answer board members’ questions on the agency’s policies, training, or procedures. It would be useful to have an MPD official whose job it is to investigate these complaints to be present on the board. We are unaware of the rationale used in the emergency version of this legislation in removing MPD from the board.

I want to reiterate the Executive’s commitment to working closely with you on this bill so it can be a model for the entire country.

Bill 23-723, the “Rioting Modernization Amendment Act”

This bill would have a significant impact on preventing destructive rioting that has affected several of our commercial and retail businesses. The bill, as written, would severely constrain the ability of police officers to respond in situations where individuals are intentionally damaging property, whether by shattering windows, setting fires, or looting.

I am concerned that it would require an officer to prove that a rioter had knowledge that at least nine other people were acting to commit the offense of rioting. The police officer must know that a person committed or attempted to commit an assault, theft, or property damage – and that the person knew nine other people were doing the same thing. If the officer cannot make this finding, then no arrest can be made. In his testimony, Chief Newsham will speak more on this unworkable standard.

I will be blunt in the end result of enactment of this bill: I am worried that bad actors from outside of Washington DC will come to our city for the sole purpose of violence and destruction. It may have the unintended result of where a rioting crowd is setting fires, smashing windows, or committing assaults, responding officers would be inclined to stand aside and watch the violence happen, rather than making immediate arrests

To be absolutely clear, the Executive strongly supports the public’s constitutional right to demonstrate. We have hundreds of such events every year in the District and the overwhelming majority of them are peaceful. However, in those few instances where a small group of individuals intend to cause destruction, our police officers must be able to hold those individuals accountable for their harmful actions. As we have unfortunately seen both here in the District and elsewhere, federal law enforcement and military units can be deployed in ways that violate our city’s protocols and without any accountability to our residents. That is the last thing we should ever want to see happen.

* * *

Chairperson Allen, I appreciate the opportunity to testify. You will be hearing from several other District agencies today and I want to reiterate the Executive’s commitment to working with the Council on these bills.

Thank you.