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A BILL

2-164

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide, on a temporary basis, for comprehensive policing and justice reform for District residents and visitors, and for other purposes.

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43

44 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this

45 act may be cited as the “Comprehensive Policing and Justice Reform Temporary Amendment Act

46 of 2023”.

47 **TITLE I. IMPROVING POLICE ACCOUNTABILITY AND TRANSPARENCY**

48 **SUBTITLE A. PROHIBITING THE USE OF NECK RESTRAINTS**

49 Sec. 101. The Limitation on the Use of the Chokehold Act of 1985, effective January 25,

50 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.01 et seq.), is amended as follows:

51 (a) Section 2 (D.C. Official Code § 5-125.01) is amended to read as follows:

52 “Sec. 2. The Council of the District of Columbia finds and declares that law enforcement

53 and special police officer use of neck restraints constitutes the use of lethal and excessive force.

54 This force presents an unnecessary danger to the public. On May 25, 2020, Minneapolis Police

55 Department officer Derek Chauvin murdered George Floyd by applying a neck restraint to Floyd

56 with his knee for 8 minutes and 46 seconds. Hundreds of thousands, if not millions, of people in

57 cities and states across the world, including in the District, have taken to the streets to peacefully
58 protest injustice, racism, and police brutality against Black people and other people of color. Police
59 brutality is abhorrent and does not reflect the District’s values. It is the intent of the Council in the
60 enactment of this act to unequivocally ban the use of neck restraints by law enforcement and
61 special police officers.”.

62 (b) Section 3 (D.C. Official Code § 5-125.02) is amended as follows:

63 (1) Paragraph (1) is repealed.

64 (2) Paragraph (2) is repealed.

65 (3) A new paragraph (3) is added to read as follows:

66 “(3) “Neck restraint” means the use of any body part or object to attempt to control
67 or disable a person by applying pressure against the person’s neck, including the trachea or carotid
68 artery, with the purpose, intent, or effect of controlling or restricting the person’s movement or
69 restricting their blood flow or breathing.”.

70 (c) Section 4 (D.C. Official Code § 5-125.03) is amended to read as follows:

71 “Sec. 4. Unlawful use of neck restraints by law enforcement officers and special police
72 officers.

73 “(a) It shall be unlawful for:

74 “(1) Any law enforcement officer or special police officer (“officer”) to apply a
75 neck restraint; and

76 “(2) Any officer who applies a neck restraint and any officer who is able to observe
77 another officer’s application of a neck restraint to fail to:

78 “(A) Immediately render, or cause to be rendered, first aid on the person on
79 whom the neck restraint was applied; or

80 “(B) Immediately request emergency medical services for the person on
81 whom the neck restraint was applied.

82 “(b) Any officer who violates the provisions of subsection (a) of this section shall be fined
83 no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment
84 Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or
85 incarcerated for no more than 10 years, or both.”.

86 Sec. 102. Section 3 of the Federal Law Enforcement Officer Cooperation Act of 1999,
87 effective May 9, 2000 (D.C. Law 13-100; D.C. Official Code § 5-302), is amended by striking the
88 phrase “trachea and carotid artery holds” and inserting the phrase “neck restraints” in its place.

89 **SUBTITLE B. IMPROVING ACCESS TO BODY-WORN CAMERA VIDEO**
90 **RECORDINGS**

91 Sec. 103. Section 3004 of the Body-Worn Camera Regulation and Reporting Requirements
92 Act of 2015, effective October 22, 2015 (D.C. Law 21-36; D.C. Official Code § 5-116.33), is
93 amended as follows:

94 (a) Subsection (a)(3) is amended by striking the phrase “interactions;” and inserting the
95 phrase “interactions, and the results of those internal investigations, including any discipline
96 imposed;” in its place.

