

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide, on an emergency basis, due to congressional review, for comprehensive policing and justice reform for District residents and visitors, and for other purposes.

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50 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
51 act may be cited as the “Comprehensive Policing and Justice Reform Congressional Review
52 Emergency Amendment Act of 2020”.

53 **TITLE I. IMPROVING POLICE ACCOUNTABILITY AND TRANSPARENCY**

54 **SUBTITLE A. PROHIBITING THE USE OF NECK RESTRAINTS**

55 Sec. 101. The Limitation on the Use of the Chokehold Act of 1985, effective January 25,
56 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.01 *et seq.*), is amended as follows:

57 (a) Section 2 (D.C. Official Code § 5-125.01) is amended to read as follows:

58 “Sec. 2. The Council of the District of Columbia finds and declares that law enforcement
59 and special police officer use of neck restraints constitutes the use of lethal and excessive force.
60 This force presents an unnecessary danger to the public. On May 25, 2020, Minneapolis Police
61 Department officer Derek Chauvin murdered George Floyd by applying a neck restraint to Floyd
62 with his knee for 8 minutes and 46 seconds. Hundreds of thousands, if not millions, of people in
63 cities and states across the world, including in the District, have taken to the streets to peacefully
64 protest injustice, racism, and police brutality against Black people and other people of color. Police
65 brutality is abhorrent and does not reflect the District’s values. It is the intent of the Council in the

65 enactment of this act to unequivocally ban the use of neck restraints by law enforcement and
66 special police officers.”.

67 (b) Section 3 (D.C. Official Code § 5-125.02) is amended as follows:

68 (1) Paragraph (1) is repealed.

69 (2) Paragraph (2) is repealed.

70 (3) A new paragraph (3) is added to read as follows:

71 “(3) “Neck restraint” means the use of any body part or object to attempt to control
72 or disable a person by applying pressure against the person’s neck, including the trachea or carotid
73 artery, with the purpose, intent, or effect of controlling or restricting the person’s movement or
74 restricting their blood flow or breathing.”.

75 (c) Section 4 (D.C. Official Code § 5-125.03) is amended to read as follows:

76 “Sec. 4. Unlawful use of neck restraints by law enforcement officers and special police
77 officers.

78 “(a) It shall be unlawful for:

79 “(1) Any law enforcement officer or special police officer (“officer”) to apply a
80 neck restraint; and

81 “(2) Any officer who applies a neck restraint and any officer who is able to observe
82 another officer’s application of a neck restraint to fail to:

83 “(A) Immediately render, or cause to be rendered, first aid on the person on
84 whom the neck restraint was applied; or

85 “(B) Immediately request emergency medical services for the person on
86 whom the neck restraint was applied.

87 “(b) Any officer who violates the provisions of subsection (a) of this section shall be fined
88 no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment
89 Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or
90 incarcerated for no more than 10 years, or both.”.

91 Sec. 102. Section 3 of the Federal Law Enforcement Officer Cooperation Act of 1999,
92 effective May 9, 2000 (D.C. Law 13-100; D.C. Official Code § 5-302), is amended by striking the
93 phrase “trachea and carotid artery holds” and inserting the phrase “neck restraints” in its place.

94 SUBTITLE B. IMPROVING ACCESS TO BODY-WORN CAMERA VIDEO
95 RECORDINGS

96 Sec. 103. Section 3004 of the Body-Worn Camera Regulation and Reporting Requirements
97 Act of 2015, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 5-116.33), is
98 amended as follows:

99 (a) Subsection (a)(3) is amended by striking the phrase “interactions;” and inserting the
100 phrase “interactions, and the results of those internal investigations, including any discipline
101 imposed;” in its place.

102 (b) New subsections (c), (d), and (e) are added to read as follows:

103 “(c)(1) Notwithstanding any other law:

104 “(A) Within 5 business days after a request from the Chairperson of the
105 Council Committee with jurisdiction over the Metropolitan Police Department, the Metropolitan
106 Police Department shall provide unredacted copies of the requested body-worn camera recordings
107 to the Chairperson. Such body-worn camera recordings shall not be publicly disclosed by the
108 Chairperson or the Council;

109 “(B) The Mayor:

110 “(i) Shall, except as provided in paragraph (2) of this subsection:

111 “(I) Within 5 business days after an officer-involved death
112 or the serious use of force, publicly release the names and body-worn camera recordings of all
113 officers who committed the officer-involved death or serious use of force; and

114 “(II) By August 15, 2020, publicly release the names and
115 body-worn camera recordings of all officers who have committed an officer-involved death since
116 the Body-Worn Camera Program was launched on October 1, 2014; and

117 “(ii) May, on a case-by-case basis in matters of significant public
118 interest and after consultation with the Chief of Police, the United States Attorney's Office for the
119 District of Columbia, and the Office of the Attorney General, publicly release any other body-
120 worn camera recordings that may not otherwise be releasable pursuant to a FOIA request.

121 “(2)(A) The Mayor shall not release a body-worn camera recording pursuant to
122 paragraph (1)(B)(i) of this subsection if the following persons inform the Mayor, orally or in
123 writing, that they do not consent to its release:

124 “(i) For a body-worn camera recording of an officer-involved death,
125 the decedent's next of kin; and

126 “(ii) For a body-worn camera recording of a serious use of force, the
127 individual against whom the serious use of force was used, or if the individual is a minor or unable
128 to consent, the individual's next of kin.

129 “(B)(i) In the event of a disagreement between the persons who must
130 consent to the release of a body-worn camera recording pursuant to subparagraph (A) of this
131 paragraph, the Mayor shall seek a resolution in the Superior Court of the District of Columbia.

