

VICTIMS OF VIOLENT CRIME IN THE
DISTRICT OF COLUMBIA

HEARING

BEFORE THE

SUBCOMMITTEE ON CRIME AND FEDERAL
GOVERNMENT SURVEILLANCE

OF THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

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VICTIMS OF VIOLENT CRIME IN THE DISTRICT OF COLUMBIA

Thursday, October 12, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT
SURVEILLANCE

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 10:08 a.m., in Room 2141, Rayburn House Office Building, the Hon. Andy Biggs [Chair of the Subcommittee] presiding.

Members present: Representatives Biggs, Jordan, Gaetz, Tiffany, Kiley, Lee, Jackson Lee, Nadler, McBath, Dean, and Johnson.

Also present: Representative Ivey and Delegate Norton.

Mr. BIGGS. [Presiding.] Good morning.

The Judiciary Committee's Subcommittee on Crime is called to order. We thank all of you for being here.

We will begin with the Pledge of Allegiance offered by the gentleman from California, Mr. Kiley.

[Pledge of Allegiance.]

Thank you, Mr. Kiley, and thank each of you.

Without objection, the Chair is authorized to declare a recess at any time.

We welcome everyone to today's hearing on Victims of Violent Crime in the District of Columbia.

Without objection, the gentlelady from the District of Columbia, Ms. Norton, will be able to participate in today's hearing to question witnesses if a member yields their time for that purpose. We are grateful to have Ms. Norton visiting with us today. Thank you.

I now recognize myself for an opening statement.

We welcome, again, each of you to our hearing today in the Nation's Capital. We especially thank all our witnesses. We are grateful to have you here.

The crime we are witnessing just a few blocks from this building is unprecedented. No section of the city can be considered safe anymore, and the man who is in charge of prosecuting the criminals has abandoned his responsibilities. That is Matthew Graves, U.S. Attorney for the District of Columbia, who was appointed by President Joe Biden. He is failing to prosecute criminals.

His office has consistently declined to prosecute criminals in the District. In 2021, the U.S. Attorney's Office for the District of Columbia opted against prosecuting 67 percent of arrests presented in the D.C. Superior Court.

To provide context, out of the 15,315 arrests made in D.C., 10,261 did not lead to prosecution. In comparison, in 2015, the U.S. AODC only declined to prosecute 35 percent of cases, which suggests that the office under Graves' leadership is failing to prosecute crimes and protect the public.

In just a few short years, the city went from having 65 percent of cases prosecuted to having 65 percent of cases dropped—a complete reversal that has had a catastrophic impact on public safety. Mr. Graves has indicated that the type of cases he is refusing to prosecute are primarily illegal gun possession and illegal drug possession cases.

Without fail, we can anticipate that my Democratic colleagues will call for more gun control, but President Biden's handpicked prosecutor for Washington, DC, refuses to enforce gun laws already on the books.

Violent crime rates in Washington, DC, have seen a significant spike this year. Just last week, the District surpassed 200 homicides—the quickest the District has hit this mark at this point in the year this century.

As of October 3, 2023, violent crime is up 38 percent from the same time last year. For example, as of October 4, 2023, MPD data shows 750 reported carjackings, of which an alarming 75 percent involved weapons. However, there have only been 113 arrests for carjackings this year—with juveniles responsible for an astonishing 65 percent of those carjackings.

Additionally, as of October 4th, year-to-date statistics for 2023 reveal 216 homicides, 123 cases of sexual abuse, 2,656 robberies, and 1,110 assaults involving dangerous weapons. As of October 4, 2023, the District has witnessed 4,105 violent crimes and 21,980 property crimes.

The criminals know they will not be prosecuted by U.S. Attorney Matthew Graves, but Matthew Graves is not the only one soft on criminals in Washington, DC. City leadership slashed the Metropolitan Police Department budget by, roughly, \$15 million in 2021, and the Washington, DC, City Council has passed laws that embolden criminals and hamstring the police.

In November 2022, the D.C. City Council voted unanimously on a bill to overhaul the Criminal Code, which reduced the maximum sentence for almost all violent crimes and eliminated mandatory minimums for all crimes, except first degree murder. That proposal was vetoed by the mayor, which was later unanimously overridden. The bill was so radical that bipartisan majorities in both the House and Senate passed a resolution to prohibit it from becoming law and President Biden signed it.

In the wake of the May 2020 of George Floyd, the District City Council passed police reform legislation that radically changed policing in the District. Unfortunately, city leadership has not always supported law enforcement, and that shows up in recruiting, and failure to retain officers who they have spent money training have simply been let go.

Today, we will hear from a former Assistant U.S. Attorney, an MPD detective, and victims of crime about ways to make this city safe again.

At this time, I have two articles that I'm going to enter into the record—one called "The D.C. City Council Failed at Criminal Justice Reform—Congress Must Fix It," and another called "The Blue City Murder Problem." Those will be admitted to the record without objection. Seeing none.

Now, I am going to show a short video.

[Video played.]

I thank again the witnesses for being here. I look forward to your testimony. We appreciate your being here, and all in the audience and the Members of the Committee being here.

I yield and now recognize the gentlelady from Texas, the Ranking Member, Ms. Jackson Lee.

MS. JACKSON LEE. Mr. Chair, thank you so much for your courtesies.

Thank you to my colleagues that are here, Ranking Member Nadler, Congresswoman McBath, and Congresswoman Dean. We are pleased that the District of Columbia Representative, Congresswoman Eleanor Holmes Norton, is present today to make many efforts to hear her voice.

Let me be very clear. We are in the midst of disarray. We have no Speaker. For those of you who watch Democrats come in, we are in a very serious caucus meeting, which is our responsibility. So, please forgive us for any short delay that you may have seen. It is no offense intended.

The first thing I want to say is to those who have been victims of crime—that there is no greater responsibility for those of us in Congress and those of us in local government, those of us who will lead cities and those of us who lead cities, to realize that our people, the people there, are our greatest responsibilities.

I want to be a problem solver and a crime fighter. So, having lived here even before I was a Member of Congress, and enjoyed the blessings of being a resident of the District of Columbia or working in the District of Columbia, I can assure you I have a great affection for this city—separate and apart from its historic responsibility or role as the Capital of the United States, which I tell all my elementary school children about how important Washington is.

I do want to say that we need to be serious about what has happened to you, as a victim, and my colleagues seem to want to exaggerate not your injury and the fear, but the idea that we were also attacked on January 6, 2021, when there were no voices from my friends on the other side of the aisle about the violence that came to this city and no interest in voting for the commission that we were trying to put forward.

So, I want to make sure that, when this hearing gets through, that we have solutions for you, and that we either work with Federal funds, which I know that your Member is working on. As I do so, let me be very clear: This is a challenging moment. We embrace our victims. We want them to be, in essence, never victims again, but protected in the status that they are in.

In the record, I must place the 10 cities that employed the most police officers per capita in 2022: Washington, DC, 542.91 per 100,000. It doesn't mean, residents, it doesn't mean not more are needed. It means we need to work together. The 10 cities that spent the most on policing per resident in 2022: Washington, DC, No. 1; \$751.62 per person.

So, we need to find a way to get to the core of the violence, the violent criminals off the street. This uptick in crime is concerning, not only for the residents who call this city home, especially in the areas of the city that bear the brunt of the most violence, but also for the millions of visitors who come to experience its rich history, culture, its warmth, and important political institutions.

That is why I hope we will have a genuine discussion today that focuses on solutions. We can't win by finger-pointing. We are in the midst of finger-pointing now, and we have no Speaker.

It is essential that Congress prioritize the safety and security of those who live, work, and visit the District by ensuring that the Federal government, we must do our part. I am a big believer in Federal resources matching local resources for your safety.

The District of Columbia is unique in many ways, and one of them is the complex relationship it shares with the Federal government. While its status as the Nation's Capital brings many benefits, it also brings many challenges. We are in here every day as guests, but we also create an extra financial burden.

In combating violent crime, the District of Columbia has taken a multifaceted approach that includes passing emergency legislation, supported by the mayor, that filled in gaps in pretrial detention procedures for violent criminals. We are holding, you are holding more of these criminals now; bolstering law enforcement programs and recruitment; and implementing community policing initiatives and instituting a juvenile curfew in certain hotspots.

We know that we have to work with juveniles. We know they are in the midst of juveniles going forward into the 20s, are those who are in the mix. Those in their late 20s are the ones with most of the gun violent incidences. We understand that.

So, enhancing the use of technology, such as CCTV cameras, to combat crime. Additionally, the District has focused on crime prevention strategies, such as increased investment in youth programs, education, and job opportunities for at-risk individuals.

It doesn't help you say that there is a crime wave across America. Every city has to take responsibility, and I realize that, because people are in pain.

The District's response to any type of crime, whether violent or not, can be complicated by overlapping jurisdictions and responsibilities between local and Federal law enforcement. I want to find a smoother way of finding that common ground that they can work together, along with your distinguished Member of Congress.

We know that the Federal government's presence in the District, while providing unique opportunities for collaboration, also creates challenges. We want to, for instance, despite the obvious needs for agencies from both governments to work together and share information vital to public safety, like the identity of an individual suspected of committing multiple robberies, communication between the two agencies or entities can be stymied by legal red tape. Let's

stop that. That is why it is crucial for Congress to ensure coordination and communication among the multiple agencies that possess jurisdiction over different areas of the criminal justice system.

I hope our witnesses today will offer solutions, establish greater coordination and cooperation between the local and Federal law enforcement. We must also consider the resources required to combat violent crime. Getting violent criminals off the street is what we all should, collectively, want to do.

Wraparound services and helping those who can get out of the criminal mindset, get them away from this, and you won't see them again. Let's not eliminate that opportunity. Let's deal with mental health services that may also be engaged.

Both the local and Federal governments must continue to allocate sufficient funding and investment in resources for law enforcement agencies, crime prevention programs, community initiatives, and as they perceive in the local government, the need for additional law enforcement officers and public safety. Helping to strengthen these vital institutions will support the District's ability to address the underlying causes of violent crime.

I spoke with the U.S. Attorney for the District of Columbia, Matthew Graves, who lives in the District, loves this city, and it will have the same impact on him as any other person that may be subject to the acts of a violent criminal. He is using every tool that he has available to address violent crime, including carjackings, robberies, as well as the flow of illegal guns in the city from States, from Virginia and Georgia.

I did not hold up on the inquisition that I gave of him yesterday in a very lengthy conversation. He assured me that they are at a point where 90 percent of the individuals arrested for the most serious violent crimes, which are homicide, carjacking, rape, and assault with intent to kill, are being prosecuted.

He also noted that a significant decrease in number of cases that his office chooses not to prosecute after inheriting a declined unit—excuse me—a declined rate of 70 percent. He is working to get rid of that number and to prosecute cases.

So, there is a stitching-together and work, but we must do a lot to help move forward the crime lab, get it on its feet, and get it where it is moving cases forward. We can be helpful in that, and I hope the Congresswoman will allow us to be helpful or to instruct us how best to do that.

As Democrats continue to offer solution after solution to make all American communities safer to work, it is important that we rid the streets of illegal firearms—let's not make light of that—hold offenders accountable; address the root causes of violence, such as poverty and housing and civility and addiction. Republicans have yet to join us on all these issues. We can't just point the finger; we have got to work on all of them.

The surge of violent crime in the District is a problem. I want to hug every victim, but I would like to say I don't want you to be a victim. I don't want victims in Houston, Texas. I want to make sure that we get to this point, that we live in safely in the Nation and in our communities.

So, we can establish stronger partnerships, sharing information, and as well, making sure that we are together as not only Washingtonians, that we are now, but as Americans.

Mr. Chair, I'm yielding a second to Congresswoman Eleanor Holmes Norton.

I'm yielding you a moment just to comment on the record.

You are going to yield to her?

Mr. BIGGS. Yes.

Ms. JACKSON LEE. All right.

Mr. BIGGS. Yes, she will be yielded time.

Ms. JACKSON LEE. She will be yielded.

Mr. BIGGS. Yes.

Ms. JACKSON LEE. I just wanted to make sure. Thank you so very much. Thank you, Chair and Ranking Member Nadler.

By establishing this ability to work together, my goal here is to sit here and listen to you with respect, and my mind will be calculating how we continue to work with you, your mayor, our law enforcement, your Washingtonians, your excellent Member of Congress, and the Federal government, to do what we are supposed to do, which is to ensure the national safety of the American people.

With that, I yield.

Mr. BIGGS. I thank the gentlelady.

Without objection, the gentleman from Maryland, Mr. Ivey, will be able to participate in today's hearing and to question witnesses if a Member yields him time for that purpose.

The Chair now recognizes the Chair of the Full Committee, Mr. Jordan, for his opening statement.

Chair JORDAN. I thank the Chair.

Crime is out of control, and everybody knows it. More importantly, everybody knows why. When you defund the police, and you have prosecutors who go soft on crime, you get more crime. This doesn't take a genius to figure this out. We have done field hearings in New York, field hearings in Chicago. Everybody tells us the same thing. Frankly, when you disparage the good men and women who put on the uniform, risk their life every day in our streets, you also get a shortage of police officers and more crime.

Never forget: Bad guys aren't stupid; they are just bad. If they know there are less police on the street to stop them and they are not going to get prosecuted if they do get caught, they do bad things. That is what we have all got to understand. This is as basic as it gets.

So, I want to thank our witnesses for being here. I thank the Chair for this hearing.

We have heard this in New York and Chicago, and we are going to other cities. We have to change this. We have to begin to say to our law enforcement, "Thank you. Thank you for doing a tough job." That is what is at stake here.

Mr. Chair, I thank you again for this hearing and our witnesses for being here today. I yield back.

Mr. BIGGS. I think the gentleman, Mr. Chair, for yield back.

I now recognize the Ranking Member of the Full Committee, Mr. Nadler, for his opening statement.

Mr. NADLER. Thank you, Mr. Chair.

Mr. Chair, no one should be afraid in their own community. No one should be afraid to walk to school, to go to their neighborhood park, or to drive home to their families after a long day at work.

We all share a commitment to protecting our communities, and I want to thank our impacted witnesses for appearing today and for sharing their stories.

The COVID-19 pandemic destabilized many communities nationwide, exacerbating root causes of violent crime, like poverty and joblessness. It left many of our young people without the day structure and mentors to help them succeed.

While some cities have largely recovered from the effects of the pandemic, Washington, DC, still has more work to do to improve public safety. Make no mistake, our Republican colleagues have not called this hearing to help D.C. solve problems.

They were not looking to solve problems when they called a hearing on victims of violent crime in Manhattan just two weeks after its District Attorney charged President Trump with multiple felonies. They were not looking to solve problems when they held a roundtable in Chicago mere days before a potential government shutdown.

So, too, today, as Republicans struggle to elect a new Speaker, sending the House spiraling into new depths of chaos and dysfunction. This hearing is yet another attempt to distract and mislead the American people. We won't fall for it.

The Republican majority offers no policy solutions that would actually protect residents of Washington, DC, or other big cities. Instead, they seek only to flood these cities with more guns, while they work against meaningful legislation to invest in our communities and support proven public safety measures.

Remember that, under Democratic control, the House passed the VICTIM Act, legislation that would provide \$100 million a year to law enforcement to help solve homicides, but 178 Republicans voted against it. That is 178 Republican Members who opposed the bill to help prosecute murderers.

Fifty-five Republicans opposed the Invest to Protect Act, a bill that would have authorized \$300 million in grants for law enforcement agencies with fewer than 125 officers.

Now that Republicans are in the majority, not only have we not taken any of these bills back up, but they are actually looking to cut funding for dozens of critical grants and government services that support State and local law enforcement. How exactly is this supposed to protect victims of violent crime in Washington, DC?

Meanwhile, D.C. has the highest per capita spending on police in the country. Also, D.C. has the largest per capita police force, the most officers per resident of any city in the country.

So, D.C. is investing in law enforcement, and it will keep investing in law enforcement, but Democrats know that this is just part of the answer. Law enforcement, to be effective, it also has to have the trust of the community it serves. Officers have to be able to get tips from community members to solve crimes.

That is why we supported the George Floyd Justice in Policing Act to fund training, promote accountability, and strengthen public trust; 212 House Republicans—that is to say, all of them at the time—voted against it.

Now, communities have fewer homicides when there are fewer illegal guns. That is why we established a Federal crime for gun trafficking and straw purchasing in the Bipartisan Safer Communities Act. It became law over the objections of 193 Republicans who voted against it.

Crime prevention is about much more than law enforcement. That is why we passed the Break the Cycle of Violence Act to invest in community violence intervention and job training programs for 16–24-year-olds; 207 Republicans voted against it.

Time and time again, Democrats have put forth comprehensive public safety solutions to fund law enforcement, support community partners, provide job opportunities, and combat gun trafficking. Republicans have opposed these efforts over and over; instead, offering hearing after hearing that serve as nothing more than a press release.

These political stunts are not a solution, but they are all Republicans have to offer. Don't forget that, when a violent mob of right-wing extremists stormed the Capitol on January 6th, following encouragement from Donald Trump, few of our Republican colleagues were worried about violent crime in D.C. on that day.

When that mob beat police officers, including both Capitol Police and the D.C. Metropolitan Police who came to provide support, many of our Republican colleagues downplayed the brutality that these officers faced.

When Speaker Pelosi brought forth a bill to honor the Capitol Police and the D.C. Police with Congressional gold medals, 21 Republicans, including Members of this Committee, voted against it.

Finally, I want to address a statistic that came up in a different hearing that Republicans on the Oversight Committee held, which is also intended to beat up D.C., and also came up in the Chair's opening statement this morning. They attacked the U.S. Attorney for the District of Columbia, Matthew Graves, for declining to charge 67 percent of the arrestees referred to his office in Fiscal Year 2022, implying that he is soft on crime.

What they didn't mention is that the rate of charges for the most serious violent crimes is much higher. In fact, it is 90 percent. Their misleading statistic also ignore the fact that some cases are not resulting in charges because there simply isn't enough evidence at the time of arrest to support a charge. The U.S. Attorney's Office continues to investigate these cases and may bring charges later, but those charges are not reflected in that misleading statistic. Further, some charges are not pursued because the victim simply does not want to press charges, and the government does not have enough evidence to proceed without the victim's testimony.

In any case, the U.S. Attorney is a Federal official, and if we want him to do more, we can give him more resources. That would require real action from a Republican majority that cannot even manage the basic functions of government, and that appears more interested in defunding the FBI, the ATF, and other Federal law enforcement agencies, than in offering solutions to communities that need our help.

I look forward to hearing from our witnesses about how the many solutions that Democrats have offered can improve public

safety in D.C. and across our Nation. Unlike our colleagues, we are ready to act.

I yield back.

Mr. BIGGS. Without objection, all other opening statements will be included in the record.

Mr. BIGGS. I will now introduce today's witnesses.

Detective Gregg Pemberton, thank you for being here.

Mr. Pemberton is a retired D.C. Metropolitan Police Department detective, who serves as the Chair of the D.C. Police Union. He represents more than 3,600 officers and has testified before Congress previously about the challenges that police officers face on the job.

Are you not retired?

Mr. PEMBERTON. I'm an active-duty detective, sir. Thank you.

Mr. BIGGS. Well, maybe I got that wrong. I think I did get that wrong. I apologize.

Mr. PEMBERTON. I'll take you up on being retired.

[Laughter.]

Mr. BIGGS. Sorry. I apologize, Detective.

Mr. Gaynor Jablonski is the owner of the Valor Brewpub, a veterans-focused bar in Washington, DC. On June 29, 2023, he was attacked inside his business while his four-year-old son was present. The assailant pointed a gun at Mr. Jablonski and his son. D.C. prosecutors offered the assailant a plea deal and released him, pending sentencing.

Mr. Mitchell Sobolevsky. Mr. Sobolevsky was robbed at gunpoint in Washington, DC. His assailant, subsequently, had his sentence reduced and went on to rob two additional people.

Mr. Charles "Cully" Stimson is the Deputy Director of the Edwin Meese Center at the *Heritage Foundation*. His work focuses on criminal law and drug control policies, as well as issues related to national security and armed conflict.

Ms. Myisha Richards is a firefighter and paramedic in Washington, DC. On July 31, 2020, she was assaulted and beaten by two people who called 911 for assistance. One of her attacker's cases was dropped, while the other was recently sentenced to approximately 60 hours of community service.

Deputy Mayor Lindsey Appiah. Ms. Appiah serves as the deputy mayor for public safety and justice in Washington, DC. She previously served as Assistant General Counsel and interim Director of the D.C. Department of Youth Rehabilitation Services.

Mr. Thomas Abt is the Chair of the Violent Crime Working Group and a Senior Fellow at the Council on Criminal Justice. His research focuses on violent crime and other public safety problems.

Again, thank you, each of you, for being here today. We look forward to your testimony. It is important, and I know you are going to provide us with some real enlightenment today.

We will begin by swearing you in. Would you each please rise and raise your right hand?

Do you swear or affirm under penalty of perjury that the testimony you are about to give is true and correct to the best of your knowledge, information, and belief, so help you God?

Let the record reflect that the witnesses have answered in the affirmative.

You may be seated.

Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes. I think that the light will go yellow right there when you have a minute left. You might hear me lightly tap right about five minutes, so you will know to wrap up, if you haven't wrapped up yet.

So, we are going to begin today with Mr. Stimson first. You are recognized, sir, for five minutes.

STATEMENT OF CHARLES STIMSON

Mr. STIMSON. Chair Biggs, Ranking Member Lee, and Members of the Subcommittee, thank you for inviting me to testify here this morning. My name is Charles Stimson. I am a Senior Legal Fellow at the *Heritage Foundation*, but I am testifying in my own capacity to offer solutions.

