

OFFICERS

CHAIR OF THE BOARD

Marianela Peralta
Aerotek, Inc.

PRESIDENT

Patrick McGlone
Ullico Inc.

IMMEDIATE PAST PRESIDENT

Irvin B. Nathan
Arnold & Porter LLP (ret.)

VICE PRESIDENT

Paulette E. Chapman
Koonz, McKenney, Johnson, & DePaolis LLP

SECRETARY

Debra R. Beloff
Jones Day

TREASURER &
FINANCE COMMITTEE CHAIR

Julia A. Matthews

EXECUTIVE COMMITTEE

Joshua B. Bernstein
Bernstein Management Company

Abigail Blomstrom
Monumental Sports

Kevin A. Chambers
Latham & Watkins LLP

Eric S. Glover

Paul S. Lee
Stephoe & Johnson LLP

The Honorable Heidi Pasichow
Superior Court of the District of Columbia

Benjamin J. Razi
Covington & Burling LLP

Elizabeth A. Scully
BakerHostetler

Natalie S. Walker
Webster & Fredrickson, PLLC

Tyrone Walker

Tami Weerasingha-Cote
Children's Law Center

Cynthia G. Wright
Joanne L. Zimolzak
Dykema Gossett PLLC

Lisa B. Zycherman
Reporters Committee for Freedom of the Press

NOMINATING COMMITTEE
CHAIR

Karen E. Evans
The Cochran Firm

EXECUTIVE DIRECTOR

Misty C. Thomas

**Statement of the Council for Court Excellence
Before the Committee on Judiciary and Public Safety
of the Council of the District of Columbia**

Hearing on B25-0291, Safer Stronger Amendment Act of 2023

Good afternoon Chairperson Pinto and members of the Committee. My name is Misty Thomas and I am the Executive Director of the Council for Court Excellence. CCE is a nonpartisan, nonprofit organization with the mission to enhance justice in the District of Columbia. For over 40 years, CCE has worked to improve the administration of justice in the courts and related agencies in D.C. through research and policy analysis, convening diverse stakeholders, and creating educational resources for the public. Please note that in accordance with our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of, or endorsement by, any judicial member of CCE.

CCE opposes the omnibus legislation as currently presented for three main reasons. First, the timeline being advanced to pass this bill precludes sufficient consideration of its disparate provisions by community stakeholders, experts, and the most impacted residents and clear analyses about why these are or are not the right solutions for D.C. There was a mere six weeks from introduction until this hearing, which is the lone public opportunity for residents and advocates to weigh in on the bill as part of the Council's legislative process. The bill's provisions cross many different topics and implicate many types of expertise – privacy, sentencing, criminal charging, judicial discretion, incarceration, community supervision, policing and technology. This rapid timeline – especially amid budget season – for such important topics precludes Councilmembers' close review and consideration, diverse constituent education and engagement, and sufficient public dialogue regarding the likely efficacy of the proposals and their comportment with constitutional protections.

Second, although some proposals in the bill may, in concept, be meritorious or uncontroversial, many provisions would have significant impacts on peoples' due process rights and their liberty. This bill proposes changes that would increase the use of incarceration for both adults and children. These are, therefore, some of the most profound and serious changes we can make to our laws. But, to date, many of the provisions in B25-0291 have not been studied at length or recommended by the leading experts on Code revision or sentencing, and some are specifically at odds with what was recently recommended by this Council, as well as independent D.C. commissions focused on research, data, and best practices.¹ We should want to hear independent and evidence-based analysis on each these policies, as well as the views of practitioners who work in these systems, advocates, and residents with their own varied expertise before making such important changes to the D.C. Code. We hope that testimony at this hearing will provide the Committee and Council a better sense of how much agreement there is from the experts in the field and the communities whose safety we are trying to improve. And if there is not clear or near consensus that this bill will make us safer in the short and long term, then we need to take a step back.