132 “(ii) The Superior Court of the District of Columbia shall order the
133 release of the body-worn camera recording if it finds that the release is in the interests of justice.

134 “(d) Before publicly releasing a body-worn camera recording of an officer-involved death,
135 the Metropolitan Police Department shall:

136 “(1) Consult with an organization with expertise in trauma and grief on best
137 practices for creating an opportunity for the decedent’s next of kin to view the body-worn camera
138 recording in advance of its release;

139 “(2) Notify the decedent’s next of kin of its impending release, including the date
140 when it will be released; and

141 “(3) Offer the decedent’s next of kin the opportunity to view the body-worn camera
142 recording privately in a non-law enforcement setting in advance of its release, and if the next of
143 kin wish to so view the body-worn camera recording, facilitate its viewing.

144 “(e) For the purposes of this subsection, the term:

145 “(1) “FOIA” means Title II of the District of Columbia Administrative Procedure
146 Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*);

147 “(2) “Next of kin” shall mean the priority for next of kin as provided in
148 Metropolitan Police Department General Order 401.08, or its successor directive; and

149 “(3) “Serious use of force” shall have the same meaning as that term is defined in
150 MPD General Order 901.07, or its successor directive.”.

151 Sec. 104. Chapter 39 of Title 24 of the District of Columbia Municipal Regulations is
152 amended as follows:

153 (a) Section 3900 is amended as follows:

154 (1) Subsection 3900.9 is amended to read as follows:

155 “3900.9. Members may not review their BWC recordings or BWC recordings that have
156 been shared with them to assist in initial report writing.”.

157 (2) Subsection 3900.10 is amended to read as follows:

158 “3900.10. (a) Notwithstanding any other law, the Mayor:

159 “(1) Shall, except as provided in paragraph (b) of this subsection:

160 “(A) Within 5 business days after an officer-involved death or the
161 serious use of force, publicly release the names and BWC recordings of all officers who committed
162 the officer-involved death or serious use of force; and

163 “(B) By August 15, 2020, publicly release the names and BWC
164 recordings of all officers who have committed an officer-involved death since the BWC Program
165 was launched on October 1, 2014; and

166 “(2) May, on a case-by-case basis in matters of significant public interest
167 and after consultation with the Chief of Police, the United States Attorney's Office for the District
168 of Columbia, and the Office of the Attorney General, publicly release any other BWC recordings
169 that may not otherwise be releasable pursuant to a FOIA request.

170 “(b)(1) The Mayor shall not release a BWC recording pursuant to paragraph (a)(1)
171 of this subsection if the following persons inform the Mayor, orally or in writing, that they do not
172 consent to its release:

173 “(A) For a BWC recording of an officer-involved death, the
174 decedent’s next of kin; and

175 “(B) For a BWC recording of a serious use of force, the individual
176 against whom the serious use of force was used, or if the individual is a minor or is unable to
177 consent, the individual’s next of kin.

178 “(2)(A) In the event of a disagreement between the persons who must
179 consent to the release of a BWC recording pursuant to subparagraph (1) of this paragraph, the
180 Mayor shall seek a resolution in the Superior Court of the District of Columbia.

181 “(B) The Superior Court of the District of Columbia shall order the
182 release of the BWC recording if it finds that the release is in the interests of justice.

183 “(c) Before publicly releasing a BWC recording of an officer-involved death, the
184 Metropolitan Police Department shall:

185 “(1) Consult with an organization with expertise in trauma and grief on best
186 practices for creating an opportunity for the decedent’s next of kin to view the BWC recording in
187 advance of its release;

188 “(2) Notify the decedent’s next of kin of its impending release, including
189 the date when it will be released; and

190 “(3) Offer the decedent’s next of kin the opportunity to view the BWC
191 recording privately in a non-law enforcement setting in advance of its release, and if the next of
192 kin wish to so view the BWC recording, facilitate its viewing.”.

193 (b) Section 3901.2 is amended by adding a new paragraph (a-1) to read as follows:

194 “(a-1) Recordings related to a request from or investigation by the Chairperson of
195 the Council Committee with jurisdiction over the Department;”.

196 (c) Section 3902.4 is amended to read as follows:

197 “3902.4. Notwithstanding any other law, within 5 business days after a request from the
198 Chairperson of the Council Committee with jurisdiction over the Department, the Department shall
199 provide unredacted copies of the requested BWC recordings to the Chairperson. Such BWC
200 recordings shall not be publicly disclosed by the Chairperson or the Council.”.

201 (d) Section 3999.1 is amended by inserting definitions between the definitions of
202 “metadata” and “subject” to read as follows:

203 ““Next of kin” shall mean the priority for next of kin as provided in MPD General Order
204 401.08, or its successor directive.

205 ““Serious use of force” shall have the same meaning as that term is defined in MPD General
206 Order 901.07, or its successor directive.”.

207 SUBTITLE C. OFFICE OF POLICE COMPLAINTS REFORMS

208 Sec. 105. The Office of Citizen Complaint Review Establishment Act of 1998, effective
209 March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 *et seq.*), is amended as follows:

210 (a) Section 5(a) (D.C. Official Code § 5-1104(a)) is amended by striking the phrase “There
211 is established a Police Complaints Board (“Board”). The Board shall be composed of 5 members,
212 one of whom shall be a member of the MPD, and 4 of whom shall have no current affiliation with
213 any law enforcement agency.” and inserting the phrase “There is established a Police Complaints
214 Board (“Board”). The Board shall be composed of 9 members, which shall include one member
215 from each Ward and one at-large member, none of whom, after the expiration of the term of the
216 currently serving member of the MPD, shall be affiliated with any law enforcement agency.” in its
217 place.