In the last 30 years, I have practiced criminal law as a criminal defense lawyer; a prosecutor at the local, State, and Federal level in four jurisdictions; and a trial judge in the Navy JAG Corps. I also served as an Assistant United States Attorney here in D.C. in the U.S. Attorney's Office. I was born here in the District.

Let me start by saying the obvious. The goal of the criminal justice system is narrow, but noble. It is to help solve crime. It is to enforce the criminal laws on the books in a fair, constitutional and predictable manner. It is not designed to fix society's ills. We have a murder problem in this city. If D.C. was a State, it would have the highest homicide rate per 100,000 residents of all States.

In my testimony, I want to address five quick points.

First, the D.C. City Council's laws and statements by members of that council have eroded accountability and contributed to the rise of crime across the city. The council has proven themselves incapable of creating a revised criminal code for the District. Their goal was to shrink the system, not hold criminals accountable. They had a decarceration agenda from the start. The laws they passed were so radical that they eliminated all mandatory minimum sentences of all crimes except first degree murder.

Second, the D.C. U.S. Attorney's Office currently has policies and practices that undermine public safety in the city. Let me give you two examples.

(1) *Guns*. The use of guns by career felons is a huge problem in this city. Every single day, the MPD arrests felons in possession of firearms. Ask Greg Pemberton. Yet, instead of prosecuting those felons in Federal District Court under 18 U.S.C. 922(g) where they would receive a mandatory minimum sentence of at least five years, the Office instead takes those cases to D.C. Superior Court where they often get probation and hardly ever prison time. That is a policy choice.

(2) The Office has a 67 percent declination rate as the Chair mentioned. It was 31 percent in 2015. The same size office, 330 prosecutors exist in San Diego. Over a 20-year period that office has had a 22.6 percent declination rate. San Diego doesn't have a crime problem. D.C. does.

Third, the judges of the D.C. Superior Court had eroded accountability in the criminal justice system by the notoriously light sentences across all categories of crime contributing to a culture of

lawlessness in our city. The local appeals court in the city, the D.C. Court of Appeals, has issued opinions in the last few years that Congress should review since they have caused restrictions to be placed on law enforcement authorities and prosecutors that are far beyond the requirements of the U.S. Supreme Court in precedent.

Fourth, D.C. Attorney General's Office, or OAG, handles juvenile crimes, for decades has failed in its mission to hold violent criminals accountable including murderers and armed carjackers. Most youths, let me be clear, need to be and are handled in the juvenile justice system. We need a juvenile justice system in this country, but there are certain crimes like murder, armed robbery, armed carjacking, rape, child sexual abuse, and other heinous crimes that should be handled in the adult court. Congress should strip the OAG from prosecuting all crimes and give that to the D.C. U.S. Attorney's Office.

Finally, the D.C. Crime Lab's loss of its certification or suspension of its certification is emblematic of D.C.'s dysfunctional government as a whole. Opened in 2012 at the cost of \$210 million, the Crime Lab has had problems from the beginning. The lab had its accreditation suspended in 2021, so the U.S. Attorney's Office had to use other labs. If the lab gets its accreditation back next year, there is no guarantee it won't lose it again. It is time to solve the problem and offer a solution. Congress should Federalize the lab and give it to the FBI, DEA, and ATF which would then handle all DNA, firearms, fingerprint, and other forensic evidence requests from the D.C.'s U.S. Attorney's Office.

In conclusion, the crime problem here is a man-made problem. Criminal justice reform is not rocket science. The vast majority of victims of violent crime in our city are minorities. They deserve to live in peace. They deserve to sleep well at night and not worry about their kids getting shot. They deserve, just like the rest of us, their public safety privilege in their neighborhoods. Thank you for the opportunity to testify and I look forward to your questions.

[The prepared statement of Mr. Stimson follows:]

**OVERSIGHT HEARING:
“VICTIMS OF VIOLENT CRIME IN THE DISTRICT OF COLUMBIA”
TESTIMONY BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE
OCTOBER 12, 2023**

WRITTEN STATEMENT OF CHARLES D. STIMSON

Chairman Biggs, Ranking Member Lee, Members of the Subcommittee:

My name is Charles D. Stimson. I am a Senior Legal Fellow at The Heritage Foundation.¹ Thank you for the opportunity to testify about the ongoing violent crime crisis in Washington, D.C. I have written² about many of the issues related to the Committee’s hearing and have practiced criminal law for 30 years as a criminal defense attorney and as a prosecutor, including as an Assistant United States Attorney (AUSA) in the D.C. U.S. Attorney’s Office (DCUSAO) and as a military trial judge.³

¹ The Heritage Foundation is a public policy, research, and educational organization recognized as exempt under section 501(c)(3) of the Internal Revenue Code. It is privately supported and receives no funds from any government at any level, nor does it perform any government or other contract work. The views expressed here are my own and do not reflect an institutional position for The Heritage Foundation or its board of trustees. The Heritage Foundation is the most broadly supported think tank in the United States. During 2021, it had hundreds of thousands of individual, foundation, and corporate supporters representing every state in the U.S. Its 2021 operating income came from the following sources: Individuals 82 percent; Foundations 12 percent; Corporations 1 percent; Program revenue and other income 5 percent. The top five corporate givers provided The Heritage Foundation with 1 percent of its 2021 income. The Heritage Foundation’s books are audited annually by the national accounting firm of RSM US, LLP.

² See Zack Smith & Charles D. Stimson, *The D.C. City Council Failed at Criminal Justice Reform—Congress Must Fix It*, The Heritage Foundation Legal Memorandum No. 337 (July 12, 2023), <https://www.heritage.org/crime-and-justice/report/the-dc-city-council-failed-criminal-justice-reform-congress-must-fix-it>.

³ After graduating from law school, I joined the United States Navy Judge Advocate General’s Corps, where I served on active duty in San Diego as a prosecutor and in London, England, as a criminal defense attorney. I left active duty the first time and joined the Navy Reserves. I served as an Assistant State’s Attorney in the Baltimore County State’s Attorney’s Office while waiting for my California Bar results. Once I passed the California Bar, I moved back to San Diego and became a Deputy City Attorney in the San Diego City Attorney’s Office, where I focused on domestic violence and drug cases. Later, I moved back east and became an Assistant State’s Attorney in the Frederick County State’s Attorney’s Office, where I served in the Homicide and Violent Crimes Division, handling homicides, rapes, and other violent crimes. During this time, I served as an Adjunct Professor of Law at George Mason University Law School where I taught Evidence, Trial Advocacy, and Advanced Trial Advocacy. After the terrorist attacks of September 11, 2001, I was recalled to active duty in the Navy JAG Corps and served as a criminal defense attorney in Jacksonville, Florida, where I defended clients accused of rape and other violent and felony crimes. After my recall to active duty, I reaffiliated with the Navy Reserves and became an Assistant United States Attorney in the D.C. U.S. Attorney’s Office, where I worked in various divisions, including Domestic Violence and the Homicide Violent Crimes sections. In my Reserve career with the Navy, I was for five years an instructor at the Naval Justice School where I taught, among other courses, the Prosecuting Complex and Capital Litigation Course to Navy, Marine Corps, and Coast Guard prosecutors. I served in the Appellate Defense Division of Office of the Judge Advocate General, was the Commanding Officer of the Appellate Government Division of the Office of the Judge Advocate General, served for five years on the Navy–Marine Corps Trial Judiciary as the Deputy Chief Judge where I handled over 50 complex courts-martial, and ended my 30-year career as Commanding Officer of the Preliminary Hearing Unit, which was tasked with hearing Article 32 preliminary hearings across the Navy.

In my testimony, I will address five points.

First, the D.C. City Council's laws and statements by members of that Council have eroded accountability and contributed to the rise in crime across the city. The Council and the Criminal Code Reform Commission (CCRC) they created have proven themselves incapable of creating a revised criminal code for the District. Congress should now step in and do the job for them.

Second, the DCUSAO currently has policies, practices, and personnel selection criteria that undermine public safety in the city. In short, they are failing as an institution, especially when compared to similar offices in other jurisdictions.

Third, the judges of the D.C. Superior Court have eroded accountability in the criminal justice system by their notoriously light sentences across all categories of crimes, contributing to a culture of lawlessness in the District. The D.C. Court of Appeals has issued opinions that Congress should review since they have caused restrictions to be placed on law enforcement authorities and prosecutors that are far beyond the requirements of U.S. Supreme Court precedent.

Fourth, the D.C. Attorney's General's Office (OAG), which handles juvenile crime, for decades has failed in its mission to hold violent criminals accountable, including murderers and armed carjackers. Congress should strip the office of its authority to handle all crimes and give that authority to the DCUSAO by expanding its Superior Court division to include juveniles and traffic cases while at the same time revising the criminal code to require most juveniles charged with specific violent crimes to be charged and tried as adults.

Fifth, the D.C. Crime Laboratory's loss of its certification is emblematic of D.C.'s dysfunctional government as a whole. Congress should federalize the lab and give it to the FBI, DEA, and ATF, which would then handle all DNA, firearms, fingerprint, and other forensic evidence requests from the D.C. U.S. Attorney's Office.

I. The D.C. City Council's Failures

The D.C. City Council and the CCRC, which the Council tasked with proposing recommendations for a revised criminal code, have proven themselves incapable of recommending or passing laws that keep Washingtonians safe.⁴ Instead, they have done the opposite: recommended and passed laws that inured to the benefit of criminals, ignored victims' rights, defunded the police, and contributed to a culture of lawlessness in the city.

In short, The Council and the CCRC are not made up of people who are committed to public safety.

⁴ See Smith and Stimson, *supra* note 2.

The Council and its members intentionally defunded the police, resulting in a 500-plus officer shortage in the Metropolitan Police Department (MPD), and created a recruiting, retention, and morale nightmare for MPD. To address this dire situation, Congress should exercise its legislative authority over the District and pass a revised criminal code that protects the residents, visitors, and employees in the capital of our country.⁵

It's important to state the obvious here: The focus and mission of the criminal justice systems⁶ across this country is a narrow one: to enforce the criminal laws on the books in a constitutional, fair, and predictable manner. They are not designed to fix society's ills, solve income inequality, address the legacy of slavery, fix schools, address food insecurity, erase homelessness, provide housing, resolve political differences, or pick winners or losers, nor should they be.

But don't tell that to the D.C. City Council or the CCRC.

In the past few years, when discussing the city's criminal justice system, members of the City Council and especially the CCRC have deviated from discussing the core components of D.C.'s criminal justice system and what can or should be done to improve that system and public safety, instead obsessing about race and the direct and collateral effects of those charged and/or convicted of crimes, who in their minds are the *real* victims of a systemically racist justice system.

The best criminal justice systems across the country share common traits:

- They preserve and protect the constitutional rights of those who are presumed innocent but are charged with crimes.
- They protect, honor, and serve victims by enforcing their rights.
- They provide generous resources and funding for prosecutors, public defenders, judges, law enforcement, and other stakeholders.
- They have a modern penal code that codifies, with distinct elements, all crimes.
- They have a determinate sentencing scheme, to include sentencing allegations and enhancements, that provides a range of punishments from probation to life without parole to the death penalty in certain appropriate cases.
- They arrest, charge, convict, and punish violent criminals by imposing long prison sentences.

⁵ See *id.*, pp. 2–3. See generally Zack Smith, *Does D.C. Statehood Require a Constitutional Amendment? You Better Believe It*, Ohio State Law Journal Online, Feb. 2, 2022, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4034744.

⁶ There is no one “criminal justice system” in the United States. Considering the fact that there are approximately 18,000 police departments, numerous federal law enforcement agencies, 3,143 counties, 2,300 elected district attorneys, and 93 United States Attorneys across 50 states plus the District of Columbia, any analysis of the American criminal justice system will “inevitably lead to some degree of overgeneralization and, therefore, inaccuracy.” See Paul J. Larkin and Giancarlo Canaparo, *The Fallacy of Systemic Racism in the American Criminal Justice System*, Liberty University Law Review, forthcoming, p. 34. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4186360.

- They take gun crimes seriously by, among other things, charging felons in possession of handguns or firearms with the most serious charges available.
- They include laws that guarantee increasingly severe sentences for recidivists, including—but not limited to—a three-strikes law.
- They are innovative in that the systems can adopt, create, build, and sustain creative, commonsense, crime prevention and resolution programs.
- They have judiciaries that enforce the law evenly and fairly.
- They have a culture of respect for law enforcement and for law and order.

That's not our system here in D.C., nor is it anywhere close to it.

Despite the fact that there are dedicated, talented prosecutors, public defenders, law enforcement officers, parole and probation officers, and other stakeholders who work tirelessly in the criminal justice system in the District of Columbia, the system as a whole is failing in its core mission: to protect the residents of Washington by punishing and incapacitating criminals, honoring victim's rights, and creating a culture of law and order.

Much of the blame can be laid at the feet of the D.C. City Council.

The mandate to rewrite the District's criminal code began in earnest in 2016 with the establishment of the CCRC, whose sole purpose was to "develop comprehensive recommendations for the D.C. Council and Mayor on revisions of District criminal statutes."⁷ That was a lofty but achievable goal, especially since there are the experiences of 50 states from which to draw.

But replicating other criminal justice systems or cutting and pasting from other codes, which would have been perfectly acceptable, was not the District's real goal. One of the individuals who worked for the CCRC, Patrice Sulton, claimed that when she joined the project in 2018, it "was a very good-governance, neutral, compromise kind of a project. It was law nerds in a basement, rewriting many, many statutes. This was not a decarceration agenda, it was not a racial-justice agenda."⁸

Yet that is exactly what it turned out to be.

When one examines who was on the CCRC and the ideas that were rejected by the CCRC throughout its many meetings, it is clear that it was slanted from the beginning in favor of defendants at the expense of victims.

In one of its earliest reports to the D.C. Council, the CCRC focused on four noncontroversial principles. The report recommended:

- Repealing "[c]learly archaic and outdated criminal statutes";

⁷ *Mission*, CRIM. CODE REFORM COMM'N, <https://ccrc.dc.gov/page/ccrc-mission> (last visited May 1, 2023).

⁸ Sylvie McNamara, *What Everyone Is Getting Wrong About DC's Controversial Crime Bill*, WASHINGTONIAN (Mar. 6, 2023), <https://www.washingtonian.com/2023/03/06/dc-criminal-code-overhaul-interview-with-patrice-sulton/>.

- Striking unconstitutional and unenforced statutes;
- Replacing obsolete words and phrases with “clear and plain language”; and
- Striking or relocating “extraneous,” “noncriminal provisions in Title 22 of the D.C. Code.”⁹

Unfortunately, the CCRC and the District’s Council did not stop there; they included a number of controversial provisions in the bill’s final form. Most provocatively, the final bill eliminated mandatory minimum penalties for every crime except first degree murder; lowered the penalties for most crimes (including for first degree murder); and expanded the already controversial ability of violent felons to be released from prison early.

Ms. Sulton’s claim that there was neither a “decarceration” nor “racial-justice agenda” rings hollow. After her service on the CCRC, she went on to lead D.C. Justice Lab, an organization that “envisions” a criminal justice system in the District that “[e]nds overreliance on police, prosecutors, and prisons, in favor of solutions that maximize safety and freedom for all” and that “[t]akes dramatic measures to recognize, rectify, and reverse harm it [the criminal justice system] inflicted on poor people and Black people.”¹⁰

While the CCRC claimed that its “recommendations were developed over four years through an exhaustive study of current criminal law and practice in the District and examination of how to better align local statutes with best practices,” it is clear that this review was largely one-sided.

For instance, the “CCRC staff worked with a statutorily-designated Advisory Group of seven stakeholders,” which largely included those who are sympathetic to—if not downright enthusiastic about—a decarceration agenda.¹¹ When the District’s Council itself held hearings on the revised criminal code, one of the individuals who testified in support of it was the Executive Director of a George Soros “progressive” rogue prosecutor support group called Fair and Just Prosecution.¹²

When the D.C. Council held its hearings on the revised criminal code, it again faced a lopsided litany of testimony from those supporting the radical rewrite of the District’s criminal code.¹³ Furthermore, as some noted, the Council often held the hearings on short notice and at inconvenient times for residents of the District—in other words, those most directly affected by

⁹ John-Michael Seibler & David Rosenthal, *Commission Recommends Changes to DC’s Antiquated Criminal Code*, THE DAILY SIGNAL (May 23, 2017), <https://www.dailysignal.com/2017/05/23/commission-recommends-changes-dcs-antiquated-criminal-code/>.

¹⁰ *About*, DC JUST. LAB, <https://dcjusticelab.org/about/> (last visited May 1, 2023).

¹¹ *CCRC Advisory Group*, CRIM. CODE REFORM COMM’N, <https://ccrc.dc.gov/node/1201597> (last visited May 1, 2023).

¹² Memorandum from Charles Allen, Chairperson, Committee on the Judiciary and Public Safety, to Nyasha Smith, Secretary of the Council, Regarding Closing Hearing Record (Mar. 8, 2022), https://lims.dccouncil.gov/downloads/LIMS/47954/Hearing_Record/B24-0416-Hearing_Record1.pdf?Id=135083.

¹³ *B24–01416-Revised Criminal Code Act of 2021*, COUNCIL OF THE DIST. OF COLUMBIA, <https://lims.dccouncil.gov/Legislation/B24-0416> (last visited May 1, 2023).

crime—to offer their input on the revisions.¹⁴ One local D.C. resident noted, “I don’t think D.C. Council members did a good job of telling folks what was going on. I didn’t see flyers about it. I didn’t see Councilmember Charles Allen or At-Large Councilmembers asking us for input.”¹⁵

Such radical revisions are particularly dangerous at a time when the District is experiencing its highest number of murders in more than two decades, a year-over-year increase in carjackings during the past five years,¹⁶ and a spate of other violent crimes. This is why the District’s chief of police, the U.S. Attorney’s Office for the District of Columbia, and even Mayor Muriel Bowser strenuously objected to the passage of the CCRC’s extreme rewrite of the criminal code.

The U.S. Attorney’s Office, for example, said that its “most significant concerns focus[ed] on accountability for the most violent crimes (such as child sexual abuse, murder, burglary, robbery, and carjacking), and that some of the Revised Criminal Code Act of 2021 (RCCA) proposals are not integrally related to substantive criminal law and overlook the realities of certain resource constraints.”¹⁷ Similarly, the District’s chief of police said that “Anytime we’re talking about lowering penalties for violent offenders who commit crimes in our city, that’s a non-starter for me.... Where’s the victim in all of this? Who does this actually help? Is the victim being helped, or is it the person who victimizes?... I don’t think victims win in that space. And again, that’s a non-starter for me.”¹⁸

Yet the D.C. Council unanimously passed the radical rewrite of its criminal code on November 15, 2022,¹⁹ and transmitted the bill to Mayor Bowser on December 19, 2022, for her to sign or veto. On January 3, 2023, the Mayor vetoed the bill, saying that “This bill does not make us safer.... Anytime there’s a policy that reduces penalties, I think it sends the wrong message.”²⁰

Still not satisfied, the D.C. Council overrode the Mayor’s veto on January 17, 2023, by a 12–1 vote. Only Councilman Trayon White, Sr., who represents the District’s Ward 8 (one of the hardest hit by violent crime) voted against the veto override.

¹⁴ Matt Pusatory, *Bowser Wants to Tweak DC’s Revised Criminal Code*, WUSA 9 (Feb. 6, 2023, 11:54 AM EST), <https://www.wusa9.com/article/news/local/dc/bowser-legislation-on-revised-criminal-code-act-amendments/65-eac05357-4f2e-46fa-9d0b-d411d02829cd>.

¹⁵ Sam P.K. Collins, *Mayor Bowser to Veto the Revised Criminal Code Act*, WASH. INFORMER (Jan. 3, 2023), <https://www.washingtoninformer.com/deadline-looms-for-mayor-bowser-to-sign-revised-criminal-code-act-into-law/>.

¹⁶ Cuneyt Dil, *D.C. Carjackings Rise for Fifth Straight Year*, AXIOS (Jan. 3, 2023), <https://www.axios.com/local/washington-dc/2023/01/04/dc-carjackings-rise-for-fifth-straight-year>.

¹⁷ Press Release, U.S. Atty’s Office Dist. of Columbia, U.S. Attorney’s Office Testifies as Hearing on D.C. Revised Criminal Code Act of 2021 (Dec. 16, 2021), <https://www.justice.gov/usao-dc/pr/us-attorneys-office-testifies-hearing-revised-criminal-code-act-2021>.

¹⁸ Alejandro Alvarez, *DC Police Chief Worries Criminal Code Overhaul Doesn’t Support Victims of Violence*, WTOP NEWS (Feb. 1, 2023, 5:45 AM), <https://wtop.com/dc/2023/02/dc-police-chief-worries-criminal-code-overhaul-doesnt-support-victims-of-violence/>.

¹⁹ *B24-01416-Revised Criminal Code Act of 2021*.

²⁰ Mark Segraves, *DC Mayor Bowser Vetoes Criminal Code Overhaul*, NBC 4 WASHINGTON (Updated Jan. 4, 2023, 6:09 PM), <https://www.nbcwashington.com/news/local/dc-mayor-bowser-vetoes-criminal-code-overhaul/3247124/>.

