OVERSIGHT HEARING:
"VICTIMS OF VIOLENT CRIME IN THE DISTRICT OF COLUMBIA"
TESTIMONY BEFORE THE HOUSE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT SURVEILLANCE
OCTOBER 12, 2023

WRITTEN STATEMENT OF CHARLES D. STIMSON

Chairman Biggs, Ranking Member Lee, Members of the Subcommittee:

My name is Charles D. Stimson. I am a Senior Legal Fellow at The Heritage Foundation.[1] Thank you for the opportunity to testify about the ongoing violent crime crisis in Washington, D.C. I have written[2] about many of the issues related to the Committee's hearing and have practiced criminal law for 30 years as a criminal defense attorney and as a prosecutor, including as an Assistant United States Attorney (AUSA) in the D.C. U.S. Attorney's Office (DCUSAO) and as a military trial judge.[3]

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[2] *See* Zack Smith & Charles D. Stimson, *The D.C. City Council Failed at Criminal Justice Reform—Congress Must Fix It*, The Heritage Foundation Legal Memorandum No. 337 (July 12, 2023), https://www.heritage.org/crime-and-justice/report/the-dc-city-council-failed-criminal-justice-reform-congress-must-fix-it.

[3] After graduating from law school, I joined the United States Navy Judge Advocate General's Corps, where I served on active duty in San Diego as a prosecutor and in London, England, as a criminal defense attorney. I left active duty the first time and joined the Navy Reserves. I served as an Assistant State's Attorney in the Baltimore County State's Attorney's Office while waiting for my California Bar results. Once I passed the California Bar, I moved back to San Diego and became a Deputy City Attorney in the San Diego City Attorney's Office, where I focused on domestic violence and drug cases. Later, I moved back east and became an Assistant State's Attorney in the Frederick County State's Attorney's Office, where I served in the Homicide and Violent Crimes Division, handling homicides, rapes, and other violent crimes. During this time, I served as an Adjunct Professor of Law at George Mason University Law School where I taught Evidence, Trial Advocacy, and Advanced Trial Advocacy. After the terrorist attacks of September 11, 2001, I was recalled to active duty in the Navy JAG Corps and served as a criminal defense attorney in Jacksonville, Florida, where I defended clients accused of rape and other violent and felony crimes. After my recall to active duty, I reaffiliated with the Navy Reserves and became an Assistant United States Attorney in the D.C. U.S. Attorney's Office, where I worked in various divisions, including Domestic Violence and the Homicide Violent Crimes sections. In my Reserve career with the Navy, I was for five years an instructor at the Naval Justice School where I taught, among other courses, the Prosecuting Complex and Capital Litigation Course to Navy, Marine Corps, and Coast Guard prosecutors. I served in the Appellate Defense Division of Office of the Judge Advocate General, was the Commanding Officer of the Appellate Government Division of the Office of the Judge Advocate General, served for five years on the Navy–Marine Corps Trial Judiciary as the Deputy Chief Judge where I handled over 50 complex courts-martial, and ended my 30-year career as Commanding Officer of the Preliminary Hearing Unit, which was tasked with hearing Article 32 preliminary hearings across the Navy.

In my testimony, I will address five points.

First, the D.C. City Council's laws and statements by members of that Council have eroded accountability and contributed to the rise in crime across the city. The Council and the Criminal Code Reform Commission (CCRC) they created have proven themselves incapable of creating a revised criminal code for the District. Congress should now step in and do the job for them.

Second, the DCUSAO currently has policies, practices, and personnel selection criteria that undermine public safety in the city. In short, they are failing as an institution, especially when compared to similar offices in other jurisdictions.

Third, the judges of the D.C. Superior Court have eroded accountability in the criminal justice system by their notoriously light sentences across all categories of crimes, contributing to a culture of lawlessness in the District. The D.C. Court of Appeals has issued opinions that Congress should review since they have caused restrictions to be placed on law enforcement authorities and prosecutors that are far beyond the requirements of U.S. Supreme Court precedent.

Fourth, the D.C. Attorney's General's Office (OAG), which handles juvenile crime, for decades has failed in its mission to hold violent criminals accountable, including murderers and armed carjackers. Congress should strip the office of its authority to handle all crimes and give that authority to the DCUSAO by expanding its Superior Court division to include juveniles and traffic cases while at the same time revising the criminal code to require most juveniles charged with specific violent crimes to be charged and tried as adults.

Fifth, the D.C. Crime Laboratory's loss of its certification is emblematic of D.C.'s dysfunctional government as a whole. Congress should federalize the lab and give it to the FBI, DEA, and ATF, which would then handle all DNA, firearms, fingerprint, and other forensic evidence requests from the D.C. U.S. Attorney's Office.

I. The D.C. City Council's Failures

The D.C. City Council and the CCRC, which the Council tasked with proposing recommendations for a revised criminal code, have proven themselves incapable of recommending or passing laws that keep Washingtonians safe.[4] Instead, they have done the opposite: recommended and passed laws that inured to the benefit of criminals, ignored victims' rights, defunded the police, and contributed to a culture of lawlessness in the city.

In short, The Council and the CCRC are not made up of people who are committed to public safety.

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[4] *See* Smith and Stimson, *supra* note 2.

The Council and its members intentionally defunded the police, resulting in a 500-plus officer shortage in the Metropolitan Police Department (MPD), and created a recruiting, retention, and morale nightmare for MPD. To address this dire situation, Congress should exercise its legislative authority over the District and pass a revised criminal code that protects the residents, visitors, and employees in the capital of our country.[5]

It's important to state the obvious here: The focus and mission of the criminal justice systems[6] across this country is a narrow one: to enforce the criminal laws on the books in a constitutional, fair, and predictable manner. They are not designed to fix society's ills, solve income inequality, address the legacy of slavery, fix schools, address food insecurity, erase homelessness, provide housing, resolve political differences, or pick winners or losers, nor should they be.

But don't tell that to the D.C. City Council or the CCRC.

In the past few years, when discussing the city's criminal justice system, members of the City Council and especially the CCRC have deviated from discussing the core components of D.C.'s criminal justice system and what can or should be done to improve that system and public safety, instead obsessing about race and the direct and collateral effects of those charged and/or convicted of crimes, who in their minds are the *real* victims of a systemically racist justice system.