218 (b) Section 8 (D.C. Official Code § 5-1107) is amended as follows:

219 (1) A new subsection (g-1) is added to read as follows:

220 “(g-1)(1) If the Executive Director discovers evidence of abuse or misuse of police powers
221 that was not alleged by the complainant in the complaint, the Executive Director may:

222 “(A) Initiate the Executive Director’s own complaint against the subject
223 police officer; and

224 “(B) Take any of the actions described in subsection (g)(2) through (6) of
225 this section.

226 “(2) The authority granted pursuant to paragraph (1) of this subsection shall include
227 circumstances in which the subject police officer failed to:

228 “(A) Intervene in or subsequently report any use of force incident in which
229 the subject police officer observed another law enforcement officer, including an MPD officer,
230 utilizing excessive force or engaging in any type of misconduct, pursuant to MPD General Order
231 901.07, its successor directive, or a similar local or federal directive; or

232 “(B) Immediately report to their supervisor any violations of the rules and
233 regulations of the MPD committed by any other MPD officer, and each instance of their use of
234 force or a use of force committed by another MPD officer, pursuant to MPD General Order 201.26,
235 or any successor directive.”.

236 (2) Subsection (h) is amended by striking the phrase “subsection (g)” and inserting
237 the phrase “subsection (g) or (g-1)” in its place.

238 **SUBTITLE D. USE OF FORCE REVIEW BOARD MEMBERSHIP EXPANSION**

239 **Sec. 106. Use of Force Review Board; membership.**

240 (a) There is established a Use of Force Review Board (“Board”), which shall review uses
241 of force as set forth by the Metropolitan Police Department in its written directives.

242 (b) The Board shall consist of the following 13 voting members, and may also include non-
243 voting members at the Mayor’s discretion:

244 (1) An Assistant Chief selected by the Chief of Police, who shall serve as the
245 Chairperson of the Board;

- 246 (2) The Commanding Official, Special Operations Division, Homeland Security
247 Bureau;
- 248 (3) The Commanding Official, Criminal Investigations Division, Investigative
249 Services Bureau;
- 250 (4) The Commanding Official, Metropolitan Police Academy;
- 251 (5) A Commander or Inspector assigned to the Patrol Services Bureau;
- 252 (6) The Commanding Official, Recruiting Division;
- 253 (7) The Commanding Official, Court Liaison Division;
- 254 (8) Three civilian members appointed by the Mayor, pursuant to section 2(e) of the
255 Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-
256 523.01(e)), with the following qualifications and no current or prior affiliation with law
257 enforcement:
- 258 (A) One member who has personally experienced the use of force by a law
259 enforcement officer;
- 260 (B) One member of the District of Columbia Bar in good standing; and
- 261 (C) One District resident community member;
- 262 (9) Two civilian members appointed by the Council with the following
263 qualifications and no current or prior affiliation with law enforcement:
- 264 (A) One member with subject matter expertise in criminal justice policy;
265 and
- 266 (B) One member with subject matter expertise in law enforcement oversight
267 and the use of force; and
- 268 (10) The Executive Director of the Office of Police Complaints.

269 Sec. 107. Section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law
270 2-142; D.C. Official Code § 1-523.01(e)), is amended as follows:

271 (a) Paragraph (38) is amended by striking the phrase “; and” and inserting a semicolon in
272 its place.

273 (b) Paragraph (39) is amended by striking the period and inserting the phrase “; and” in its
274 place.

275 (c) A new paragraph (40) is added to read as follows:

276 “(40) Use of Force Review Board, established by section 106 of this act.”.

277 SUBTITLE E. ANTI-MASK LAW REPEAL

278 Sec. 108. The Anti-Intimidation and Defacing of Public or Private Property Criminal
279 Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312 *et*
280 *seq.*), is amended as follows:

281 (a) Section 4 (D.C. Official Code § 22-3312.03) is repealed.

282 (b) Section 5(b) (D.C. Official Code § 22-3312.04(b)) is amended by striking the phrase
283 “or section 4 shall be” and inserting the phrase “shall be” in its place.

284 Sec. 109. Section 23-581(a-3) of the District of Columbia Official Code is amended by
285 striking the phrase “sections 22-3112.1, 22-3112.2, and 22-3112.3” and inserting the phrase
286 “sections 22-3112.1 and 22-3112.2” in its place.

287 SUBTITLE F. LIMITATIONS ON CONSENT SEARCHES

288 Sec. 110. Subchapter II of Chapter 5 of Title 23 of the District of Columbia Official Code
289 is amended by adding a new section 23-526 to read as follows:

290 “§ 23-526. Limitations on consent searches.

291 “(a) In cases where a search is based solely on the subject’s consent to that search, and is
292 not executed pursuant to a warrant or conducted pursuant to an applicable exception to the warrant
293 requirement, sworn members of District Government law enforcement agencies shall:

294 “(1) Prior to the search of a person, vehicle, home, or property:

295 “(A) Explain, using plain and simple language delivered in a calm
296 demeanor, that the subject of the search is being asked to voluntarily, knowingly, and intelligently
297 consent to a search;

298 “(B) Advise the subject that:

299 “(i) A search will not be conducted if the subject refuses to provide
300 consent to the search; and

301 “(ii) The subject has a legal right to decline to consent to the search;

302 “(C) Obtain consent to search without threats or promises of any kind being
303 made to the subject;

304 “(D) Confirm that the subject understands the information communicated
305 by the officer; and

306 “(E) Use interpretation services when seeking consent to conduct a search
307 of a person:

308 “(i) Who cannot adequately understand or express themselves in
309 spoken or written English; or

310 “(ii) Who is deaf or hard of hearing.

