

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON FACILITIES AND PROCUREMENT

ROBERT C. WHITE, JR., CHAIR

MEMORANDUM

TO: Chairman Phil Mendelson
FROM: Councilmember Robert C. White Jr.
Chair, Committee on Facilities and Procurement
DATE: November 24, 2020
RE: Request to Agendize for December 1, 2020



I request that the following measures be added to the agenda for the December 1, 2020 Additional Meeting of the Committee of the Whole, should one be scheduled, and Regular Legislative Meeting pursuant to Council Rule 426. These measures were marked up by the Committee on Facilities and Procurement on November 20, 2020, and have been filed with the Secretary's office.

Measures from the Committee

- **PR23-0704, the “Sense of the Council in Support of Enhanced Metro Transit Police Department Oversight Resolution of 2020”**

PR23-0704 declares the Sense of the Council in support of enhanced oversight over the Washington Metropolitan Area Transit Authority Metro Transit Police Department.

The Metro Transit Police Department (MTPD) of the Washington Metropolitan Area Transit Authority (WMATA) was created by Congress in 1976. The police department is responsible for policing transit rider conduct on trains, buses, platforms, and all facilities owned, controlled, or operated by WMATA throughout the local region. MTPD is staffed with approximately 500 officers, who are fully accredited in the District, Maryland, and Virginia.

Incidents of excessive force that occurred within the District on Metro platforms and trains over the last few years have demonstrated a significant gap in oversight and accountability for the Metro Transit Police Department. Meaningful accountability to any single oversight body is absent for MTPD, with that responsibility spread across three jurisdictions and Congress. This differs from most police departments, who are held accountable to a single community of voters and are responsible to clear and robust civilian oversight.

In a public oversight hearing with MTPD in November 2019, several incidents were discussed in which MTPD officers have used force against riders, including one incident from the summer of 2019, when a teenage African American boy was pinned to a Metrorail platform floor and a bystander who attempted to de-escalate the incident was tasered to the point of severe and permanent injury. Members of the public and representatives of organizations like the Washington Lawyers' Committee for Civil Rights and Urban Affairs, the National Action Network, and the Black Swan Academy called for more transparency and accountability at the November 2019 hearing. They asked for WMATA to publicly post MTPD data, including stop,

search, arrest, and use of force reports, something MPD and many other police departments around the country with greater inherent oversight already do.

Anonymous written testimony received by the Committee following that hearing revealed that some MTPD officers had created and were participating in a contest in which officers were rewarded for making arrests and issuing citations, with greater points for more severe actions, like arresting riders. While verbal confirmation that the contest was discontinued was provided to the Council, MTPD's officer evaluations may still incentivize more aggressive enforcement actions. The Committee on Facilities and Procurement has also heard from current and retired MTPD police officers about a concerning culture within the department, including racist and sexist attitudes, and concerning employee disciplinary and promotion practices. Allegations of racist hostility by officers toward communities of color were also revealed in testimony

PR23-0704 lists reasons why greater oversight over MTPD is necessary, including the issues described above, and provides recommendations through which MTPD, WMATA and the jurisdictions WMATA serves can increase transparency and oversight to regain public trust. A robust Civilian Complaint Board for the MTPD, as proposed in Bill 23-0886, the "Washington Metropolitan Area Transit Authority Police Accountability Amendment Act of 2020", is included as a recommended action within this Sense of the Council. This resolution will help serve as an advocacy tool for the substantive bill upon its passage.

- **B23-0571, the "Health Benefit Exchange Authority Independent Procurement Authority Amendment Act of 2020"**

B23-0571 would remove the sunset provision and grant permanent exemption from the PPRA for the Health Benefit Exchange Authority, with the exception for Council approval of certain contracts.

The Health Benefit Exchange Authority Act of 2011 established the DC Health Benefit Exchange Authority, or the Benefit Exchange. The Benefit Exchange is a public-private partnership mandated to create and operate DC Health Link, the District's online health insurance marketplace, as prescribed in the federal Affordable Care Act.

When the Council established the Benefit Exchange, the initial structure included broad independent procurement authority, on the advice of subject matter experts. In 2013, the Council clarified the Benefit Exchange's independent procurement authority by amending the Health Benefit Exchange Authority Act to more specifically exempt the agency from the Procurement Practices Reform Act (PPRA), with an exception for Council review of contracts over one million dollars and for multiyear contracts.

This PPRA exemption was for five-year period, sun-setting on September 30, 2018. In 2018, the Fiscal Year 2019 Budget Support Act of 2018 extended the sunset provision for the Benefit Exchange's independent procurement authority to September 30, 2023.

The Benefit Exchange was originally granted independent procurement authority because its mandates were mostly prescribed by the federal government through the Affordable Care Act and numerous federal agency rules and regulations. The federal government's mandates and

often come with strict timelines for compliance, which do not always permit time for OCP's procurement procedures.

By all accounts, the Benefit Exchange has been successful in accomplishing its mission of insuring District residents effectively and efficiently. Additionally, the Committee has received no complaints about the Benefit Exchange's use of its procurement authority and the Exchange appears to have put in place robust contracting procedures. The Benefit Exchange has ensured CBEs are prioritized where possible, has exceeded its spending goals as prescribed by the Department of Small and Local Business Development (DSLBD), and has even created new avenues for opportunity for District CBEs through a partnership with the state of Massachusetts.

This legislation was referred sequentially to the Committee on Health and the Committee on Facilities and Procurement. The Committee on Health marked up the bill on January 29, 2020 and the Committee on Facilities and Procurement marked up the bill on November 20, 2020. The CFO concluded that funds are sufficient in the financial plan to implement the bill.

- **B23-0923, the “Helping Children Impacted by Parental Incarceration Amendment Act of 2020”**

Bill 23-0923 was proposed to put the District on a path to identifying and meeting the unique needs of children who have experienced parental incarceration. Young people in these situations are often impacted socially, economically, and academically. This requires the District government to place special attention on their needs so they can be successful. Given the District's high incarceration rate, it is especially important that the city takes the necessary steps to provide assistance to children who have a parent that is justice-involved.

Specifically, the bill would require the Office on Returning Citizen Affairs to first conduct a needs assessment of children experiencing parental incarceration. The needs assessment must look at the health, mental health, socioeconomic, housing, and academic needs of children. Also, the assessment will identify gaps in available resources and estimate the number of children, in total and by each ward, impacted by parental incarceration. After completing the needs assessment, ORCA would be responsible for providing the Council with a strategic plan to meet the needs identified in the assessment, including any needed resources and policy reforms.

The CFO concluded that B23-0923 will cost \$50,000 in fiscal year 2021 and \$100,000 over the four-year financial plan.