A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To provide, on an emergency basis, for comprehensive policing and justice reform for District residents and visitors; and for other purposes.

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BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Comprehensive Policing and Justice Reform Emergency Amendment Act of 2020”.

TITLE I. IMPROVING POLICE ACCOUNTABILITY AND TRANSPARENCY

SUBTITLE A. PROHIBITING THE USE OF NECK RESTRAINTS

Sec. 101. The Limitation on the Use of the Chokehold Act of 1985, effective January 25, 1986 (D.C. Law 6-77; D.C. Official Code § 5-125.01 et seq.) is amended as follows:

(a) Section 2 (D.C. Official Code 5-125.02) is amended to read as follows:

“Sec. 2. The Council of the District of Columbia finds and declares that law enforcement officer use of neck restraints, including the use of trachea holds and carotid artery holds, constitutes the use of lethal and excessive force. This force presents an unnecessary danger to the public. On May 25, 2020, Minneapolis Police Department officer Derek Chauvin murdered George Floyd by applying a neck restraint to Floyd with his knee for eight minutes and forty-six seconds. Hundreds of thousands, if not millions, of people in states and cities across the world, including in the District, have taken to the streets to peacefully protest injustice, racism, and police brutality against people of color. Police brutality is abhorrent and does not reflect the District’s values. It is the
intent of the Council in the enactment of this subchapter to unequivocally ban the use of neck restraints by local law enforcement and special police officers.”.

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

(1) Paragraph (1) is repealed.

(2) Paragraph (2) is repealed.

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

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

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

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

“(a) It shall be unlawful for:

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

“(2) Any officer who applies a neck restraint and any officer who is able to observe the application of a neck restraint to fail to:

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

“(B) Immediately request emergency medical services for the person on whom the neck restraint was applied.”
“(b) Any officer who violates the provisions of subsection (a) of this section shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code 22-3571.01), imprisoned for not more than 10 years, or both.”.

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

Sec. 102. Chapter 39 of Title 24 of the District of Columbia Municipal Regulations is amended as follows:

(a) Section 24-3900.9 is repealed.

(b) Section 24-3900.10 is amended to read as follows:

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

“(b) Notwithstanding any other law, within 72 hours after an incident involving an officer-involved death or the serious use of force, the Mayor shall release the BWC recording and name of any officer who committed or contributed to the officer-involved death or serious use of force.”.

(c) Section 24-3901.2 is amended by adding a new paragraph (a-1) to read as follows:

“(a-1) Recordings related to a Council request or investigation;”.

(d) Section 24-3902.4 is amended to read as follows:

“3902.4. Notwithstanding any other law, within 24 hours after a request from the Chairperson of the Council Committee with jurisdiction over the Metropolitan Police Department,
the Department shall make unredacted BWC recordings available to the Chairperson. BWC recordings in the possession of the Council shall not be publicly disclosed.”.

(e) Section 24-3999.1 is amended by adding the following phrase at the end of the section:

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

SUBTITLE C. OFFICE OF POLICE COMPLAINTS REFORMS

Sec. 103. The Office of Citizen Complaint Review Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-208; D.C. Official Code § 5-1101 et seq.), is amended as follows:

(a) Section 4(a) (D.C. Official Code § 5-1103(a)) is amended by striking the phrase “members, one of whom shall be a member of the MPD, and 4 of whom shall” and inserting the phrase “members, none of whom, after the expiration of the term of the currently serving member of the MPD, shall” in its place.

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

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

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

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

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

“(2) The authority granted pursuant to paragraph (1) of this subsection shall include circumstances in which the subject police officer failed to:
“(A) Intervene in or subsequently report any use of force incident in which the subject police officer observed another law enforcement officer, including an MPD officer, utilizing excessive force or engaging in any type of misconduct, pursuant to MPD General Order 901.07, its successor directive, or a similar local or federal directive; or

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

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

SUBTITLE D. USE OF FORCE REVIEW BOARD MEMBERSHIP EXPANSION

Sec. 104. Use of Force Review Board membership.