Fortunately, because of the District's unique constitutional status, Congress still retains ultimate authority over legislation enacted in the District and had 60 days to review the legislation to decide whether to override it under the specialized provisions allowing for expedited review.²¹ Fortunately, given the radical nature of the criminal code rewrite and the surging crime problem in the District, the House of Representatives voted 250–173 to overturn the District's radical criminal code rewrite. Thirty-one Democratic House members joined Republicans in voting to overturn the law.²² This is notable because at the time, Democratic President Joe Biden had publicly opposed the efforts to overturn it.²³

The fact that Democratic Congresswoman Angie Craig (D–MN) was violently assaulted in her apartment building's elevator while heading to the Capitol to vote on the crime bill might have contributed to this large defection.²⁴ Especially relevant was the fact that her assailant was a repeat violent offender. By the time the override effort reached the Senate, President Biden had changed course and signaled that he would not veto a bill overriding the District's revised Criminal Code if it reached his desk. With this green light from the President, the Senate passed the disapproval resolution by an overwhelming vote of 81–14, “with 33 senators who caucus with Democrats supporting the Republican-led measure.”²⁵ President Biden signed the disapproval resolution into law on March 20, 2023.²⁶

The District has a major crime problem, a fact that the CCRC glossed over. This problem should be obvious to anyone except, it seems, the CCRC and the D.C. City Council. The District (if it were a state) would have the highest murder rate in the United States at 19.46 per 100,000 residents.²⁷ That, and that alone, is telling and suggests that something of overriding importance must change.

²¹ *The Legislative Process*, in *District of Columbia Resources*, GEORGETOWN L., <https://guides.ll.georgetown.edu/c.php?g=275800&p=7518958> (last visited May 1, 2023); see also D.C. Code § 1-206.02 (2023), <https://code.dccouncil.gov/us/dc/council/code/sections/1-206.02>.

²² Ashraf Khalil, *House Votes to Overturn DC Criminal Code and Voting Laws*, NBC 4 WASH. (Feb. 9, 2023, 5:14 PM), <https://www.nbcwashington.com/news/local/house-votes-to-overturn-dc-criminal-code-and-voting-laws/3275804/#:~:text=The%20House%20voted%20250%2D173,by%20a%20260%2D173%20vote>.

²³ *Id.*

²⁴ Jana Shortal, *Rep. Craig on Attack: “He Wasn’t Going to Let Me Out of That Elevator If I Hadn’t Fought My Way Out,”* KARE 11 (Feb. 13, 2023, 6:41 PM CST), <https://www.kare11.com/article/news/local/breaking-the-news/rep-angie-craig-opens-up-about-attack/89-5d76d160-3fcd-4631-ba89-d309a299ef78>.

²⁵ Suzanne Monyak, *Senate Votes to Overturn DC Criminal Code Changes*, ROLL CALL (Mar. 8, 2023, 8:05 PM), <https://rollcall.com/2023/03/08/senate-votes-to-overturn-dc-criminal-code-changes/#:~:text=The%20Senate%20cleared%20a%20disapproval,supporting%20the%20Republican%2Dled%20measure>.

²⁶ Clare Foran, *Biden Signs Measure to Block Controversial DC Crime Bill*, CNN (Mar. 20, 2023, 11:02 PM EDT), <https://www.cnn.com/2023/03/20/politics/biden-dc-crime-bill/index.html>.

²⁷ See Charles D. Stimson, Zack Smith, and Kevin D. Dayaratna, *The Blue City Murder Problem*, The Heritage Foundation, Legal Memorandum No. 315 (Nov. 4, 2022), p. 7, <https://www.heritage.org/crime-and-justice/report/the-blue-city-murder-problem>.

But it's not just murders. Compared just to last year, when the crime rate topped the previous year's, homicides (as of October 6, 2023) are up 38 percent, sex abuse is up 2 percent, robberies are up 70 percent, motor vehicle theft is up 105 percent, theft is up 22 percent, arson is up 125 percent, property crime is up 26 percent, and overall crime is up 28 percent.²⁸ But the CCRC or the so-called expert panelists at a two-day symposium that the CCRC hosted declined to discuss these rates, as well as why they are elevated, how to lower them, who is committing these crimes, or how their new proposed reforms would address the rising crime rate.

Why? Because their goal was not to tackle crime rates or protect the residents of the District. Their goal was, to use their words, to “shrink” the system. They're not alone in this goal. In fact, that's the goal of the prison abolitionist movement and the “progressive prosecutor”—what I call the “rogue prosecutor”—movement.

To show how out of whack the City Council is with respect to holding criminals accountable, the table below compares crimes and sentences the City Council tried to inflict on the city against the same crimes and sentences in effect in California—hardly a bastion of conservatism.

The sentences in the table start with the mandatory minimum (if any) and list the statutory maximum sentences. Under California law, trial judges have *no discretion* to deviate from mandatory minimum sentences, and this produces uniformity and certainty in sentencing.

TABLE 1

Criminal Sentencing, District of Columbia vs. California

Crime	MANDATORY MINIMUM (IF ANY) TO STATUTORY MAXIMUM	
	District of Columbia	California
1st Degree Murder	24–40 years	25 years to life
2nd Degree Murder	0–24 years	15 years to life
1st Degree Robbery	0–14 years	5, 7, or 9 years
1st Degree Carjacking	0–18 years	7, 9, or 11 years
1st Degree Sexual Assault	0–24 years	8, 11, or 13 years

SOURCE: Authors' research.

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²⁸ See Metropolitan Police Department: District Crime Data at a Glance, <https://mpdc.dc.gov/page/district-crime-data-glance> (last visited Oct. 8, 2023).

Moreover, given the fact that D.C. Superior Court judges are notoriously light sentencers, as discussed below, any sentencing range that starts with zero days in prison will result in very few convicted violent criminals going to prison.

II. The D.C. U.S. Attorney's Office Is Failing

The United States Attorney's Office for the District of Columbia is not serious about gun cases or solving violent crime, as evidenced by their abysmal charging policies and unorthodox hiring practices. As a result, they have failed to protect the public, and this has led in turn to rising crime rates and has contributed a culture of lawlessness in the city. This failure of leadership must change if the crime problem in the city is to be fixed.

Hiring Practices

The DCUSAO hires, with few exceptions, woke social justice warriors from elite law schools who are not in the mold of law-and-order, career-minded prosecutors. This reality has only grown worse in recent years.

The DCUSAO employs approximately 330 Assistant United States Attorneys and 330 support staff. A typical United States Attorney's Office across the country hires well-educated, prosecution-oriented, career-minded attorneys who are dedicated and passionate about keeping the community safe and promoting justice, including but not limited to prosecuting criminals to the fullest extent of the law. Most hires in those offices, before applying, have had a federal clerkship, worked in big law, or worked as state court prosecutors or military JAG attorneys. Many of them graduated from the most elite law schools in the country, as the practice of federal criminal law is complex and requires intellectual and academic rigor. Most trials plead out in federal court, and federal prosecutors don't try nearly as many jury trials as deputy district attorneys do in state court.

In contrast, the local county prosecutors offices across the country, of which there are approximately 2,300,²⁹ hire attorneys who are passionate about being prosecutors, have grit and are trial savvy, are committed to the cause of justice, want to try lots of cases, and are prosecution-oriented, law-and-order types. They come from all sorts of law schools and usually haven't clerked for a judge, and many aren't interested in big law firms even if they could get hired by one. But they are "trial dogs"—people who live to prosecute cases.

The DCUSAO tends to hire lots of people from the top law schools, federal judicial clerks, and people who have punched their tickets (but often disliked practicing) at big law. And while they do hire a handful of former state court prosecutors and some JAGs (like me), the vast majority of hires have the standard "federal prosecutor" academic resume.

²⁹ See Charles D. Stimson and Zack Smith, *Rogue Prosecutors: How Radical Soros Lawyers Are Destroying America's Communities* (2023) at p. 18. See also Carissa Byrne Hessick and Michael Morse, *Picking Prosecutors*, 105 Iowa L.Rev. 1537, 1544 (2020).

What differentiates the DCUSAO from the other 93 U.S. Attorney's offices around the country in terms of hiring is that they have had a penchant for hiring social justice warriors, not career-minded prosecutors. They hand select attorneys from elite law schools who want to punch their tickets (however briefly) in a federal prosecutors office in order to buff up their resumes for their next job, but not because they are passionate about being law-and-order prosecutors. The vast bulk of attorneys in the office when I served there, and to this day, are woke social justice warriors who would never be hired in a typical county district attorney's office because the hiring committees would realize that they weren't career-oriented, law-and-order, hard-charging prosecutor types. Their sympathies tend to lie with defendants; they are skeptical of police officers; and they fit in more comfortably with attorneys in the public defender's office than they do with the small handful of hard-core, law-and-order prosecutors in the office.

Fortunately, there are some law-and-order prosecutors who slip past the hiring committees and get hired. But they soon realize that they are vastly outnumbered and not part of the "in" crowd.

Soft-on-crime social justice warriors with law degrees have lots of options for jobs these days, including working for the public defender's office. They do not belong in any prosecutor's office, yet they are routinely hired by the DCUSAO.

Since the vast majority of prosecutors hired in that office work in Superior Court, the hiring practices of the office, optimally, should mirror those of the best district attorneys' offices around the country. And for the dozens of prosecutors in the office handling complex federal cases, the office hiring policy should mirror those of the other U.S. Attorney's offices around the country and should reject out of hand social justice warriors and other soft-on-crime, defense-oriented lawyers.

Not surprisingly, the DCUSAO has a high turnover rate. This is due to a number of factors. The woke social justice warriors leave after a few years to take a job as a senior associate or partner at big law; some go to Main Justice; some go to Capitol Hill; some leave for other federal government agencies; a handful get appointed to the bench. They joined the office as a resume enhancer.

Most prosecutors hired by the office have never worked as prosecutors in any other office before coming to the DCUSAO, so they don't have any other prosecutorial frame of reference and therefore don't realize how dysfunctional the office really is or that other prosecutor offices do a much better job of protecting the public.

Others, like me, who had significant prosecution experience in other jurisdictions leave because they realize that the office is dysfunctional, that prosecutors aren't treated with respect by the bench or bar, and that the culture of lawlessness in the city is not being seriously addressed by local government leaders or the office itself.

D.C. prosecutors are accorded very little respect.

For example, for years, the DCUSAO was located at 555 4th Street NW (nicknamed "Triple Nickle"), several blocks from the Superior Court and the Federal District Court. The building,

which was leased, was spacious, had underground parking, and was next to the Washington Field Office of the FBI. But because the office wasn't connected to any courthouse, prosecutors not only had to drag their trial bags, exhibits, evidence, binders, and other material three blocks to Superior Court every day regardless of the weather; they were forced to stand in line with members of the public, including criminal defendants, and go through a metal detector every time they entered the Superior Court building. The Superior Court building does not have secure bathrooms for prosecutors, so prosecutors often find themselves using the public restroom with witnesses in their cases and criminal defendants they may be prosecuting.

Outside of Washington, D.C., many district attorney and U.S. Attorney Offices around the country are connected to the courthouse and have prosecutor-only entrances to the courthouse. Prosecutors have a short indoor walk from their offices to the court. They aren't required to go through a metal detector like members of the general public. They also have their own separate restroom facilities.

Two years ago, the DCUSAO was forced to move from its spacious office at 555 4th Street to a much smaller office at 601 D Street NW in the Patrick Henry Building. The current location is a block from Superior Court, but prosecutors still must schlep their trial materials to Superior Court by walking outside (rain or shine), standing in line with the public, and going through metal detectors. In short, the DCUSAO is the Rodney Dangerfield of federal prosecutor's offices: They "don't get no respect."³⁰

Unacceptable Declination Rate of 67 Percent

The DCUSAO's declination rate of cases submitted to the office by the Metropolitan Police Department (MPD) is extraordinarily high and one of the major drivers of the uptick in crime in the District. The rate has been rising in D.C. for years and is a product of several related factors, but the principal factor is the conscious policy decisions by Matthew Graves, the current U.S. Attorney for the District of Columbia, that are enforced by those who work in his office every day.

According to recent reporting, the declination rates in 2015 under an Obama U.S. Attorney appointee was 31 percent.³¹ In 2019, under a Trump-appointed U.S. Attorney, it jumped to 48 percent. Today, it stands at a whopping 67 percent.

According to an article in *The Washington Post*, "a 67 percent declination rate is high. For example, in Wayne County, Mich., which includes Detroit, the prosecutor's office reported declining 33 percent of its cases last year."³² As Robert J. Contee III, the District's former police

³⁰ Rodney Dangerfield was an American comedian (1921–2004). He is famous for uttering (among many other memorable lines), "I don't get no respect."

³¹ See Joe Friday, *The US Attorney's Office Declined to Prosecute 2/3 of the People That MPD Arrested*, Mar. 14, 2023, <https://dccrimefacts.substack.com/p/the-us-attorneys-office-declined>.

³² See Keith L. Alexander, *D.C. U.S. Attorney Declined to Prosecute 67% of Those Arrested. Here's Why*, WASH. POST, Mar. 29, 2023, <https://www.washingtonpost.com/dc-md-va/2023/03/29/us-attorneys-office-charges-declined-dc-police/> (last visited October 8, 2023).

chief said, his officers were not to blame. “I can promise you, it’s not MPD holding the bag on this.” As for any suggestion to the contrary, Contee said, “That’s B.S.”³³

And while some AUSAs grumble that MPD officers bring them weak cases, which happens infrequently, the high declination rate certainly is not a result of understaffing of prosecutors in the DCUSAO. In fact, the DCUSAO has more prosecutors per capita than many cities have. For example, as of July 1, 2022, Washington, D.C., had a population of approximately 671,803 persons. The DCUSAO has 330 prosecutors, or one prosecutor for every 2,035 resident in the District. Washington is compact at only 68 square miles in size.

Contrast that with the San Diego District Attorney’s (DA) Office, which also has 330 prosecutors. As of July 1, 2022, San Diego County had 3,276,208 residents, or one prosecutor for every 9,927 residents of the county. San Diego County encompasses 4,261 square miles. The San Diego DA’s Office serves 18 cities, 39 unincorporated areas, 12 police chiefs and sheriffs.

But even though each prosecutor in the San Diego County District Attorney’s Office serves 7,892 more residents than are served by each prosecutor in the DCUSAO, in an area 62 times larger than D.C., the San Diego DA’s office has had a 22.6 percent declination rate for the past 20 years in over 500,000 cases. During the relevant time period, between January 1, 2000, and December 31, 2019, in cases in which a decision was made either to issue or to reject the case, the office issued (i.e., charged) 77.4 percent of the cases that were presented to them.

Why the massive difference in declination rates? In large part, it’s because San Diego County, under the leadership of elected DA Summer Stephan, takes the job of enforcing the law seriously, hires talented, gritty career-minded prosecutors, refuses to hire woke social justice warriors, seeks justice for all victims of crime, and solves problems in the community with myriad stakeholders.

She and hundreds of other chief prosecutors across the country like her are everything that Matthew Graves is not.

III. D.C. Superior Court and the Court of Appeals

Judges on the D.C. Superior Court trial bench, with a few notable exceptions, are uniformly liberal, lack viewpoint balance, are frosty (and at times hostile) to prosecutors, and are notoriously light sentencers. Until the manner in which Superior Court judges are chosen changes or the law changes and requires them to impose meaningful sentences, the situation won’t change.

Congress created both the Superior Court of the District of Columbia, which functions as the city’s local trial court, and the District of Columbia Court of Appeals (DCCA). The President nominates individuals to serve as judges on both courts, and the Senate confirms them. However, these are Article I rather than Article III courts because the judges serving on them do not have

³³ *Id.*

life tenure and instead serve for renewable 15-year terms. In addition, judges on these courts must retire from active service by age 74.

It has been the practice of Presidents to nominate individuals to serve on these courts who have first been selected and recommended by the District of Columbia Judicial Nomination Commission (JNC). Congress currently requires this by statute, and, notably, the President does not even get to select all of the members of this commission.

This particular recommendation-before-appointment feature is controversial. Indeed, the late Laurence Silberman, a distinguished federal appellate judge who had previously served as Deputy Attorney General at the Justice Department, claimed that this process was unconstitutional because it violates basic separation-of-powers tenets—especially because one of the commission’s members is a sitting federal judge appointed by another federal judge, meaning that a sitting judge selected by a different sitting judge plays a part in telling the President who he can appoint to be a judge. This certainly appears to be a clear-cut separation-of-powers problem.

The membership of the JNC is decidedly left-of-center and has been for decades. As a result, the JNC screens out most law-and-order candidates for judge during the process and ensures that social justice-oriented and defense-oriented attorneys make it onto the final list from which the President “must” select. And since judges on the D.C. Superior Court and the DCCA only affect the District of Columbia, Republican Presidents have simply gone along with the JNC process to the detriment of law and order in the District.

Whereas federal district court judges in the District of Columbia, like all other federal district court judges, are required to consult the federal sentencing guidelines before imposing a sentence in a criminal case, judges on the D.C. Superior Court are in a class of their own. Only the DCCA reviews their decisions as a practical matter, because most cases handed down by the DCCA that are adverse to the prosecution are not appealed to the United States Supreme Court.

Trial judges on the D.C. Superior Court are bound to follow the local sentencing guidelines, but they routinely sentence below the guidelines with full knowledge that their sentences will rarely, if ever, be appealed by the U.S. Attorney’s Office. To add insult to injury, the U.S. Attorney’s Office does not take gun crimes seriously, nor do the judges on the Superior Court bench.

Because of the DCUSAO’s unique status as both the local and federal prosecutor, the U.S. Attorney can choose which forum to use for many crimes committed in the District. It is a crime under federal and D.C. law for felons to be in possession of a firearm. Every day, MPD arrests felons in possession of a firearm. Every day, when MPD brings those cases to the U.S. Attorney’s Office for disposition, the U.S. Attorney’s Office as a matter of policy rejects the option of filing federal charges against the felon and instead chooses to file charges in the Superior Court, knowing full well that the end result will be probation.

Here’s how it works.

An MPD officer arrests a felon and finds a firearm on his person. The officer presents the paperwork to the AUSA the next morning. The AUSA looks over the paperwork and then, if he or she decides to charge the suspect with anything, issues four local charges: felon in possession; carrying a pistol without a license (CPWL); unregistered firearm; and unregistered ammunition. That case is sent to Superior Court. The AUSA who handles the case is authorized to offer the defendant an opportunity to plead guilty to CPWL, in exchange for which the AUSA will drop the felon-in-possession charge, which carries a mandatory minimum sentence. The defendant agrees and pleads guilty in front of a Superior Court judge who sentences the defendant to prison, suspends the entire sentence, and gives him probation. The defendant walks out of the courthouse.

If the DCUSAO was serious about gun crimes, they would charge every single felon in possession of a firearm under 18 U.S.C. § 922(g) in federal district court. If convicted, the defendant would receive a mandatory minimum sentence in federal prison. Such cases are straightforward and easy to prove. Matthew Graves could issue that order today. If he did, violent gun crime would drop immediately across the city. But rather than doing the right thing and face grumbling from the federal district court bench because of an influx of gun cases and cries of “racism” from the Left, his office will continue to send felon-in-possession cases to the Superior Court, knowing full well that nothing will happen to those defendants.

The DCCA's Decisions

The DCCA has issued a handful of decisions that place restrictions on law enforcement authorities and prosecutors that misread the holdings of the United States Supreme Court. Since the holdings of the DCCA are binding only in the District of Columbia, they haven't drawn much attention, but they have directly impacted the ability of law enforcement officials to engage in otherwise lawful searches and seizures, conduct Terry stops, and the like.

Some of the decisions by the DCCA that have arguably gone beyond the requirements established by the Supreme Court or misread superior precedent include:

- *Landon R. Mayo v. United States*, 266 A.3d 244 (D.C. 2022), dealing with reasonable articulable suspicion to conduct a Terry stop.
- *Jean-Baptiste Bado v. United States*, 186 A.3d 1243 (D.C. 2018), holding that deportation is a penalty.
- *Deandre Posey v. United States*, 201 A.3d 1198 (D.C. 2019), dealing with reasonable articulable suspicion to conduct a Terry stop.
- *T.W. v. United States*, 292 A.3d 790 (D.C. 2023), dealing with whether a search complied with the Fourth Amendment.
- *Bumphus v. United States*, 227 A.3d 559 (D.C. 2020), which held that a four-day delay between the lawful stop of a car and a search of said car pursuant to a valid warrant violated the Fourth Amendment.

Congress should review these and other troubling decisions during the process of drafting a new criminal code to see whether anything can be done in response to these holdings.

IV. The D.C. Attorney General's Office

The Office of the Attorney General (OAG) is essentially the city attorney for the District of Columbia. The Office enforces the civil laws of the District, “defends and provides legal advice to the District’s government agencies and protects the interests of the District’s residents.”³⁴ The office also handles juvenile crimes, economic crimes, traffic offenses, and some other misdemeanors, all of which are tried in the Superior Court.

Juvenile crime is a big problem in D.C. Violent youths commit murder, rape, armed car jackings, and more. Carjackings are a major problem in D.C. We have experienced 765 to date this year, 75 percent of which involved armed suspects. Of the 117 arrests this year for carjackings, 65 percent have been juveniles, and most of those arrested have been 15 or 16 years old.³⁵

Section 2301(3) of Title 16 of the D.C. Code is the statute that governs how juveniles who commit crimes in the District can be charged and the venue where they can be charged. Most juveniles who commit crimes in D.C. are tried in juvenile courts by the OAG, which is where most of them belong.

The statute gives the U.S. Attorney’s Office the authority to file charges against 16-year-olds and 17-year-olds who commit certain violent offenses, but in D.C., this has proven controversial, so the U.S. Attorney’s Office rarely charges violent juveniles, including those who use a handgun in the commission of their crimes, as adults in Superior Court. To make matters worse, some violent juveniles who are tried and convicted as adults in Superior Court serve out their “sentences” at home instead of in a secure juvenile detention facility. It is not uncommon for juveniles who are found responsible (i.e., guilty) for violent crimes and “sentenced” to serve their “time” at home to commit additional crimes, including violent crimes in the District.

