

June 10, 2025

Re: VOTE “NO” ON H.R. 2096 PROTECTING OUR NATION’S CAPITAL EMERGENCY ACT WHICH WOULD ALLOW DANGEROUS OFFICERS WHO HAVE BEEN TERMINATED FOR CRIMINAL CONDUCT OR POLICE MISCONDUCT TO REMAIN EMPLOYED AS D.C. METROPOLITAN POLICE OFFICERS ENDANGERING PUBLIC SAFETY, EVADING ACCOUNTABILITY, AND ERODING PUBLIC TRUST.

Dear Representative:



**National Political
Advocacy Department**
915 15th Street, NW, 6th Floor
Washington, DC 20005-2112
aclu.org

Deirdre Schifeling
Chief Political &
Advocacy Officer

Anthony D. Romero
Executive Director

Deborah N. Archer
President

The American Civil Liberties Union strongly urges you to oppose H.R. 2096 which would make it easier for police officers accused of criminal conduct or police misconduct to be reinstated as D.C. Metropolitan Police Department officers. H.R. 2096 **removes key police misconduct oversight provisions** from The Comprehensive Policing and Justice Amendment Act of 2022 which was signed into law.

H.R. 2096 repeals key portions of current local law that address the [problems highlighted in a recent D.C. Auditor’s report of officers being rehired despite being previously terminated for police misconduct](#) or criminal conduct.

Specifically:

1. H.R. 2096 would reinstate the ineffective, slow, and costly arbitration process for handling cases where officers are accused of crimes or police misconduct and face termination of employment.
2. H.R. 2096 would place a 90-day limit on the police department to start a disciplinary response, but this bill does not place a time limit to take a case to arbitration. From 2015-2021 officers who were fired and/or their representatives allowed years to pass before bringing a case to arbitration resulting in large awards for backpay and high administrative costs for the District.
3. H.R. 2096 would remove the transparency requirement for the police department to publish on a public website a schedule of adverse action hearings in which the proposed discipline for an officer is termination, including the date, time, and location of the hearing, the name and badge number of the officer, and a summary of the alleged misconduct or charges.
4. H.R. 2096 also removes the D.C. Metropolitan Police Chief’s ability to increase proposed penalties for officers.

H.R. 2096 Will Reinstitute Closed-Door Arbitration Hearings for Officers Accused of Criminal Conduct and Police Misconduct, A System Which Puts Dangerous Officers Back in the Metropolitan Police Department and Costs Taxpayers Millions.

H.R. 2096 will institute a police officer negotiated, non-public arbitration for cases where an officer has been or will be fired for misconduct. This system makes it nearly impossible to fire officers from the D.C. Metropolitan Police who have engaged in criminal conduct and conduct that violates civil liberties due to the convoluted and lopsided nature of the arbitration. According to former Metropolitan Police Department Chief Peter Newsham, the arbitration system puts “very bad police officers back into our department.”¹ In 2022, the Office of the District of Columbia Auditor issued a report studying the cases of officers fired and then reinstated by the D.C. Metropolitan Police from 2015 to 2021. Thirty-seven D.C. Metropolitan police officers were fired for allegations criminal conduct, civil rights violations, and officer conduct violations. These dangerous officers were reinstated, on average, 8 years later, and 36 of those officers were paid \$14.3 million in taxpayer dollars.²

Of the 37 police officers who were terminated and then reinstated by the closed-door arbitration system that H.R. 2096 would reinstitute, 17 (46%) were terminated for police misconduct defined as ‘threat to safety’ which meant these officers engaged in conduct that included a risk of harm to persons through action or inaction, such as physical and sexual violence, mishandling firearms, or compromising evidence related to an arrest.³ The other 20 officers (54%) were terminated for reasons such as misrepresentation of injuries, time theft, fraud, and other misconduct that violated the Metropolitan Police rules and code of conduct⁴ (see below for examples from the 2022 audit report).

H.R. 2096 Will Protect Dangerous Police Officers from Being Fired and These Officers Will Continue Their Pattern and Practice of Civil Liberties Violations.

Officers who were fired from the D.C. Metropolitan Police Department for criminal conduct or police misconduct continue their pattern of dangerous behavior and have police misconduct complaints even after being reinstated. As of September 2022, 15 of the 37 officers that were fired and reinstated through the arbitration process which H.R. 2096 will reinstate are still working at the

¹ D.C. Police Reform Commission report, page 173.

² Audit: D.C. Police Fired for Misconduct Often Got Jobs Back, The Washington Post, <https://www.washingtonpost.com/dc-md-va/2022/10/06/dc-police-fired-reinstated-backpay/> (last visited Feb 4, 2024).