(a) The Use of Force Review Board (“Board”), as established in Metropolitan Police Department General Order 901.09, or its successor directives, shall include the following voting members:

(1) Two civilian members appointed by the Mayor, pursuant to section 2(e) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)), with the following qualifications:

(A) One member who has experienced the use of force by a law enforcement officer; and

(B) One member of the District of Columbia Bar in good standing with no current or prior affiliation to law enforcement;
(2) Two civilian members appointed by the Council with the following qualifications:

(A) One member with subject matter expertise in criminal justice policy; and

(B) One member with subject matter expertise in law enforcement oversight or the use of force; and

(3) The Executive Director of the Office of Police Complaints.

**SUBTITLE E. EXTENDED TIME FOR CORRECTIVE OR ADVERSE ACTION AGAINST MPD OFFICERS IN SERIOUS CASES**

Section 105. The Omnibus Public Safety Agency Reform Amendment Act of 2004, effective September 30, 2004 (D.C. Law 15-194; D.C. Official Code § 5-1031), is amended as follows:

(a) Subsection (a-1)(1) is amended by striking the phrase “subsection (b) of” and inserting the phrase “subsection (b) or (c) of” in its place.

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

“(c) If the act or occurrence allegedly constituting cause involves the serious use of force or indicates potential criminal conduct by a sworn member or civilian employee, the period for commencing a corrective or adverse action under subsection (a-1) of this section shall be 180 days.”.

**SUBTITLE F. ANTI-MASK LAW REPEAL**

Sec. 106. Section 4 of the Anti-Intimidation and Defacing of Public or Private Property Criminal Penalty Act of 1982, effective March 10, 1983 (D.C. Law 4-203; D.C. Official Code § 22-3312.03), is repealed.
SUBTITLE G. LIMITATIONS ON CONSENT SEARCHES

Sec. 107. Limitations on consent searches.

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

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

(2) Advise the subject that a search will not be conducted if the subject refuses to provide consent to the search;

(3) Obtain consent to search without threats or promises of any kind being made to the subject;

(4) Confirm that the subject understands the information communicated by the officer; and

(5) Use interpretation services when seeking consent to conduct a search of a person:

(A) Who cannot adequately understand or express themselves in spoken or written English; or

(B) Who is deaf or hard of hearing.

(b) If the sworn member is unable to obtain consent from the subject, the sworn member shall refrain from conducting the search.

(c) The requirements of subsection (a) of this section shall not apply to a sworn member:
(1)(A) Conducting a search of a person, vehicle, home, or property where the search is predicated upon entrance to a public building or facility, location, event, gathering, or Metrorail facility; and

(B) The subject’s entrance into the location constitutes implied consent to be searched under an exception to the warrant requirement; or

(2) Who reasonably believes that exigent circumstances require immediate action by law enforcement to prevent the imminent:

   (A) Infliction of bodily injury;

   (B) Damage to property;

   (C) Escape of a suspect; or

   (D) Destruction of evidence.

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

(e) The provisions of this section shall not be construed to create a private right of action or serve as the basis for excluding otherwise admissible evidence in a criminal proceeding.

SUBTITLE H: MANDATORY CONTINUING EDUCATION EXPANSION; RECONSTITUTING THE POLICE OFFICERS STANDARDS AND TRAINING BOARD

Sec. 108. The Omnibus Police Reform Amendment Act of 2000, effective October 4, 2000 (D.C. Law 13-160; D.C. Official Code § 5-107.02), is amended as follows:

(a) Section 203(b) (D.C. Official Code § 5-107.02(b)) is amended as follows:
(1) Paragraph (2) is amended by striking the phrase “bias-based policing” and inserting the phrase “bias-based policing, racism, and white supremacy” in its place.

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

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

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

“(4) Prohibition on the use of neck restraints;”.

