



Advisory Neighborhood Commission 2A

“Serving the Foggy Bottom and West End communities of Washington, D.C.”

November 27, 2023

Councilmember Brooke Pinto
Chair, Committee on the Judiciary and Public Safety
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 106
Washington, DC 20004
bpinto@dccouncil.gov

RE: DC Council Bill B25-0479 – the “Addressing Crime through Targeted Interventions and Violence Enforcement (“ACTIVE”) Amendment Act of 2023”

Dear Councilmember Pinto,

At its regular meeting on November 15, 2023, Advisory Neighborhood Commission 2A (“ANC 2A” or “Commission”) considered the above-referenced matter. With six of eight commissioners present, a quorum at a duly-noticed public meeting, the Commission voted (4-0-2), after a motion made by Commissioner Malec and seconded by Commissioner Patel, to adopt resolution CR-23-011, which reads as follows:

WHEREAS, the District of Columbia is currently undergoing a spike in violence, including murders, sexual crimes, assaults, and robberies,

WHEREAS, Councilmember Pinto proposed a package of laws she called Secure DC, meant to address the rise in crime and violence in both the short- and long-terms, including the Addressing Crime Through Targeted Interventions and Violence Enforcement Act of 2023 (hereafter the ACTIVE Act)¹,

WHEREAS, the ACTIVE Act requires all persons convicted of a gun offense on probation, supervised release, or parole to submit to a full search at any time, in any place, without a warrant, and without probable cause²,

WHEREAS, just three days after Councilmember Pinto publicized Secure DC on social media, the Chief Judge of the Superior Court of the District of Columbia and the Chief Judge of the District of Columbia Court of Appeals raised questions about the constitutionality under the 4th Amendment of the ACTIVE Act’s expanded search and seizure permissions³,

WHEREAS, in cities that have expanded police’s ability to execute warrantless detentions and searches, popularly known as stop-and-frisk practices, police have primarily targeted Black and Brown members of the community indiscriminately,

¹ <https://lims.dccouncil.gov/Legislation/B25-0479>

² <https://lims.dccouncil.gov/downloads/LIMS/53873/Introduction/B25-0479-Introduction.pdf?Id=175953> (Lines 41-45)

³ https://twitter.com/DC_Courts/status/1704087853813100806



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including in New York City where around 90% of the 5,232,134 stops between 2002 and today were executed on people of color⁴,

WHEREAS, in 2020, 74.6% of all police stops in DC were on Black individuals, though they compose 46.5% of DC’s total population⁵,

WHEREAS, the ACTIVE Act notes under this section that “it is not the intent of the Council to authorize law enforcement officers to conduct searches for the sole purpose of harassment,”⁶ thereby implicitly acknowledging that expanding search and seizure power may lead to increased harassment, without proposing any mechanism by which potential victims could seek recourse,

WHEREAS, the ACTIVE Act enhances the rebuttable presumption in favor of pre-trial detention in cases involving violent crime, making it harder for accused individuals to be released pre-trial,

WHEREAS, pre-trial detention carries serious deleterious effects on the detained individual, who has not yet been convicted of any crime in a court of law, including losing jobs, educational opportunities, community supports, social services, and housing⁷, and

WHEREAS, pre-trial detention may be associated with increased recidivism after the conclusion of a trial, including increasing the likelihood of recidivism of youth by as much as 33%, and has inconclusive effects on court appearance rates^{8,9,10}.

THEREFORE, BE IT RESOLVED that ANC 2A does not support the expansion of search-and-seizure powers or pretrial detention as proposed in the ACTIVE Act of 2023, both of which would likely lead to greater distrust between the community and the state and higher recidivism rates.

BE IT FURTHER RESOLVED that ANC 2A supports the provisions of the ACTIVE Act that will lead to solutions to the root causes of recidivism and violence, including the creation of a Pre-Arrest Diversion Taskforce that will recommend sustainable methods of diversion from imprisonment for lower-level offenses.

⁴ <https://www.nyclu.org/en/stop-and-frisk-data>

⁵ https://www.acludc.org/sites/default/files/field_documents/2021_03_10_near_act_update_vf.pdf

⁶ <https://lms.dccouncil.gov/downloads/LIMS/53873/Introduction/B25-0479-Introduction.pdf?Id=175953> (Lines 53-54)

⁷ https://www.brookings.edu/wp-content/uploads/2021/03/15872-BPEA-SP21_WEB_DobbieYang.pdf (Dobbie and Yang, 2021)

⁸ http://www.econweb.umd.edu/~pope/pretrial_paper.pdf (Leslie and Pope, 2019)

⁹ <https://www.aecf.org/blog/study-pretrial-juvenile-detention-increases-odds-of-felony-recidivism-by-33> (Walker and Hertig, 2020)

¹⁰ <https://www.vera.org/downloads/publications/Justice-Denied-Evidence-Brief.pdf> (Digard and Swavola, 2019)



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Commissioners Yannik Omictin (2A01@anc.dc.gov) and Jim Malec (2A02@anc.dc.gov) are the Commission’s representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,

Jim Malec
Chairperson