The best criminal justice systems across the country share common traits:

- They preserve and protect the constitutional rights of those who are presumed innocent but are charged with crimes.
- They protect, honor, and serve victims by enforcing their rights.
- They provide generous resources and funding for prosecutors, public defenders, judges, law enforcement, and other stakeholders.
- They have a modern penal code that codifies, with distinct elements, all crimes.
- They have a determinate sentencing scheme, to include sentencing allegations and enhancements, that provides a range of punishments from probation to life without parole to the death penalty in certain appropriate cases.
- They arrest, charge, convict, and punish violent criminals by imposing long prison sentences.

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[5] *See id.*, pp. 2–3. *See* generally Zack Smith, *Does D.C. Statehood Require a Constitutional Amendment? You Better Believe It*, Ohio State Law Journal Online, Feb. 2, 2022, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4034744.

[6] There is no one "criminal justice system" in the United States. Considering the fact that there are approximately 18,000 police departments, numerous federal law enforcement agencies, 3,143 counties, 2,300 elected district attorneys, and 93 United States Attorneys across 50 states plus the District of Columbia, any analysis of the American criminal justice system will "inevitably lead to some degree of overgeneralization and, therefore, inaccuracy." See Paul J. Larkin and Giancarlo Canaparo, *The Fallacy of Systemic Racism in the American Criminal Justice System*, Liberty University Law Review, forthcoming, p. 34. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4186360.

- They take gun crimes seriously by, among other things, charging felons in possession of handguns or firearms with the most serious charges available.
- They include laws that guarantee increasingly severe sentences for recidivists, including—but not limited to—a three-strikes law.
- They are innovative in that the systems can adopt, create, build, and sustain creative, commonsense, crime prevention and resolution programs.
- They have judiciaries that enforce the law evenly and fairly.
- They have a culture of respect for law enforcement and for law and order.

That's not our system here in D.C., nor is it anywhere close to it.

Despite the fact that there are dedicated, talented prosecutors, public defenders, law enforcement officers, parole and probation officers, and other stakeholders who work tirelessly in the criminal justice system in the District of Columbia, the system as a whole is failing in its core mission: to protect the residents of Washington by punishing and incapacitating criminals, honoring victim's rights, and creating a culture of law and order.

Much of the blame can be laid at the feet of the D.C. City Council.

The mandate to rewrite the District's criminal code began in earnest in 2016 with the establishment of the CCRC, whose sole purpose was to "develop comprehensive recommendations for the D.C. Council and Mayor on revisions of District criminal statutes."[7] That was a lofty but achievable goal, especially since there are the experiences of 50 states from which to draw.

But replicating other criminal justice systems or cutting and pasting from other codes, which would have been perfectly acceptable, was not the District's real goal. One of the individuals who worked for the CCRC, Patrice Sulton, claimed that when she joined the project in 2018, it "was a very good-governance, neutral, compromise kind of a project. It was law nerds in a basement, rewriting many, many statutes. This was not a decarceration agenda, it was not a racial-justice agenda."[8]

Yet that is exactly what it turned out to be.

When one examines who was on the CCRC and the ideas that were rejected by the CCRC throughout its many meetings, it is clear that it was slanted from the beginning in favor of defendants at the expense of victims.

In one of its earliest reports to the D.C. Council, the CCRC focused on four noncontroversial principles. The report recommended:

- Repealing "[c]learly archaic and outdated criminal statutes";

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[7] *Mission*, CRIM. CODE REFORM COMM'N, https://ccrc.dc.gov/page/ccrc-mission (last visited May 1, 2023).

[8] Sylvie McNamara, *What Everyone Is Getting Wrong About DC's Controversial Crime Bill*, WASHINGTONIAN (Mar. 6, 2023), https://www.washingtonian.com/2023/03/06/dc-criminal-code-overhaul-interview-with-patrice-sulton/.

- Striking unconstitutional and unenforced statutes;
- Replacing obsolete words and phrases with "clear and plain language"; and
- Striking or relocating "extraneous," "noncriminal provisions in Title 22 of the D.C. Code."[9]

Unfortunately, the CCRC and the District's Council did not stop there; they included a number of controversial provisions in the bill's final form. Most provocatively, the final bill eliminated mandatory minimum penalties for every crime except first degree murder; lowered the penalties for most crimes (including for first degree murder); and expanded the already controversial ability of violent felons to be released from prison early.

Ms. Sulton's claim that there was neither a "decarceration" nor "racial-justice agenda" rings hollow. After her service on the CCRC, she went on to lead D.C. Justice Lab, an organization that "envisions" a criminal justice system in the District that "[e]nds overreliance on police, prosecutors, and prisons, in favor of solutions that maximize safety and freedom for all" and that "[t]akes dramatic measures to recognize, rectify, and reverse harm it [the criminal justice system] inflicted on poor people and Black people."[10]

While the CCRC claimed that its "recommendations were developed over four years through an exhaustive study of current criminal law and practice in the District and examination of how to better align local statutes with best practices," it is clear that this review was largely one-sided.

For instance, the "CCRC staff worked with a statutorily-designated Advisory Group of seven stakeholders," which largely included those who are sympathetic to—if not downright enthusiastic about—a decarceration agenda.[11] When the District's Council itself held hearings on the revised criminal code, one of the individuals who testified in support of it was the Executive Director of a George Soros "progressive" rogue prosecutor support group called Fair and Just Prosecution.[12]

When the D.C. Council held its hearings on the revised criminal code, it again faced a lopsided litany of testimony from those supporting the radical rewrite of the District's criminal code.[13] Furthermore, as some noted, the Council often held the hearings on short notice and at inconvenient times for residents of the District—in other words, those most directly affected by

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[9] John-Michael Seibler & David Rosenthal, *Commission Recommends Changes to DC's Antiquated Criminal Code*, THE DAILY SIGNAL (May 23, 2017), https://www.dailysignal.com/2017/05/23/commission-recommends-changes-dcs-antiquated-criminal-code/.

[10] *About*, DC JUST. LAB, https://dcjusticelab.org/about/ (last visited May 1, 2023).

[11] *CCRC Advisory Group*, CRIM. CODE REFORM COMM'N, https://ccrc.dc.gov/node/1201597 (last visited May 1, 2023).

[12] Memorandum from Charles Allen, Chairperson, Committee on the Judiciary and Public Safety, to Nyasha Smith, Secretary of the Council, Regarding Closing Hearing Record (Mar. 8, 2022), https://lims.dccouncil.gov/downloads/LIMS/47954/Hearing_Record/B24-0416-Hearing_Record1.pdf?Id=135083.

