

**COUNCIL OF THE DISTRICT OF COLUMBIA
OFFICE OF COUNCILMEMBER BROOKE PINTO, WARD 2
MEMORANDUM**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: Chairman Phil Mendelson
FROM: Councilmember Brooke Pinto *BE Pinto*
RE: Request to Agendize Emergency Measures for the July 11, 2023, Legislative Meeting
DATE: July 6, 2023

I request that the following emergency measures be agendized for the July 11, 2023, Legislative Meeting:

- Prioritizing Public Safety Emergency Declaration Resolution of 2023
- Prioritizing Public Safety Emergency Amendment Act of 2023
- Prioritizing Public Safety Temporary Amendment Act of 2023

The District is currently experiencing a significant spike in violent crime. Through July 5 of this year, there have been 127 homicides, a 19 percent increase from 2022 at the same time. If this pace continues, for the first time in two decades, the District will see three consecutive years where our homicide count exceeds 200. There have also been more than 500 people shot in more than 400 separate incidents.

The District is also experiencing a marked increase in a number of other violent and highly salient crimes. Through July 5, robberies have increased by nearly 50 percent compared with 2022; motor vehicle thefts are up 116 percent; and the District is on pace to double the number of carjackings compared with 2022, which already saw a historic number of carjackings. Overall, in 2023, we have seen a 30 percent increase in violent crime and a 29 percent increase in property crime.

Furthermore, our youth are in crisis. As of the end of June, 12 children under the age of 18 have been killed in the District in 2023 to date; 66 kids have been shot. This puts us on track to easily exceed the 16 kids who were killed and 105 who were shot in 2022. All of this is happening just as we enter the summer months, which typically come with elevated levels of crime.

Importantly, crime—and especially violent crime—is not experienced equally by residents across the District, and is disproportionately felt by residents of color. For example, of the 127 homicides in the District to date, 81—over 60 percent—occurred in police districts in Wards 7 and 8. And 106 of the 127 homicide victims were Black men.

These deeply concerning statistics fail to fully capture the human toll these crimes have on victims and their families, as well as the broader impact on our neighborhoods and local communities. This includes not only the real, lasting trauma experienced by the victims of, and families of victims of, crime, but also the fear felt by residents desperate to see an end to the crime and violence plaguing their communities. What is more, the disproportionate effect violent

crime has on the District's Black residents has a broad, negative effect on these residents' earning power, employment opportunities, access to businesses and public amenities, and the mental health of residents living in impacted communities. Residents across the District have called on the Council to take decisive action to address this spate of crime, and violent crime in particular.

In response to these concerns, on May 15, 2023, Mayor Bowser introduced the Safer Stronger Amendment Act of 2023. The legislation proposes more than a dozen amendments to the District's criminal code aimed at enhancing public safety and addressing gaps in the law that hamper the effectiveness of the District's criminal justice system. The Committee on the Judiciary and Public Safety held a hearing on that legislation on June 27, 2023, where the Council heard from over 160 public witnesses.

Separately, on June 21, 2023, Councilmember Brooke Pinto, Chairwoman of the Committee on the Judiciary and Public Safety, introduced legislation aimed at promoting public safety and accountability within our criminal justice system. That bill, the Accountability and Victim Protection Amendment Act of 2023, was developed in collaboration with the United States Attorney's Office ("USAO") for the District of Columbia, and specifically tailored to close gaps in the law that prevent District prosecutors from holding offenders accountable.

The Committee on the Judiciary and Public Safety intends to advance permanent public safety legislation in the fall, but the timing of the Council's recess and the timeline for Mayoral and Congressional review means that any legislation passed by the Council this year could not be effective until early spring 2024 at the earliest. This bill is appropriately tailored to address policy issues that cannot wait and need to be implemented now to see improvements in the crisis our residents are experiencing.