97 (b) New subsections (c), (d), and (e) are added to read as follows:

98 “(c)(1) Notwithstanding any other law:

99 “(A) Within 5 business days after a request from the Chairperson of the
100 Council Committee with jurisdiction over the Metropolitan Police Department, the Metropolitan
101 Police Department shall provide unredacted copies of the requested body-worn camera recordings
102 to the Chairperson. Such body-worn camera recordings shall not be publicly disclosed by the
103 Chairperson or the Council; and

104 “(B) The Mayor:

105 “(i) Shall, except as provided in paragraph (2) of this subsection:

106 “(I) Within 5 business days after an officer-involved death
107 or the serious use of force, publicly release the names and body-worn camera recordings of all
108 officers who committed the officer-involved death or serious use of force; and

109 “(II) By August 15, 2020, publicly release the names and
110 body-worn camera recordings of all officers who have committed an officer-involved death since
111 the Body-Worn Camera Program was launched on October 1, 2014; and

112 “(ii) May, on a case-by-case basis in matters of significant public
113 interest and after consultation with the Chief of Police, the United States Attorney's Office for the

114 District of Columbia, and the Office of the Attorney General, publicly release any other body-
115 worn camera recordings that may not otherwise be releasable pursuant to a FOIA request.

116 “(2)(A) The Mayor shall not release a body-worn camera recording pursuant to
117 paragraph (1)(B)(i) of this subsection if the following persons inform the Mayor, orally or in
118 writing, that they do not consent to its release:

119 “(i) For a body-worn camera recording of an officer-involved death,
120 the decedent’s next of kin; and

121 “(ii) For a body-worn camera recording of a serious use of force, the
122 individual against whom the serious use of force was used, or if the individual is a minor or unable
123 to consent, the individual’s next of kin.

124 “(B)(i) In the event of a disagreement between the persons who must
125 consent to the release of a body-worn camera recording pursuant to subparagraph (A) of this
126 paragraph, the Mayor shall seek a resolution in the Superior Court of the District of Columbia.

127 “(ii) The Superior Court of the District of Columbia shall order the
128 release of the body-worn camera recording if it finds that the release is in the interests of justice.

129 “(d) Before publicly releasing a body-worn camera recording of an officer-involved death,
130 the Metropolitan Police Department shall:

131 “(1) Consult with an organization with expertise in trauma and grief on best
132 practices for creating an opportunity for the decedent’s next of kin to view the body-worn camera
133 recording in advance of its release;

134 “(2) Notify the decedent’s next of kin of its impending release, including the date
135 when it will be released; and

136 “(3) Offer the decedent’s next of kin the opportunity to view the body-worn camera
137 recording privately in a non-law enforcement setting in advance of its release, and if the next of
138 kin wish to so view the body-worn camera recording, facilitate its viewing.

139 “(e) For the purposes of this subsection, the term:

140 “(1) “FOIA” means Title II of the District of Columbia Administrative Procedure
141 Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.);

142 “(2) “Next of kin” shall mean the priority for next of kin as provided in
143 Metropolitan Police Department General Order 401.08, or its successor directive; and

144 “(3) “Serious use of force” shall have the same meaning as that term is defined in
145 MPD General Order 901.07, or its successor directive.”.

146 Sec. 104. Chapter 39 of Title 24 of the District of Columbia Municipal Regulations is
147 amended as follows:

148 (a) Section 3900 is amended as follows:

149 (1) Subsection 3900.9 is amended to read as follows:

150 “3900.9. Members may not review their BWC recordings or BWC recordings that have
151 been shared with them to assist in initial report writing.”.

152 (2) Subsection 3900.10 is amended to read as follows:

153 “3900.10. (a) Notwithstanding any other law, the Mayor:

154 “(1) Shall, except as provided in paragraph (b) of this subsection:

155 “(A) Within 5 business days after an officer-involved death or the
156 serious use of force, publicly release the names and BWC recordings of all officers who committed
157 the officer-involved death or serious use of force; and

158 “(B) By August 15, 2020, publicly release the names and BWC
159 recordings of all officers who have committed an officer-involved death since the BWC Program
160 was launched on October 1, 2014; and

161 “(2) May, on a case-by-case basis in matters of significant public interest
162 and after consultation with the Chief of Police, the United States Attorney's Office for the District
163 of Columbia, and the Office of the Attorney General, publicly release any other BWC recordings
164 that may not otherwise be releasable pursuant to a FOIA request.

165 “(b)(1) The Mayor shall not release a BWC recording pursuant to paragraph (a)(1)
166 of this subsection if the following persons inform the Mayor, orally or in writing, that they do not
167 consent to its release:

168 “(A) For a BWC recording of an officer-involved death, the
169 decedent’s next of kin; and

170 “(B) For a BWC recording of a serious use of force, the individual
171 against whom the serious use of force was used, or if the individual is a minor or is unable to
172 consent, the individual’s next of kin.