[13] *B24–01416-Revised Criminal Code Act of 2021*, COUNCIL OF THE DIST. OF COLUMBIA, https://lims.dccouncil.gov/Legislation/B24-0416 (last visited May 1, 2023).

crime—to offer their input on the revisions.[14] One local D.C. resident noted, "I don't think D.C. Council members did a good job of telling folks what was going on. I didn't see flyers about it. I didn't see Councilmember Charles Allen or At-Large Councilmembers asking us for input."[15]

Such radical revisions are particularly dangerous at a time when the District is experiencing its highest number of murders in more than two decades, a year-over-year increase in carjackings during the past five years,[16] and a spate of other violent crimes. This is why the District's chief of police, the U.S. Attorney's Office for the District of Columbia, and even Mayor Muriel Bowser strenuously objected to the passage of the CCRC's extreme rewrite of the criminal code.

The U.S. Attorney's Office, for example, said that its "most significant concerns focus[ed] on accountability for the most violent crimes (such as child sexual abuse, murder, burglary, robbery, and carjacking), and that some of the Revised Criminal Code Act of 2021 (RCCA) proposals are not integrally related to substantive criminal law and overlook the realities of certain resource constraints."[17] Similarly, the District's chief of police said that "Anytime we're talking about lowering penalties for violent offenders who commit crimes in our city, that's a non-starter for me…. Where's the victim in all of this? Who does this actually help? Is the victim being helped, or is it the person who victimizes?... I don't think victims win in that space. And again, that's a non-starter for me."[18]

Yet the D.C. Council unanimously passed the radical rewrite of its criminal code on November 15, 2022,[19] and transmitted the bill to Mayor Bowser on December 19, 2022, for her to sign or veto. On January 3, 2023, the Mayor vetoed the bill, saying that "This bill does not make us safer…. Anytime there's a policy that reduces penalties, I think it sends the wrong message."[20]

Still not satisfied, the D.C. Council overrode the Mayor's veto on January 17, 2023, by a 12–1 vote. Only Councilman Trayon White, Sr., who represents the District's Ward 8 (one of the hardest hit by violent crime) voted against the veto override.

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[14] Matt Pusatory, *Bowser Wants to Tweak DC's Revised Criminal Code*, WUSA 9 (Feb. 6, 2023, 11:54 AM EST), https://www.wusa9.com/article/news/local/dc/bowser-legislation-on-revised-criminal-code-act-amendments/65-eae05357-4f2e-46fa-9d0b-d411d02829cd.

[15] Sam P.K. Collins, *Mayor Bowser to Veto the Revised Criminal Code Act*, WASH. INFORMER (Jan. 3, 2023), https://www.washingtoninformer.com/deadline-looms-for-mayor-bowser-to-sign-revised-criminal-code-act-into-law/.

[16] Cuneyt Dil, *D.C. Carjackings Rise for Fifth Straight Year,* AXIOS (Jan. 3, 2023), https://www.axios.com/local/washington-dc/2023/01/04/dc-carjackings-rise-for-fifth-straight-year.

[17] Press Release, U.S. Atty's Office Dist. of Columbia, U.S. Attorney's Office Testifies as Hearing on D.C. Revised Criminal Code Act of 2021 (Dec. 16, 2021), https://www.justice.gov/usao-dc/pr/us-attorneys-office-testifies-hearing-revised-criminal-code-act-2021.

[18] Alejandro Alvarez, *DC Police Chief Worries Criminal Code Overhaul Doesn't Support Victims of Violence*, WTOP NEWS (Feb. 1, 2023, 5:45 AM), https://wtop.com/dc/2023/02/dc-police-chief-worries-criminal-code-overhaul-doesnt-support-victims-of-violence/.

[19] *B24–01416–Revised Criminal Code Act of 2021*.

[20] Mark Segraves, *DC Mayor Bowser Vetoes Criminal Code Overhaul*, NBC 4 WASHINGTON (Updated Jan. 4, 2023, 6:09 PM), https://www.nbcwashington.com/news/local/dc-mayor-bowser-vetoes-criminal-code-overhaul/3247124/.

Fortunately, because of the District's unique constitutional status, Congress still retains ultimate authority over legislation enacted in the District and had 60 days to review the legislation to decide whether to override it under the specialized provisions allowing for expedited review.[21] Fortunately, given the radical nature of the criminal code rewrite and the surging crime problem in the District, the House of Representatives voted 250–173 to overturn the District's radical criminal code rewrite. Thirty-one Democratic House members joined Republicans in voting to overturn the law.[22] This is notable because at the time, Democratic President Joe Biden had publicly opposed the efforts to overturn it.[23]

The fact that Democratic Congresswoman Angie Craig (D–MN) was violently assaulted in her apartment building's elevator while heading to the Capitol to vote on the crime bill might have contributed to this large defection.[24] Especially relevant was the fact that her assailant was a repeat violent offender. By the time the override effort reached the Senate, President Biden had changed course and signaled that he would not veto a bill overriding the District's revised Criminal Code if it reached his desk. With this green light from the President, the Senate passed the disapproval resolution by an overwhelming vote of 81–14, "with 33 senators who caucus with Democrats supporting the Republican-led measure."[25] President Biden signed the disapproval resolution into law on March 20, 2023.[26]

The District has a major crime problem, a fact that the CCRC glossed over. This problem should be obvious to anyone except, it seems, the CCRC and the D.C. City Council. The District (if it were a state) would have the highest murder rate in the United States at 19.46 per 100,000 residents.[27] That, and that alone, is telling and suggests that something of overriding importance must change.

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[21] *The Legislative Process*, in *District of Columbia Resources*, GEORGETOWN L., https://guides.ll.georgetown.edu/c.php?g=275800&p=7518958 (last visited May 1, 2023); *see also* D.C. Code § 1-206.02 (2023), https://code.dccouncil.gov/us/dc/council/code/sections/1-206.02.

[22] Ashraf Khalil, *House Votes to Overturn DC Criminal Code and Voting Laws*, NBC 4 WASH. (Feb. 9, 2023, 5:14 PM), https://www.nbcwashington.com/news/local/house-votes-to-overturn-dc-criminal-code-and-voting-laws/3275804/#:~:text=The%20House%20voted%20250%2D173,by%20a%20260%2D173%20vote.