311 “(2) If the sworn member is unable to obtain consent from the subject, refrain from
312 conducting the search.

313 “(b) The requirements of subsection (a) of this section shall not apply to searches executed
314 pursuant to a warrant or conducted pursuant to an applicable exception to the warrant requirement.

315 “(c)(1) If a defendant moves to suppress any evidence obtained in the course of the search
316 for an offense prosecuted in the Superior Court of the District of Columbia, the court shall consider
317 an officer’s failure to comply with the requirements of this section as a factor in determining the
318 voluntariness of the consent.

319 “(2) There shall be a presumption that a search was nonconsensual if the evidence
320 of consent, including the warnings required in subsection (a), is not captured on body-worn camera
321 or provided in writing.

322 “(d) Nothing in this section shall be construed to create a private right of action.”.

323 SUBTITLE G. MANDATORY CONTINUING EDUCATION EXPANSION;
324 RECONSTITUTING THE POLICE OFFICERS STANDARDS AND TRAINING BOARD

325 Sec. 111. Title II of the Metropolitan Police Department Application, Appointment, and
326 Training Requirements of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code
327 § 5-107.01 *et seq.*), is amended as follows:

328 (a) Section 203(b) (D.C. Official Code § 5-107.02(b)) is amended as follows:

329 (1) Paragraph (2) is amended by striking the phrase “biased-based policing” and
330 inserting the phrase “biased-based policing, racism, and white supremacy” in its place.

331 (2) Paragraph (3) is amended to read as follows:

332 “(3) Limiting the use of force and employing de-escalation tactics;”.

333 (3) Paragraph (4) is amended to read as follows:

334 “(4) The prohibition on the use of neck restraints;”.

335 (4) Paragraph (5) is amended by striking the phrase “; and” and inserting a
336 semicolon in its place.

337 (5) Paragraph (6) is amended by striking the period and inserting a semicolon in its
338 place.

339 (6) New paragraphs (7) and (8) are added to read as follows:

340 “(7) Obtaining voluntary, knowing, and intelligent consent from the subject of a
341 search, when that search is based solely on the subject’s consent; and

342 “(8) The duty of a sworn officer to report, and the method for reporting, suspected
343 misconduct or excessive use of force by a law enforcement official that a sworn member observes
344 or that comes to the sworn member’s attention, as well as any governing District laws and
345 regulations and Department written directives.”.

346 (b) Section 204 (D.C. Official Code § 5-107.03) is amended as follows:

347 (1) Subsection (a) is amended by striking the phrase “the District of Columbia
348 Police” and inserting the phrase “the Police” in its place.

349 (2) Subsection (b) is amended as follows:

350 (A) The lead-in language is amended by striking the phrase “11 persons”
351 and inserting the phrase “15 persons” in its place.

352 (B) A new paragraph (2A) is added to read as follows:

353 “(2A) Executive Director of the Office of Police Complaints or the Executive
354 Director’s designee;”.

355 (C) Paragraph (3) is amended to read as follows:

356 “(3) The Attorney General for the District of Columbia or the Attorney General’s
357 designee;”.

358 (D) Paragraph (8) is amended by striking the period and inserting the phrase
359 “; and” in its place.

360 (E) Paragraph (9) is amended to read as follows:

361 “(9) Five community representatives appointed by the Mayor, one each with
362 expertise in the following areas:

363 “(A) Oversight of law enforcement;

364 “(B) Juvenile justice reform;

365 “(C) Criminal defense;

366 “(D) Gender-based violence or LGBTQ social services, policy, or
367 advocacy; and

368 “(E) Violence prevention or intervention.”.

369 (3) Subsection (i) is amended by striking the phrase “promptly after the
370 appointment and qualification of its members” and inserting the phrase “by September 1, 2020” in
371 its place.

372 (c) Section 205(a) (D.C. Official Code § 5-107.04(a)) is amended by adding a new
373 paragraph (9A) to read as follows:

374 “(9A) If the applicant has prior service with another law enforcement or public
375 safety agency in the District or another jurisdiction, information on any alleged or sustained
376 misconduct or discipline imposed by that law enforcement or public safety agency;”.

377 SUBTITLE H. IDENTIFICATION OF MPD OFFICERS DURING FIRST
378 AMENDMENT ASSEMBLIES AS LOCAL LAW ENFORCEMENT

379 Sec. 112. Section 109 of the First Amendment Assemblies Act of 2004, effective April 13,
380 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.09), is amended as follows:

381 (a) Designate the existing text as subsection (a).

382 (b) Add a new subsection (b) to read as follows:

383 “(b) During a First Amendment assembly, the uniforms and helmets of officers policing
384 the assembly shall prominently identify the officers’ affiliation with local law enforcement.”.

385 SUBTITLE I. PRESERVING THE RIGHT TO JURY TRIAL

386 Sec. 113. Section 16-705(b)(1) of the District of Columbia Official Code is amended as
387 follows:

388 (a) Subparagraph (A) is amended by striking the phrase “; or” and inserting a semicolon in
389 its place.

390 (b) Subparagraph (B) is amended by striking the phrase “; and” and inserting the phrase “;
391 or” in its place.