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173 “(2)(A) In the event of a disagreement between the persons who must
174 consent to the release of a BWC recording pursuant to subparagraph (1) of this paragraph, the
175 Mayor shall seek a resolution in the Superior Court of the District of Columbia.

176 “(B) The Superior Court of the District of Columbia shall order the
177 release of the BWC recording if it finds that the release is in the interests of justice.

178 “(c) Before publicly releasing a BWC recording of an officer-involved death, the
179 Metropolitan Police Department shall:

180 “(1) Consult with an organization with expertise in trauma and grief on best
181 practices for creating an opportunity for the decedent’s next of kin to view the BWC recording in
182 advance of its release;

183 “(2) Notify the decedent’s next of kin of its impending release, including
184 the date when it will be released; and

185 “(3) Offer the decedent’s next of kin the opportunity to view the BWC
186 recording privately in a non-law enforcement setting in advance of its release, and if the next of
187 kin wish to so view the BWC recording, facilitate its viewing.”.

188 (b) Section 3901.2 is amended by adding a new paragraph (a-1) to read as follows:

189 “(a-1) Recordings related to a request from or investigation by the Chairperson of
190 the Council Committee with jurisdiction over the Department;”.

191 (c) Section 3902.4 is amended to read as follows:

192 “3902.4. Notwithstanding any other law, within 5 business days after a request from the
193 Chairperson of the Council Committee with jurisdiction over the Department, the Department shall
194 provide unredacted copies of the requested BWC recordings to the Chairperson. Such BWC
195 recordings shall not be publicly disclosed by the Chairperson or the Council.”.

196 (d) Section 3999.1 is amended by inserting definitions between the definitions of
197 “metadata” and “subject” to read as follows:

198 ““Next of kin” shall mean the priority for next of kin as provided in MPD General Order
199 401.08, or its successor directive.

200 ““Serious use of force” shall have the same meaning as that term is defined in MPD General
201 Order 901.07, or its successor directive.”.

202 SUBTITLE C. OFFICE OF POLICE COMPLAINTS REFORMS

203 Sec. 105. The Office of Citizen Complaint Review Establishment Act of 1998, effective
204 March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 et seq.), is amended as follows:

205 (a) Section 5(a) (D.C. Official Code § 5-1104(a)) is amended by striking the phrase “There
206 is established a Police Complaints Board (“Board”). The Board shall be composed of 5 members,
207 one of whom shall be a member of the MPD, and 4 of whom shall have no current affiliation with
208 any law enforcement agency.” and inserting the phrase “There is established a Police Complaints
209 Board (“Board”). The Board shall be composed of 9 members, which shall include one member
210 from each Ward and one at-large member, none of whom, after the expiration of the term of the

211 currently serving member of the MPD, shall be affiliated with any law enforcement agency.” in its
212 place.

213 (b) Section 8 (D.C. Official Code § 5-1107) is amended as follows:

214 (1) A new subsection (g-1) is added to read as follows:

215 “(g-1)(1) If the Executive Director discovers evidence of abuse or misuse of police powers
216 that was not alleged by the complainant in the complaint, the Executive Director may:

217 “(A) Initiate the Executive Director’s own complaint against the subject
218 police officer; and

219 “(B) Take any of the actions described in subsection (g)(2) through (6) of
220 this section.

221 “(2) The authority granted pursuant to paragraph (1) of this subsection shall include
222 circumstances in which the subject police officer failed to:

223 “(A) Intervene in or subsequently report any use of force incident in which
224 the subject police officer observed another law enforcement officer, including an MPD officer,
225 utilizing excessive force or engaging in any type of misconduct, pursuant to MPD General Order
226 901.07, its successor directive, or a similar local or federal directive; or

227 “(B) Immediately report to their supervisor any violations of the rules and
228 regulations of the MPD committed by any other MPD officer, and each instance of their use of
229 force or a use of force committed by another MPD officer, pursuant to MPD General Order 201.26,
230 or any successor directive.”.

231 (2) Subsection (h) is amended by striking the phrase “subsection (g)” and inserting
232 the phrase “subsection (g) or (g-1)” in its place.