[23] *Id.*

[24] Jana Shortal, *Rep. Craig on Attack: "He Wasn't Going to Let Me Out of That Elevator If I Hadn't Fought My Way Out,"* KARE 11 (Feb. 13, 2023, 6:41 PM CST), https://www.kare11.com/article/news/local/breaking-the-news/rep-angie-craig-opens-up-about-attack/89-5d76d160-3fcd-4631-ba89-d309a299ef78.

[25] Suzanne Monyak, *Senate Votes to Overturn DC Criminal Code Changes*, ROLL CALL (Mar. 8, 2023, 8:05 PM), https://rollcall.com/2023/03/08/senate-votes-to-overturn-dc-criminal-code-changes/#:~:text=The%20Senate%20cleared%20a%20disapproval,supporting%20the%20Republican%2Dled%20measure.

[26] Clare Foran, *Biden Signs Measure to Block Controversial DC Crime Bill*, CNN (Mar. 20, 2023, 110:02 PM EDT), https://www.cnn.com/2023/03/20/politics/biden-dc-crime-bill/index.html.

[27] *See* Charles D. Stimson, Zack Smith, and Kevin D. Dayaratna, *The Blue City Murder Problem*, The Heritage Foundation, Legal Memorandum No. 315 (Nov. 4, 2022), p. 7, https://www.heritage.org/crime-and-justice/report/the-blue-city-murder-problem.

But it's not just murders. Compared just to last year, when the crime rate topped the previous year's, homicides (as of October 6, 2023) are up 38 percent, sex abuse is up 2 percent, robberies are up 70 percent, motor vehicle theft is up 105 percent, theft is up 22 percent, arson is up 125 percent, property crime is up 26 percent, and overall crime is up 28 percent.[28] But the CCRC or the so-called expert panelists at a two-day symposium that the CCRC hosted declined to discuss these rates, as well as why they are elevated, how to lower them, who is committing these crimes, or how their new proposed reforms would address the rising crime rate.

Why? Because their goal was not to tackle crime rates or protect the residents of the District: Their goal was, to use their words, to "shrink" the system. They're not alone in this goal. In fact, that's the goal of the prison abolitionist movement and the "progressive prosecutor"—what I call the "rogue prosecutor"—movement.

To show how out of whack the City Council is with respect to holding criminals accountable, the table below compares crimes and sentences the City Council tried to inflict on the city against the same crimes and sentences in effect in California——hardly a bastion of conservatism.

The sentences in the table start with the mandatory minimum (if any) and list the statutory maximum sentences. Under California law, trial judges have *no discretion* to deviate from mandatory minimum sentences, and this produces uniformity and certainty in sentencing.

TABLE 1

Criminal Sentencing, District of Columbia vs. California

	MANDATORY MINIMUM (IF ANY) TO STATUATORY MAXIMUM	
Crime	**District of Columbia**	**California**
1st Degree Murder	24–40 years	25 years to life
2nd Degree Murder	0–24 years	15 years to life
1st Degree Robbery	0–14 years	5, 7, or 9 years
1st Degree Carjacking	0–18 years	7, 9, or 11 years
1st Degree Sexual Assault	0–24 years	8, 11, or 13 years

SOURCE: Authors' research.

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[28] *See Metropolitan Police Department: District Crime Data at a Glance*, https://mpdc.dc.gov/page/district-crime-data-glance (last visited Oct. 8, 2023).

Moreover, given the fact that D.C. Superior Court judges are notoriously light sentencers, as discussed below, any sentencing range that starts with zero days in prison will result in very few convicted violent criminals going to prison.

II. The D.C. U.S. Attorney's Office Is Failing

The United States Attorney's Office for the District of Columbia is not serious about gun cases or solving violent crime, as evidenced by their abysmal charging policies and unorthodox hiring practices. As a result, they have failed to protect the public, and this has led in turn to rising crime rates and has contributed a culture of lawlessness in the city. This failure of leadership must change if the crime problem in the city is to be fixed.

Hiring Practices

The DCUSAO hires, with few exceptions, woke social justice warriors from elite law schools who are not in the mold of law-and-order, career-minded prosecutors. This reality has only grown worse in recent years.

The DCUSAO employs approximately 330 Assistant United States Attorneys and 330 support staff. A typical United States Attorney's Office across the country hires well-educated, prosecution-oriented, career-minded attorneys who are dedicated and passionate about keeping the community safe and promoting justice, including but not limited to prosecuting criminals to the fullest extent of the law. Most hires in those offices, before applying, have had a federal clerkship, worked in big law, or worked as state court prosecutors or military JAG attorneys. Many of them graduated from the most elite law schools in the country, as the practice of federal criminal law is complex and requires intellectual and academic rigor. Most trials plead out in federal court, and federal prosecutors don't try nearly as many jury trials as deputy district attorneys do in state court.

In contrast, the local county prosecutors offices across the country, of which there are approximately 2,300,[29] hire attorneys who are passionate about being prosecutors, have grit and are trial savvy, are committed to the cause of justice, want to try lots of cases, and are prosecution-oriented, law-and-order types. They come from all sorts of law schools and usually haven't clerked for a judge, and many aren't interested in big law firms even if they could get hired by one. But they are "trial dogs"—people who live to prosecute cases.

The DCUSAO tends to hire lots of people from the top law schools, federal judicial clerks, and people who have punched their tickets (but often disliked practicing) at big law. And while they do hire a handful of former state court prosecutors and some JAGs (like me), the vast majority of hires have the standard "federal prosecutor" academic resume.

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[29] *See* Charles D. Stimson and Zack Smith, *Rogue Prosecutors: How Radical Soros Lawyers Are Destroying America's Communities* (2023) at p. 18. *See also* Carissa Byrne Hessick and Michael Morse, *Picking Prosecutors*, 105 Iowa L.Rev. 1537, 1544 (2020).

What differentiates the DCUSAO from the other 93 U.S. Attorney's offices around the country in terms of hiring is that they have had a penchant for hiring social justice warriors, not career-minded prosecutors. They hand select attorneys from elite law schools who want to punch their tickets (however briefly) in a federal prosecutors office in order to buff up their resumes for their next job, but not because they are passionate about being law-and-order prosecutors. The vast bulk of attorneys in the office when I served there, and to this day, are woke social justice warriors who would never be hired in a typical county district attorney's office because the hiring committees would realize that they weren't career-oriented, law-and-order, hard-charging prosecutor types. Their sympathies tend to lie with defendants; they are skeptical of police officers; and they fit in more comfortably with attorneys in the public defender's office than they do with the small handful of hard-core, law-and-order prosecutors in the office.