392 (c) A new subparagraph (C) is added to read as follows:

393 “(C)(i) The defendant is charged with an offense under:

394 “(I) Section 806(a)(1) of An Act To establish a code of law
395 for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22–
396 404(a)(1));

397 “(II) Section 432a of the Revised Statutes of the District of
398 Columbia (D.C. Official Code § 22–405.01); or

399 “(III) Section 2 of An Act To confer concurrent jurisdiction
400 on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat.
401 193; D.C. Official Code § 22–407); and

402 “(ii) The person who is alleged to have been the victim of the offense
403 is a law enforcement officer, as that term is defined in section 432(a) of the Revised Statutes of
404 the District of Columbia (D.C. Official Code § 22-405(a)); and”.

405 SUBTITLE J. REPEAL OF FAILURE TO ARREST CRIME

406 Sec. 114. Section 400 of the Revised Statutes of the District of Columbia (D.C. Official
407 Code § 5-115.03), is repealed.

408 SUBTITLE K. AMENDING MINIMUM STANDARDS FOR POLICE OFFICERS

409 Sec. 115. Section 202 of the Omnibus Police Reform Amendment Act of 2000, effective
410 October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-107.01), is amended by adding a new
411 subsection (f) to read as follows:

412 “(f) An applicant shall be ineligible for appointment as a sworn member of the
413 Metropolitan Police Department if the applicant:

414 “(1) Was previously determined by a law enforcement agency to have committed
415 serious misconduct, as determined by the Chief by General Order;

416 “(2) Was previously terminated or forced to resign for disciplinary reasons from
417 any commissioned or recruit or probationary position with a law enforcement agency; or

418 “(3) Previously resigned from a law enforcement agency to avoid potential,
419 proposed, or pending adverse disciplinary action or termination.”.

420 SUBTITLE L. POLICE ACCOUNTABILITY AND COLLECTIVE BARGAINING
421 AGREEMENTS

422

423 Sec. 116. Section 1708 of the District of Columbia Government Comprehensive Merit
424 Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.08),
425 is amended by adding a new subsection (c) to read as follows:

426 “(c)(1) All matters pertaining to the discipline of sworn law enforcement personnel shall
427 be retained by management and not be negotiable.

428 “(2) This subsection shall apply to any collective bargaining agreements entered
429 into with the Fraternal Order of Police/Metropolitan Police Department Labor Committee after
430 September 30, 2020.”.

431 SUBTITLE M. OFFICER DISCIPLINE REFORMS

432
433 Sec. 117. Section 502 of the Omnibus Public Safety Agency Reform Amendment Act of
434 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031), is amended
435 as follows:

436 (a) Subsection (a-1) is amended as follows:

437 (1) Paragraph (1) is amended by striking the phrase “subsection (b) of this section”
438 and inserting the phrase “paragraph (1A) of this subsection and subsection (b) of this section” in
439 its place.

440 (2) A new paragraph (1A) is added to read as follows:

441 “(1A) If the act or occurrence allegedly constituting cause involves the serious use
442 of force or indicates potential criminal conduct by a sworn member or civilian employee of the
443 Metropolitan Police Department, the period for commencing a corrective or adverse action under
444 this subsection shall be 180 days, not including Saturdays, Sundays, or legal holidays, after the

445 date that the Metropolitan Police Department had notice of the act or occurrence allegedly
446 constituting cause.”.

447 (3) Paragraph (2) is amended by striking the phrase “paragraph (1)” and inserting
448 the phrase “paragraphs (1) and (1A)” in its place.

449 (b) Subsection (b) is amended by striking the phrase “the 90-day period” and inserting the
450 phrase “the 90-day or 180-day period, as applicable,” in its place.

451 Sec. 118. Section 6-A1001.5 of Chapter 10 of Title 6 of the District of Columbia Municipal
452 Regulations is amended by striking the phrase “reduce the penalty” and inserting the phrase
453 “reduce or increase the penalty” in its place.

454 SUBTITLE N. USE OF FORCE REFORMS

455 Sec. 119. Use of deadly force.

456 (a) For the purposes of this section, the term:

457 (1) “Deadly force” means any force that is likely or intended to cause serious bodily
458 injury or death.

459 (2) “Deadly weapon” means any object, other than a body part or stationary object,
460 that in the manner of its actual, attempted, or threatened use, is likely to cause serious bodily injury
461 or death.

462 (3) “Serious bodily injury” means extreme physical pain, illness, or impairment of
463 physical condition, including physical injury, that involves:

464 (A) A substantial risk of death;

465 (B) Protracted and obvious disfigurement;

466 (C) Protracted loss or impairment of the function of a bodily member or
467 organ; or

468 (D) Protracted loss of consciousness.

469 (b) A law enforcement officer shall not use deadly force against a person unless:

470 (1) The law enforcement officer reasonably believes that deadly force is
471 immediately necessary to protect the law enforcement officer or another person, other than the
472 subject of the use of deadly force, from the threat of serious bodily injury or death;

473 (2) The law enforcement officer's actions are reasonable, given the totality of the
474 circumstances; and

475 (3) All other options have been exhausted or do not reasonably lend themselves to
476 the circumstances.