233 SUBTITLE D. ANTI-MASK LAW REPEAL

234 Sec. 106. The Anti-Intimidation and Defacing of Public or Private Property Criminal
235 Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312 et
236 seq.), is amended as follows:

237 (a) Section 4 (D.C. Official Code § 22-3312.03) is repealed.

238 (b) Section 5(b) (D.C. Official Code § 22-3312.04(b)) is amended by striking the phrase
239 “or section 4 shall be” and inserting the phrase “shall be” in its place.

240 Sec. 107. Section 23-581(a-3) of the District of Columbia Official Code is amended by
241 striking the phrase “sections 22-3112.1, 22-3112.2, and 22-3112.3” and inserting the phrase
242 “sections 22-3112.1 and 22-3112.2” in its place.

243 SUBTITLE E. LIMITATIONS ON CONSENT SEARCHES

244 Sec. 108. Subchapter II of Chapter 5 of Title 23 of the District of Columbia Official Code
245 is amended by adding a new section 23-526 to read as follows:

246 “§ 23–526. Limitations on consent searches.

247 “(a) In cases where a search is based solely on the subject’s consent to that search, and is
248 not executed pursuant to a warrant or conducted pursuant to an applicable exception to the warrant
249 requirement, sworn members of District Government law enforcement agencies shall:

250 “(1) Prior to the search of a person, vehicle, home, or property:

251 “(A) Explain, using plain and simple language delivered in a calm
252 demeanor, that the subject of the search is being asked to voluntarily, knowingly, and intelligently
253 consent to a search;

254 “(B) Advise the subject that:

255 “(i) A search will not be conducted if the subject refuses to provide
256 consent to the search; and

257 “(ii) The subject has a legal right to decline to consent to the search;

258 “(C) Obtain consent to search without threats or promises of any kind being
259 made to the subject;

260 “(D) Confirm that the subject understands the information communicated
261 by the officer; and

262 “(E) Use interpretation services when seeking consent to conduct a search
263 of a person:

264 “(i) Who cannot adequately understand or express themselves in
265 spoken or written English; or

266 “(ii) Who is deaf or hard of hearing.

267 “(2) If the sworn member is unable to obtain consent from the subject, refrain from
268 conducting the search.

269 “(b) The requirements of subsection (a) of this section shall not apply to searches executed
270 pursuant to a warrant or conducted pursuant to an applicable exception to the warrant requirement.

271 “(c)(1) If a defendant moves to suppress any evidence obtained in the course of the search
272 for an offense prosecuted in the Superior Court of the District of Columbia, the court shall consider
273 an officer’s failure to comply with the requirements of this section as a factor in determining the
274 voluntariness of the consent.

275 “(2) There shall be a presumption that a search was nonconsensual if the evidence
276 of consent, including the warnings required in subsection (a) of this section, is not captured on
277 body-worn camera or provided in writing.

278 “(d) Nothing in this section shall be construed to create a private right of action.”.

279 SUBTITLE F. MANDATORY CONTINUING EDUCATION EXPANSION;
280 RECONSTITUTING THE POLICE OFFICERS STANDARDS AND TRAINING BOARD

281 Sec. 109. Title II of the Metropolitan Police Department Application, Appointment, and
282 Training Requirements of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code
283 § 5-107.01 et seq.), is amended as follows:

284 (a) Section 203(b) (D.C. Official Code § 5-107.02(b)) is amended as follows:

285 (1) Paragraph (2) is amended by striking the phrase “biased-based policing” and
286 inserting the phrase “biased-based policing, racism, and white supremacy” in its place.

287 (2) Paragraph (3) is amended to read as follows:

288 “(3) Limiting the use of force and employing de-escalation tactics;”.

289 (3) Paragraph (4) is amended to read as follows:

290 “(4) The prohibition on the use of neck restraints;”.

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291 (4) Paragraph (5) is amended by striking the phrase “; and” and inserting a
292 semicolon in its place.

293 (5) Paragraph (6) is amended by striking the period and inserting a semicolon in its
294 place.

295 (6) New paragraphs (7) and (8) are added to read as follows:

296 “(7) Obtaining voluntary, knowing, and intelligent consent from the subject of a
297 search, when that search is based solely on the subject’s consent; and

298 “(8) The duty of a sworn officer to report, and the method for reporting, suspected
299 misconduct or excessive use of force by a law enforcement official that a sworn member observes
300 or that comes to the sworn member’s attention, as well as any governing District laws and
301 regulations and Department written directives.”.