The juvenile justice system in general is designed to hold youthful offenders accountable but also to provide them with the tools and services they need to become productive members of society. Its framework and approach are rehabilitative, not punitive like the adult system. When run appropriately, it serves as an invaluable safety net for at-risk youth. The District, like all states, needs a well-run, compassionate, professional juvenile justice system and prosecutors who have a big heart and believe in redemption and rehabilitation.

Most juvenile offenders should have their cases adjudicated in the juvenile court, and most do. Unfortunately, there are some juvenile offenders who are extremely violent and a danger to society, with a long (relatively speaking) history of violating the law. Some of them, sadly, need

³⁴ See *About the Office of Attorney General*, Office of the Attorney General for the District of Columbia website (last visited Oct. 8, 2023) <https://oag.dc.gov/about-oag>.

³⁵ See <https://mpdc.dc.gov/page/carjacking> (last visited Oct. 8, 2023).

to be prosecuted as adults for their crimes, and to do that, prosecutors who handle juvenile criminal cases must be able to recognize that and do something about it.

That's not the situation at the OAG. They hold on to as many juvenile cases as possible, including cases involving recidivists charged with violent crimes. The office hires social justice warriors who see juveniles arrested for committing crimes as the victims, not as errant youth in need of accountability and rehabilitation.

The OAG is simply not up to the task of carrying out its mission to hold youthful offenders accountable and protect the community. Congress therefore should consider stripping the OAG of the power to handle all criminal cases and giving that responsibility to the DCUSAO. In turn, the DCUSAO would need to expand the Superior Court Division to include juvenile and traffic cases as most district attorney offices do around the country.

V. The D.C. Crime Lab

In 2012, after a six-year delay, the new crime lab in D.C. was opened. The D.C. Department of Forensic Sciences (DFS) Building, which cost \$210 million, was designed to be a full-service laboratory with the latest equipment and technicians qualified to handle most of the testing requested by prosecutors in the DCUSAO, from DNA to fingerprints to ballistics, digital evidence, and more. The laboratory was needed, it was said at the time, to help the city become less dependent on federal law enforcement labs.³⁶

The quality of the lab work conducted at the DFS was challenged in litigation almost from the day it began operating. On October 2, 2021, the DFS's national accreditation was suspended by the American National Standards Institute (ANSI). The suspension continues to this day, and the lab won't regain its license to practice until at least next year.³⁷

U.S. Attorney Graves blames the closed lab, in part, for his office's high declination rate, stating that his office must send forensic evidence to other labs for testing.³⁸ But that excuse does not explain the substantial difference in declination rates between his office and those discussed herein.

Even if or when the D.C. crime lab regains its accreditation, the quality of its work will be challenged again and again. It could lose its accreditation again, further incapacitating the ability of the DCUSAO to receive quick, local forensic reports on evidence submitted for testing.

³⁶ See Alan Binder, *DC Opens Crime Lab After Years of Delay*, WASH. EXAMINER, Oct. 1, 2012, <https://www.washingtonexaminer.com/dc-opens-210m-crime-lab-after-years-of-delays#.UGrgBP126PI>.

³⁷ See Dick Uliano, *DC Council Member: DC Crime Lab Accreditation "Really Going to Make a Difference in Prosecuting Crime"*, WTOP NEWS, Oct. 7, 2023 <https://wtop.com/dc/2023/10/dcs-crime-lab-reapplies-for-accreditation/>.

³⁸ See Jenny Gathright, *U.S. Attorney Says He's Focused on the Small Group of People Driving Most of D.C.'s Gun Violence*, DCIST, Aug. 2, 2023 <https://dcist.com/story/23/08/02/dc-gun-violence-crime-prosecute-us-attorney/>.

To fix this problem once and for all, Congress should consider federalizing the D.C. crime lab. It could give the lab to the FBI, DEA, or ATF, which in turn would operate jointly to provide state-of-the-art forensic services to the DCUSAO. The federal government, not D.C., would control the lab, maintain the appropriate accreditations, hire qualified scientists, and run the lab. Legal challenges to the lab would be much less likely to succeed, thus providing continuity of service to the DCUSAO and other D.C.-based agencies that may also have a need to use their services.

VI. What Congress Can Do

The criminal code in D.C. does need to be reformed. It is old, has outdated language, contains ancient crimes that are no longer relevant, and is not formatted or organized in the way modern criminal justice codes in many states are organized. The exercise of modernizing most aspects of the code is not—or should not have been—controversial.

The serious business of rewriting the criminal code should start with addressing the realities on the ground in the city and analyzing its justice system compared to model jurisdictions around the country. Such an analysis at the very least should encompass the following things:

- *Evaluate* the numbers of violent crimes across the city.
- *Assess* whether those violent crimes are being perpetrated by recidivists.
- *Examine* how and why recidivism rates are what they are in the District.
- *Scrutinize* the actual sentences imposed by Superior Court judges and compare those sentences to the actual time served to make sure defendants are actually serving their sentences or at least a substantial portion of them.
- *Analyze* the U.S. Attorney's Office charging policies and high declination rate and see how they compare to professionally led large district attorney's offices around the country.
- *Delve* into the current alternatives to incarceration, including diversionary programs and specialty courts (such as veteran's courts, substance abuse courts, mental health courts, etc.) and see whether they are successful compared to best-in-class programs and courts across the country.
- *Develop* a sentencing scheme that punishes the worst offenders convicted of the most violent crimes with life sentences or similarly long periods of time.
- *Include* mandatory minimum sentences with tiers for the most serious crimes based on the offenders' criminal histories.
- *Study* the current funding mechanisms to see whether any alternatives are appropriate.

Once that task is completed, Congress should move to craft a commonsense penal code, borrowing provisions from state penal codes that have been effective in protecting the public and incapacitating violent criminals, such as those listed below.

Use-of-a-Firearm Enhancements

Under California P.C. § 12022, anyone who carries a loaded or unloaded firearm on his person during the commission of a felony or attempted felony is punished by an additional year that must run consecutively to the underlying sentence for the felony he or she committed or attempted to commit. If the weapon is an "assault weapon" as defined by statute, the additional

and consecutive sentence is three years. Under § 12022.2, any person who while armed with a firearm in the commission or attempted commission of any felony has ammunition designed to penetrate metal or armor must serve an additional term of three, four, or 10 years.

Given the extraordinary number of criminals in the District who are found in possession of firearms during the commission of felonies, any reformed criminal code would benefit from a provision like California P.C. § 12022.5, which says that any person who uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment for three, four, or 10 years unless use of a firearm is an element of the offense.

Given the number of shootings from occupants of vehicles (often stolen vehicles), the new code could copy California P.C. § 12022.55, which states that anyone who with the intent to inflict great bodily injury or death inflicts great bodily injury or death of a person other than the occupant of the vehicle as a result of discharging a weapon from a motor vehicle in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment of five, six, or 10 years.

There are many other firearms enhancements under California law that may be worth emulating. The D.C. reform bill ignores firearms enhancements, despite all the rhetoric about the need to reduce “gun crimes.”

Three-Strikes Laws

California was the first state to pass a three-strikes-and-you’re-out law. The law went into effect on March 7, 1994, and has been not only very successful in providing a deterrent, but also cost-effective according to several studies. Nonetheless, to the CCRC and D.C. City Council, a three-strikes law was out of the question because, as decarcerationists and racial apologists, they want shorter sentences and a smaller system—even if that means keeping violent criminals on the streets of the District.

The three-strikes law is complicated and grossly misunderstood by most people, including some people in California. Surprisingly, it has a lot of wiggle room and is not the draconian hammer that the Left portrays it to be, in large part because judges and prosecutors can “strike” a prior conviction from a career felon’s record, thus rendering the person ineligible for the 25-to-life sentence that a person who gets sentenced under the full weight of the three-strikes sentencing scheme receives. In essence, it is designed to punish the most dangerous and violent career felons with 25-to-life sentences but, for the reasons explained herein, does not touch most felons.

To qualify for the three-strikes law, a felon must be convicted of a serious or violent felony, as defined by California Penal Code § 667.5(c) and § 1192.7(c). Those include serious crimes like rape, child molestation, murder, most sex offenses, residential burglary, robbery, kidnapping, and offenses in which a weapon was used, any offense in which great bodily injury was inflicted, arson, or attempts to commit any of the crimes listed above.

A “serious” or “violent” felony is known as a “strike prior.” A defendant who is convicted of any new felony who has one “strike prior” is required to go to prison for twice the sentence otherwise listed for the new offense. He must also serve at least 80 percent of the sentence imposed unlike non-strike prisoners who receive one-third to one-half off their sentences for good time credits.

However, a defendant who has two or more “strike priors” faces a mandatory minimum sentence of 25 years to life and under the law cannot earn any time off for good behavior or working in prison. Prosecutors or judges, on their own volition, can remove (called “striking a strike”) a strike from a felon’s record when negotiating with the defense attorney.

Liberals and decarcerationists hate the three-strikes law, largely because they do not think it works and believe it results in overly punitive sentences. They also contend that the law has no deterrent effect and is not cost-effective. But thoroughly researched studies have found just the opposite—that California’s three-strikes law has a large deterrent effect and may indeed be cost-effective.

Professors Daniel Kessler of Stanford University and Steven Levitt of the University of Chicago tested a research model using California’s Proposition 8, which imposed sentence enhancements for a select group of crimes. They found that in “the year following its passage, crimes covered by [three-strikes] fell by more than 10 percent relative to similar crimes not affected by the law, suggesting a large deterrent effect.”³⁹ More strikingly, they found that “three years after the law comes [sic] into effect, eligible crimes have fallen roughly 20–40 percent compared to non-eligible crimes” and concluded that California sentence enhancements had a large deterrent effect and “may be more cost-effective than is generally thought.”

As is clear from this brief review of California’s criminal code, the CCRC could have included sensible criminal justice reforms from other jurisdictions that are effective, sensible, and act to address the most violent felons on the street, protect victims of crime, and provide incentives to obey the law. But whether the members of the CCRC had a national viewpoint or a limited parochial viewpoint and experience with only local criminal justice systems, they chose not to write a criminal code worthy of adoption. They ignored rising crime rates, turned a blind eye to recidivists, and treated prison like a four-letter word. In short, they failed miserably in their effort to reform the criminal code.

The District also could benefit from fully functioning specialty courts such as a Drug Court, a Domestic Violence Court, and a Family Justice Center. There are drug court and domestic violence “calendars” in the Superior Court, but they aren’t stand-alone courts like those in other jurisdictions.

VII. Conclusion

³⁹ See Daniel Kessler & Steven D. Levitt, *Using Sentence Enhancements to Distinguish Between Deterrence and Incapacitation*, Nat’l Bureau of Econ. Rsch., Working Paper No. 6484 (1998), <https://www.nber.org/papers/w6484>; see also David S. Abrams, *Estimating the Deterrent Effect of Incarceration Using Sentencing Enhancements*, 361 Faculty Scholarship at Penn Carey L. (2011), https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1360&context=faculty_scholarship (taking a “similar methodological approach to Kessler and Levitt” and finding “evidence for a deterrent effect of sentence enhancement in the form of add-on gun laws”).

The criminal justice system in the District of Columbia isn't working as it should. For a variety of reasons detailed in my testimony, it has failed at its core mission: to enforce the criminal laws, protect the residents of the city, respect victims, and punish violent criminals.

This is a man-made problem that has built up over decades. As a result, there is a pervasive culture of violence across the city. Because this has been the case for so long, residents, local newspapers, including *The Washington Post*, have become accustomed to the violence. Residents of the poorest neighborhoods in the city, who have the same right to public safety as everyone else, suffer the most. This is totally unacceptable.

Since the City Council has proven by its actions and words that it is incapable of passing commonsense, widely accepted criminal laws, Congress should step in and do the job for them.

Mr. BIGGS. Thank you, Mr. Stimson.

Now, we will go to you, Mr. Pemberton. Thank you and I recognize you for five minutes.

STATEMENT OF GREGG PEMBERTON

Mr. PEMBERTON. Thank you, sir. Good morning, Members of the Committee. Thank you for this opportunity to testify. As the Chair of the D.C. Police Union, I speak on behalf of approximately 3,000 sworn police officers, detectives, and sergeants who serve the District of Columbia as members of the Metropolitan Police Department. I am a Detective Grade 1. I have worked for the city for 18 years. I take great pride in serving the city.

Much of my testimony here today will be a reiteration of testimony I provided to the House Oversight Committee seven months ago. Unfortunately, since that hearing, crime rates in the District of Columbia have only continued to skyrocket. This testimony will focus on issues related to public safety, crime, and law enforcement, and more specifically, numerous actions by the D.C. Council to include their rhetoric that has resulted in a mass exodus of sworn law enforcement officers and exponential increase violent crime.

Beginning in June 2020, the D.C. Council began introducing antipolice legislation designed in their own words to “act accordingly to bend the arc of justice.” I would like to provide a list of just some of the legislation the D.C. Council would introduce over the course of the next two years: The Comprehensive Policing Justice Reform Amendment Act, the Strengthening Oversight and Accountability of Police Amendment Act, the Revised Criminal Code Amendment Act, Reducing Law Enforcement Presence in Schools Act, the Law Enforcement Qualified Immunity Cessation Act, the Law Enforcement Present Sense Impression Act, the Law Enforcement Vehicular Pursuant Reform Act, the School Police Incident Oversight and Accountability Amendment Act, and the White Supremacy in Policing Prevention Act.

The rhetoric that council members used when speaking publicly about law enforcement amounted to nothing short of virulent attacks on all police officers in the District. One council member even stated in a public hearing,

I know for a fact there are police in the District who are bad actors and who have been going on without the proper penance.

He also felt the need for Metropolitan police officers to receive “some kind of retribution.” Other council members bragged about defunding the department or making “the biggest reduction to MPD he had ever seen.”

Without delving into the granular details of how terrible these bills are or how blatantly awful the rhetoric used by the council was, I can assure the Members of this Committee that the direct result was a mass exodus of police officers from the department. To put a finer point on this issue of attrition, when I took office as head of the police union in April 2020, our membership reports showed we had 3,626 members of the rank and file which is all officers, detectives, and sergeants. Our most recent membership report from October 5, 2023, states we are down to 3,021. This is a net loss of 605 union members.

Since the beginning of 2020, MPD has lost 1,329 officers, more than one third of the department. Five hundred and one of those separations, nearly 40 percent, were resignations, employees who just walked away from a career with the Metropolitan Police Department. These dangerously low police officer staffing levels take away valuable resources from our assignments, like detectives and investigative personnel, and impede the department's ability to engage and speak with victims in a timely manner.

While there is much rhetoric around the concept of the number of police and the amount of crime, the following facts are indisputable. Crime stats year to date in the District are absolutely staggering. Homicides have reached 218, a 38 percent increase. Carjackings have reached almost 800 or 110 percent increase. Robberies are up 70 percent. Violent crime overall is up 40 percent. All crimes are up 28 percent. These statistics I have mentioned are city-wide. If one parses out the data to the neighborhood level, some of these communities have grown to look like war zones.

Over the past 3½ years, our union has been sounding the alarm about this problem to anyone within earshot, including the D.C. City Council. We tried to inform our elected leaders of the unintended consequences of these policies. Unfortunately, we were ignored. D.C. residents and business owners are under siege. Members of Congress are being assaulted and carjacked. Their Congressional staff members are being robbed and stabbed. Tourists and visitors, your constituents, are being targeted and attacked. Yet, the D.C. Council fails to admit that their policies have played a significant role in this outcome.

Now, over three years later, we have all seen the results of D.C. Council's experiments. The empirical data is in, and we know for certain that their efforts have been an abject failure, resulting in thousands more victims of crime in the city. The lasting impacts of these horrible policies will not be fully realized for some time and the efforts to repair the damage done could take decades without swift and thoughtful actions.

If we do not fix the failing policies set in the place by the D.C. Council that our pushing our officers to leave MPD, crime will continue to rise and thousands more victims will be subjected to crime and violence.

The purpose of my testimony here today is to inform the Committee on its on-going crisis that exists in the District and to publicly State we are prepared to assist in any way we can.

Again, I thank you for the opportunity to testify and I welcome any questions that the Committee may have. Thank you.

[The prepared statement of Mr. Pemberton follows:]

DC Police Union

1524 Pennsylvania Avenue, SE
Washington, DC 20003
Office (202) 548-8300 | Fax (202) 548-8306
www.DCPoliceUnion.com



October 12, 2023

Testimony of DC Police Union for House Judiciary Committee on "Victims of Violent Crime in the District of Columbia"

Good morning, members of the Committee, thank you for this opportunity to testify. As the Chairman of the D.C. Police Union, I speak on behalf of approximately 3,000 sworn police officers, detectives and sergeants who serve the District of Columbia as members of the Metropolitan Police Department (MPD). I am a Detective Grade 1, and I have worked for the MPD for eighteen years. I take great pride in serving this city.

Much of my testimony here today will be a reiteration of testimony I provided to the House Oversight Committee seven months ago. Unfortunately, since that hearing, crime rates in the District of Columbia have only continued to skyrocket. This testimony will focus on issues related to public safety, crime, and law enforcement. More specifically, how numerous actions by the D.C. Council, to include their rhetoric, has resulted in a mass exodus of sworn law enforcement officers and an exponential increase in violent crime.

Beginning in June of 2020, the D.C. Council began introducing anti-police legislation designed, in their own words, to "act accordingly to bend the arc of justice."

I'd like to provide a list of just *some* of the legislation the D.C. Council would introduce over the course of the next two years:

- Comprehensive Policing and Justice Reform Amendment Act of 2020
- Strengthening Oversight and Accountability of Police Amendment Act of 2021
- Revised Criminal Code Amendment Act of 2021
- Reducing Law Enforcement Presence in Schools Act of 2021
- Law Enforcement Qualified Immunity Cessation Act of 2021
- Law Enforcement Present Sense Impression Act of 2021
- Law Enforcement Vehicular Pursuit Reform Act of 2021
- School Police Incident Oversight and Accountability Amendment Act of 2021
- White Supremacy in Policing Prevention Act of 2021

The rhetoric that Councilmembers used when speaking publicly about law enforcement amounted to nothing short of virulent attacks on all police officers in the District. One

Councilmember stated in a public hearing, “I know for a fact there are police in the District who are bad actors and who have been going on without the proper penance.” and he felt the need for Metropolitan police officers to receive “some kind of retribution.”

Other Councilmembers bragged about “defunding” the department or making “the biggest reduction to MPD” he had ever seen.

Without delving into the granular details of how terrible these bills are, or how blatantly awful the rhetoric used by the Council was, I can assure the members of this Committee that the direct result was a mass exodus of police officers from the department.

To put a finer point on the issue of attrition, when I took office as head of the Police Union in April of 2020, membership reports showed that we had 3,626 members of the rank-and-file, which is, all officers, detectives, and sergeants. Our most recent membership report from October 5, 2023, states that we are down to 3,021. This is a net loss of 605 union members.

Since the beginning of 2020, the MPD has lost 1,329 officers, more than one-third of the department. 501 of these separations, nearly 40%, were resignations; employees who just walked away from a career with MPD.

These dangerously low police officer staffing levels, take away valuable resources from our assignments like detectives and investigative personnel and impede the department's ability engage and speak with victims in a timely manner.

While there is much rhetoric around the concept of the number of police and the amount of crime, the following facts are indisputable. Crime stats in the District year-to-date are absolutely staggering. Homicides have reached 218, a 38% increase, carjackings have reached almost 800, a 110% increase, robberies are up 70%, violent crime overall is up 40%, and all crimes are up 28%.

These statistics I have mentioned are citywide. If one parses out the data to the neighborhood level, some of these communities have grown to look like warzones.

Over the past three-and-a-half years, our Union has been sounding the alarm about this problem to anyone within earshot, including the D.C. Council. We tried to inform our elected leaders of the unintended consequences of these policies. Unfortunately, we were ignored.

D.C. residents and business owners are under siege. Members of Congress are being assaulted and carjacked. Your Congressional Staff members are being robbed and stabbed. Tourists and visitors, your constituents, are being targeted and attacked. Yet, the D.C. Council fails to admit that their policies have played a significant role in this outcome.

Now, over three years later, we have all seen the results of the D.C. Council's experiment. The empirical data is in, and we know for certain that their efforts have been an abject failure, resulting in thousands more victims of crime in this city. The lasting impacts of these horrible policies will not be fully realized for some time, and the efforts to repair the damage done could take decades without swift and thoughtful actions. If we do not fix the failing policies set in place

by the D.C. Council that are pushing our police officers to leave MPD, crime will continue to rise, and thousands more victims will be subjected to crime and violence.

The purpose of my testimony here today is to inform the Committee on this ongoing crisis that exists in the District and to publicly state that we are prepared to assist in any way we can.

Again, I thank you for the opportunity to testify and I welcome any questions the Committee may have.

A handwritten signature in black ink, appearing to read 'Gregory Pemberton', is written over a horizontal line.

Greggory Pemberton
Chairman
D.C. Police Union

Mr. BIGGS. Thank you for your testimony.
Now, Deputy Mayor Appiah, we recognize you for five minutes.

STATEMENT OF LINDSEY APPIAH

Ms. APPIAH. Good morning, Chair Biggs, Ranking Member Jackson Lee, and Members of the Subcommittee. I am Lindsey Appiah, I serve as Deputy Mayor for Public Safety and Justice for the District of Columbia, a position I was nominated to by Mayor Muriel Bowser and confirmed by the D.C. Council. Serving the residents and visitors of the District in this capacity is the honor of my life.