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

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

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

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

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

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

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

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

(A) The lead-in language is amended by striking the phrase “11 persons” and inserting the phrase “15 persons” in its place.
A new paragraph (2A) is added to read as follows:

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

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

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

(D) Paragraph (8) is amended by striking the period and inserting a semicolon in its place.

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

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

“(A) Oversight of law enforcement;

“(B) Juvenile justice reform;

“(C) Criminal defense;

“(D) Gender-based violence social services, policy, or advocacy;

“(E) LGBTQ social services, policy, or advocacy; and

“(F) Violence prevention or intervention.”.

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

(c) Section 205(a) (D.C. Official Code § 5-107.04(a)) is amended by adding a new paragraph (9A) to read as follows:
“(9A) If the applicant has prior service with another law enforcement or public safety agency in the District or another jurisdiction, information on any alleged or sustained misconduct or discipline imposed by that law enforcement or public safety agency;”.

SUBTITLE I. IDENTIFICATION OF MPD OFFICERS DURING FIRST AMENDMENT ASSEMBLIES AS LOCAL LAW ENFORCEMENT

Sec. 10. Section 109 of the First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C. Law 15-352; D.C. Official Code § 5-331.09), is amended as follows:

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

(b) Add a new subsection (b) to read as follows:

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

TITLE II. BUILDING SAFE AND JUST COMMUNITIES

SUBTITLE A. REPEAL OF LAW ENFORCEMENT REPORTING REQUIREMENT FOR CRIME VICTIMS COMPENSATION

Sec. 201. Section 7 of the Victims of Violent Crime Compensation Act of 1996, effective April 9, 1997 (D.C. Law 11-243; D.C. Official Code § 4-506), is amended as follows:

(a) Subsection (a) is amended as follows:

(1) Paragraph (1) is amended by striking the semicolon and inserting the phrase “; and” in its place.

(2) Paragraph (2) is amended by striking the phrase “; and” and inserting a period in its place.

(3) Paragraph (3) is repealed.

(b) Subsection (c) is repealed.
SUBTITLE B. RESTORE THE VOTE

Sec. 202. Enfranchisement for individuals serving felony sentences in the care of the Department of Corrections.

The District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 669; D.C. Official Code § 1-1001.01 et seq.), is amended as follows:

(a) Section 2(2) (D.C. Official Code § 1-1001.02(2)) is amended by striking the phrase “the District; and” and inserting the phrase “the District; provided, that for the purposes of this paragraph, the term “felony” shall not include a crime that is a felony in the District for which a person in the care of the Department of Corrections is currently incarcerated; and” in its place.

(b) Section 5 (D.C. Official Code § 1-1001.02(2)) is amended by adding a new paragraph (9B) to read as follows:

“(9B) For the November 3, 2020 General Election, provide the following to every eligible individual in the Department of Corrections’ care:

“(A) A voter registration form;

“(B) A voter guide; and

“(C) Without first requiring an absentee ballot application to be submitted, an absentee ballot.”.

SUBTITLE C. DEPARTMENT OF CORRECTIONS HOME CONFINEMENT EVALUATION REQUIREMENT

Sec. 204. Section 2(b) of An Act To create a Department of Corrections in the District of Columbia, approved June 27, 1946 (60 Stat. 320; D.C. Official Code § 24-211.02(b)), is amended as follows:
(a) Paragraph (5) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(b) Paragraph (9) is amended by striking the period and inserting the phrase “; and” in its place.

(c) A new paragraph (10) is added to read as follows:

“(10) On a weekly basis, identify and evaluate eligible individuals in the Department’s care for the purpose of transitioning them to home confinement pursuant to 18 U.S.C. § 3624(c)(2) and applicable guidance, and provide the names of the individuals identified and evaluated, and the outcomes of the evaluations and transitions, to the Council Committee with jurisdiction over the Department of Corrections.”.

TITLE III. APPLICABILITY; FISCAL IMPACT STATEMENT; EFFECTIVE DATE

Sec. 301. Applicability

Section 107 of this act shall apply as of August 1, 2020.

Sec. 302. Fiscal impact statement.


Sec. 303. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).