

# Stop the ACTIVE Amendment Act Say NO to Abuse of Power in D.C.

**Every District resident deserves safety and security. Our safety matters, and so do our civil rights. But the ACTIVE Act puts both at risk.**

The ACTIVE Act is not a true "public safety" bill. It's an "abuse of power" bill that threatens our fundamental liberties with warrantless searches and expanded pretrial detention.

With its troubling provisions that undermine our civil rights and liberties, the ACTIVE ACT will not make D.C. any safer. In practice, it could actually make the District less safe.

## **What's the solution?**

The Council should vote no on this bill in its current form. Instead, District leaders should build a comprehensive public safety system that focuses on prevention, effectiveness, and accountability. For example, the Council could implement the Police Reform Commission's recommendations.

## **Here's how the ACTIVE Act compromises our safety and our civil rights and liberties.**

**The ACTIVE Act (B25-0479) puts our safety and rights at risk by subjecting certain people to warrantless searches.**

**If passed, the ACTIVE Act would allow police to search certain people without a warrant, and without cause, any time they are out in public – or even at a friend of family member's house.**

- The Courts released a letter raising concerns about whether the legislation violates the 4th Amendment's prohibition on warrantless searches of individuals without probable cause.
- In practice, how will a police officer be able to tell who is constitutionally presumed innocent and awaiting trial and who is on a specific term of release that could subject them to a search?
- The bill language itself acknowledges the risk of abuse. The drafters felt the need to include this line: "It is not the intent of the Council to authorize law enforcement officers to conduct searches for the sole purpose of harassment." Yet, by authorizing warrantless searches, with or without cause, at any time, this legislation puts some people at risk of just this sort of abuse and harassment.

**In practice, Black people in the District will be the most likely to bear the brunt of accelerated searches.**

- An ACLU-D.C. report found that D.C. police disproportionately stop and search Black people.<sup>1</sup> In 2020, Black people made up roughly 46% of the D.C. population, but 74.6% of the people stopped.
- 90.7% of the searches that resulted in no warning, ticket, or arrest, were of Black people.<sup>2</sup> It's deeply disturbing that Black people, once again, almost certainly make up the vast majority of people subjected to stops or searches despite not violating the law.

**The search provisions waste police resources.**

- MPD's current stop and frisk tactics raise concerns over their effectiveness at removing firearms. An ACLU-D.C. report showed that only 1% of all stops in 2020 and 0.6% of all stops in the five-month 2019 period recovered firearms.<sup>3</sup>
- Especially in difficult times, police should not be engaging in searches without cause. Legislation that allows for searches "with or without cause" is a recipe for broad, unfocused searches that may not even uncover criminal activity.

**The search provisions could further damage community trust in police.**

- When police officers are allowed to abuse their power without facing consequences, the public can understandably grow reluctant to interact with officers at all.
- 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.

**Visit [acludc.org/abusepowerbill](https://acludc.org/abusepowerbill) to tell D.C. Councilmembers to say NO to abuse of power and to Stop the ACTIVE Act.**

# Stop the ACTIVE Amendment Act Say NO to Abuse of Power in D.C.

***Our safety matters, and so do our civil rights. But the ACTIVE Bill compromises both.***

In its current form, the ACTIVE ACT is not a “public safety” bill. It’s an “abuse of power” bill.

With its troubling provisions that undermine our civil rights and liberties, the ACTIVE ACT will not make D.C. any safer. In practice, it could actually make the District less safe.

Any approach to public safety that is true to our values as a District must respect District residents’ civil rights and civil liberties.

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***Here’s how the ACTIVE Act compromises our safety and our civil rights and liberties.***

**The ACTIVE Act (B25-0479) puts our safety and rights at risk by expanding pretrial detention.**

**If passed, the ACTIVE Act makes it harder for judges to release people accused of certain crimes before their trial.**

**Pretrial detention is a severe restriction and should be used very rarely in a free society.**

- Just three days in jail can upend a person’s life. They can lose their job, their housing, even custody of their children, just for being accused of a crime.
- If people are held in jail for weeks or even months before their trial, they might feel pressure to plead guilty, even if they are innocent, so they can get back to their families, work, or school. But then they would have a criminal record, and that would have consequences for the rest of their life.
- The tragic truth is that nobody comes out of jail in a better position to care for themselves or their family.

**If preventing crime and violence is the goal, pretrial detention is not the way.**

- Pretrial releases in the District are not driving crime: 92 percent of people released from pretrial are not rearrested and only 1 percent are rearrested for a violent offense while awaiting trial.<sup>4</sup>
- Locking more people up pretrial can have a negative effect on public safety. Even short periods of unnecessary detention increase a person’s risk of re-arrest. A 2023 study’s results suggested that “spending more than 7 days in pretrial detention was associated with an increased probability of a new arrest and new violent arrest earlier.”<sup>5</sup>

Footnotes:

1 [https://www.acludc.org/sites/default/files/field\\_documents/2021\\_03\\_10\\_near\\_act\\_update\\_vf.pdf](https://www.acludc.org/sites/default/files/field_documents/2021_03_10_near_act_update_vf.pdf)

2 [https://www.acludc.org/sites/default/files/field\\_documents/2021\\_03\\_10\\_near\\_act\\_update\\_vf.pdf](https://www.acludc.org/sites/default/files/field_documents/2021_03_10_near_act_update_vf.pdf)

3 [https://www.acludc.org/sites/default/files/field\\_documents/2021\\_03\\_10\\_near\\_act\\_update\\_vf.pdf](https://www.acludc.org/sites/default/files/field_documents/2021_03_10_near_act_update_vf.pdf)

4 <https://www.psa.gov/sites/default/files/FY%202022%20Agency%20Financial%20Report.pdf>

5 [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4503725](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4503725)