By way of background, I have served for 11 years in District government, all which has been in public safety and justice, including as General Counsel and interim Director of the D.C. Department of Youth Rehabilitation Services, the District's juvenile justice agency.

I want to acknowledge the witnesses who are sharing their perspectives and experiences in the space here, including Ms. Richards and Mr. Pemberton, who serve in agencies under my supervision. On behalf of the Mayor and the 700,000 residents of the District of Columbia, I express gratitude for their service and appreciate that they are able to be here to share information on the challenges we are facing in the District. Percents and numbers provide critical context. However, we can never lose sight that each statistic on a website read during a hearing is more than a number. The reality is there are no victimless crimes. We recognize the harm and trauma many have experienced, acknowledge our responsibility to respond hurriedly and urgently and vow to work tirelessly to make our city safer, stronger, and a place of collective flourishing.

As Deputy Mayor for Public Safety and Justice, I provide direction, guidance, support, and coordination for the District's 12 public safety agencies and the D.C. National Guard, to develop and lead cross-cluster, interagency public safety initiatives, to improve the quality of life in the District neighborhoods. The missions of these agencies are dynamic and complex. Each plays a critical role in the overall health and functioning of our public safety and justice ecosystem. We call our system an ecosystem because an ecosystem is a complex, interconnected system that is dependent on each part for its help and optimal functioning. Our interdependent system is centered around prevention, intervention, enforcement, accountability, and rehabilitation.

Prevention includes those non-law enforcement programs, services, and strategies aimed at decreasing the incidents of individuals committing violent crimes and in reducing the community conditions that lead to high rates of violent crime in communities in our city. It encompasses our work on providing coordinated delivery of wrap-around services and connecting our residents to a community that cares.

Intervention and enforcement are primarily law enforcement strategies led by MPD. MPD does, currently, have the lowest force strength it has had since 1999. We are making investments to ensure that MPD can recruit and retain officers while also making investments in technology that will enhance our abilities to efficiently and effectively solve cases and bring much needed and deserved justice for victims in our city.

Accountability includes the criminal justice system which we recognize is vital. Holding people appropriately accountable for their behaviors is critical to future determent. Currently, the D.C. Superior Court has 11 judicial vacancies.

Our ecosystem has many pain and pressure points, but the District is investing significant resources into a multi-pronged public safety approach that invests in law enforcement, prevention efforts, youth programming, reentry, and rehabilitation.

Another complexity is the uniqueness of the District's criminal justice system's structure, one that is a mix of local, Federal, and independent agencies, most of which are not under the authority of the mayor. We need all our colleagues in these agencies to match the commitment in the District government to not just combat crime, but to approach the work with the belief that we can prevent the next crime and prevent someone else from becoming a victim.

Mayor Bower has also maintained we have to have a policy environment that supports appropriate accountability. In the District, we are leaders in systemic reform. This is certainly true in the criminal justice space where we lead in pushing bounds of what is possible to achieve equal justice for all under the law. We can and should be proud of our progress, but we must not be so proud that we are unwilling to critically evaluate our reforms and adjust when unintended consequences are leading to harmful outcomes which is why in May, Mayor Bowser sent to the Council and introduced the Safer, Stronger Amendment Act of 2023, a common sense set of policy proposals aimed at providing additional tools across our system to combat crime. The D.C. Council recognized this as law and passed the Prioritizing Public Safety Emergency Amendment Act which incorporates several provisions from the Safer, Stronger Act.

We know more must be done and I echo what the mayor testified in May. Our public safety agencies here in D.C. and across the country need the support of Congress. I am happy to answer questions about more ways that Congress can help to support all the efforts that we described in D.C. government to actually lower crime in the District. Thank you.

[The prepared statement of Ms. Appiah follows:]

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE**



**Victims of Violent Crime in the
District of Columbia**

Testimony of
Lindsey Appiah
Deputy Mayor for Public Safety and Justice

Before the
Subcommittee on Crime & Federal Government Surveillance
Committee on the Judiciary
U.S. House of Representatives

October 12, 2023
2141 Rayburn House Office Building
Washington, DC

Good morning, Chair Biggs, Ranking Member Jackson Lee, and members of the Subcommittee. I am Lindsey Appiah. I serve as the Deputy Mayor for Public Safety and Justice for the District of Columbia, a position I was nominated to by Mayor Muriel Bowser and confirmed by the Council of the District of Columbia. Serving the residents and visitors of the District in this capacity is the honor of my life.

By way of background, I have served for over 11 years in District government, all of which have been in public safety and justice, including as General Counsel and Interim Director of the DC Department of Youth Rehabilitation Services, the District's juvenile justice agency.

I want to acknowledge the witnesses who are sharing their perspectives and experiences at today's hearing, including Ms. Richards and Mr. Pemberton, who serve in agencies under my supervision. On behalf of the Mayor and the 700,000 residents of the District of Columbia, I express gratitude for their service and appreciate that they are able to be here to share information on challenges we are facing in the District. Percents and numbers provide critical context; however, we can never lose sight that each statistic on a website or read during a hearing is more than a number. The reality is there are no victimless crimes. We recognize the harm and trauma many have experienced, acknowledge our responsibility to respond soberly and urgently, and vow to work tirelessly to make our city safe, stronger, and a place of collective flourishing.

As Deputy Mayor for Public Safety and Justice, I provide direction, guidance, support, and coordination to the District's twelve public safety agencies and the DC National Guard to develop and lead cross-cluster, interagency public safety initiatives to improve the quality of life in the

District's neighborhoods. The twelve agencies of the Public Safety and Justice cluster include: Department of Corrections, Department of Forensic Sciences, Department of Youth Rehabilitation Services, Fire and Emergency Management Services, Homeland Security and Emergency Management Agency, Mayor's Office on Returning Citizens Affairs, Metropolitan Police Department, Office of the Chief Medical Examiner, Office of Human Rights, Office of Unified Communications, Office of Victims Services and Justice Grants, and Safer Stronger DC Office of Neighborhood Safety and Engagement.

The missions of these agencies are dynamic and complex. Each plays a critical role in the overall health and functioning of our public safety and justice ecosystem. We call our system an ecosystem because an ecosystem is a complex, interconnected system that is dependent upon each part for its health and optimal functioning. Our interdependent system is centered around prevention, intervention/enforcement, accountability, and rehabilitation.

Prevention includes those non-law enforcement programs, services and strategies aimed at decreasing the incidence of individuals committing violent crime, and in reducing the community conditions that lead to high rates of violent crime in communities in our city. It encompasses our work on providing coordinated delivery of wraparound services and connecting our residents and their communities to care. This category includes but is not limited to the work of DYRS Credible Messengers who provide transformative mentoring for at-risk youth, ONSE Violence Interrupters working to prevent crew-based gun violence, FEMS' Hands on Heart CPR Program, and OVSJG managing grants for victims ranging from domestic violence to sexual assault.

Intervention and enforcement are primarily law enforcement strategies led by MPD. MPD currently has the lowest force strength that it has had since before 1999. Mayor Bowser has long maintained that MPD needs 4,000 officers. With increases in crimes involving guns and the types of criminal activity present in our city, we need a force that is strong and agile, with adequate staffing resources. We are making investments to ensure that MPD can recruit and retain officers while also making investments in technology that will enhance our ability to efficiently and effectively solve cases and bring much needed and deserved justice for all victims in our city.

Prevention programs intend to strengthen, empower, and engage people to keep them safe and healthy BEFORE they engage in risky behavior. These efforts include approaches aimed at reducing factors associated with at-risk, problematic behaviors, and strengthening protective factors. They can be directed toward youth and young adults generally, or more specifically directed towards at-risk populations within the community. Intervention programs, on the other hand, target individuals ALREADY engaged in at-risk behavior, including gang or antisocial group membership.

Accountability includes the criminal justice system. Holding people appropriately accountable for their behavior is critical to future deterrence. Currently, the District's criminal justice system is functioning at a diminished capacity. The DC Superior Court currently has eleven judicial vacancies. While case processing is improving, it is still slower than pre-pandemic and the courts must contend with the backlog. Our role in accountability is ensuring the strength of systems that support the timely, fair, and equitable processes and outcomes for victims and perpetrators. An

accountability example includes rebuilding the Department of Forensic Sciences and its ability to process evidence.

Rehabilitation includes those strategies aimed at helping restore the individual that has committed harm, and the community that has been harmed, so that they no longer find themselves in the perpetual loop of criminal activity. This category includes providing reentry services to returning citizens through the Mayor's Office of Returning Citizens' Affairs, which provides comprehensive case management and supportive services.

Our ecosystem has many pain and pressure points. Gun violence has a devastating impact for the victims and their families, but also more broadly by eroding our sense of public safety. Reducing gun violence is one of the Bowser Administration's highest priorities. The District has invested significant resources into a multipronged public safety approach that invests in law enforcement, prevention efforts, youth programming, rehabilitation, and re-entry.

Another complexity is the uniqueness of the District's criminal justice system structure: one that is a mix of local, federal, and independent agencies, most of which are not under the authority of the Mayor. Once MPD makes arrests, most adult cases are prosecuted by the U.S. Attorney for the District (USAO), whose office is part of the United States Department of Justice. Youth offenders are prosecuted by our locally elected Attorney General. DC's Department of Youth Rehabilitation Services is a local agency responsible for detained youth, but many youth offenders and most adult offenders are supervised by federal agencies. The DC Jail is local, but a majority of our residents

who are serving time are at federal facilities across the country. Our judges are also appointed by the President and confirmed by the Senate.

We need all of our colleagues in these agencies to match the commitment in the District government to not just to combat crime, but to approach our work with the belief that we can prevent the next crime, prevent someone else from becoming a victim. From Mayor Bowser to every dedicated employee in District government, we are simply committed to working with our community and government partners every day to make the city safer. Mayor Bowser is putting every necessary resource towards public safety and turning these trends around.

Mayor Bowser has also maintained that we must have a policy environment that supports appropriate accountability. In the District, we are leaders in systemic reform; this is certainly true in the criminal justice space, where we lead in pushing the bounds of what is possible to achieve equal justice for all under the law. We can and should be proud of our progress. But we must not be so proud that we are unwilling to critically evaluate our reforms and adjust when unintended consequences are leading to harmful outcomes for those we serve. While we are a city that often leads the nation in instituting forward thinking reforms, we must never lose sight that we are first and foremost a local city and that our solutions must be tailored to the specific realities that we face.

In May, Mayor Bowser sent to the Council for introduction the Safer Stronger Amendment Act of 2023, which is a set of commonsense policy proposals aimed at providing additional tools across our system to combat crime, including against some of the most vulnerable in our city, increase

systemic accountability and transparency, consider the community in critical criminal justice processes, and uplift the voices and experiences of victims across all parts of a case. Additionally, we have proposed several new offenses and penalty enhancements, including for gun offenses, strangulation, crimes against vulnerable populations, and those committed against those in safe spaces, like on transit and in our recreation facilities. There are far too many illegal guns and those willing to use them. There is an unacceptable increase in violence in safe spaces – on Metro trains and buses, our recreation centers, and during rideshares. Domestic violence has also increased significantly in the past few years since the pandemic. We must act to have tools in our system to address these realities. Recognizing this, in July, the DC Council passed the Prioritizing Public Safety Emergency Amendment Act, which incorporates several provisions from the Safer Stronger bill. We look forward to continuing to advance policy proposals that will reduce crime and make our city safer and to Congress supporting our local legislation put before it to those ends.

But we know that more must be done as even one victim is too many in our city. While we are working across District government to reverse the increases we've seen in crime, we know there is much more to be done. I echo what the Mayor testified in May- our public safety agencies, here in DC and across the country, also need the support of our Congress. Access to firearms is both a regional and federal problem. We have illegal guns flowing into DC from other states. We need federal law enforcement assistance to enforce existing firearms trafficking laws to stem the interstate flow of illegal guns and hold perpetrators accountable. We also need Congress to fully fund our federal partners in the DC criminal justice system. Right now, there are bills in the House to cut funding to agencies and our court system. Those cuts are the last thing our system – which

is already strained by vacancies and backlogs – needs right now. We ask that Congress support the District by seeing to these essential functions carried out by the federal government.

We ask Congress to help us return District residents from Bureau of Prison facilities to the DC Department of Corrections to complete the last 6 months of their sentences. Research strongly supports that successful reintegration and lack of recidivism is tied to effective transition including reestablishing connections to family and community.

Finally, we know that coordination across our system is vital to achieving positive public safety outcomes. One challenge has been information sharing. While many states experience issues with information sharing, the District's challenges are exacerbated by the local/federal nature of our system which I described earlier in my testimony. We ask Congress to carve out an exception to the Privacy Act that would allow federal criminal justice system stakeholders to share information with District partners. Currently, the prohibitions of the Privacy Act make it difficult for us to effectively implement evidence-based, targeted interventions which we know are successful in preventing violent crime.

Thank you for this opportunity to testify at today's hearing.

Mr. BIGGS. Thank you. Thank you, Deputy Mayor.
Now, the Chair recognizes Mr. Abt for your five minutes.

STATEMENT OF THOMAS ABT

Mr. ABT. Chair Biggs, Ranking Member Jackson Lee, and Members of the Subcommittee, I am Thomas Abt, Founding Director of the Center for the Study and Practice of Violence Reduction, also known as the Violence Reduction Center or VRC, located at the University of Maryland, College Park.

VRC's mission is simple. We seek to save lives by stopping violence using science. Thank you for the opportunity to speak before you today on Victims of Violent Crime in the District of Columbia. This issue is personally and professionally important to me. I live here in the District. I was first exposed to violence while teaching at Roosevelt High School where one of my students was shot and killed. I fought crime in courtrooms in New York City while working as a local prosecutor. I helped start antiviolence initiatives as a senior Federal and State government official. Most recently, I have studied the issue of violent crime while working in academia.

Violent crime in the United States should not be a partisan issue. In the wake of the corona virus pandemic violence surged around the Nation. It rose in urban, suburban, and rural areas. It rose in Red States and in Blue States. It rose in cities run by Republicans and in those led by Democrats. Recently, rates of violent crime have started to decline. Again, they are decreasing in both Red and Blue jurisdictions alike.

While violence is falling in most cities around the country, that is unfortunately not the case here in the District. As of this past Tuesday, violent crime is up 40 percent compared with the same time last year and up 30 percent compared to the same period in 2019 before the pandemic began.

Crime has been falling steeply in the District for the past 30 days, but no one should be satisfied with that. Why is crime rising here, while falling nationally? We need to acknowledge that this is a complicated question that is hard to answer with certainty. Nationally, our best answer is that violence surged during the pandemic due to the pandemic, unrest following the murder of George Floyd, and a massive surge in legal gun sales. As we get farther from those factors, violence across the country seems to be slowing.

Locally, we need to understand that Washington, DC, is unique. The Metropolitan Police Department is one of more than 20 law enforcement agencies operating in the jurisdiction. Prosecution is split between the U.S. Attorney's Office and the Office of the Attorney General. Judges are appointed by the President and confirmed by the Senate. There is no other jurisdiction in the Nation that is jointly administered in this way.

If there is one thing I know after more than 25 years in this field is this, reducing crime and violence is a team sport. If individual players do not play well together, the team will not succeed. Collaboration is key. Collaborating is hard in any jurisdiction, but it is especially hard here in the District due to its unusual local-Federal structure. That is no excuse. The District can and should do better in communicating, collaborating, and executing its antivio-

lence strategies. It is not easy, however, and Congress can help the city in several Congressional ways. I will mention just a few here.

Every criminal justice system requires the sharing of the information of function. Here in the District, however, the Privacy Act of 1974 prohibits Federal agencies from disclosing critical information to local agencies. Congress could amend the Privacy Act to enable the effective sharing of information. By the start of 2024, the District's Crime Lab will have been without accreditation for nearly three years. The city needs and deserves a first-rate lab. Congress could support accreditation by appropriating funding for the lab and for external testing in the interim.

The District, as you heard, is currently struggling with numerous judicial vacancies. Congress could pass the District of Columbia Courts of Judicial Vacancy Reduction Act and apply a 60-day Congressional review period to D.C. nominees and remove the requirement that the Senate hold hearings and vote on these nominations.

None of these actions are likely to garner headlines, but they would make a difference in terms of safety for D.C. residents. They are all nonpartisan and things that the Members of both parties should be able to agree on. More broadly, just over 1½ years ago when rates of violent crime across the country were at their peak, I urged this Committee to put aside partisanship and support \$6 billion in Federal funding for evidence informed antiviolence strategies carried out by local, community-based organizations, and local law enforcement agencies. That funding and those strategies are still sorely needed today in the District and around the Nation.

Then is now, and you must remember that when it comes to violent crime, it is about solving a deadly serious problem, not winning an abstract argument. It is about emphasizing evidence over ideology, and it is about bringing people together, not pulling them apart. Thank you.

[The prepared statement of Mr. Abt follows:]

Written Testimony

Submitted by

**Thomas Abt
Founding Director
Center for the Study and Practice of Violence Reduction
University of Maryland, College Park**

Before the

**United States House of Representatives
House Committee on the Judiciary
Subcommittee on Crime and Federal Government Surveillance
Regarding**

“Victims of Violent Crime in the District of Columbia”

October 12, 2023

Chairman Biggs, ranking member Jackson Lee, and members of the Crime and Federal Government Surveillance Subcommittee, I am Thomas Abt, Founding Director of the [Center for the Study and Practice of Violence Reduction](#) (VRC), located at the University of Maryland, College Park. The VRC’s mission is simple: we seek to save lives by stopping violence, using science. We gather the most rigorous research on violence and then make it available in accessible, easy-to-use formats. We also provide practical instruction to federal, state, and especially local leaders on how to choose, apply, and align the right combination of anti-violence strategies for their jurisdiction. Everything we do at the VRC is guided by three principles: scientific rigor, real-world relevance, and political and financial independence.

I also serve as a Senior Fellow at the [Council on Criminal Justice](#) (CCJ), an nonpartisan organization that seeks to advance understanding of the criminal justice policy choices facing the nation.

Thank you for the opportunity to speak before you today on “Victims of Violent Crime in the District of Columbia.” The issue is both personally and professionally important to me. I was exposed to violence while teaching at Roosevelt High School here in the District where one of my students was shot and killed. I fought crime in courtrooms in New York City while working as a local prosecutor. I helped start anti-violence initiatives as a senior government official at the U.S. Department of Justice and for the State of New York. Most recently, I have carefully studied the issue of violent crime both at the University of Maryland and the Harvard Kennedy School. Finally, as a District resident, I care deeply about what happens here in Washington, D.C.

Violent crime in the United States should not be a partisan issue. In the wake of the coronavirus pandemic, violence surged around the nation. It rose in urban, suburban, and rural areas. It rose in red states and in blue ones. It rose in cities run by Republicans and in those led by Democrats.

Recently, rates of violent crime across the country started to decline. Again, they are decreasing in both red and blue jurisdictions alike.

According to a [recent report](#) from CCJ, homicide rates in major cities declined by nine percent in the first half of 2023 as compared to the same period in the previous year. Gun assaults fell by six percent. That said, homicides and gun assaults were still 24 and 39 percent higher than during the same period in 2019, before the pandemic began. Given the continuing urgency of violence in America, we owe it to the public to put politics aside and focus on solutions.

While violence is falling in most cities around country, that is unfortunately not the case here in the District. As of this past Tuesday, violent crime is up 40 percent, homicide has increased 38 percent, and robberies rose 70 percent as compared with the same time last year, and these figures are up 30 percent, 70 percent, and 62 percent respectively since 2019, before the pandemic began. Crime rates for these offenses are falling in the past 30 days, but no one is or should be satisfied with that.

Why is crime rising in Washington DC while falling nationally? We need to acknowledge that this is a complicated question that is hard to answer with certainty. Crime trends are notoriously hard to understand, and even harder to predict.

Nationally, our best answer is that violence surged due to the pandemic, unrest following the murder of George Floyd in Minneapolis, and a massive surge in legal gun sales. As we get farther from those factors, violence across the country seems to be slowing.

Locally, we need to understand that Washington DC is unique. The Metropolitan Police Department is one of more than 20 law enforcement agencies operating in the jurisdiction. Prosecution is split between the United States Attorney's Office and the Office of the Attorney General; pre-trial and parole supervision is conducted by federal agencies; and correctional responsibilities are split between federal and local agencies. Judges in the District are appointed by the President and confirmed by the Senate. There is no other jurisdiction in the nation that is jointly administered in this way.

If there is one thing I know after more than 25 years in the field, it is this: reducing crime and violence is a team sport. If individual players do not play well together, the team will not succeed. Collaboration is key. Collaborating is hard in any jurisdiction, but it is especially hard here in the District due to its unusual local/federal structure.

That is no excuse. The District can and should do better in communicating and collaborating across systems and agencies. The District can and should improve in its implementation and execution of anti-violence strategies. It is not easy, however, and Congress can help the city in a number of concrete ways. I will mention just a few here.

- Every criminal justice system requires the sharing of information to function. Here in the District, however, the Privacy Act of 1974 prohibits federal agencies from disclosing critical information to local agencies related to pretrial supervision, incarceration, community supervision, probation, and parole, hindering if not halting effective

collaboration. Congress could amend the Privacy Act to enable federal agencies to share identifiable information with the relevant local agencies.

