

More Incarceration in the District of Columbia *Will Not Increase Public Safety*

D.C. Cannot Afford to Worsen Mass Incarceration

On June 27th, the Judiciary and Public Safety Committee of the D.C. Council will hold a public hearing on Mayor Muriel Bowser’s proposed “Safer Stronger DC Amendment Act of 2023” (SSDC). Unfortunately, instead of improving public safety, this harmful legislation would dangerously expand failed “tough on crime” policies, putting even more people behind bars and worsening racial disparities in the District.

The District continues to operate under a dangerously outdated 120-year-old criminal code after Congress overturned efforts to modernize it earlier this year. If D.C. leaders truly want to improve public safety, they cannot abandon evidence-based policymaking like the RCCA, which would have reduced incarceration and crime.¹ Three of the core policy proposals in SSDC would worsen mass incarceration by:

1. significantly increasing pretrial detention for youth and adults;
2. creating new mandatory minimums and sentencing enhancements that undermine judicial discretion; and
3. rolling back D.C.’s successful Second Look law.

A majority of D.C. residents who are imprisoned are serving lengthy sentences of a decade or longer. D.C. jails and prisons reflect a deep racial disparity: **Black D.C. residents are 21 times more likely to be imprisoned than white residents. Any policies that exacerbate these disparities would only continue to make D.C. one of the top incarcerating jurisdictions in the country while failing to advance public safety.**

D.C. CAN REDUCE CRIME AND INCARCERATION AT THE SAME TIME

In the past decade, 37 states have experienced reductions in both crime and imprisonment – and crime fell faster in states that reduced imprisonment than in states that increased imprisonment. SSDC would undo some of the Council’s good work prioritizing proven reforms to help the District combat gun violence, invest in programs for at-risk youth, and make our sentencing laws fairer. **Simply put, SSDC would hurt District residents and move us in the wrong direction by worsening mass incarceration and making D.C. less safe.**

The idea that increasing pretrial detention - further destabilizing people’s lives by jeopardizing their employment and housing while they await trial - would somehow improve public safety flies in the face of both common sense and the data. And decades of research make clear that we won’t reduce crime by making it harder for people who have already served more than a decade in prison - and who have demonstrated rehabilitation - to have an opportunity to be considered for release. Without question, lengthening sentences and increasing pretrial detention will only perpetuate the type of harmful policies that locked up two generations of D.C. residents and harmed our communities without making any of us safer.

If D.C.’s elected leaders truly want to improve public safety, it’s time to do something different. To make D.C. safer for residents and visitors, the Council should reject the SSDC, protect successful recent reforms, and invest in proven public safety strategies.

Harmful SSDC Policy Changes Will Not Improve Public Safety

Despite its proponents' claims, decades of research show that increasing incarceration is one of the most costly and least effective ways to prevent violence.² D.C. voters also strongly prefer public safety solutions that actually work to prevent crime and violence over more incarceration. This includes an overwhelming 87% of Black voters who believe it is important to reduce the jail and prison population.³

1. SSDC WOULD SIGNIFICANTLY INCREASE PRETRIAL DETENTION FOR YOUTH AND ADULTS

The mayor's proposal would impose harmful new restrictions on who is released from pretrial detention to await their trial at home. For adults, this bill makes incarceration the default if the person has been charged with a wide range of offenses that are defined as violent and has previously been convicted of a crime that is defined as violent. For youth, the law would expand both the reasons why a child can be detained and the offenses for which detention is the default.

Overwhelming evidence makes clear that these policy changes would hurt public safety: holding people in pretrial detention (youth or adults) has been shown to increase, rather than decrease, the likelihood that a person is rearrested. Pretrial releases in D.C. are not driving crime in the District: 93 percent of people released pretrial aren't rearrested within D.C. at all while awaiting trial and only 1 percent are rearrested for a violent offense.⁴ D.C. judges currently have broad discretion to detain youth and adults, and hold them accountable, especially in cases where a firearm is involved.

The mayor's proposal would be particularly damaging to the District's youth, and would undermine the very clear mandate of the juvenile justice system to rehabilitate through family support, mental health services, educational opportunities, and other proven public safety strategies that work better than incarcerating kids - which we know takes a devastating toll on children, families, and entire communities. These harmful effects are magnified over generations. The proposed policy changes for both youth and adults would drive up the jail population and balloon taxpayer spending on incarceration without improving public safety, while also harming kids and families.

2. SSDC WOULD LENGTHEN SENTENCES AND UNDERMINE JUDICIAL DISCRETION

The mayor's proposal includes numerous harsh new penalties that will increase the number of people who receive a prison sentence and the amount of time that District residents spend in prison, even as decades of evidence clearly shows that long sentences don't make us safer. The proposal also includes new penalty enhancements for offenses committed in specific contexts such as in public parks or on public transit.