477 (c) A trier of fact shall consider:

478 (1) The reasonableness of the law enforcement officer's belief and actions from the
479 perspective of a reasonable law enforcement officer; and

480 (2) The totality of the circumstances, which shall include:

481 (A) Whether the subject of the use of deadly force:

482 (i) Possessed or appeared to possess a deadly weapon; and

483 (ii) Refused to comply with the law enforcement officer's lawful
484 order to surrender an object believed to be a deadly weapon prior to the law enforcement officer
485 using deadly force;

486 (B) Whether the law enforcement officer engaged in de-escalation measures
487 prior to the use of deadly force, including taking cover, waiting for back-up, trying to calm the
488 subject of the use of force, or using non-deadly force prior to the use of deadly force; and

489 (C) Whether any conduct by the law enforcement officer prior to the use of
490 deadly force increased the risk of a confrontation resulting in deadly force being used.

491 SUBTITLE O. RESTRICTIONS ON THE PURCHASE AND USE OF MILITARY
492 WEAPONRY

493 Sec. 120. Limitations on military weaponry acquired by District law enforcement agencies.

494 (a) Beginning in Fiscal Year 2021, District law enforcement agencies shall not acquire the
495 following property through any program operated by the federal government:

- 496 (1) Ammunition of .50 caliber or higher;
- 497 (2) Armed or armored aircraft or vehicles;
- 498 (3) Bayonets;
- 499 (4) Explosives or pyrotechnics, including grenades;
- 500 (5) Firearm mufflers or silencers;
- 501 (6) Firearms of .50 caliber or higher;
- 502 (7) Firearms, firearm accessories, or other objects, designed or capable of launching
503 explosives or pyrotechnics, including grenade launchers; and
- 504 (8) Remotely piloted, powered aircraft without a crew aboard, including drones.

505 (b)(1) If a District law enforcement agency requests property through a program operated
506 by the federal government, the District law enforcement agency shall publish notice of the request
507 on a publicly accessible website within 14 days after the date of the request.

508 (2) If a District law enforcement agency acquires property through a program
509 operated by the federal government, the District law enforcement agency shall publish notice of
510 the acquisition on a publicly accessible website within 14 days after the date of the acquisition.

511 (c) District law enforcement agencies shall disgorge any property described in subsection
512 (a) of this section that the agencies currently possess within 180 days after the effective date of
513 this act.

514 SUBTITLE P. LIMITATIONS ON THE USE OF INTERNATIONALLY BANNED
515 CHEMICAL WEAPONS, RIOT GEAR, AND LESS-LETHAL PROJECTILES

516 Sec. 121. The First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C.
517 Law 15-352; D.C. Official Code § 5-331.01 *et seq.*), is amended as follows:

518 (a) Section 102 (D.C. Official Code § 5-331.02) is amended as follows:

519 (1) Paragraphs (1) and (2) are redesignated as paragraphs (2) and (4) respectively.

520 (2) A new paragraph (1) is added to read as follows:

521 “(1) “Chemical irritant” means tear gas or any chemical that can rapidly produce
522 sensory irritation or disabling physical effects in humans, which disappear within a short time
523 following termination of exposure, or any substance prohibited by the Convention on the
524 Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on
525 their Destruction, effective April 29, 1997.”.

526 (3) A new paragraph (3) is added to read as follows:

527 “(3) “Less-lethal projectiles” means any munition that may cause bodily injury or
528 death through the transfer of kinetic energy and blunt force trauma. The term “less-lethal
529 projectiles” includes rubber or foam-covered bullets and stun grenades.”.

530 (b) Section 116 (D.C. Official Code § 5-331.16) is amended to read as follows:

531 “Sec. 116. Use of riot gear and riot tactics at First Amendment assemblies.

532 “(a)(1) No officers in riot gear may be deployed in response to a First Amendment
533 assembly unless there is an immediate risk to officers of significant bodily injury. Any deployment
534 of officers in riot gear:

535 “(A) Shall be consistent with the District’s policy on First Amendment
536 assemblies; and

537 “(B) May not be used as a tactic to disperse a First Amendment assembly.

538 “(2) Following any deployment of officers in riot gear in response to a First
539 Amendment assembly, the commander at the scene shall make a written report to the Chief of
540 Police within 48 hours, and that report shall be available to the public.

541 “(b)(1) Chemical irritants shall not be used by MPD to disperse a First Amendment
542 assembly.

543 “(2) The Mayor shall request that any federal law enforcement agency operating in
544 the District refrain from the use of chemical irritants to disperse a First Amendment assembly.

545 “(c)(1) Less-lethal projectiles shall not be used by MPD to disperse a First Amendment
546 assembly.

547 “(2) The Mayor shall request that any federal law enforcement agency operating in
548 the District refrain from the use of less-lethal projectiles to disperse a First Amendment
549 assembly.”.

550 SUBTITLE Q. POLICE REFORM COMMISSION

551 Sec. 122. Police Reform Commission.

552 (a) There is established, supported by the Council’s Committee of the Whole, a Police
553 Reform Commission (“Commission”) to examine policing practices in the District and provide
554 evidence-based recommendations for reforming and revising policing in the District.

555 (b)(1) The Commission shall be comprised of 20 representatives from among the following
556 entities:

557 (A) Non-law enforcement District government agencies;

558 (B) The Office of the Attorney General for the District of Columbia;

559 (C) Criminal and juvenile justice reform organizations;

- 560 (D) Black Lives Matter DC;
- 561 (E) Educational institutions;
- 562 (F) Parent-led advocacy organizations;
- 563 (G) Student- or youth-led advocacy organizations;
- 564 (H) Returning citizen organizations;
- 565 (I) Victim services organizations;
- 566 (J) Social services organizations;
- 567 (K) Mental and behavioral health organizations;
- 568 (L) Small businesses;
- 569 (M) Faith-based organizations; and
- 570 (N) Advisory Neighborhood Commissions.