- By the start of 2024, the District's crime lab will have been without accreditation for nearly three years. This is a major institutional challenge and one key explanation for relatively low charging rates. The city needs and deserves a first-rate crime lab. Congress could support accreditation by appropriating funding for the lab and for external testing in the interim.
- The District is currently struggling with numerous judicial vacancies, impairing the speedy administration of justice. Congress could pass the District of Columbia Courts Judicial Vacancy Reduction Act and apply a 60-day congressional review period to D.C. judicial nominees and remove the requirement that the Senate to hold hearings and vote on these nominations.

None of these actions are likely to garner headlines, but they would make a significant difference in terms of safety for District residents. They are all nonpartisan changes that members of both parties should be able to reach agreement on. There are many more measures like them.

More broadly, just over one year and a half ago, when national rates of violent crime were at their peak, I [urged this committee](#) to put aside political partisanship and support six billion dollars in federal funding for evidence-informed, anti-violence strategies, carried out by local community-based organizations and law enforcement agencies, among others. That funding and those strategies are still sorely needed today, in the District and around the nation.

Then, as now, we must remember that with violent crime it is about solving a deadly serious problem, not winning an abstract argument. It is about emphasizing evidence over ideology. It is about bringing people together, not pulling them apart.

Thank you.

Mr. BIGGS. Thank you, Mr. Abt, for your testimony.
Now, the Chair recognizes Mr. Sobolevsky for your five minutes.

STATEMENT OF MITCHELL SOBOLEVSKY

Mr. SOBOLEVSKY. Thank you, Chair Biggs and Ranking Member Jackson Lee for the opportunity to address the Subcommittee today.

While this didn't occur in D.C., I would first like to honor and recognize my father-in-law, who was shot and killed in Jacksonville, Florida, on December 4, 2022.

I am going to discuss my experience though, as a victim of violent crime in the District of Columbia. On December 16, 2020, I made a series of mistakes that almost cost me my life. Some may say it is victim blaming, but the reality is crime exists. If you are not careful in violent cities like D.C., you may end up just as another statistic.

Shortly after 5 p.m. on December 16th, I left my apartment on N Street in Shaw, just a short walk from the White House. I was headed to get groceries and I did not realize that I would soon face a loaded barrel. Just as I began walking, I noticed a man acting suspiciously. He was looking over at me across the block and I told myself nothing was wrong and that nothing bad was going to happen to me. After all, the street was busy. What could go wrong?

I turned down the block and I headed toward the grocery store, and I checked behind and there he was, still eyeing me. He followed in my direction. Alarmed, I noticed a couple walking just behind me and behind them, the would-be criminal. I thought to myself, don't worry, there are people right behind me. It is OK. A few moments passed and I looked again and the couple is nowhere to be seen and the man is quickly approaching. Before I could think, he was next to me asking for money. I politely said no and kept walking without realizing he had pulled a gun. The criminal stepped in front of me and said, you know what it is, before aiming a pistol at my face and pressing it against my forehead. I almost didn't believe it, but then reality set in, and I thought I was going to lose my life to a criminal on the street. I will never forget our interaction line by line. He told me, "do what I say and you ain't going to die tonight." All I could hear was you are going to die tonight. Then my mom would have to come down to D.C. to identify my body on some cold street in Washington, DC.

I remember looking into his eyes and seeing no life, no thought, no empathy, just evil. During the entire interaction where he demanded property after property from me, his finger laid on the trigger while the pistol pointed directly at my head. I, fortunately, concealed my phone. While I was foolish not to hand it over, it expedited my ability to call for help. I remember the last words out of his mouth muffled by his COVID mask, "all right, you did good tonight. You ain't gonna die." I thought well, this is where he shoots me. He stood me up and told me to walk and I did. After a few steps, I turned around and I could see him start to run. I repeatedly told myself, Mitchell, you have your phone, call 911. I took cover behind a parked cover and called exactly who you would want to respond in that situation, the police. Within minutes squad cars lined on 10th and N. I will never forget seeing the siren lights

come and thanking God for the police. A young female officer responded immediately, and I knew I was safe and that my life was spared.

I am trying to remain in my five minutes. I would like to note that after the arrest and coordinated with the U.S. Attorney's Office in D.C. my criminal went to trial. I gladly and passionately wrote an impact statement. I pleaded with the judge not to give a lenient sentence as this man would commit worse crimes than what he did to me. The judge proceeded to give my criminal 24 months and suspended a year of his sentence because the judge believed his judgment was still forming. This light sentence was given despite my criminal robbing six victims and two businesses. That is right. One year for multiple armed robberies. Within weeks of my criminal's release, he would go on to rob two more people at gunpoint. I would only find this out because I was reading the D.C. weekly arrests. We will never be able to eradicate violent crime completely, but we can take action to ensure that it happens less frequently.

Today, D.C. has the highest violent homicides in almost 20 years. It is short 400 police officers with the average homicide suspect having 11 prior arrests.

I implore the Subcommittee to understand that policing, prosecuting, and most importantly, incarceration works. Violent crimes should not be dealt with lightly. How many more stories do we have to read about entirely preventable tragedies? Thank you. I look forward to your questions.

[The prepared statement of Mr. Sobolevsky follows:]

Testimony of Mitchell Sobolevsky

Thank you, Chairman Biggs and Ranking Member Jackson Lee, for the opportunity to address the subcommittee today. I am going to discuss my experience as a victim of violent crime in the District of Columbia. On December 16, 2020, I made a series of mistakes that almost cost me my life. Some may say it is “victim blaming” but the reality is that crime exists, and if you are not careful in violent cities like D.C., you may end up just as another statistic.

Shortly after 5pm on December 16th, I left my apartment on N Street in Shaw, just a short-walk from the White House. I was headed to get groceries and I did not realize that I would soon face a loaded barrel. Just as I began walking, I noticed a man acting suspiciously, he was looking over at me as we were about a block from each other. I told myself that “nothing was wrong” and that nothing bad was going to happen to me. Afterall, the street was busy, what could go wrong?

I turned down the block and headed towards the grocery store, I checked behind and there he was, still eyeing me but this time he had followed my direction. Alarmed, I noticed a couple walking just behind me, and behind them, the would-be criminal. I thought to myself, don’t worry, there are people right behind me, it’s okay.

A few moments pass, and I look behind again, the couple is nowhere to be seen, and the man is quickly approaching. Before I could think, he was next to me, asking for money. I politely said no and kept walking, without realizing he had pulled a gun.

The criminal stepped in front of me and stated “you know what it is” before aiming a pistol at my face and pressing it against my forehead. I almost didn’t believe it. But then reality set in, and I thought that I was going to lose my life to a criminal on the street.

He sat me down and I will never forget our interaction, line by line. He told me, “Do what I say and you ain’t gonna die tonight.” All I could hear is “you’re gonna die tonight” and that my mom would have to come down to D.C. to identify my body, on some cold street in Washington.

I remember looking into his eyes, and seeing no life, no thought, no empathy, just evil. During the entire interaction, where he demanded property after property from me, his finger laid on the trigger while the pistol pointed directly at my head. I fortunately concealed my phone, while it was foolish to not hand it over, it expedited my ability to call for help.

I remember the last words out of his mouth, muffled behind his Covid mask, “alright, you did good tonight, you ain’t gonna die.” I thought, well this is where he shoots me. He stood me up and told me to “walk”, and I did. After a few steps, I turn around and I can see him starting to run. I repeatedly told myself “Mitchell, you have your phone on you call 9-1-1.” I took cover behind a parked car, and called exactly who you want to respond in that situation, the police. Within minutes, squad cars line 10th & N street. I’ll never forget seeing the siren lights come, thinking “Thank God for the police.” A young female officer responded immediately and I knew I was safe and that my life was spared.

While I am trying to remain within my five minutes, I would like to note that after the arrest and coordinating with the US Attorney's office in D.C., my criminal went to trial. I gladly and passionately wrote a victim impact statement. I pleaded with the Judge not to give a lenient sentence as this man would commit worse crimes than what he did to me.

The Judge proceeded to give my criminal 24 months, and suspended a year of his sentence because the Judge believed his judgment was still forming. This light sentence was given despite my criminal robbing 5 victims and two businesses. That's right, one year for multiple armed robberies. Within weeks of my criminal's release, he would go on to rob two more people at gunpoint. I would only find out after reading the weekly D.C. arrests.

We will never be able to eradicate violent crime completely, but we can take action to ensure that it happens less frequently. Today D.C. has the highest amount of homicides in almost 20 years, it is short 400 police officers, with the average homicide suspect having 11 prior arrests.

I implore the subcommittee to understand that policing, prosecuting, and incarceration works. Violent crimes should not be dealt with lightly, how many more stories do we have to read about entirely preventable tragedies?

Thank you.

Mr. BIGGS. Thank you, Mr. Sobolevsky for your compelling testimony. I appreciate you being here.

Mr. Jablonski, I understand you have a video that you wish to show?

Mr. JABLONSKI. Yes, please.

Mr. BIGGS. I recognize Mr. Jablonski for his five minutes, and we will show that video to begin.

[Video played.]

STATEMENT OF GAYNOR JABLONSKI

Mr. JABLONSKI. Thank you. Thank you for inviting me, Mr. Chair.

As horrific as that video is, what happened after was even worse. He was arrested. We found out he was a Door Dash driver and for no reason why he acted that way. Within 10 days of him being arrested, after numerous conversations with the DA Office saying that I would do anything they needed to do not to plea this down, there were numerous eyewitnesses. There is a loaded nine-millimeter. It is kind of hard see there that this was pointed at my son. Not only was it loaded, but there was one in the chamber. When I knocked it out of his pants, luckily it didn't go off. It could have killed someone.

The DA told me that they had to take him to account their resources and my resources and that they would plead this down to an attempted assault with a dangerous weapon and illegal possession of a firearm. When I challenged them as to why they would do that, and how does that take into account the endangerment of a minor, I was told that D.C. does not have a law for the endangerment of a minor.

After all that, I asked OK, well, "what is the sentencing guidelines you are asking?" Twelve to 18 months. I went to the sentencing date. He was released on his own recognizance basically. Went to the sentencing date. Made a victim impact statement and without a doubt in my mind if I didn't do that, his attorney was asking for divergence, and he probably would have been released.

So, out of this entire situation, I now have bad publicity for my own business because people now worry there is somebody on the street walking around with a gun. This is at 2:30 in the afternoon. People are now telling me I am hesitating about ordering from Door Dash which maybe hurts Door Dash, but ultimately hurts the small businesses that support—helped through Door Dash. Then on top of everything else, he gets eight months and I am left explaining to my five-year-old that why I had to fight this man and my five-year-old tells me when I drop him off at school every day be safe.

I understand I was born here. Been numerous—I have been in the bar industry for 25 years. I have seen the craziest things you can imagine. In the last 2–3 years, the brazenness of the violent acts that are going on in the city, but just around, in general, have gotten to the point where it is ridiculous. Now that I have been through the whole process from start to finish, you could enact whatever law you want. We could have a thousand new laws. We

could have a thousand new police officers. You could throw millions at this DA's office. If nobody is going to do their job and prosecute and hold people accountable, what is the point?

Thank you and I look forward to any questions.

[The prepared statement of Mr. Jablonsky follows:]

Testimony of Gaynor Jablonski

On June 29th, at 2:30pm, I was assaulted in my restaurant by a DoorDash driver, for an unknown reason. He pointed a loaded 9mm at me, a friend and my 4 year son. After he puts the gun away, he attacks me and we fight. During the fight my son jumps on my back and starts roaring like a T-Rex. Eventually, the police come and he was arrested.

As horrible as this was, what happened next was much worse. The evidence the DA had was very substantial; clear video photoage of the entire event, the loaded gun, and numerous witnesses. Instead of going to trial or charging him with substantial crimes they allowed him to plead this down to attempted assault with a dangerous weapon and illegal possession of a firearm, with a sentencing guideline of 12-18 months. I couldn't understand why and the explanation I recieved from the DA was they had to take into account the resources of their office and they considered this a win.

He was sentenced to 8 months, and I'm left explaining to my son that it's safe to go to Daddy's Restaurant and why I had to fight this man. He definitely got the better end of this deal. Thank you for your time and inviting me to this committee.

Mr. BIGGS. Thank you, Mr. Jablonski for your testimony. The Chair recognizes Ms. Richards for your five minutes.

STATEMENT OF MYISHA RICHARDS

Ms. RICHARDS. Good morning. My name is Myisha Richards and I'm a firefighter paramedic with D.C. Fire and EMS. I've been in the Fire Service since 2009 and I began as a volunteer and loved every minute of my duties. My dream was to become a firefighter paramedic in the Nation's capital. I spent countless hours perfecting my craft in hopes of being able to serve the citizens of Washington, DC. My hard work finally paid off and I was hired on October 16, 2017.

When I graduated from the academy, I was assigned to Engine 32 in Ward 8. I loved every minute while working in the community and being able to help the citizens in any way that I can. One of my favorite things to do is to engage with the community and talk with the MPD officers. At times we played basketball together with neighborhood kids when we had some down time.

On July 31, 2020, my partner and I responded to a 9-1-1 call for a 90-year-old female in respiratory distress. When I arrived on scene, we had to get fully dressed from head to toe and full COVID PPE before we can enter the home.

In the academy they teach us that scene safety is one of the most important things on a call. As a provider you have to be safe, you have to make sure your partner's safe to ensure proper and safe patient care.

Once we entered, we found two females and one male in a back bedroom. The female caller was irate and stated we took too long and did not care about COVID—and that she did not care about COVID. The gentleman standing in the corner told her to allow us to do our job. The two subjects then began to fight each other.

My partner and I did what we were trained to do, which is get out of the house and call a 1033 code to bring the police for help. I made it to the landing of the steps, reached for my radio, and before I could call the 1033 code, both females jumped over the banister onto the landing and began to punch and kick me while pulling my hair and holding my head down in place, naturally making the radio fall down the flight of steps. The man on scene stood holding my partner at the top of the stairs. Two minutes went by before I was able to get free and get my radio to call for help.

I suffered a severe concussion and had a laceration above my eye which required stitches. These were the physical wounds that in time healed, however the mental impact will last a lifetime.

Since this event I have been to the Center of Excellence, which is a rehab and mental health facility for firefighters. I'm having to learn how to live with PTSD and still do the job I love, without being anxious and fearing for the worst on every call.

Prior to 2020, I felt like MPD's response to these routine medical calls in Ward 8 more. Their police presence was all that was needed to ensure our safety and to make sure the citizens were safe and able to get care without any violent interruptions. I feel safer on the job when I know MPD is either there or just a quick call away. We as a department are grateful for them especially when they're looking out for us on these streets. The amounts of assaults, vio-

lence, and shootings in the District are skyrocketing and it makes me feel less safe, especially after my incident.

Just this week my coworkers can be heard screaming over the radio for a 1033 because an agitated patient tried to climb into the driver's compartment, maybe even trying to steal the ambulance. During all this chaos a gunshot wound victim was dropped off in the same place.

This year, I received a phone call from the DA telling me nothing was going to happen to the two women who assaulted me. I was told that one of the women will receive community service not because of what she did to me, but because while in the process of prosecuting her for this crime she picked up additional charges. The other woman's charge would be dropped.

I love this city, but we need to do better, and our first responders need to feel safe. The Nation's Capital is no longer a place where firefighters and EMS workers can render care to those in need without worrying of becoming a patient themselves. Several times a month we are on calls running from nearby gunshots or having a stage prior to getting a violent—prior to going into a violent scene because we are waiting for police officers to respond.

When I took the oath and was sworn in to be a firefighter paramedic in Washington, DC, I was fully prepared and aware the possibility of dying in a fire could become a reality at any moment, however I did not expect that while helping someone during their most vulnerable time and need during a medical emergency that the tables could quickly turn on me and I could become a victim of an assault and lose my life trying to save another.

In closing I want to thank all of you for this opportunity to share my story in hopes to find a solution to this detrimental uptick in violence and crime we have in the Nation's Capital and that our first responders are being looked out for, so we can look out for the citizens of Washington, DC, who need our help.

[The prepared statement of Ms. Richards follows:]

Testimony of Myisha Richards

Good Morning My name is Myisha Richards and I'm a firefighter paramedic with Dc fire and Ems . I have been in the fire service since 2009 I began as a volunteer and loved every minute of my Duties. My dream was to become a firefighter paramedic in the Nation's Capital. I spent countless hours perfecting my craft in hopes of being able to serve the citizens of Washington DC. My hard work finally paid off and I was hired on October 16th 2017 .

When I graduated from the academy I was assigned to Engine 32 In ward 8 . I have loved every minute while working in the community and being able to help the citizens in any way I could. One of my favorite things to do is to engage with the community and talk with MPD officers- sometimes we've even played basketball together with neighborhood kids when we had downtime.

On July 31st 2020 My partner and I responded to a 911 call for a 19 year old female in respiratory distress . When we arrived on scene we had to get fully dressed from head to toe in full COVID PPE before we could enter the home. In the academy, they teach us that scene safety is one of the most important things on a call. As a provider, you have to be safe, to make sure your partner is safe, to make sure you can treat your patient safely.

My partner and I did what we were trained to do which is get out of the house and call a 10-33 code to bring police for help. I made it to the landings of the steps, reached for my radio and before I could call the 10-33 Both of the females jumped over the banister onto the landing and began to punch and kick me while pulling my hair and holding my head down in place naturally making the radio fall down a flight of stairs . The man on scene stood holding my partner at the top of the stairs. 2 mins went by before I was able to get free and get to my radio to call for help. I suffered a severe concussion and had a laceration above my eye which required stitches . These were the physical wounds that in time healed however, the mental Impact will last a lifetime . Since this event I have been to the center of excellence which is a rehab and mental health facility for firefighters. I'm having to learn how to live with PTSD and still do the job I love without being anxious and fearing the worse on of every call .

Prior to 2020 I felt like MPD respond to these routine medical calls in Ward 8 more . Their police presence was all that was needed to ensure our safety and to make sure the citizens were safe and able to get care without any violent interruptions. I feel safer on the job when I know MPD is either there or just a quick call away, and we as a department are grateful for them especially when they're looking out for us on the streets. The amount of assaults, violence, and shootings in the district are skyrocketing, and it makes me feel less safe- especially after my incident. Just this week my coworkers can be heard screaming over the radio for a 1033 because an agitated patient tried to climb into the drivers compartment, maybe even trying to steal the ambulance. During all of this chaos a gun shot wound victim was dropped off in the same place.

This year I received a phone call from The DA telling me nothing was going to happen to the two women who assaulted me . I was told that the one women would receive community service not because of what she did to me but because while in the process of prosecuting her for this crime she picked up additional charges . The other women's charges would be dropped

I love this city, but we need to do better and our first responders need to feel safe. The nations capitol is no longer a place where firefighters and EMS workers can render care to those in need without the worry of becoming a patient Themselves . Several Times a month we are on calls running from nearby gunshots or having to stage prior to getting to a violent scene because we are waiting for police officers to respond.

I want to thank you all for this opportunity to share my story in hopes to find a solution to this detrimental uptick in violence and crime we have in the nations capitol and that our first responders are being looked out for, so we can look out for the citizens of DC who need our help.

Mr. BIGGS. Thank you, Ms. Richards, for your testimony.

The Chair recognizes now Mr. Gaetz for his five minutes of questions.

Mr. GAETZ. Madam Deputy Mayor, are people more or less safe this year compared to last year in Washington, DC?

Deputy Mayor APPIAH. I can't say whether they're more or less safe. I can say that crime is up and so long as anyone doesn't feel safe, then that's an issue for us.

Mr. GAETZ. Would higher crime rates be one of the more important indicators as to whether or not people are more or less safe?

Deputy Mayor APPIAH. It would be an indicator as to whether or not people feel more or less safe, so it's something that we certainly look at in determining that.

Mr. GAETZ. I don't know. I think people could feel unsafe even if they were safe, but this doesn't seem to be a delusion, right? The cases of sexual assault rose 111 percent over the course of a year; homicides increased by 38 percent; motor vehicle thefts doubled, increasing 106 percent; instances of arson, over 125 percent; and carjackings by 55 percent. Why do you think that is?

Deputy Mayor APPIAH. There's a host of complex reasons why that's the case. You've heard some. We talk about our ecosystem, policy reasons, right? There are—

Mr. GAETZ. Do you think the softening of crime policies is one reason?

Deputy Mayor APPIAH. I don't know that I would say soft on crime policies. What I would say is that there's a number of reforms in policy that have been made in the District that we believe need to be adjusted, which is why there's been a number of proposals from the mayor, legislation passed by the council to take a look at where we're getting the type of impact that we don't want.

Mr. GAETZ. I agree with Mr. Abt that the only way this works is with collaboration. So, what do you think you would highlight as the main policy change that the mayor has proposed that could maybe put some downward pressure on this rising violent crime?

Deputy Mayor APPIAH. Sure. There's a host of proposals that the mayor made related to penalty enhancements, to aligning penalties for gun crimes with Federal penalties. So, there's those, but there's also those on information sharing—

Mr. GAETZ. So, hold on. Let's start with those, though. The underlying premise is that enhanced punishment can have a deterrent effect and reduce crime, right?

Deputy Mayor APPIAH. We absolutely agree with that, yes. Accountability is an important part of crime deterrence.

Mr. GAETZ. I am definitely not blaming you for this because it is not your job, but when we look at the fact that the prosecutor over the D.C. area has doubled their declinations, like from your standpoint on the front lines in city government do you think that doubling the number of declinations goes in the right direction or the wrong direction?

Deputy Mayor APPIAH. I would say that what we believe is that if MPD has made arrests, that people need to be held appropriately accountable. We always maintain that—

Mr. GAETZ. It seems like the underlying premise of appropriately accountable is to have penalty enhancements that—it is not as if

you think people are being held too accountable, it is that they are not being held accountable enough, right?