Fortunately, there are some law-and-order prosecutors who slip past the hiring committees and get hired. But they soon realize that they are vastly outnumbered and not part of the "in" crowd.

Soft-on-crime social justice warriors with law degrees have lots of options for jobs these days, including working for the public defender's office. They do not belong in any prosecutor's office, yet they are routinely hired by the DCUSAO.

Since the vast majority of prosecutors hired in that office work in Superior Court, the hiring practices of the office, optimally, should mirror those of the best district attorneys' offices around the country. And for the dozens of prosecutors in the office handling complex federal cases, the office hiring policy should mirror those of the other U.S. Attorney's offices around the country and should reject out of hand social justice warriors and other soft-on-crime, defense-oriented lawyers.

Not surprisingly, the DCUSAO has a high turnover rate. This is due to a number of factors. The woke social justice warriors leave after a few years to take a job as a senior associate or partner at big law; some go to Main Justice; some go to Capitol Hill; some leave for other federal government agencies; a handful get appointed to the bench. They joined the office as a resume enhancer.

Most prosecutors hired by the office have never worked as prosecutors in any other office before coming to the DCUSAO, so they don't have any other prosecutorial frame of reference and therefore don't realize how dysfunctional the office really is or that other prosecutor offices do a much better job of protecting the public.

Others, like me, who had significant prosecution experience in other jurisdictions leave because they realize that the office is dysfunctional, that prosecutors aren't treated with respect by the bench or bar, and that the culture of lawlessness in the city is not being seriously addressed by local government leaders or the office itself.

D.C. prosecutors are accorded very little respect.

For example, for years, the DCUSAO was located at 555 4th Street NW (nicknamed "Triple Nickle"), several blocks from the Superior Court and the Federal District Court. The building,

which was leased, was spacious, had underground parking, and was next to the Washington Field Office of the FBI. But because the office wasn't connected to any courthouse, prosecutors not only had to drag their trial bags, exhibits, evidence, binders, and other material three blocks to Superior Court every day regardless of the weather; they were forced to stand in line with members of the public, including criminal defendants, and go through a metal detector every time they entered the Superior Court building. The Superior Court building does not have secure bathrooms for prosecutors, so prosecutors often find themselves using the public restroom with witnesses in their cases and criminal defendants they may be prosecuting.

Outside of Washington, D.C., many district attorney and U.S. Attorney Offices around the country are connected to the courthouse and have prosecutor-only entrances to the courthouse. Prosecutors have a short indoor walk from their offices to the court. They aren't required to go through a metal detector like members of the general public. They also have their own separate restroom facilities.

Two years ago, the DCUSAO was forced to move from its spacious office at 555 4th Street to a much smaller office at 601 D Street NW in the Patrick Henry Building. The current location is a block from Superior Court, but prosecutors still must schlep their trial materials to Superior Court by walking outside (rain or shine), standing in line with the public, and going through metal detectors. In short, the DCUSAO is the Rodney Dangerfield of federal prosecutor's offices: They "don't get no respect."[30]

Unacceptable Declination Rate of 67 Percent

The DCUSAO's declination rate of cases submitted to the office by the Metropolitan Police Department (MPD) is extraordinarily high and one of the major drivers of the uptick in crime in the District. The rate has been rising in D.C. for years and is a product of several related factors, but the principal factor is the conscious policy decisions by Matthew Graves, the current U.S. Attorney for the District of Columbia, that are enforced by those who work in his office every day.

According to recent reporting, the declination rates in 2015 under an Obama U.S. Attorney appointee was 31 percent.[31] In 2019, under a Trump-appointed U.S. Attorney, it jumped to 48 percent. Today, it stands at a whopping 67 percent.

According to an article in *The Washington Post*, "a 67 percent declination rate is high. For example, in Wayne County, Mich., which includes Detroit, the prosecutor's office reported declining 33 percent of its cases last year."[32] As Robert J. Contee III, the District's former police

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[30] Rodney Dangerfield was an American comedian (1921–2004). He is famous for uttering (among many other memorable lines), "I don't get no respect."

[31] *See* Joe Friday, *The US Attorney's Office Declined to Prosecute 2/3 of the People That MPD Arrested*, Mar. 14, 2023, https://dccrimefacts.substack.com/p/the-us-attorneys-office-declined.

[32] *See* Keith L. Alexander, *D.C. U.S. Attorney Declined to Prosecute 67% of Those Arrested. Here's Why,* WASH. POST, Mar. 29, 2023, https://www.washingtonpost.com/dc-md-va/2023/03/29/us-attorneys-office-charges-declined-dc-police/ (last visited October 8, 2023).

chief said, his officers were not to blame. “I can promise you, it’s not MPD holding the bag on this.” As for any suggestion to the contrary, Contee said, “That’s B.S.”[33]

And while some AUSAs grumble that MPD officers bring them weak cases, which happens infrequently, the high declination rate certainly is not a result of understaffing of prosecutors in the DCUASO. In fact, the DCUSAO has more prosecutors per capita than many cities have. For example, as of July 1, 2022, Washington, D.C., had a population of approximately 671,803 persons. The DCUSAO has 330 prosecutors, or one prosecutor for every 2,035 resident in the District. Washington is compact at only 68 square miles in size.

Contrast that with the San Diego District Attorney’s (DA) Office, which also has 330 prosecutors. As of July 1, 2022, San Diego County had 3,276,208 residents, or one prosecutor for every 9,927 residents of the county. San Diego County encompasses 4,261 square miles. The San Diego DA’s Office serves 18 cities, 39 unincorporated areas, 12 police chiefs and sheriffs.

But even though each prosecutor in the San Diego County District Attorney’s Office serves 7,892 more residents than are served by each prosecutor in the DCUSAO, in an area 62 times larger than D.C., the San Diego DA’s office has had a 22.6 percent declination rate for the past 20 years in over 500,000 cases. During the relevant time period, between January 1, 2000, and December 31, 2019, in cases in which a decision was made either to issue or to reject the case, the office issued (i.e., charged) 77.4 percent of the cases that were presented to them.

Why the massive difference in declination rates? In large part, it’s because San Diego County, under the leadership of elected DA Summer Stephan, takes the job of enforcing the law seriously, hires talented, gritty career-minded prosecutors, refuses to hire woke social justice warriors, seeks justice for all victims of crime, and solves problems in the community with myriad stakeholders.