These policy proposals in SSDC harken back to the failed "tough on crime" era in the District, which dramatically increased the number of families that experienced incarceration and created far-reaching harms that robbed a generation of residents from reaching their full potential, and continue to hurt D.C.'s communities today. **Rather than curbing violence, punitive policies including those like new mandatory minimums, penalty enhancements, and others have resulted in an explosion of the jail and prison population,** led to D.C. with one of the highest homicide and incarceration rates in the country.^{5,6}

Research has repeatedly shown that long sentences are ineffective as a violence prevention measure and that community sanctions, such as probation, work better than prison sentences at reducing recidivism.⁷ Importantly, District residents overwhelmingly believe it is important to reduce the jail and prison population.⁸

3. SSDC WILL ROLL BACK D.C.'S SUCCESSFUL SECOND LOOK LAW

One of the most troubling and surprising proposals in SSDC is a partial roll back of the highly successful and impactful Incarceration Reduction Amendment Act (IRAA), more commonly known as the Second Look provision. The District passed Second Look to address concerns related to lengthy sentences for young adults and based on greater recognition of research regarding adolescent brain development and young peoples' capacity to change. The provision allows people who were convicted of a crime before the age of 25 to petition the court for resentencing after serving at least 15 years in prison. **The legislation has meant many people, originally sentenced to decades behind bars, were able to come home and contribute to their communities and take care of their families.** The IRAA has become a model for how jurisdictions can expand opportunities for people to earn their release from prison and safely reduce extreme sentences on a case-by-case basis.

The mayor's proposal to restrict this successful policy would harm individuals and families by allowing the court to consider new factors that relate less to whether an individual has demonstrated rehabilitation and are more focused on the original offense. These harmful changes will deprive people who were convicted as children and young adults the opportunity to show how they have changed, and undermine the incentive for people to participate in rehabilitation programs that are shown to reduce recidivism. **The Council's prior passage of Second Look has helped provide meaningful chances for incarcerated individuals, and SSDC would hurt public safety by rolling it back.**

D.C. Leaders Should Advance Real Public Safety Solutions

ADDRESSING CONCERNS OF GUN VIOLENCE AND CRIME

D.C. residents and visitors are rightly concerned about an increase in gun violence and crime, and District leaders must deliver real public safety solutions - they cannot afford to resort to failed policies that will only perpetuate cycles of violence and incarceration. Instead, leaders should continue to implement the Criminal Justice Coordinating Committee's recommendations to reduce violence that will not increase incarceration.⁹

PRIORITIZING COMMUNITY-BASED INTERVENTIONS AND SUPPORT FOR GRASSROOTS ORGANIZATIONS

Recent community roundtables clearly show that residents want more community-based interventions, better services for youth along with increased mental health resources, and further support for grassroots organizations effectively working on violence prevention.¹⁰ Residents are clear: D.C. needs an approach that prioritizes investment in community health and wellness, not to increase incarceration.

REJECTING HARMFUL LEGISLATION AND PRIORITIZING SENSIBLE REFORM.

Despite claims that SSDC will address the root causes of crime, research shows that increasing incarceration is one of the most costly and least effective ways to prevent violence. The SSDC would essentially guarantee D.C. remains one of the highest incarcerating jurisdictions in the world.

D.C. Leaders should reject this harmful legislation and prioritize commonsense criminal justice reforms that will improve public safety without increasing incarceration, racial disparities, and taxpayer spending.

Endnotes

- 1 FWD.us, "The District deserves a Modern Criminal Code: The Revised Criminal Code Act," February 2023, <https://www.fwd.us/wp-content/uploads/2023/03/The-District-Deserves-a-Modern-Criminal-Code.pdf>
- 2 The Center for Just Journalism, "Deterrence and Incapacitation: A Quick Review of the Research," <https://justjournalism.org/page/deterrence-and-incapacitation-a-quick-review-of-the-research>.
- 3 HIT Strategies, "District Voters Overwhelmingly Support Revised Criminal Code Act," 2022, <https://hitstrat.com/wp-content/uploads/2022/06/DC-Justice-Lab-Memo-District-Voters-Support-RCCA.pdf>.
- 4 Court Services and Offender Supervision Agency for the District of Columbia, "FY 2022 Agency Financial Report," November 2022, <https://www.psa.gov/sites/default/files/FY%202022%20Agency%20Financial%20Report.pdf>.
- 5 Prison Policy Initiative, "District of Columbia Profile," <https://www.prisonpolicy.org/profiles/DC.html>.
- 6 Matthew Friedman, Ames C. Grawert, and James Cullen, "Crime Trends: 1990–2016," Brennan Center, 2017, <https://www.brennancenter.org/our-work/research-reports/crime-trends-1990-2016>.
- 7 Damon M. Petrich, Travis C. Pratt, Cheryl Lero Jonson, and Francis T. Cullen, "Custodial Sanctions and Reoffending: A Meta-Analytic Review," Crime and Justice, September 2021, <https://www.journals.uchicago.edu/doi/abs/10.1086/715100?journalCode=cj>.
- 8 HIT Strategies, "District Voters Overwhelmingly Support Revised Criminal Code Act," 2022, <https://hitstrat.com/wp-content/uploads/2022/06/DC-Justice-Lab-Memo-District-Voters-Support-RCCA.pdf>.
- 9 Criminal Justice Coordinating Council, "Gun Violence Reduction Strategic Plan Recommendations," <https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/GVRSP%20infographic%20%2811%20%C3%97%208.5%20in%29.pdf>.
- 10 Colleen Grablick, "'Invest In People:' Residents Call For More Mental Health, Trauma-Focused Solutions To Gun Violence," DCist, March 2023, <https://dcist.com/story/23/03/07/dc-gun-violence-roundtables-solutions/>.