Deputy Mayor APPIAH. There, absolutely, needs to be accountability for those who engage in violent crime.

Mr. GAETZ. I think Ms. Richards would probably agree with that.

Your testimony was harrowing, but it really concerned me that people might not be willing to do these life-saving, critically important jobs like firefighting and EMS if they feel like they are going into a war zone. You gave testimony about what it was like to wait on the police as you are trying to save people's lives and help them. Is there anything you would like to add to that?

Ms. RICHARDS. That's the State that we're in right now. I've waited in excess of 20 minutes before trying to get MPD on scene for a violent call.

Mr. GAETZ. What do you do for 20 minutes?

Ms. RICHARDS. We stage and we wait because at this point, we're no longer going in—we're not going to those scenes.

Mr. GAETZ. What happens to the people who need your help?

Ms. RICHARDS. So, therefore the citizens are not getting treated, they can't have our services because it's not safe for us to go in there.

Mr. GAETZ. That sounds like life or death to me, that people could actually die because we don't have enough police to keep even our own first responders safe that want to save people's lives. Have you been confronted with these types of life-or-death situations where people can't get the care they need, because essentially you are waiting for fire power and cover to be able to go help people?

Ms. RICHARDS. I could say that, yes, there's been times where we have to wait. Like I said, I've waiting personally myself in excess of 20 minutes for the MPD to arrive on scene.

Mr. GAETZ. Yes. I would observe, Mr. Chair, that D.C. has some of the strongest gun control laws in the country, and increasingly the law-abiding people, the people who want to be helpful, who want to be good neighbors are constrained by those gun control laws, and yet the violent criminals are putting Ms. Richards and all the people who want to do the good work she does in graver danger. That might be something worthy of some Federal review. I yield back.

Mr. BIGGS. The gentleman yields.

The Chair recognizes the Ranking Member, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chair.

At this time, I want to yield to the Ranking Member of the Full Committee, Mr. Nadler, who will then yield to the District of Columbia Congresswoman, Eleanor Holmes Norton. I yield to Mr. Nadler.

Mr. NADLER. Thank you. Mr. Chair, this hearing is not a serious exercise. My Republican colleagues have shown very little interest in the welfare of the people of Washington, DC, and this political stunt is further evidence of that.

Rather than asking questions myself I would like to yield my time to the person who has dedicated her life to representing the Nation's Capital and its residence, the gentlewoman from Washington, DC, Ms. Norton.

Mr. BIGGS. I just want to—just kind of a personal clarification. So, whose time—Mr. Nadler's? It is Mr. Nadler's time is going to Ms. Norton? OK. Thank you.

Ms. Norton, you are recognized.

Ms. NORTON. Thank you and I thank my good friend for yielding.

As the only Member of Congress elected by the nearly 700,000 District of Columbia residents, I appreciate the opportunity to weigh on this Committee for the purposes of this hearing.

I am deeply saddened that some of the witnesses for this hearing were victims of crime in the District, however while the Federal government controls much of D.C.'s criminal justice system, to the extent that this hearing focuses on D.C.'s local laws and local government, it violates the purposes of the D.C. Home Rule Act, which is to, among other things, and I am quoting,

Grant the inhabitants of the District of Columbia powers of local self-government and relieve the Congress of the burden of legislating upon essentially local district matters.

While Congress has Constitutional authority to legislate on local D.C. matters, it does not have a Constitutional duty to do so. Instead, legislating on local D.C. matters is a choice. James Madison said in Federalist 43 about the residents of the District, and I'm quoting,

A municipal legislature for the local purposes derived from their own suffrages will of course be allowed them.

The Supreme Court has held that Congress may delegate, quote, "full legislative power to D.C. on local D.C. matters." D.C.'s local legislature, the D.C. Council, has 13 members. The members are elected by D.C. residents. If D.C. residents do not like the laws the council adopts, they can vote the members out of office. That is called democracy.

Congress has 535 voting members. The members are elected by residents of States. None are elected by or accountable to D.C. residents. If D.C. residents do not like the laws Congress adopts, they cannot vote the members out of office.

The Revolutionary War was fought to give consent to the governed and to end taxation without representation, yet D.C. residents cannot consent to any action taken by Congress whether on national or local D.C. matters and pay full Federal taxes. Indeed, D.C. residents pay more Federal taxes per capita than any State and more local Federal taxes than 19 States. D.C. residents, a majority of whom are Black and Brown, are capable and worthy of governing themselves.

If House Republicans cared about Democratic principles or local D.C. residents, they would bring my D.C. Statehood Bill, which would give D.C. residents voting representation in Congress and full local self-government to the floor.

Congress has the Constitutional authority to admit the State of Washington, DC, if simply that is the will. I yield back and I thank the chairman.

Mr. BIGGS. The gentlelady yields back.

The Chair recognizes the gentleman from California, Mr. Kiley.
Mr. KILEY. Thank you, Mr. Chair.

We have heard testimony today about a culture of lawlessness in Washington, DC, and how crime rates are absolutely staggering. This is, of course, sadly true in other places across the United States: In Manhattan, in Chicago, in San Francisco, and Los Angeles. D.C. is a particularly compelling case study because of the unique nature of the District as a sort of self-contained jurisdiction. It allows us to really parse the different elements of that culture of lawlessness and how they have become mutually reinforcing in a way that has caused crime to spiral out of control. Specifically, those elements would be the laws, police, prosecutors, and judges.

So, starting first with the laws, Detective Pemberton, you represent 3,000 sworn officers, is that right?

Mr. PEMBERTON. Yes, sir. Excuse me. Yes, sir, that's correct.

Mr. KILEY. Thank you for your service and for all of them for the incredibly important and dangerous work that they do on a daily basis.

You described in your testimony a spate of antipolice legislation such as the Comprehensive Policing and Justice Reform Act of 2020, the Revised Criminal Code Amendment Act of 2021, the Reducing Law Enforcement Presence in Schools Act of 2021. How would you summarize the overall effect of this legislation on criminal penalties in the District?

Mr. PEMBERTON. Well, it's very wide-reaching. So, the first thing I would point to is the staffing levels and the morale of the police department. As I stated in my testimony, I think we're down somewhere in the neighborhood of 500 police officers from where we were just before this legislation was introduced.

The legislation is designed to hamper and hamstring police officers and make it absolutely difficult for them to do their jobs. In addition to that, it exposes them to liability of administrative, civil, and even criminal penalties even when they go out and do their job properly, responsibly, and constitutionally.

So, one major aspect of that is that people will leave an agency; they don't want to work under those sorts of onerous provisions. The other part of it is that it has a chilling effect, that there are still obviously thousands of police officers that have not left the agency, but it now—there's a second guessing as to whether or not they want to engage in the positive proactive policing that they used to engage, in which, was so effective at keeping these crime rates low. So, those are the two major aspects of what is happening, at least to the rank and file.

As you stated in your question, the effects go into the entire ecosystem, as the deputy mayor mentioned.

Mr. KILEY. That is right.

Mr. PEMBERTON. Every aspect of the criminal justice system in D.C. is broken and the reason it is broken is because of these laws that the D.C. Council—

Mr. KILEY. So, that actually answers my next question. So, you have this lowering of penalties across the board. Then even where penalties exist you still have someone who needs to get caught to be subject to those penalties. The defunding of police and the antipolice rhetoric from politicians from here has decreased that presence in the city, is that right?

Mr. PEMBERTON. That's absolutely right. So, when we talk about this ecosystem of criminal justice, the front end of that, the intake system is police officers putting handcuffs on people who they have probable cause to believe committed a crime. If we're not doing that, a lot of the stuff downstream of that: Prosecutions, judges—

Mr. KILEY. Yes.

Mr. PEMBERTON. —supervision, that has very little effect because the number of people that we're actually arresting and bringing in—

Mr. KILEY. That is right. Then when even we go downstream—Mr. Stimson, you used to work for the Chief Prosecutor here—how do the prosecutions rates here compare to other jurisdictions?

Mr. STIMSON. So, I've worked in four DA Offices and here this is the highest declination rate of any of those four DA Offices. As I said in my written testimony and in my oral statement, take two like-sized city DA Offices. San Diego has 330 DAs. The U.S. Attorney's Office has 330 DAs. As was just mentioned, there are 700,000 residents here in the District, which is about 2,000-and-some persons per prosecutor.

San Diego has 3.2 million residents in the county. So those prosecutors each serve about 9,000-plus residents, yet the San Diego DA's Office in the last 20 years has a 22.6-percent declination rate and a 77-percent issuance rate of charges. So, San Diego doesn't have a crime problem. I would respectfully disagree with one of the other witnesses and those who've mentioned that crime only spiked during COVID. It actually started going up in 2016 in cities with soft on crime prosecutors.

Mr. KILEY. Sure. Then you also testified as to how the judges in this district tend to have much lighter sentencing than in other jurisdictions as well. So, at each stage of it you have an unavailability of serious penalties. You have a limited police presence because of defunding, and other antipolice policies. You have a very high declination rate by the prosecutor. Then even when people are prosecuted, very light sentences for the judges.

So, that culture of lawlessness has contributed to this jurisdiction having a higher murder rate than anywhere else in the country and these absolutely staggering crimes statistics that we heard.

Now, I am out of time, but just as a question, Detective Pemberton, I think that perhaps the biggest thing that we can do to change that culture of lawlessness is to create a new level of support for law enforcement, to recruit more folks into the profession, to improve morale. Do you have thoughts on how we can do that?

Mr. BIGGS. The gentleman's time has expired, but, Detective Pemberton, you may respond.

Mr. PEMBERTON. Thank you, Mr. Chair.

Yes, that's right. So, these—particularly when we're talking about these bills passed by the city council, the Comprehensive Policing and Justice Reform Act, this is absolutely detrimental to the hiring and the attrition rates of the Metropolitan Police Department. Without getting rid of at least some of the provisions within that bill it's going to be impossible for us to staff the police departments at the level that meets the demand that's out there for citizens who are requesting police services.

Mr. BIGGS. Thank you.

The Chair recognizes the Ranking Member, Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much, Mr. Chair.

Let me first ask to put into the record the information about Washington being No. 1 in police per capita and the amount of money spent on crime.

Mr. BIGGS. Without objection.

Ms. JACKSON LEE. Thank you. Let me again—the stories were horrific. Crime victims—there should be zero tolerance and we all have to come together to make that happen.

To Mr. Jablonski, to watch your little one—I know what that means to you. Thank you for your courage to come here today, sir. Thank you.

Mr. JABLONSKI. Thank you, Congresswoman.

Ms. JACKSON LEE. Thank you. Let me try to get our hands around what we need to do. So, let me just get right to the heart of things, Ms. Appiah. What is the District doing to address violent crime? What is the District doing to address carjackings?

Deputy Mayor APPIAH. Sure. So, we describe the ecosystem because that's important. So, the District's making investments in all those spaces. The first is prevention. I agree with Mr. Pemberton that obviously enforcement is important, but to us—I have a public health background. Preventing crime is the best way to have less victims.

So, there's been significant investments made in violence intervention and prevention, which we're grateful for the investments that were made through the American Rescue Plan Act which allowed us to put funds into violence interruption services and also victim services, a host that—the District grants \$100 million worth of grants to providers, community-based—

Ms. JACKSON LEE. You are not thwarting or stopping your police from engaging right on the streets arresting and bringing in carjackers?

Deputy Mayor APPIAH. That's correct. There are a number of policing strategies. All these have to work together.

Ms. JACKSON LEE. You are respecting the police, for them to do their job?

Deputy Mayor APPIAH. Mayor Bowser is—that you will find no mayor who is more supportive of the police than Mayor Bowser.

Ms. JACKSON LEE. What is the greatest challenge for the District's ability to respond to violent crime?

Deputy Mayor APPIAH. One of them is the complexities of our Federal-local system. You heard Mr. Abt describe information sharing. We know that even law enforcement strategies like focused deterrence or otherwise work when the entities all work together. We don't have one Governor—

[Simultaneous speaking.]

Ms. JACKSON LEE. —is making note of that right now. There is no reason there should not be information sharing.

Let me move quickly, if you don't mind.

Deputy Mayor APPIAH. Yes.

Ms. JACKSON LEE. I have got a short period of time. You enacted emergency legislation in July that changed the landscape of prosecutions. Do you want to just let us know how that is happening?

Is that the same legislation as the Prioritizing Public Safety Emergency Amendment?

Deputy Mayor APPIAH. That's correct.

Ms. JACKSON LEE. So, I want to hold up that this is the law.

Deputy Mayor APPIAH. Correct.

Ms. JACKSON LEE. Can you just give us a snippet? I have got so many other questions I want to ask Mr. Abt.

Deputy Mayor APPIAH. Yes, it increases the presumption for pretrial detention which has led to more people being held pretrial. It increases penalty for things like unlawful discharge of a fireman. There are things related to pretrial detention for juveniles, which we know is an issue. There also was a companion bill that clarifies the ability of law enforcement to pursue in a manner consistent with safe policy.

Ms. JACKSON LEE. OK. Does the declination rate—is that coming down? Because the U.S. Attorney said it is.

Deputy Mayor APPIAH. I can't speak on behalf of the U.S. Attorney, but we are seeing more holds for those with gun crimes. So, we can make a—I can't say causation, but certainly a correlation.

Ms. JACKSON LEE. So, you have strong gun laws, but your surrounding neighbors don't. So, the issue is you don't block any citizen from having their guns—

Deputy Mayor APPIAH. That's correct.

Ms. JACKSON LEE. —legal guns, but what you are seeing is gun trafficking on the street?

Deputy Mayor APPIAH. That's correct.

Ms. JACKSON LEE. How does that happen?

Deputy Mayor APPIAH. So, we have significant gun trafficking from our neighbors in Virginia, Maryland, North Carolina, South Carolina, and Georgia. That is where the illegal flow of guns into the District is. So, working with our partners like ATF and FBI and our Federal partners is deeply important to help us stop gun trafficking and the flow of—

[Simultaneous speaking.]

Ms. JACKSON LEE. So, you are committed to fighting gun trafficking and carjacking, things that and robberies on the street?

Deputy Mayor APPIAH. Absolutely. Without equivocation we are.

Ms. JACKSON LEE. So, the Alcohol, Tobacco, and Firearm, and FBI, for those acronyms may not be familiar, they can do a lot more or you can work a lot more with them, is that my understanding?

Deputy Mayor APPIAH. That's correct.

Ms. JACKSON LEE. Mr. Abt, let me first, very quickly indicate that correction of Mr. Stimson. There is no mandatory minimum for gun possession in the Federal laws, but there is a mandatory minimum in D.C. They are not weak on crime in many instances, but they do have to help their victims and stop that. Mr. Abt, why don't you explore your COVID pandemic concept? Because I agree with you. Though you say that crime here is huge, but just explain that concept about the surge of crime across America.

Mr. ABT. Sure.

Mr. BIGGS. The gentlewoman's time is expired, but you can answer the question, Mr. Abt.

Ms. JACKSON LEE. You may answer the question. Thank you.

Mr. ABT. Sure. So, in 2020 we had one of the largest single-year increases in homicide across the country that we've ever seen, approximately 28 percent. As I said, no jurisdiction or almost no jurisdiction was spared regardless of political affiliation.

Violent crime rose again the following year. It was flat in 1922 and is now slightly coming down, thankfully. As I said, most experts agree on generally three reasons for this surge in crime, although Mr. Stimson is correct that there was a surge in crime in 2016 as well. Focusing on this 2020 surge, it was the pandemic itself, unrest following the murder of George Floyd, and this massive surge in gun sales. All three of these things together contributed to pushing the rates higher. As we get farther from that they seem to be decreasing.

Ms. JACKSON LEE. Thank you very much.

Mr. BIGGS. Thank you.

Ms. JACKSON LEE. Thank you, Mr. Chair.

Thank you to the witnesses. Thank you for your presence here.

Mr. BIGGS. Thank you. The gentlelady's time has expired.

The Chair recognizes the gentleman from Wisconsin, Mr. Tiffany.

Mr. TIFFANY. Mr. Abt, are you saying the lockdowns did not work?

Mr. ABT. I'm not sure—

Mr. TIFFANY. The lockdowns led to higher crime is what I heard you say.

Mr. ABT. No, I certainly did not say that, Congressman. Can you repeat the question?

Mr. TIFFANY. You said during the COVID lockdowns that crime went up in 2020.

Mr. ABT. During the pandemic they went up, yes.

Mr. TIFFANY. So, the American people were locked down. I came here in a—I was sworn in here on May 19, 2020. I couldn't believe I could drive from the suburbs of Virginia to this location right here in about five minutes. Nobody was there. You said violent crime went up. So, didn't the COVID lockdowns—weren't they part of the contributing factor?

Mr. ABT. I think that's an inappropriate connection between these two. I can't speak to that.

Mr. TIFFANY. Deputy mayor, D.C. Council Chair Phil Mendelson said, "there is not a crime crisis in Washington, DC." Do you agree with him?

Deputy Mayor APPIAH. Oxford defines a crisis as a time of intense difficulty, trouble, or danger, and so I would say that we find ourselves in an intense time of trouble or danger. So, I would say there is a crisis anytime someone's a victim of crime in the District regardless of the number.

Mr. TIFFANY. Mr. Chair, it sounds like we have identified part of the problem here with the D.C. Council when somebody will not acknowledge that there is a crisis and—by the very definition. As the Deputy Mayor said, "there is a crisis."

Mr. Pemberton, so we are hearing about guns are the problem and guns coming from other States are the problem. Are crimes being prosecuted to their fullest that include guns here in D.C.? Are the judges giving the fullest sentences they can with gun crimes?

Mr. PEMBERTON. No, absolutely not. So, some of the rhetoric that we hear around crime in the District is that it comes from illegal guns and that we have to focus on illegal guns, and that if we find a way to get illegal guns out of the hands of criminals, crime will come down. That's not necessarily wrong. Our officers for our unit, I think last year we arrested about 3,100 people for possession of an illegal firearm.

The problem is that even when we're able to get those cases papered and prosecuted and then a conviction, the average sentence that judges are handing out right now for that penalty is six months supervised release, which is zero jail time. That is the going rate, is what we say, for people who are in possession of illegal guns.

Mr. TIFFANY. Repeat that. Six months?

Mr. PEMBERTON. Six months of supervised probation. So, that would be someone who's convicted of being in possession of an illegal firearm in the District of Columbia. The maximum penalty is five years under the D.C. Code, however the penalties that D.C. Superior Court Judges are handing out regularly are more along the lines of probation only.

Mr. TIFFANY. Probation only for a gun crime?

Mr. PEMBERTON. That's right. Just to make a finer point on this, it doesn't seem like the city takes those crimes as seriously as they suggest given the fact that the courts are not penalizing people who are found convicted of those crimes.

Mr. TIFFANY. Was that your experience, Mr. Jablonski?

Mr. JABLONSKI. Absolutely. If I didn't make that victim impact statement to the defense's attorney, the defendant's attorney would have been asking for divergence. I was told by the DAs afterwards that they were glad that I came because most likely he would have received divergence.

Mr. TIFFANY. Is Victim Services doing their job in D.C.?

Mr. JABLONSKI. I mean they were very nice and they were helpful, but there's really—the only thing I wanted is I wanted to see real justice. I wanted to see something that showed me that they took into account what happened to me and my family. What I saw wasn't.

Mr. TIFFANY. Mr. Sobolevsky, is Victim Services doing their job in Washington, DC?

Mr. SOBOLEVSKY. I'd say they're doing their job. It's hard to say that the police, the prosecutors, and the judges are doing their jobs. Maybe the police are out there making arrests. Prosecutors aren't prosecuting. What going on there? Judges, they're letting criminals out in the street. My guy was given 1 year in jail. What did he do within weeks on release? My father-in-law was murdered by a guy with a rap sheet from 1971. Why are they on the streets?

Mr. TIFFANY. Mr. Pemberton, have you lost officers to other jurisdictions around this region?

Mr. PEMBERTON. Absolutely. Yes, a lot of the officers to leave have been going to neighboring jurisdictions. Particularly, what's interesting is Northern Virginia takes a lot of our members.

Mr. TIFFANY. I am going to close with this, Mr. Chair: I am going to make the case once again, I want this Committee to come Milwaukee, Wisconsin, to hear the story here. We have heard it in

New York City, Chicago, and now in Washington, DC. I urge this Committee and the Chair to schedule a hearing in Milwaukee, Wisconsin, where the District attorney said will I divert some who will go onto kill someone? Absolutely. That is the problem here in the United States of America, is a soft on crime attitude.

Mr. BIGGS. The gentleman's time has expired.

The Chair recognizes the gentlelady from Georgia, Ms. McBath.

Ms. MCBATH. Thank you, Mr. Chair.

Thank you also, Ranking Member Sheila Jackson Lee. Thank you for our witnesses today and for all of you that are witnesses that have suffered these horrific tragedies. You continue to be inflicted with this trauma every single day. I am so, so very sorry.

I sit before you today as a mother who has suffered as a victim of gun violence. I am here because of an epidemic that has unequivocally and completely just played our country—plagued our country for just too long.

I have dedicated my time while I have been here in Congress to reducing gun violence and advocating for commonsense gun laws to keep our neighborhoods, to keep our families safe, to keep you safe. Regardless of the city that you call home or the person representing you in public office, one fact remains true: We need comprehensive commonsense gun laws to end the violence that threatens the American people.

As Members of Congress we are tasked with making a genuine difference in this country and taking steps to reduce violence by enacting Federal gun laws that keep our families and our children safe. This Committee along has numerous bills that will reduce violent crimes in D.C., and across our country once they are implemented.