She and hundreds of other chief prosecutors across the country like her are everything that Matthew Graves is not.

III. D.C. Superior Court and the Court of Appeals

Judges on the D.C. Superior Court trial bench, with a few notable exceptions, are uniformly liberal, lack viewpoint balance, are frosty (and at times hostile) to prosecutors, and are notoriously light sentencers. Until the manner in which Superior Court judges are chosen changes or the law changes and requires them to impose meaningful sentences, the situation won’t change.

Congress created both the Superior Court of the District of Columbia, which functions as the city’s local trial court, and the District of Columbia Court of Appeals (DCCA). The President nominates individuals to serve as judges on both courts, and the Senate confirms them. However, these are Article I rather than Article III courts because the judges serving on them do not have

[33] *Id.*

life tenure and instead serve for renewable 15-year terms. In addition, judges on these courts must retire from active service by age 74.

It has been the practice of Presidents to nominate individuals to serve on these courts who have first been selected and recommended by the District of Columbia Judicial Nomination Commission (JNC). Congress currently requires this by statute, and, notably, the President does not even get to select all of the members of this commission.

This particular recommendation-before-appointment feature is controversial. Indeed, the late Laurence Silberman, a distinguished federal appellate judge who had previously served as Deputy Attorney General at the Justice Department, claimed that this process was unconstitutional because it violates basic separation-of-powers tenets—especially because one of the commission's members is a sitting federal judge appointed by another federal judge, meaning that a sitting judge selected by a different sitting judge plays a part in telling the President who he can appoint to be a judge. This certainly appears to be a clear-cut separation-of-powers problem.

The membership of the JNC is decidedly left-of-center and has been for decades. As a result, the JNC screens out most law-and-order candidates for judge during the process and ensures that social justice-oriented and defense-oriented attorneys make it onto the final list from which the President "must" select. And since judges on the D.C. Superior Court and the DCCA only affect the District of Columbia, Republican Presidents have simply gone along with the JNC process to the detriment of law and order in the District.

Whereas federal district court judges in the District of Columbia, like all other federal district court judges, are required to consult the federal sentencing guidelines before imposing a sentence in a criminal case, judges on the D.C. Superior Court are in a class of their own. Only the DCCA reviews their decisions as a practical matter, because most cases handed down by the DCCA that are adverse to the prosecution are not appealed to the United States Supreme Court.

Trial judges on the D.C. Superior Court are bound to follow the local sentencing guidelines, but they routinely sentence below the guidelines with full knowledge that their sentences will rarely, if ever, be appealed by the U.S. Attorney's Office. To add insult to injury, the U.S. Attorney's Office does not take gun crimes seriously, nor do the judges on the Superior Court bench.

Because of the DCUSAO's unique status as both the local and federal prosecutor, the U.S. Attorney can choose which forum to use for many crimes committed in the District. It is a crime under federal and D.C. law for felons to be in possession of a firearm. Every day, MPD arrests felons in possession of a firearm. Every day, when MPD brings those cases to the U.S. Attorney's Office for disposition, the U.S. Attorney's Office as a matter of policy rejects the option of filing federal charges against the felon and instead chooses to file charges in the Superior Court, knowing full well that the end result will be probation.

Here's how it works.

An MPD officer arrests a felon and finds a firearm on his person. The officer presents the paperwork to the AUSA the next morning. The AUSA looks over the paperwork and then, if he or she decides to charge the suspect with anything, issues four local charges: felon in possession; carrying a pistol without a license (CPWL); unregistered firearm; and unregistered ammunition. That case is sent to Superior Court. The AUSA who handles the case is authorized to offer the defendant an opportunity to plead guilty to CPWL, in exchange for which the AUSA will drop the felon-in-possession charge, which carries a mandatory minimum sentence. The defendant agrees and pleads guilty in front of a Superior Court judge who sentences the defendant to prison, suspends the entire sentence, and gives him probation. The defendant walks out of the courthouse.

If the DCUSAO was serious about gun crimes, they would charge every single felon in possession of a firearm under 18 U.S.C. § 922(g) in federal district court. If convicted, the defendant would receive a mandatory minimum sentence in federal prison. Such cases are straightforward and easy to prove. Matthew Graves could issue that order today. If he did, violent gun crime would drop immediately across the city. But rather than doing the right thing and face grumbling from the federal district court bench because of an influx of gun cases and cries of "racism" from the Left, his office will continue to send felon-in-possession cases to the Superior Court, knowing full well that nothing will happen to those defendants.

The DCCA's Decisions

The DCCA has issued a handful of decisions that place restrictions on law enforcement authorities and prosecutors that misread the holdings of the United States Supreme Court. Since the holdings of the DCCA are binding only in the District of Columbia, they haven't drawn much attention, but they have directly impacted the ability of law enforcement officials to engage in otherwise lawful searches and seizures, conduct Terry stops, and the like.

Some of the decisions by the DCCA that have arguably gone beyond the requirements established by the Supreme Court or misread superior precedent include:

- *Landon R. Mayo v. United States*, 266 A.3d 244 (D.C. 2022), dealing with reasonable articulable suspicion to conduct a Terry stop.

- *Jean-Baptiste Bado v. United States*, 186 A.3d 1243 (D.C. 2018), holding that deportation is a penalty.

- *Deandre Posey v. United States*, 201 A.3d 1198 (D.C. 2019), dealing with reasonable articulable suspicion to conduct a Terry stop.

- *T.W. v. United States*, 292 A.3d 790 (D.C. 2023), dealing with whether a search complied with the Fourth Amendment.

- *Bumphus v. United States*, 227 A.3d 559 (D.C. 2020), which held that a four-day delay between the lawful stop of a car and a search of said car pursuant to a valid warrant violated the Fourth Amendment.

Congress should review these and other troubling decisions during the process of drafting a new criminal code to see whether anything can be done in response to these holdings.

IV. The D.C. Attorney General's Office

The Office of the Attorney General (OAG) is essentially the city attorney for the District of Columbia. The Office enforces the civil laws of the District, "defends and provides legal advice to the District's government agencies and protects the interests of the District's residents."[34] The office also handles juvenile crimes, economic crimes, traffic offenses, and some other misdemeanors, all of which are tried in the Superior Court.