302 (b) Section 204 (D.C. Official Code § 5-107.03) is amended as follows:

303 (1) Subsection (a) is amended by striking the phrase “the District of Columbia
304 Police” and inserting the phrase “the Police” in its place.

305 (2) Subsection (b) is amended as follows:

306 (A) The lead-in language is amended by striking the phrase “11 persons”
307 and inserting the phrase “15 persons” in its place.

308 (B) A new paragraph (2A) is added to read as follows:

309 “(2A) Executive Director of the Office of Police Complaints or the Executive
310 Director’s designee;”.

311 (C) Paragraph (3) is amended to read as follows:

312 “(3) The Attorney General for the District of Columbia or the Attorney General’s
313 designee;”.

314 (D) Paragraph (8) is amended by striking the period and inserting the phrase
315 “; and” in its place.

316 (E) Paragraph (9) is amended to read as follows:

317 “(9) Five community representatives appointed by the Mayor, one each with
318 expertise in the following areas:

319 “(A) Oversight of law enforcement;

320 “(B) Juvenile justice reform;

321 “(C) Criminal defense;

322 “(D) Gender-based violence or LGBTQ social services, policy, or
323 advocacy; and

324 “(E) Violence prevention or intervention.”.

325 (3) Subsection (i) is amended by striking the phrase “promptly after the
326 appointment and qualification of its members” and inserting the phrase “by September 1, 2020” in
327 its place.

328 (c) Section 205(a) (D.C. Official Code § 5-107.04(a)) is amended by adding a new
329 paragraph (9A) to read as follows:

330 “(9A) If the applicant has prior service with another law enforcement or public
331 safety agency in the District or another jurisdiction, information on any alleged or sustained
332 misconduct or discipline imposed by that law enforcement or public safety agency;”.

333 SUBTITLE G. IDENTIFICATION OF MPD OFFICERS DURING FIRST
334 AMENDMENT ASSEMBLIES AS LOCAL LAW ENFORCEMENT

335 Sec. 110. Section 109 of the First Amendment Assemblies Act of 2004, effective April 13,
336 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.09), is amended as follows:

337 (a) Designate the existing text as subsection (a).

338 (b) A new subsection (b) is added to read as follows:

339 “(b) During a First Amendment assembly, the uniforms and helmets of officers policing
340 the assembly shall prominently identify the officers’ affiliation with local law enforcement.”.

341 SUBTITLE H. PRESERVING THE RIGHT TO JURY TRIAL

342 Sec. 111. Section 16-705(b)(1) of the District of Columbia Official Code is amended as
343 follows:

344 (a) Subparagraph (A) is amended by striking the phrase “; or” and inserting a semicolon in
345 its place.

346 (b) Subparagraph (B) is amended by striking the phrase “; and” and inserting the phrase “;
347 or” in its place.

348 (c) A new subparagraph (C) is added to read as follows:

349 “(C)(i) The defendant is charged with an offense under:

350 “(I) Section 806(a)(1) of An Act To establish a code of law
351 for the District of Columbia, approved March 3, 1901 (31 Stat. 1322; D.C. Official Code § 22–
352 404(a)(1));

353 “(II) Section 432a of the Revised Statutes of the District of
354 Columbia (D.C. Official Code § 22–405.01); or

355 “(III) Section 2 of An Act To confer concurrent jurisdiction
356 on the police court of the District of Columbia in certain cases, approved July 16, 1912 (37 Stat.
357 193; D.C. Official Code § 22–407); and

358 “(ii) The person who is alleged to have been the victim of the offense
359 is a law enforcement officer, as that term is defined in section 432(a) of the Revised Statutes of
360 the District of Columbia (D.C. Official Code § 22-405(a)); and”.

361 **SUBTITLE I. REPEAL OF FAILURE TO ARREST CRIME**

362 Sec. 112. Section 400 of the Revised Statutes of the District of Columbia (D.C. Official
363 Code § 5-115.03), is repealed.