Third, it is important that changes like the ones proposed in B25-0291 are well supported as evidence-based practices. Unfortunately, no data or evidence has been provided by the Administration or otherwise to support that each of these reforms is effective or a proven crime reduction strategy, has deterrent value, or will solve the community's current concerns and safety issues. Of course, all of us share in the grief that many D.C. residents are feeling as they continue to see their loved ones harmed by or taken away because of growing gun violence. We respect and understand the real fear that people have of their property being taken or being put in a threatening situation. These are indeed some of the most pressing concerns of our community. And it makes sense that the District wants to be proactive in trying to curb those behaviors.

However, through all of the research that CCE has done over the years, our review of scholarship and best practices in public safety and incarceration, and the perspectives of community stakeholders with whom we work, we are concerned that the provisions in this bill do not have a clear nexus to these urgent public safety issues facing D.C. For example, will the possibility of a

¹ See, e.g. [District Task Force on Jails & Justice recommendations](#) (2021), [Criminal Code Reform Commission's recommendations](#) (2021).

harsher sentence based on the traits of certain victims (which the perpetrator may not know) be effective in deterring those crimes? Does the data tell us that more serious sentences for gun possession crimes decrease the prevalence of gun possession? Does the data show that detaining more children charged with crimes leads to better outcomes for those individual children or the safety of their communities? Regarding the proposed changes for petitions to reduce sentences, is there evidence that expression of remorse correlates to making an individual more likely to return safely to the community? And, do we want to exclude people who have maintained their innocence throughout their incarceration? Regarding the DNA collection provisions, and setting serious civil liberties concerns aside, in practice, how many arrestee DNA samples will require processing and how might that slow the other case work of our already beleaguered crime lab? These are just a few data and evidence based details that would be important for the Council to know before making significant changes to the liberty and due interests of our children and other residents.

We have concerns that the provisions in this bill, especially as they relate to children or people who committed crimes as emerging adults, focuses on punishment only and not addressing root causes. CCE is currently conducting an examination of how and whether D.C. is focusing adequately on children who are in the abuse and neglect system, but also enter the juvenile justice system, sometimes called “crossover youth.”² We want to help vulnerable D.C. kids avoid either system with identification and support as early as is possible. The Criminal Justice Coordinating Council recently released an updated version of their report on root causes of youth crime that shows marked differences in rates of childhood maltreatment, special education and behavioral health needs, homelessness, and poverty, among other factors.³ Their detailed and D.C.-specific research points us to prevention, rather than punishment. We believe that prevention and intervention should be key priorities for D.C. youth in this difficult time. Indeed, nowhere in the District’s own 2022 Gun Violence Reduction Strategy report was there any recommendation related to sentencing enhancements or increased incarceration. Rather, it

² See, Council for Court Excellence, [Our Children in Crisis: A Focus on D.C.’s Crossover Youth](#), (2021) (describing and discussing the population considered crossover youth).

³ Erin Partin, [A Study of Factors that Affect the Likelihood of Juvenile Justice System Involvement](#), Criminal Justice Coordinating Council (October 2022).

focused on prevention, intervention, and community transformation. Those are evidence-based strategies that deserve the District's full-throttled energy.⁴

In conclusion, given that the timeline does not give adequate space for robust consideration of how these changes would actually impact incidents of crime or constitutional protections, CCE recommends that the Council reject the *Safer Stronger Amendment Act of 2023* as currently proposed, and on its current timeline for adoption. This bill should not move forward until there is persuasive research, analysis, or data to support its key provisions and there has been time for considerable community engagement. While some provisions may ultimately be positive or uncontroversial, many would have a profound impact on D.C.'s Black residents, increase the District's adult incarcerated population (which is more than 90% Black), and lead to more children being incarcerated (even though Office of the Attorney General, which prosecutes youth crime, reports that youth make up only 7% of all current arrests in D.C.). This justifies measured consideration by all stakeholders and that is not possible in the current posture.

This concludes my testimony. Thank you for your time and I look forward to answering any questions you may have.

⁴ National Institute for Criminal Justice Reform, [Washington, DC Gun Violence Reduction Strategic Plan](#), (2022) (commissioned by the D.C. Criminal Justice Coordinating Council and Office of Gun Violence Prevention).