Thus, this emergency legislation aims to accelerate adoption of several provisions with the public safety bills proposed by the Mayor and Councilmember Pinto. The measures proposed here are tailored to address gaps or areas requiring clarity in the law, provide the Metropolitan Police Department ("MPD") and USAO with the tools and authority necessary to deter, investigate, and prosecute crime, and provide critical support and protections for victims (or potential victims) of crime. The legislation also includes provisions providing more direction to judges weighing whether a person presents a danger to the public such that the person should be held prior to trial. Specifically, the emergency legislation includes language that would:

- Establish a rebuttable presumption favoring pretrial detention where a court finds probable cause that a person committed a violent crime and require courts to issue written findings in cases where they find that the presumption is overcome. The bill also makes a change to require courts to find "probable cause" rather than "a substantial probability" that a defendant committed murder or assault with intent to kill while armed in order to apply a rebuttable presumption in favor of pretrial detention. These changes will provide courts with more direction and flexibility to hold individuals who may be contributing to repeated instances of retaliatory gun violence.

- Establish a rebuttable presumption that detention is necessary for youth in cases where the court finds a substantial probability that the youth committed a crime of violence or a dangerous crime, whether or not it was committed while armed. This limited expansion will ensure that youth can be held when they pose a danger to their peers or the community.
- Create a felony offense of endangerment with a firearm. This offense, a version of which was included in the Revised Criminal Code Act, would help to ensure that offenders who recklessly fire a weapon in public are appropriately held accountable.
- Increase the reimbursement rate for the District’s Private Security Camera System Incentive Program, which increases MPD’s work to solve crimes by providing MPD with access to footage from subsidized cameras. This language will ensure the rebates provided under the program can be sized appropriately to meet costs for these systems.
- Extend liability for certain sexual offenses against children to contractors of organizations. Currently, both employees and volunteers are liable, but not contractors; there is no reason to exclude contractors from liability. This language addresses a long outstanding gap in the law.
- Require that the Criminal Justice Coordinating Council produce, on a quarterly basis, aggregate programmatic data on process and outcome of District programs, including diversion, and outcomes of alternative dispositions and sentencing agreements.
- Make misdemeanor arrest warrants extraditable outside the District where a court finds good cause. This is particularly important given the District’s small size and proximity to Maryland and Virginia.
- Clarify that GPS records in the possession of the Pretrial Services Agency (“PSA”) can be admissible to prove a defendant’s guilt in a criminal case or other judicial proceeding. Current law is unclear on this issue, and while the USAO consistently maintains that the law allows these records to be admitted as evidence of guilt, some defendants have attempted to construe the statutes to the contrary. This measure resolves that question, making clear that GPS records from PSA, where legally in the possession of a prosecutor, are admissible—subject to general evidentiary rules—in that defendant’s criminal trial.
- Prohibit individuals who have been convicted of stalking from possessing a firearm. According to Everytown for Gun Safety, in nearly 9 out of 10 cases of attempted murders of women, there had been at least one stalking incident in the year prior to the attempted murder. This provision will help keep dangerous firearms out of the hands of these potential offenders.
- Direct courts to expedite cases involving a child victim. Currently, the law only expedites cases where a child is called to give testimony; this would expand that to cases where a child is a victim, even where the child doesn’t testify. It would also allow courts to expedite sentencing hearings. These changes would help to minimize the length of time child victims are exposed to the criminal justice process.

- Create a standalone felony offense of strangulation. Strangulation is a key predictor of future domestic violence turning deadly; establishing a standalone felony offense of strangulation will make it easier for the District to hold individuals who engage in this conduct accountable. This change would also bring the District in line with the 49 other states that allow strangulation to be prosecuted as a felony.

This legislation is of course not a panacea to violent crime in the District; it does represent common-sense, meaningful steps toward addressing this recent spate in crime while the Council considers the aforementioned permanent measures in full, continuing to work toward a District that is safe for everyone.

Drafts of the emergency measures are attached. If you have any questions, please contact Michael Porcello, Committee Director, at 724-7808 or mporcello@dccouncil.gov.

cc: Members, Council of the District of Columbia
Office of the Secretary
Office of the General Counsel
Office of the Budget Director
Mayor's Office of Policy and Legislative Affairs