364 **SUBTITLE J. AMENDING MINIMUM STANDARDS FOR POLICE OFFICERS**

365 Sec. 113. Section 202 of the Omnibus Police Reform Amendment Act of 2000, effective
366 October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-107.01), is amended by adding a new
367 subsection (f) to read as follows:

368 “(f) An applicant shall be ineligible for appointment as a sworn member of the
369 Metropolitan Police Department if the applicant:

370 “(1) Was previously determined by a law enforcement agency to have committed
371 serious misconduct, as determined by the Chief by General Order;

372 “(2) Was previously terminated or forced to resign for disciplinary reasons from
373 any commissioned or recruit or probationary position with a law enforcement agency; or

374 “(3) Previously resigned from a law enforcement agency to avoid potential,
375 proposed, or pending adverse disciplinary action or termination.”.

376 SUBTITLE K. POLICE ACCOUNTABILITY AND COLLECTIVE BARGAINING
377 AGREEMENTS

378 Sec. 114. Section 1708 of the District of Columbia Government Comprehensive Merit
379 Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-617.08),
380 is amended by adding a new subsection (c) to read as follows:

381 “(c)(1) All matters pertaining to the discipline of sworn law enforcement personnel shall
382 be retained by management and not be negotiable.

383 “(2) This subsection shall apply to any collective bargaining agreements entered
384 into with the Fraternal Order of Police/Metropolitan Police Department Labor Committee after
385 September 30, 2020.”.

386 SUBTITLE L. OFFICER DISCIPLINE REFORMS

387 Sec. 115. Section 502 of the Omnibus Public Safety Agency Reform Amendment Act of
388 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031), is amended
389 as follows:

390 (a) Subsection (a-1) is amended as follows:

391 (1) Paragraph (1) is amended by striking the phrase “subsection (b) of this section”
392 and inserting the phrase “paragraph (1A) of this subsection and subsection (b) of this section” in
393 its place.

394 (2) A new paragraph (1A) is added to read as follows:

395 “(1A) If the act or occurrence allegedly constituting cause involves the serious use
396 of force or indicates potential criminal conduct by a sworn member or civilian employee of the
397 Metropolitan Police Department, the period for commencing a corrective or adverse action under
398 this subsection shall be 180 days, not including Saturdays, Sundays, or legal holidays, after the
399 date that the Metropolitan Police Department had notice of the act or occurrence allegedly
400 constituting cause.”.

401 (3) Paragraph (2) is amended by striking the phrase “paragraph (1)” and inserting
402 the phrase “paragraphs (1) and (1A)” in its place.

403 (b) Subsection (b) is amended by striking the phrase “the 90-day period” and inserting the
404 phrase “the 90-day or 180-day period, as applicable,” in its place.

405 Sec. 116. Section 6-A1001.5 of Chapter 10 of Title 6 of the District of Columbia Municipal
406 Regulations is amended by striking the phrase “reduce the penalty” and inserting the phrase
407 “reduce or increase the penalty” in its place.

408 **SUBTITLE M. USE OF FORCE REFORMS**

409 Sec. 117. Use of deadly force.

410 (a) For the purposes of this section, the term:

411 (1) “Deadly force” means any force that is likely or intended to cause serious bodily
412 injury or death.

413 (2) “Deadly weapon” means any object, other than a body part or stationary object,
414 that in the manner of its actual, attempted, or threatened use, is likely to cause serious bodily injury
415 or death.

416 (3) “Serious bodily injury” means extreme physical pain, illness, or impairment of
417 physical condition, including physical injury, that involves:

418 (A) A substantial risk of death;

419 (B) Protracted and obvious disfigurement;

420 (C) Protracted loss or impairment of the function of a bodily member or
421 organ; or

422 (D) Protracted loss of consciousness.

423 (b) A law enforcement officer shall not use deadly force against a person unless:

424 (1) The law enforcement officer reasonably believes that deadly force is
425 immediately necessary to protect the law enforcement officer or another person, other than the
426 subject of the use of deadly force, from the threat of serious bodily injury or death;

427 (2) The law enforcement officer’s actions are reasonable, given the totality of the
428 circumstances; and

429 (3) All other options have been exhausted or do not reasonably lend themselves to
430 the circumstances.