571 (2) The Chairman of the Council shall:

572 (A) Appoint the Commission representatives no later than July 22, 2020;

573 and

574 (B) Designate a representative who is not employed by the District
575 government as the Commission’s Chairperson.

576 (c)(1) The Commission shall submit its recommendations in a report to the Mayor and
577 Council by December 31, 2020.

578 (2) The report required by paragraph (1) of this subsection shall include analyses
579 and recommendations on the following topics:

580 (A) The role of sworn and special police officers in District schools;

581 (B) Alternatives to police responses to incidents, such as community-based,
582 behavioral health, or social services co-responders;

583 (C) Police discipline;
584 (D) The integration of conflict resolution strategies and restorative justice
585 practices into policing; and

586 (E) The provisions of the Comprehensive Policing and Justice Reform
587 Second Temporary Amendment Act of 2020, passed on 2nd reading on July 21, 2020 (Enrolled
588 version of Bill 23-826).

589 (d) The Commission shall sunset upon the delivery of its report or on December 31, 2020,
590 whichever is later.

591 SUBTITLE R. METRO TRANSIT POLICE DEPARTMENT OVERSIGHT AND
592 ACCOUNTABILITY

593 Sec. 123. Section 76 of Article XVI of Title III of the Washington Metropolitan Area
594 Transit Regulation Compact, approved November 6, 1966 (80 Stat. 1324; D.C. Official Code § 9-
595 1107.01(76)), is amended as follows:

596 (a) Subsection (f) is amended by adding a new paragraph (1A) to read as follows:

597 “(1A) prohibit the use of enforcement quotas to evaluate, incentivize, or discipline
598 members, including with regard to the number of arrests made or citations or warnings issued;”.

599 (b) A new subsection (i) is added to read as follows:

600 “(i)(1) The Authority shall establish a Police Complaints Board to review complaints filed
601 against the Metro Transit Police.

602 “(2) The Police Complaints Board shall comprise eight members, two civilian
603 members appointed by each Signatory, and two civilian members appointed by the federal
604 government.

605 “(3) Members of the Police Complaints Board shall not be Authority employees
606 and shall have no current affiliation with law enforcement.

607 “(4) Members of the Police Complaints Board shall serve without compensation
608 but may be reimbursed for necessary expenses incurred as incident to the performance of their
609 duties.

610 “(5) The Police Complaints Board shall appoint a Chairperson and Vice-
611 Chairperson from among its members.

612 “(6) Four members of the Police Complaints Board shall constitute a quorum, and
613 no action by the Police Complaints Board shall be effective unless a majority of the Police
614 Complaints Board present and voting, which majority shall include at least one member from each
615 Signatory, concur therein.

616 “(7) The Police Complaints Board shall meet at least monthly and keep minutes of
617 its meetings.

618 “(8) The Police Complaints Board, through its Chairperson, may employ qualified
619 persons or utilize the services of qualified volunteers, as necessary, to perform its work, including
620 the investigation of complaints.

621 “(9) The duties of the Police Complaints Board shall include:

622 “(A) Adopting rules and regulations governing its meetings, minutes, and
623 internal processes; and

624 “(B) With respect to the Metro Transit Police, reviewing:

625 “(i) The number, type, and disposition of citizen complaints
626 received, investigated, sustained, or otherwise resolved;

627 “(ii) The race, national origin, gender, and age of the complainant
628 and the subject officer or officers;

629 “(iii) The proposed and actual discipline imposed on an officer as a
630 result of any sustained citizen complaint;

631 “(iv) All use of force incidents, serious use of force incidents, and
632 serious physical injury incidents; and

633 “(v) Any in-custody death.

634 “(10) The Police Complaints Board shall have the authority to receive complaints
635 against members of the Metro Transit Police, which shall be reduced to writing and signed by the
636 complainant, that allege abuse or misuse of police powers by such members, including:

637 “(A) Harassment;

638 “(B) Use of force;

639 “(C) Use of language or conduct that is insulting, demeaning, or
640 humiliating;

641 “(D) Discriminatory treatment based upon a person’s race, color, religion,
642 national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or
643 expression, family responsibilities, physical disability, matriculation, political affiliation, source
644 of income, or place of residence or business;

645 “(E) Retaliation against a person for filing a complaint; and

646 “(F) Failure to wear or display required identification or to identify oneself
647 by name and badge number when requested to do so by a member of the public.

648 “(11) If the Metro Transit Police receives a complaint containing subject matter that
649 is covered by paragraph (10) of this subsection, the Metro Transit Police shall transmit the
650 complaint to the Police Complaints Board within 3 business days after receipt.

651 “(12) The Police Complaints Board shall have timely and complete access to
652 information and supporting documentation specifically related to the Police Complaints Board’s
653 duties and authority under paragraphs (9) and (10) of this subsection.

654 “(13) The Police Complaints Board shall have the authority to dismiss, conciliate,
655 mediate, investigate, adjudicate, or refer for further action to the Metro Transit Police a complaint
656 received under paragraph (10) of this subsection.

657 “(14)(A) If deemed appropriate by the Police Complaints Board, and if the parties
658 agree to participate in a conciliation process, the Police Complaints Board may attempt to resolve
659 a complaint by conciliation.

660 “(B) The conciliation of a complaint shall be evidenced by a written
661 agreement signed by the parties which may provide for oral apologies or assurances, written
662 undertakings, or any other terms satisfactory to the parties. No oral or written statements made in
663 conciliation proceedings may be used as a basis for any discipline or recommended discipline
664 against a subject police officer or officers or in any civil or criminal litigation.