³ “36 Fired MPD Officers Reinstated; Receive \$14 Million in Back Pay” Office of the DC Auditor, p.10, <https://dcauditor.org/report/mpd-personnel-settlement-report/> (last visited Feb 4, 2024)

⁴ Id.

Metropolitan Police Department.⁵ Six of the 15 officers (40%) had another official misconduct complaint filed by the Metropolitan Police Department after they were reinstated.⁶ H.R. 2096's arbitration system encourages officers to engage in civil rights violations against the public because dangerous officers know they will simply be reinstated through the arbitration process and cannot be fired.

This bill fails to learn any of the lessons of the murder of George Floyd by police officers: officers with a pattern of misconduct must be removed from employment, not simply cycled back into positions of authority and control.

H.R. 2096 Will Reinstates the 8 Year Arbitration Process That Pays Dangerous Police Officers \$374,000 on Average in Backpay and Costs the District \$895,000 Annually in Personnel Resources

H.R. 2096 does not create a timelier process for the resolution of police misconduct cases. H.R. 2096 will reinstate a termination process that is not public and overseen by arbitrators. This process is heavily skewed to protect dangerous police officers by allowing them to capitalize on a drawn-out arbitration process that does not set any time limits for officers to bring their case to arbitration.

According to a 2022 Report issued by the Office of the D.C. Auditor, from 2015 to 2021, the police officer termination and reinstatement process lasted an average of 8 years, the average amount of backpay the District paid to these officers was \$374,000, and the District personnel and resources spent on these drawn-out arbitration processes totaled an estimated \$895,000 each year for a period of five years.⁷

H.R. 2096 sets a 90-day limit on the police department to commence corrective or adverse action against a police officer or civilian employee but does not place any time limits on the fired officers, or their representatives, to bring a case to arbitration in a timely fashion. Fired officers and their representatives have allowed years to pass before bringing a case for arbitration creating a process that takes, on average, 8 years before a misconduct case is resolved⁸ resulting in costly backpay payouts for the District of Columbia. Additionally, the 90-day time limit in this legislation allows individuals engaged in criminal conduct to avoid any accountability for misconduct through a technical hurdle and one-sided timeline requirement.

⁵ "36 Fired MPD Officers Reinstated; Receive \$14 Million in Back Pay" Office of the DC Auditor, p.1, <https://dcauditor.org/report/mpd-personnel-settlement-report/> (last visited Feb 4, 2024)

⁶ Id, p.14

⁷ "36 Fired MPD Officers Reinstated; Receive \$14 Million in Back Pay" Office of the DC Auditor, p. 9, <https://dcauditor.org/report/mpd-personnel-settlement-report/> (last visited Feb 4, 2024).

⁸ "36 Fired MPD Officers Reinstated; Receive \$14 Million in Back Pay" Office of the DC Auditor, p.18-19, <https://dcauditor.org/report/mpd-personnel-settlement-report/> (last visited Feb 4, 2024)

The officer discipline process H.R. 2096 would reinstate has proven to be excessively slow, a waste of taxpayer money, and puts officers unfit to serve back in the Metropolitan Police Department.

H.R 2096 Creates a Wall of Secrecy and Undermines Public Transparency and Accountability

This legislation will remove the current requirement for the Metropolitan Police Department to publish on a public website a schedule of adverse action hearings in which the proposed discipline for an officer is termination, including the date, time, and location of the hearing, the name and badge number of the officer, and a summary of the alleged misconduct or charges.

Public access to police misconduct information is a key component of accountability and reduces the likelihood that an individual engaging in criminal behavior or police misconduct can simply resign and join another law enforcement agency. A recent study published in The Yale Law Journal found 800 officers in Florida who were fired, some even for serious misconduct, and were rehired at another police department.⁹ Police misconduct records are often inaccessible to the individuals and communities most affected by excessive use of force and police misconduct. H.R. 2096 would remove a critical tool that allows for greater transparency and accountability.

For these reasons, the ACLU strongly urges you to vote “NO” on H.R. 2096. If you have any questions, please contact Nina Patel, Senior Policy Counsel, Justice Division at npatel@aclu.org.

Sincerely,



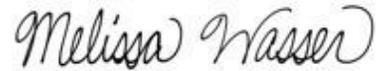
Cynthia W. Rosebery
Director, Justice Division
ACLU National



Monica Hopkins
Executive Director
ACLU District of Columbia



Nina Patel
Senior Policy Counsel
ACLU National



Melissa Wasser
Senior Policy Counsel
ACLU District of Columbia

⁹ The Wandering Officer The Yale Law Journal - Home, <https://www.yalelawjournal.org/article/the-wandering-officer#:~:text=abstract..of%20%20the%20wandering%20officer%20phenomenon> p. 1771 (last visited Feb 4, 2024)