We made a historic step in the right direction last Congress with the passage of the bipartisan Safer Communities Act which invests \$750 million into extreme risk protection orders to improve crisis intervention and empower our law enforcement and loved ones. It also invests \$250 million in community-based violence intervention programs to support our communities that are crying out for our help. The successful passage of the bipartisan Safer Communities Act is a testament to our ability to unify in Congress and continue to fulfill our promise to fight for the safety of every American.

These are our communities, our children, our loved ones, and gun violence should be a deep personal concern for each and every one of us here today, including all my colleagues in this Committee. Following this hearing I would urge that all my colleagues on both sides of the aisle to turn their concerns about violence into action. Continue the fight against gun violence with me and join on my Federal Extreme Risk Protection Order Act of 2023 so that we can link our actions into words.

Empower loved ones, those who seek the warning signs of being in crisis first and law enforcement. Help them to help keep guns away from those who are a danger or at risk to themselves or hurting others. What truly matters is not which side of the aisle that we all fall on, but the countless lives that are lost in this country to unnecessary gun violence every single day. No mother, no parent, no American should ever experience the pain of losing a loved one. We must work together to end the epidemic of gun violence.

Now, investments are being made by the bipartisan Safer Communities Act that are aimed at prevention. Deputy Mayor Appiah and Mr. Abt, as we look forward to ways to reduce violent crime across the country, how will a Federal bill to authorize Federal extreme risk protection orders contribute to reducing violent crimes across our country?

Mr. ABT. Thank you for the question. I think if you look at the research that's been assembled by the RAND Institute, there's good research showing that extreme risk protection orders can save lives. They can particularly save lives in terms of avoiding homicides and there's some evidence that they can avoid homicides as well. So, I think that those laws and the support of—that Congress made for those laws in terms of enacting them in the best ways is a very strong step forward.

Deputy Mayor APPIAH. I would say the same thing as Mr. Abt. The district actually currently—I am Co-Chairing with our D.C. Council, a working group on how we can better utilize resources around extreme risk protection orders to keep district residents more safe.

Ms. MCBATH. Well, thank you so much. I know that I have criss-crossed this country fighting to change our dangerous gun laws and I know that there are many in this room that have also worked as activists on the ground in the movement to do the same. No one in this country deserves ever to be affected by this violent culture that we are living in. I promise you that my colleagues and I will do whatever we can to keep you safe.

Mr. BIGGS. The gentlelady's time has expired.

The Chair recognizes the gentlelady from Florida, Ms. Lee.

Ms. LEE. Thank you, Mr. Chair.

Earlier this morning this hearing was referred to as a political stunt. I would like to begin by asking us all to remember that we are joined here today by the men and women of law enforcement, first responders, and the victims of violent crimes. They deserve our serious consideration of this gravely important issue.

So, let's start with reality. The number of law enforcement officers assigned to a region per capita won't stop crime when law enforcement officers are prevented from doing their jobs by bad law. The number of prosecutors in a community will not stop crime when they do not bring cases and they do not enforce the law. It isn't enough to have judges on the bench when judges won't follow the rules and won't enforce the laws.

We owe a responsibility to the citizens of Washington, DC, and the visitors from around the world who come to our Nation's Capital to keep them safe, and all too often they are here, and they are the victims of violent crime. They are being carjacked, they are being assaulted, they are being shot in the street. We must face the reality of the crime epidemic in Washington, DC, and do more.

The reason that we are here is plain and it is obvious. It is the reckless and irresponsible rhetoric and failed policies of the Democrat Party and the Biden Administration that has emboldened criminals in cities across America. We owe the residents here and the visitors to our capital so much more.

As a former Federal prosecutor and judge I will tell you this: There is one thing that reliably keeps a violent predator from

recidivating, and it is called prison. Do some offenders deserve second chances? Absolutely. Do murderers, sex offenders, and rapists need to be out on bond? Do they need wrap-around services? Do those who are out on conditions of bond, who violate them deserve another chance? No. They deserve to be in custody, and they need to remain in custody for the safety of the citizens of this community.

We need to support the men and women of law enforcement. We need prosecutors who will enforce the laws. We need judges who will force—follow the laws and enforce the rules. It is that simple. What we see here today, the testimony that we have heard today is the entirely predictable outcome of the reckless and irresponsible rhetoric and policies of the Democrat Party who are undermining the men and women of law enforcement and the rule of law in America.

Mr. Stimson, I would like to start with you. In your prior testimony you referenced juvenile offenders specifically. I would like to explore the effects that you believe policies related to juvenile offenders are having on the crime problem in D.C., and how we could be doing more to ensure that this issue is under control.

Mr. STIMSON. Well, thank you for your question. I think we both agree as former prosecutors that we need a juvenile justice system. That is designed to help rehabilitate those people who make dumb mistakes when they're young. We believe most can be rehabilitated. When you do murder, multiple murders, rapes, carjackings—you heard the Chair mention the number of carjackings committed this year by juvenile offenders—and the No. 1 age is 15 here in the District who are doing armed carjackings.

So, under Title 16, which is a local law here in the District, the U.S. Attorney's Office can take 16–17-year-olds and prosecute them as an adult. Many other jurisdictions don't have that type of shackles and they allow violent criminals who do murder, rape, robbery, and the rest of it and waive them to adult court, which is what should happen in this city because we have a juvenile violent crime problem.

If I could just add, when I was talking about gun possessions and taking it to Federal court, I said felon in possession. As you know as a former Federal prosecutor felon in possession under 1922(g)–922(g) is a mandatory minimum. What happens in this city is that they charge him with—they charge them with—in Superior Court they charge them with carrying a pistol without a license, felon in possession, unregistered firearm, and unregistered ammunition. They deal away the felon in possession in Superior Court. They plea to carrying a pistol without a license. As Pemberton said, “they get a slap on the wrist.”

So, when I was a criminal defense attorney I wanted my client to get the best deal. I want them to be tried in Superior Court here in the District of Columbia, not Federal District Court regardless of what the sentence is because they're going to get a hard sentence in Federal Court.

Ms. LEE. Should those juvenile—

Mr. BIGGS. I'm sorry. The gentlelady's time has expired.

Ms. LEE. Oh, thank you, Mr. Chair.

Mr. BIGGS. Thank you. Thank you.

The Chair recognizes the gentlelady from Pennsylvania, Ms. Dean.

Ms. DEAN. Thank you, Mr. Chair.

I thank the Ranking Member Lee also for putting forward this hearing today.

Thank you all for your testimony. For those who are the victims of violent crime; I am thinking particularly of your little boy, my heart goes out to all of you, and I thank you for telling your stories because your stories are in search of solutions. That is what this Committee ought to be about, searching for solutions, not finger pointing at a single DA, or let's just say it is the entire Biden Administration's fault that there are violent crimes in this country. We are more serious than that. We must be more serious than that.

I know that I have cared about the issue of gun violence my entire adult life and I am here in Congress. It is one of my most important passions, to make a difference. That is why I am very proud that last year we did the Safer Communities Act. I look forward to learning how violence interruption grants and how others are making a difference. It is the first time in 30 years that Congress did anything around gun violence. So, join us in these solutions is what I suggest to every Member of Congress.

It is distressing to hear of violence in here in D.C., which has become my second home, but it is not unique to here. I am from the Philadelphia suburbs. Philadelphia is the city I call home. It is not unique to here. It is sadly a nationwide epidemic. One of the big issues is the number of guns on the street, and to your point, Mr. Stimson, the number of young people, children with illegal guns.

So, Deputy Mayor Appiah, could you help me? How do the laws in and around D.C. affect guns in D.C.? Where are these guns coming from? Do we have gun manufacturers in D.C. that are selling guns?

Deputy Mayor APPIAH. No.

Ms. DEAN. OK. Where are the guns coming from?

Deputy Mayor APPIAH. As I said, so our neighbors to the North in Maryland and to the South in what's the I-95 corridor of Virginia, North Carolina, South Carolina, and Georgia are the primary locations where illegal guns are coming in. So, there is no question the District has strict gun laws, but those around us do have more lax gun laws, which have allowed the District to be flooded with unlawful guns from those locations.

Ms. DEAN. Exactly. Flooded. We are seeing that throughout this country where guns are coming in from other jurisdictions with more lax gun laws.

Before I yield to my good friend, I wanted to just note something: Please be aware, to those of you who are here today, that Members on the other side of this aisle have argued in hearing after markup after hearing of defunding ATF, defunding the FBI. That is not a solution. That is actually contributing to the problem. We have got to stop demonizing.

We have to lift up those who are working for us to make us safer. With that, I yield to my good friend, the gentleman from Maryland, Mr. Ivey.

Mr. IVEY. I thank the gentlelady.

I thank you, Mr. Chair, for letting me quasi wave in today. I appreciate the chance to be here.

I don't have enough time to cover all the things I want to chat about, but I do want to note that yes, I was a former Assistant U.S. Attorney. I was here from 1990–1994, which was the height of the crack wars. D.C. averaged 450–500 murders per year during that timeframe. In fact, carjacking I think was invented during that timeframe. So, I understand violent crime. I also understand that it went down pretty dramatically, and not for the reasons that have presented here today. So, I do want to emphasize that we want to have a serious approach to addressing these. Mr. Abt is someone, actually, I am working with right now to try and bring to Prince George's County to address some of these issues.

Smart on crime is more effective than tough on crime. I do want to challenge the suggestion, yes, Ms. Lee I think was saying, we just need to be tougher, tougher, and tougher. We saw that movie. That was 2.2 million people incarcerated from incarcerating people for everything. That was marijuana on up.

I do want to say yes, we want to be tough on serious violent offenders. After I left the U.S. Attorney's Office I became the State's Attorney in Prince George's County, which is the border or D.C. We are still working to try and coordinate things with D.C. as we bring this down.

Guns are a key piece. I note that a lot of the crimes that have been discussed today involve guns. Most of the gun cases that are involved are the ones we see on the news at night. Ghost guns for example. Ms. Appiah talked about guns coming from out of State. I can't get any Republican cosponsors for any of the legislation we proposed to try and address some of these problems, including ghost guns, which I think everybody will agree is a problem. They don't even have to go to Virginia to get a ghost gun. They can just email it into the—email the request and have it mailed into the District.

So, I am sorry I won't have a chance to discuss the policing issues and the sentencing issues because I think—I appreciate the work you all do, but there are major differences I think between the solutions you are offering today and the best approaches to addressing the crime problem. So, I apologize for running over and hopefully I have a chance to do more later in the hearing.

Mr. BIGGS. The gentleman's time has expired.

The Chair recognizes the gentleman from Georgia, Mr. Johnson.

Mr. JOHNSON of Georgia. Thank you, Mr. Chair.

Mr. Sobolevsky, your experience is one that is a fear that many people walk around with daily and hope that they will not have to be the actual victim. So, I appreciate you coming and sharing your harrowing experience. I am sorry that happened to you and that the person who did that was insufficiently punished.

Mr. Jablonski, same sentiment for you. I thought about what I would do if I had been in the restaurant, just me and you and that guy, and what I would have done. Would I have come to your assistance? Would I have been as brave as your little son to stand there? He couldn't do anything. I wondered what I would do in that situation. I am glad that you made it out of there, and I am sorry that you had to go through that.

Ms. Richards, a public safety employee, I am very sorry that you don't feel safe doing your job, which is to help people. Very sorry about that.

Detective Pemberton, thank you for your service. I understand that law enforcement is a difficult occupation. A lot of people decide to leave a lower-paying Police Department such as Washington, DC, and go to one—after they get their training and some experience go to another department where the stress levels are less, and the pay is greater. So, I am not sure that I agree with the inference that what the civilian authority has enacted would cause a significant number of law enforcement officers to just resign and turn in their badge and do away with law enforcement. I just don't know if that is the way that we should be thinking about things.

Mr. Abt, you are the founding Director of the Center for the Study and Practice of Violent Reduction, or Violence Reduction and an Associate Research Professor and Senior Fellow at the Council on Criminal Justice. So, you have studied these issues. From your research what are the specific drivers of violence at the macro and the micro level and what has your research shown about how evidence-based prevention and intervention strategies can work alongside law enforcement strategies to reduce violent crime?

Mr. ABT. Sure. At the broadest macro level I think that it's a combination of the factors that are pushing people toward crime and the factors that are pushing people against. So, broadly speaking factors like concentrated poverty push people toward crime. Then, the society's response to those crimes is important as well.

So, thinking broadly about those is important.

On the micro level I think the evidence shows that what's most likely, what's the strongest predictor of violence is previous violent behavior and previous exposure to violence. So, that's something that I think we can all agree that we need to focus on and take very seriously.

Mr. JOHNSON of Georgia. Thank you.

Deputy Mayor Appiah, do you have anything to add to that?

Deputy Mayor APPIAH. Sure. One of the things that we believe in the District is we need to address both what is acutely happening through enforcement or otherwise, but also root causes, which is why the District's invested—the mayor has invested \$100 million this year in affordable housing, an additional \$18 million in access to mental health, untold amounts in recreation programs for young people, because I was in the juvenile justice system in this district working for now 11 years. So, we know interventions with our young people through recreation, through education, through mental health services and supports—those are all prevention.

Mr. JOHNSON of Georgia. Yes, certainly. Things for young people to do after school and during the summer are very important, but I will close by just noting that 21 Members of the—21 Republicans—when it came time to award the Congressional Gold Medal to police officers, Capitol Hill police officers, Washington, DC, police officers who came to the aid of Capitol Hill police officers on January 6th, 21 Republicans, including my friend the Chair of this very Committee, voted to oppose that. That has to be something that

causes Detective Pemberton a loss of morale and maybe some decision to resign. With that I yield back.

Mr. BIGGS. The gentleman's time has expired.

You may comment on that if you wish, Mr. Pemberton.

Mr. PEMBERTON. Yes. Thank you, sir. I mean, we're talking about police response particularly on that day. I think our members were happy to be respond to the call for service.

Mr. JOHNSON of Georgia. Thank you so much. Did you—were you—

Mr. BIGGS. He cut you off. I extended the time for you to answer. Were you able to respond?

Mr. PEMBERTON. I'll just continue, Mr. Chair. I think that we understand that's our duty regardless of whether it's a call for a stolen bicycle or whether there's a giant riot that occurs anywhere in the city. Our members are going to show up and we're going to make sure that we bring that situation back under control. We were happy to be there that day and we were happy to be able to render that situation safe.

Mr. JOHNSON of Georgia. You deserve a gold medal also. Thank you.

Mr. BIGGS. Thank you, Detective Pemberton.

So, I recognize myself for my five minutes.

Ms. Richards, Mr. Sobolevsky, and Mr. Jablonski, thank you for being here. Your testimony is invaluable. I think, Mr. Sobolevsky and Mr. Jablonski, you addressed interaction with what I would call the Victims' Rights Unit of the D.C. government. I think that might have worked out. I didn't get a chance to—Ms. Richards, were you able to encounter Victims' Rights Units?

Ms. RICHARDS. No, sir.

Mr. BIGGS. No one from the prosecutor's office of social services came through for victims' rights to talk with you?

Ms. RICHARDS. No.

Mr. BIGGS. OK. Mr. Sobolevsky and Mr. Jablonski?

Mr. SOBOLEVSKY. Yes, that is correct, they reached out to me. They were nice and it's nice to have them, but it's no compensation for what police should be doing, what prosecutors should be doing, and what judges should be doing.

Mr. BIGGS. Right.

Mr. SOBOLEVSKY. There shouldn't need to be this Victims' Rights Unit, or whatever it is. It should be elected officials or who's ever in the position of power enforcing laws that are already on the book.

Mr. BIGGS. Right. Mr. Jablonski?

Mr. JABLONSKI. Yes, the lady that reached out to me was very nice and she offered services for mental health for me and my son, but when I explained that I was upset with the plea and everything else, she was like I can listen, but I can't do anything.

Mr. BIGGS. Yes, I guess that gets to the point here is—looks like the—except for in your case, Ms. Richards; you didn't have any interaction, but the real nub is this the prosecutorial arm. Sounds like it failed our three witnesses here today.

Mr. Sobolevsky?

Mr. SOBOLEVSKY. In part it's on the prosecutor, but it's also on the judges.

Mr. BIGGS. Right.

Mr. SOBOLEVSKY. While it's happening here in D.C., it's nationwide and it's a problem that scares me for someone who just got married. I want to bring kids into this society, and it scares me that we have kind of a prosecutorial rot and a judicial rot in our system. There needs to be accountability in that.

Mr. BIGGS. Thank you. So, I am going to direct the next question to you, Detective Pemberton. You listed nine laws passed by the D.C. Council that have an impact on enforcement by the police and one of those seemed to have included an elimination of qualified immunity. Is that accurate?

Mr. PEMBERTON. Well, I'm happy to say that this bill actually was not passed.

Mr. BIGGS. OK.

Mr. PEMBERTON. It was introduced and debated, but thankfully that bill never made it to fruition. It was included in the list because it goes to the sort of rhetoric that the council was engaged in and how the message that was sent to police officers about how they felt about them doing their jobs.

Mr. BIGGS. Right. That rhetoric and with the threat of taking—removing qualified immunity, that has a suppressive effect on actual policing in my experience and talking to officers from many jurisdictions. Officers become more cautious. Because even if you—as you said, even if you follow the procedures, policies, constitution, statutes, you are at personal risk for liability. Is that accurate?

Mr. PEMBERTON. Yes, that's right. I think a big misnomer here about qualified immunity is that it applies to criminal charges. It doesn't. Qualified immunity just allows citizens to sue police officers as individuals if it were to be removed. So, the suggestion there is that if a police officer were to go out and make a mistake, then a citizen could sue them for their own personal earnings, their savings, their home, and their college savings. That obviously creates a chilling effect on doing productive and proactive police work.

Mr. BIGGS. Thank you. Mr. Stimson, I want to ask you a question related to your comments about the OAG and—should be eliminated and juvenile cases should be referred to U.S. District Attorney for D.C. The reason I ask that question is because I am incredibly dissatisfied with the performance of Mr. Graves, who is the U.S. Attorney for D.C. Do you trust him if he were given now jurisdiction or broader jurisdiction over juvenile cases that he would actually enforce those? Would he prosecute those?

Mr. STIMSON. Well first, Mr. Chair, I'm not proposing to eliminate the OAG. They're the city attorney and they do a good job handling civil and other matters—

Mr. BIGGS. Moving—

Mr. STIMSON. —moving the criminal function into the U.S. Attorneys by expanding the Superior Court division and adding a juvenile and traffic section, like most city DA Offices have. Look, there are good prosecutors in my old office. I'm disgusted in what happened in these three cases here. I'm ashamed actually of what happened in those cases. That wouldn't happen at a good DA Office. Just wouldn't.

Sunlight's a good disinfectant according to your colleague, the Ranking Member. She's had a very productive conversation with

Mr. Graves. They said the declination rate is coming down. I hope that's correct. I look forward to seeing the numbers which are coming out soon.

The OAG holds onto as many juvenile cases as they can. So, I think if you offer a solution do what most big city DA Offices do: Put the juvenile section in the DA's Office and then exercise oversight over that office in an appropriate way so that—and change the law so that violent juvenile offenders can be handled in the adult court.

Mr. BIGGS. My time has expired. I regret that terribly because there is so much more to talk about with you, but with that this will conclude our—

Ms. JACKSON LEE. I have submissions for the record.

Mr. BIGGS. We have a submission for the record by Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you. I have an article dated March 13, 2023, that indicates cases were dropped because of incorrect information being given to the U.S. Attorney and it was agreed to by then Police Chief Robert Contee, who indicated that we must have complete and good information to come in for cases to be prosecuted.

Then, I want to put into the record the response to Mr. Stimson. There is no mandatory minimum penalty—

Mr. BIGGS. You cannot put into the record a response, but you can put into the record the actual U.S. Code, if you would like.

Ms. JACKSON LEE. Well, then I will. There is no mandatory minimum penalty for 18 U.S.C. 922(g), felony in possession of a firearm. There is one for in possession of a firearm in the committing of a crime.

Ms. JACKSON LEE. My statement, I am going to put that into the record unanimous consent.

Ms. JACKSON LEE. I am just going to mention, not put in the record at this time, Mr. Chair—I think—

Mr. BIGGS. No, you can't mention.

Ms. JACKSON LEE. —the importance of the Personal Integrity Act.

[Simultaneous speaking.]

Mr. BIGGS. You can't filibuster here. No.

Ms. JACKSON LEE. Thank you. I yield back. Thank you for your courtesy.

Mr. BIGGS. You bet.

Ms. JACKSON LEE. To the—

Mr. BIGGS. Those will be admitted without objection.

Ms. JACKSON LEE. Thank you. Can I thank the witnesses, as I know you will, and express my deep concern for the victims and I hope they have gained—whatever we say today, I hope you gain that we want to work together to stop violent crime and to stop more victims from accruing. Thank you to the District of Columbia. I yield back.

Mr. BIGGS. Thank you.

I do thank our witnesses for testifying today, for coming here. I know that it was very difficult perhaps, I would imagine, for our victims who are witnesses. Appreciate your testimony and express my deepest regrets that you encountered what you encountered as

well as the time it will take to fully heal from that. So, may God bless you guys to feel his peace.

Without objection, all Members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

Without objection, the hearing is adjourned.

Before I say that—it is too late now; I already said it, but I also want to get into the record my gratitude to our staff, and I know that the Ranking Member would extend her gratitude to her staff as well, for preparing for this hearing today.

With that, we are adjourned.

[Whereupon, at 12:12 p.m., the Subcommittee was adjourned.]

The record for this hearing by the Members of the Subcommittee on Crime and Federal Government Surveillance is available at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=116457>.