665 “(15) If the Police Complaints Board refers the complaint to mediation, the Board
666 shall schedule an initial mediation session with a mediator. The mediation process may continue
667 as long as the mediator believes it may result in the resolution of the complaint. No oral or written
668 statement made during the mediation process may be used as a basis for any discipline or
669 recommended discipline of the subject police officer or officers, nor in any civil or criminal
670 litigation, except as otherwise provided by the rules of the court or the rules of evidence.

671 “(16) If the Police Complaints Board refers a complaint for investigation, the Board
672 shall assign an investigator to investigate the complaint. When the investigator completes the
673 investigation, the investigator shall summarize the results of the investigation in an investigative
674 report which, along with the investigative file, shall be transmitted to the Board, which may order
675 an evidentiary hearing.

676 “(17) The Police Complaints Board may, after an investigation, assign a complaint
677 to a complaint examiner, who shall make written findings of fact regarding all material issues of
678 fact, and shall determine whether the facts found sustain or do not sustain each allegation of
679 misconduct. If the complaint examiner determines that one or more allegations in the complaint is
680 sustained, the Police Complaints Board shall transmit the entire complaint file, including the merits
681 determination of the complaint examiner, to the Metro Transit Police for appropriate action.

682 “(18) Employees of the Metro Transit Police shall cooperate fully with the Police
683 Complaints Board in the investigation and adjudication of a complaint. An employee of the Metro
684 Transit Police shall not retaliate, directly or indirectly, against a person who files a complaint under
685 this subsection.

686 “(19) When, in the determination of the Police Complaints Board, there is reason
687 to believe that the misconduct alleged in a complaint or disclosed by an investigation of a
688 complaint may be criminal in nature, the Police Complaints Board shall refer the matter to the
689 appropriate authorities for possible criminal prosecution, along with a copy of all of the Police
690 Complaints Board’s files relevant to the matter being referred; provided, that the Police
691 Complaints Board shall make a record of each referral, and ascertain and record the disposition of
692 each matter referred and, if the appropriate authorities decline in writing to prosecute, the Police
693 Complaints Board shall resume its processing of the complaint.

694 “(20) Within 60 days before the end of each fiscal year, the Police Complaints
695 Board shall transmit to the Board and the Signatories an annual report of its operations, including
696 any policy recommendations.”.

697 TITLE II. BUILDING SAFE AND JUST COMMUNITIES

698 SUBTITLE A. RESTORE THE VOTE

699 Sec. 201. The District of Columbia Election Code of 1955, approved August 12, 1955 (69
700 Stat. 669; D.C. Official Code § 1-1001.01 *et seq.*), is amended as follows:

701 (a) Section 2(2) (D.C. Official Code § 1–1001.02(2)) is amended as follows:

702 (1) Subparagraph (C) is amended by striking the semicolon and inserting the phrase
703 “; and” in its place.

704 (2) Subparagraph (D) is repealed.

705 (b) Section 5(a) (D.C. Official Code § 1-1001.05(a)) is amended by adding new paragraphs
706 (9B) and (9C) to read as follows:

707 “(9B) In advance of any applicable voter registration or absentee ballot submission
708 deadlines, provide, to every qualified elector in the Department of Corrections’ care or custody,
709 and, beginning January 1, 2021, endeavor to provide to every qualified elector in the Bureau of
710 Prisons’ care or custody:

711 “(A) A voter registration form;

712 “(B) A voter guide;

713 “(C) Educational materials about the importance of voting and the right of
714 an individual currently incarcerated or with a criminal record to vote in the District; and

715 “(D) Without first requiring an absentee ballot application to be submitted,
716 an absentee ballot;

717 “(9C) Beginning January 1, 2021, upon receiving information pursuant to section
718 7(k)(3), (4), or (4A) from the Superior Court of the District of Columbia, the United States District
719 Court for the District of Columbia, or the Bureau of Prisons, notify a qualified elector incarcerated
720 for a felony of the qualified elector’s right to vote;”.

721 (c) Section 7(k) (D.C. Official Code § 1–1001.07(k)) is amended as follows:

722 (1) Paragraph (1) is amended by striking the phrase “registrant, upon notification
723 of a registrant’s incarceration for a conviction of a felony” and inserting the phrase “registrant,” in
724 its place.

725 (2) A new paragraph (4A) is added to read as follows:

726 “(4A) Beginning on January 1, 2021, at least monthly, the Board shall request from
727 the Bureau of Prisons the name, location of incarceration, and contact information for each
728 qualified elector in the Bureau of Prisons’ care or custody.”.

729 Sec. 202. Section 8 of An Act To create a Department of Corrections in the District of
730 Columbia, effective April 26, 2019 (D.C. Law 22-309; D.C. Official Code § 24-211.08), is
731 amended by adding a new subsection (b-1) to read as follows:

732 “(b-1) The Department shall notify eligible individuals in its care or custody of their voting
733 rights pursuant to section 201 of the act.”.

734 TITLE III. APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE

735 Sec. 301. Applicability.

736 Section 123 shall apply after the enactment of concurring legislation by the State of
737 Maryland and the Commonwealth of Virginia, the signing and execution of the legislation by the
738 Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval by
739 the United States Congress.

740 Sec. 302. Fiscal impact statement.

741 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
742 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
743 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

744 Sec. 303. Effective date.

745 This act shall take effect following approval by the Mayor (or in the event of veto by the
746 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
747 90 days, as provided for emergency acts of the Council of the District of Columbia in section
748 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
749 D.C. Official Code § 1-204.12(a)).

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