Juvenile crime is a big problem in D.C. Violent youths commit murder, rape, armed car jackings, and more. Carjackings are a major problem in D.C. We have experienced 765 to date this year, 75 percent of which involved armed suspects. Of the 117 arrests this year for carjackings, 65 percent have been juveniles, and most of those arrested have been 15 or 16 years old.[35]

Section 2301(3) of Title 16 of the D.C. Code is the statute that governs how juveniles who commit crimes in the District can be charged and the venue where they can be charged. Most juveniles who commit crimes in D.C. are tried in juvenile courts by the OAG, which is where most of them belong.

The statute gives the U.S. Attorney's Office the authority to file charges against 16-year-olds and 17-year-olds who commit certain violent offenses, but in D.C., this has proven controversial, so the U.S. Attorney's Office rarely charges violent juveniles, including those who use a handgun in the commission of their crimes, as adults in Superior Court. To make matters worse, some violent juveniles who are tried and convicted as adults in Superior Court serve out their "sentences" at home instead of in a secure juvenile detention facility. It is not uncommon for juveniles who are found responsible (i.e., guilty) for violent crimes and "sentenced" to serve their "time" at home to commit additional crimes, including violent crimes in the District.

The juvenile justice system in general is designed to hold youthful offenders accountable but also to provide them with the tools and services they need to become productive members of society. Its framework and approach are rehabilitative, not punitive like the adult system. When run appropriately, it serves as an invaluable safety net for at-risk youth. The District, like all states, needs a well-run, compassionate, professional juvenile justice system and prosecutors who have a big heart and believe in redemption and rehabilitation.

Most juvenile offenders should have their cases adjudicated in the juvenile court, and most do. Unfortunately, there are some juvenile offenders who are extremely violent and a danger to society, with a long (relatively speaking) history of violating the law. Some of them, sadly, need

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[34] *See About the Office of Attorney General*, Office of the Attorney General for the District of Columbia website (last visited Oct. 8, 2023) https://oag.dc.gov/about-oag.

[35] See https://mpdc.dc.gov/page/carjacking (last visited Oct. 8, 2023).

to be prosecuted as adults for their crimes, and to do that, prosecutors who handle juvenile criminal cases must be able to recognize that and do something about it.

That's not the situation at the OAG. They hold on to as many juvenile cases as possible, including cases involving recidivists charged with violent crimes. The office hires social justice warriors who see juveniles arrested for committing crimes as the victims, not as errant youth in need of accountability and rehabilitation.

The OAG is simply not up to the task of carrying out its mission to hold youthful offenders accountable and protect the community. Congress therefore should consider stripping the OAG of the power to handle all criminal cases and giving that responsibility to the DCUSAO. In turn, the DCUSAO would need to expand the Superior Court Division to include juvenile and traffic cases as most district attorney offices do around the country.

V. The D.C. Crime Lab

In 2012, after a six-year delay, the new crime lab in D.C. was opened. The D.C. Department of Forensic Sciences (DFS) Building, which cost $210 million, was designed to be a full-service laboratory with the latest equipment and technicians qualified to handle most of the testing requested by prosecutors in the DCUSAO, from DNA to fingerprints to ballistics, digital evidence, and more. The laboratory was needed, it was said at the time, to help the city become less dependent on federal law enforcement labs.[36]

The quality of the lab work conducted at the DFS was challenged in litigation almost from the day it began operating. On October 2, 2021, the DFS's national accreditation was suspended by the American National Standards Institute (ANSI). The suspension continues to this day, and the lab won't regain its license to practice until at least next year.[37]

U.S. Attorney Graves blames the closed lab, in part, for his office's high declination rate, stating that his office must send forensic evidence to other labs for testing.[38] But that excuse does not explain the substantial difference in declination rates between his office and those discussed herein.

Even if or when the D.C. crime lab regains its accreditation, the quality of its work will be challenged again and again. It could lose its accreditation again, further incapacitating the ability of the DCUSAO to receive quick, local forensic reports on evidence submitted for testing.

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[36] *See* Alan Binder, *DC Opens Crime Lab After Years of Delay*, WASH. EXAMINER, Oct. 1, 2012, https://www.washingtonexaminer.com/dc-opens-210m-crime-lab-after-years-of-delays#.UGrgBPl26PI.

[37] *See* Dick Uliano, *DC Council Member: DC Crime Lab Accreditation "Really Going to Make a Difference in Prosecuting Crime,"* WTOP NEWS, Oct. 7, 2023 https://wtop.com/dc/2023/10/dcs-crime-lab-reapplies-for-accreditation/.

[38] *See* Jenny Gathright, *U.S. Attorney Says He's Focused on the Small Group of People Driving Most of D.C.'s Gun Violence*, DCist, Aug. 2, 2023 https://dcist.com/story/23/08/02/dc-gun-violence-crime-prosecute-us-attorney/.

To fix this problem once and for all, Congress should consider federalizing the D.C. crime lab. It could give the lab to the FBI, DEA, or ATF, which in turn would operate jointly to provide state-of-the-art forensic services to the DCUSAO. The federal government, not D.C., would control the lab, maintain the appropriate accreditations, hire qualified scientists, and run the lab. Legal challenges to the lab would be much less likely to succeed, thus providing continuity of service to the DCUASO and other D.C.-based agencies that may also have a need to use their services.

VI. What Congress Can Do

The criminal code in D.C. does need to be reformed. It is old, has outdated language, contains ancient crimes that are no longer relevant, and is not formatted or organized in the way modern criminal justice codes in many states are organized. The exercise of modernizing most aspects of the code is not—or should not have been—controversial.

The serious business of rewriting the criminal code should start with addressing the realities on the ground in the city and analyzing its justice system compared to model jurisdictions around the country. Such an analysis at the very least should encompass the following things:

- *Evaluate* the numbers of violent crimes across the city.
- *Assess* whether those violent crimes are being perpetrated by recidivists.
- *Examine* how and why recidivism rates are what they are in the District.
- *Scrutinize* the actual sentences imposed by Superior Court judges and compare those sentences to the actual time served to make sure defendants are actually serving their sentences or at least a substantial portion of them.
- *Analyze* the U.S. Attorney's Office charging policies and high declination rate and see how they compare to professionally led large district attorney's offices around the country.
- *Delve* into the current alternatives to incarceration, including diversionary programs and specialty courts (such as veteran's courts, substance abuse courts, mental health courts, etc.) and see whether they are successful compared to best-in-class programs and courts across the country.
- *Develop* a sentencing scheme that punishes the worst offenders convicted of the most violent crimes with life sentences or similarly long periods of time.
- *Include* mandatory minimum sentences with tiers for the most serious crimes based on the offenders' criminal histories.
- *Study* the current funding mechanisms to see whether any alternatives are appropriate.

