

WE DESERVE TO BE SAFE FROM CRIME AND FROM ABUSE OF POWER

Bill 25-345, "Secure DC Omnibus Amendment Act of 2024"

Allowing officers to escape accountability, to harass people, and to collect DNA on arrest will not make D.C. safer. These types of provisions are not "public safety" solutions; they are measures that open the door for abuse of power. True public safety requires increasing police accountability and trust and protecting due process.

The Problem: Abuse of Power is Unacceptable

Constitutional Violations and Civil Rights Concerns:

- **Anti-Mask Provision:** This provision should be removed from the bill to stay in line with the Police Reform Commission's recommendation.¹ Allowing police to stop people in masks and face-coverings simply because an officer suspects bad behavior would enable police harassment, not prevent crime. This provision is especially troubling now, at a time when people regularly wear masks to protect themselves from COVID-19 and other illnesses. We have seen that police are much more likely to be suspicious of Black people wearing masks than of other people wearing masks.² Reviving the anti-mask provision would therefore enable police harassment and would disproportionately impact the District's Black residents.
- **Drug-Free Zones:** Reinstating drug-free zones that were unanimously repealed in 2014, with then-Councilmember Bowser's support, is not the way to achieve public safety.³ The Constitution requires that, before arresting someone, a police officer has probable cause to suspect that the person intends to commit or is committing an illegal act. Our criminal justice system relies on due process – innocent until proven guilty. Provisions in this bill do the opposite – it treats certain people as guilty until proven innocent. Such zones have historically led to racial profiling and unwarranted harassment, without contributing to public safety. Passing legislation with constitutional problems could open up the District to lawsuits.
- **DNA Collection:** This provision was rightfully removed from the Secure DC Act, and it should not be in this legislation. Collecting DNA on arrest violates our privacy and our presumption of innocence. A person's DNA inherently contains the most sensitive, personal information about them, including ancestry, complete health information, and predictive data about their predisposition to certain illnesses or behaviors that the person may not even know about. Furthermore, being arrested is not the same as being guilty.

Inappropriate Police Power:

- **Sentencing Commission:** The Secure DC Act would add a provision that gives voting membership on the D.C. Sentencing Commission to the Chief of the Metropolitan Police Department (MPD).⁴ It is an inappropriate use of power for MPD, which is responsible for investigating potential crimes and making arrests, to also have a direct role in shaping sentencing policy, particularly when the directors of the D.C. Department of Corrections, U.S. Bureau of Prisons, and the U.S. Parole Commission only have an advisory, non-voting role. In order to make policies that are fair and just, we must keep the separation of powers in place and not give MPD a voting membership.

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Inappropriate Police Power:

- **Harmful Changes to Body-Worn Cameras (BWC):** This legislation would allow officers to view BWC footage prior to writing initial reports in cases that do not involve police use of force. BWC provisions help promote police accountability, deter officer misconduct, and provide objective evidence to help resolve complaints against police. The D.C. Police Reform Commission even recommended permanently prohibiting officers from reviewing their BWC recordings before writing initial reports.⁵

Community Impact and Distrust:

- **Deteriorating Community Relations:** When police officers are allowed to abuse their power without facing consequences, the public can understandably grow reluctant to interact with officers at all. D.C. Council Chairman Phil Mendelson has emphasized that one of the biggest issues with fighting crime in D.C. is MPD's low closure rates for homicides.⁶ The Chairman also noted that one of the barriers to closing cases has been community members not coming forward to speak with the police. Distrust of the police has serious consequences. It undermines the legitimacy of law enforcement and erodes any sense of cooperation between harmed communities and the police.
- **Disproportionately Harms Black People:** An ACLU-D.C. report on stop data mandated by the NEAR Act found that D.C. police disproportionately stop and search Black people in the District. In 2020, Black people made up roughly 46% of the D.C. population, but 74.6% of the people stopped.⁷ The link between stops and race is more than correlational. 86.5% of the stops and 90.7% of the searches that resulted in no warning, ticket, or arrest were of Black people.⁸ The stops and searches are the ones most likely to arise from innocent conduct, so it's deeply disturbing that Black people, once again, almost certainly will make up the vast majority of people subjected to stops or searches, despite not violating the law.

The Solution: Say NO to abuse of power

To truly enhance public safety, District leaders should build a comprehensive public safety system that focuses on prevention, effectiveness, and accountability. This includes implementing the Police Reform Commission's recommendations, rejecting unconstitutional laws, and investing in community-based programs that have proven effective in reducing violence. Embracing evidence-based, equitable, and just policies will foster a more secure, trusting community environment as the path toward a safer and more just D.C.

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1 Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission," 119 (April 1, 2021), <https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf>

2 <https://www.nytimes.com/2020/04/14/us/coronavirus-masks-racism-african-americans.html>

3 Bill 20-0760, Repeal of Prostitution Free Zones Amendment Act of 2014, <https://lms.dccouncil.gov/Legislation/B20-0760>.

4 Bill 25-345, Secure DC Omnibus Amendment Act of 2024

5 Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission," 169 (April 1, 2021), <https://dccouncil.gov/wp-content/uploads/2021/04/Police-Reform-Commission-Full-Report.pdf>

6 https://dc.granicus.com/MediaPlayer.php?view_id=3&clip_id=8387

7-8 https://www.acludc.org/sites/default/files/field_documents/2021_03_10_near_act_update_vf.pdf