431 (c) A trier of fact shall consider:

432 (1) The reasonableness of the law enforcement officer's belief and actions from the
433 perspective of a reasonable law enforcement officer; and

434 (2) The totality of the circumstances, which shall include:

435 (A) Whether the subject of the use of deadly force:

436 (i) Possessed or appeared to possess a deadly weapon; and

437 (ii) Refused to comply with the law enforcement officer's lawful
438 order to surrender an object believed to be a deadly weapon prior to the law enforcement officer
439 using deadly force;

440 (B) Whether the law enforcement officer engaged in de-escalation measures
441 prior to the use of deadly force, including taking cover, waiting for back-up, trying to calm the
442 subject of the use of force, or using non-deadly force prior to the use of deadly force; and

443 (C) Whether any conduct by the law enforcement officer prior to the use of
444 deadly force increased the risk of a confrontation resulting in deadly force being used.

445 SUBTITLE N. RESTRICTIONS ON THE PURCHASE AND USE OF MILITARY
446 WEAPONRY

447 Sec. 118. Limitations on military weaponry acquired by District law enforcement agencies.

448 (a) Beginning in Fiscal Year 2021, District law enforcement agencies shall not acquire the
449 following property through any program operated by the federal government:

- 450 (1) Ammunition of .50 caliber or higher;
- 451 (2) Armed or armored aircraft or vehicles;
- 452 (3) Bayonets;
- 453 (4) Explosives or pyrotechnics, including grenades;
- 454 (5) Firearm mufflers or silencers;
- 455 (6) Firearms of .50 caliber or higher;
- 456 (7) Firearms, firearm accessories, or other objects, designed or capable of launching
457 explosives or pyrotechnics, including grenade launchers; and
- 458 (8) Remotely piloted, powered aircraft without a crew aboard, including drones.

459 (b)(1) If a District law enforcement agency requests property through a program operated
460 by the federal government, the District law enforcement agency shall publish notice of the request
461 on a publicly accessible website within 14 days after the date of the request.

462 (2) If a District law enforcement agency acquires property through a program
463 operated by the federal government, the District law enforcement agency shall publish notice of
464 the acquisition on a publicly accessible website within 14 days after the date of the acquisition.

465 (c) District law enforcement agencies shall disgorge any property described in subsection
466 (a) of this section that the agencies currently possess within 180 days after the effective date of the

467 Comprehensive Policing and Justice Reform Second Temporary Amendment Act of 2020,
468 effective December 3, 2020 (D.C. Law 23-151; 67 DCR 9920).

469 SUBTITLE O. LIMITATIONS ON THE USE OF INTERNATIONALLY BANNED
470 CHEMICAL WEAPONS, RIOT GEAR, AND LESS-LETHAL PROJECTILES

471 Sec. 119. The First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C.
472 Law 15-352; D.C. Official Code § 5-331.01 et seq.), is amended as follows:

473 (a) Section 102 (D.C. Official Code § 5-331.02) is amended as follows:

474 (1) Paragraphs (1) and (2) are redesignated as paragraphs (2) and (4) respectively.

475 (2) A new paragraph (1) is added to read as follows:

476 “(1) “Chemical irritant” means tear gas or any chemical that can rapidly produce
477 sensory irritation or disabling physical effects in humans, which disappear within a short time
478 following termination of exposure, or any substance prohibited by the Convention on the
479 Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on
480 their Destruction, effective April 29, 1997.”.

481 (3) A new paragraph (3) is added to read as follows:

482 “(3) “Less-lethal projectiles” means any munition that may cause bodily injury or
483 death through the transfer of kinetic energy and blunt force trauma. The term “less-lethal
484 projectiles” includes rubber or foam-covered bullets and stun grenades.”.

485 (b) Section 116 (D.C. Official Code § 5-331.16) is amended to read as follows:

486 “Sec. 116. Use of riot gear and riot tactics at First Amendment assemblies.

487 “(a)(1) No officers in riot gear may be deployed in response to a First Amendment
488 assembly unless there is an immediate risk to officers of significant bodily injury. Any deployment
489 of officers in riot gear:

490 “(A) Shall be consistent with the District’s policy on First Amendment
491 assemblies; and

492 “(B) May not be used as a tactic to disperse a First Amendment assembly.

493 “(2) Following any deployment of officers in riot gear in response to a First
494 Amendment assembly, the commander at the scene shall make a written report to the Chief of
495 Police within 48 hours, and that report shall be available to the public.

496 “(b)(1) Chemical irritants shall not be used by MPD to disperse a First Amendment
497 assembly.

498 “(2) The Mayor shall request that any federal law enforcement agency operating in
499 the District refrain from the use of chemical irritants to disperse a First Amendment assembly.