Once that task is completed, Congress should move to craft a commonsense penal code, borrowing provisions from state penal codes that have been effective in protecting the public and incapacitating violent criminals, such as those listed below.

Use-of-a-Firearm Enhancements

Under California P.C. § 12022, anyone who carries a loaded or unloaded firearm on his person during the commission of a felony or attempted felony is punished by an additional year that must run consecutively to the underlying sentence for the felony he or she committed or attempted to commit. If the weapon is an "assault weapon" as defined by statute, the additional

and consecutive sentence is three years. Under § 12022.2, any person who while armed with a firearm in the commission or attempted commission of any felony has ammunition designed to penetrate metal or armor must serve an additional term of three, four, or 10 years.

Given the extraordinary number of criminals in the District who are found in possession of firearms during the commission of felonies, any reformed criminal code would benefit from a provision like California P.C. § 12022.5, which says that any person who uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment for three, four, or 10 years unless use of a firearm is an element of the offense.

Given the number of shootings from occupants of vehicles (often stolen vehicles), the new code could copy California P.C. § 12022.55, which states that anyone who with the intent to inflict great bodily injury or death inflicts great bodily injury or death of a person other than the occupant of the vehicle as a result of discharging a weapon from a motor vehicle in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment of five, six, or 10 years.

There are many other firearms enhancements under California law that may be worth emulating. The D.C. reform bill ignores firearms enhancements, despite all the rhetoric about the need to reduce “gun crimes.”

Three-Strikes Laws

California was the first state to pass a three-strikes-and-you’re-out law. The law went into effect on March 7, 1994, and has been not only very successful in providing a deterrent, but also cost-effective according to several studies. Nonetheless, to the CCRC and D.C. City Council, a three-strikes law was out of the question because, as decarcerationists and racial apologists, they want shorter sentences and a smaller system—even if that means keeping violent criminals on the streets of the District.

The three-strikes law is complicated and grossly misunderstood by most people, including some people in California. Surprisingly, it has a lot of wiggle room and is not the draconian hammer that the Left portrays it to be, in large part because judges and prosecutors can “strike” a prior conviction from a career felon’s record, thus rendering the person ineligible for the 25-to-life sentence that a person who gets sentenced under the full weight of the three-strikes sentencing scheme receives. In essence, it is designed to punish the most dangerous and violent career felons with 25-to-life sentences but, for the reasons explained herein, does not touch most felons.

To qualify for the three-strikes law, a felon must be convicted of a serious or violent felony, as defined by California Penal Code § 667.5(c) and § 1192.7(c). Those include serious crimes like rape, child molestation, murder, most sex offenses, residential burglary, robbery, kidnapping, and offenses in which a weapon was used, any offense in which great bodily injury was inflicted, arson, or attempts to commit any of the crimes listed above.

A "serious" or "violent" felony is known as a "strike prior." A defendant who is convicted of any new felony who has one "strike prior" is required to go to prison for twice the sentence otherwise listed for the new offense. He must also serve at least 80 percent of the sentence imposed unlike non-strike prisoners who receive one-third to one-half off their sentences for good time credits.

However, a defendant who has two or more "strike priors" faces a mandatory minimum sentence of 25 years to life and under the law cannot earn any time off for good behavior or working in prison. Prosecutors or judges, on their own volition, can remove (called "striking a strike") a strike from a felon's record when negotiating with the defense attorney.

Liberals and decarcerationists hate the three-strikes law, largely because they do not think it works and believe it results in overly punitive sentences. They also contend that the law has no deterrent effect and is not cost-effective. But thoroughly researched studies have found just the opposite—that California's three-strikes law has a large deterrent effect and may indeed be cost-effective.

Professors Daniel Kessler of Stanford University and Steven Levitt of the University of Chicago tested a research model using California's Proposition 8, which imposed sentence enhancements for a select group of crimes. They found that in "the year following its passage, crimes covered by [three-strikes] fell by more than 10 percent relative to similar crimes not affected by the law, suggesting a large deterrent effect."[39] More strikingly, they found that "three years after the law comes [sic] into effect, eligible crimes have fallen roughly 20–40 percent compared to non-eligible crimes" and concluded that California sentence enhancements had a large deterrent effect and "may be more cost-effective than is generally thought."

As is clear from this brief review of California's criminal code, the CCRC could have included sensible criminal justice reforms from other jurisdictions that are effective, sensible, and act to address the most violent felons on the street, protect victims of crime, and provide incentives to obey the law. But whether the members of the CCRC had a national viewpoint or a limited parochial viewpoint and experience with only local criminal justice systems, they chose not to write a criminal code worthy of adoption. They ignored rising crime rates, turned a blind eye to recidivists, and treated prison like a four-letter word. In short, they failed miserably in their effort to reform the criminal code.

The District also could benefit from fully functioning specialty courts such as a Drug Court, a Domestic Violence Court, and a Family Justice Center. There are drug court and domestic violence "calendars" in the Superior Court, but they aren't stand-alone courts like those in other jurisdictions.

VII. Conclusion

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[39] *See* Daniel Kessler & Steven D. Levitt, *Using Sentence Enhancements to Distinguish Between Deterrence and Incapacitation*, Nat'l Bureau of Econ. Rsch., Working Paper No. 6484 (1998), https://www.nber.org/papers/w6484; *see also* David S. Abrams, *Estimating the Deterrent Effect of Incarceration Using Sentencing Enhancements*, 361 Faculty Scholarship at Penn Carey L. (2011), https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1360&context=faculty_scholarship (taking a "similar methodological approach to Kessler and Levitt" and finding "evidence for a deterrent effect of sentence enhancement in the form of add-on gun laws").

The criminal justice system in the District of Columbia isn't working as it should. For a variety of reasons detailed in my testimony, it has failed at its core mission: to enforce the criminal laws, protect the residents of the city, respect victims, and punish violent criminals.

This is a man-made problem that has built up over decades. As a result, there is a pervasive culture of violence across the city. Because this has been the case for so long, residents, local newspapers, including *The Washington Post*, have become accustomed to the violence. Residents of the poorest neighborhoods in the city, who have the same right to public safety as everyone else, suffer the most. This is totally unacceptable.

Since the City Council has proven by its actions and words that it is incapable of passing commonsense, widely accepted criminal laws, Congress should step in and do the job for them.