500 “(c)(1) Less-lethal projectiles shall not be used by MPD to disperse a First Amendment
501 assembly.

502 “(2) The Mayor shall request that any federal law enforcement agency operating in
503 the District refrain from the use of less-lethal projectiles to disperse a First Amendment
504 assembly.”.

505 SUBTITLE P. OPIOID OVERDOSE PREVENTION

506 Sec. 120. The Opioid Overdose Prevention Temporary Amendment Act of 2022, effective
507 September 21, 2022 (D.C. Law 24-180; 69 DCR 9334), is repealed.

508 Sec. 121. Section 4(b) of the Drug Paraphernalia Act of 1982, effective September 17, 1982
509 (D.C. Law 4-149; D.C. Official Code § 48-1103(b)), is amended by adding a new paragraph (1B)
510 to read as follows:

511 “(1B) Notwithstanding paragraph (1) of this subsection, it shall not be unlawful for
512 District government employees, contractors, and grantees, acting within the scope of their
513 employment, contract, or grant, to deliver, or possess with intent to deliver, drug paraphernalia for
514 the personal use of a controlled substance.”.

515 SUBTITLE Q. METROPOLITAN POLICE DEPARTMENT OVERTIME SPENDING
516 TRANSPARENCY

517 Sec. 122. The Metropolitan Police Department Overtime Spending Accountability
518 Temporary Act of 2022, effective December 21, 2022 (D.C. Law 24-220; 69 DCR 13964), is
519 repealed.

520 Sec. 123. Section 386 of the Revised Statutes of the District of Columbia (D.C. Official
521 Code § 5-113.01), is amended as follows:

522 (a) Subsection (c)(1) is amended as follows:

523 (1) Subparagraph (A) is amended by striking the phrase “; and” and inserting a
524 semicolon in its place.

525 (2) Subparagraph (B)(ii) is amended by striking the semicolon and inserting the
526 phrase “; and” in its place.

527 (3) A new subparagraph (C) is added to read as follows:

528 “(C) Copies of the overtime pay spending reports submitted to the Council
529 as described in subsection (d) of this section.”.

530 (b) A new subsection (d) is added to read as follows:

531 “(d) MPD shall provide a written report every 2 pay periods on MPD’s overtime pay
532 spending to the Council that describes the amount spent year-to-date on overtime pay and the
533 staffing plan and conditions justifying the overtime pay.”.

534 SUBTITLE R. LIMITING APPLICATION OF DUNCAN ORDINANCE

535 Sec. 124. Section 1004 of Title 1 of the District of Columbia Municipal Regulations (1
536 DCMR § 1004), is amended by adding a new subsection 1004.10 to read as follows:

537 “1004.10. Nothing in this section shall prohibit the Metropolitan Police Department from
538 providing unexpurgated adult arrest records to employees or contractors working to reduce gun
539 violence, or serve individuals at high risk of being involved in gun violence, within the following
540 District agencies:

541 “(a) The Criminal Justice Coordinating Council;

542 “(b) The Office of Gun Violence Prevention;

543 “(c) The Office of Neighborhood Safety and Engagement;

544 “(d) The Office of the Attorney General; and

545 “(e) The Office of Victim Services and Justice Grants.”.

546 TITLE II. APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE

547 Sec. 201. Applicability.

548 (a) The provisions of this act, except for section 122, shall expire as of the effective date
549 of the Comprehensive Policing and Justice Reform Amendment Act of 2022, enacted on January
550 19, 2023 (D.C. Act 24-781; 70 DCR 953).

551 (b) Notwithstanding subsection (a) of this section:

552 (1) Section 105 shall expire as of the applicability date of section 105 of the
553 Comprehensive Policing and Justice Reform Amendment Act of 2022, enacted on January 19,
554 2023 (D.C. Act 24-781; 70 DCR 953); and

555 (2) Section 119 shall expire on October 1, 2023.

556 Sec. 202. Fiscal impact statement.

557 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
558 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
559 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

560 Sec. 203. Effective date.

561 (a) This act shall take effect following approval by the Mayor (or in the event of veto by
562 the Mayor, action by the Council to override the veto), a 60-day period of congressional review as
563 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24,
564 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
565 Columbia Register.

566 (b) This act shall expire after 225 days of its having taken effect.