



**Testimony of
Nazgol Ghandnoosh
Co-Director of Research
The Sentencing Project**

**On Safer Stronger Amendment
Act of 2023, B25-291**

Before the Council of the District of
Columbia, Committee on the
Judiciary & Public Safety

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I'm Nazgol Ghandnoosh, Co-Director of Research at The Sentencing Project and a Ward 2 resident. This year, I was appointed by the Honorable Anita Josey-Herring, Chief Judge of the Superior Court, as a member of the DC Sentencing Commission. I am eager to support the Commission in increasing fairness and effectiveness in sentencing by analyzing DC sentencing data, policies, and practices and by helping to align sentencing in DC with the best research and evidence nationwide on how to promote public safety. Insulating the Sentencing Commission from politics as much as possible is key to achieving these goals. For that reason, I strongly advise against expanding the Mayor's authority over the Commission.

One of the Mayor's proposals in the Safer Stronger Amendment Act of 2023 is to add three more voting members to the Commission. This includes empowering her office to appoint two new resident members. She makes this proposal even though for several years she has left vacant a seat for a resident member that she is already authorized to appoint.

The Mayor's proposal also includes moving the Chief of the Metropolitan Police Department from a non-voting member to a voting member. This change would elevate a law enforcement perspective which may not correspond with research and data on best practices in sentencing. We have seen, for example, current and former DC Police Chiefs rely on anecdote, rather than evidence, when weighing in on sentencing debates. Lastly, the Mayor would add the Deputy Mayor for Public Safety and Justice as a non-voting member of the Commission.

An effective sentencing commission should comprise issue experts who can bring evidence-based rationality and objectivity to criminal justice policy-making. In the words of NYU law professor and former United States Sentencing Commission member Rachel Barkow, commissioners need "an institutional architecture that rewards the use of expertise and insulates them from political pressures and from agency capture by interests in favor of harsher policies."¹

The DC Council must build an institutional architecture for the Sentencing Commission that promotes and preserves what is working well and repairs what is not. Expanding the Mayor's authority over the Commission would weaken the existing architecture.

How can DC residents know that expanding mayoral authority over the Sentencing Commission would make the Commission more politicized and more responsive to calls for punitive, but ineffective, policies? Consider what we just experienced around the Revised

¹ Barkow, R. E. (2019). *Prisoners of politics: Breaking the cycle of mass incarceration*, p. 178. Belknap Press.

Criminal Code Act of 2022 (RCCA): the Mayor vetoed a law modernizing the District’s criminal code, which was the product of 16 years of research, an expert commission, 51 public meetings, extensive public feedback, and robust negotiation. Although the Council overturned the Mayor’s veto, her actions contributed to Congress then blocking the law.²

The Mayor’s opposition to the RCCA disregarded vast criminological research establishing that lengthening sentences is not an effective response to violence.³ The criminological evidence is clear: certainty of punishment has a far greater deterrent effect than the severity of punishment.⁴ Lengthening sentences does not reduce gun crime. Instead, it diverts scarce public tax dollars toward incarceration and away from potential interventions that actually make communities safer.⁵ Extreme sentences also disproportionately impact Black Americans.⁶

Consider also the other elements of the Mayor’s current proposed bill. As you’ll hear from my colleagues Warren Allen and Liz Komar at The Sentencing Project, as well as from many other witnesses, many elements of this bill are at odds with evidence on how to promote community safety and seek to return us to an old playbook of passing laws that are superficially tough on crime, but actually ineffective.⁷

The Commission’s composition can be improved. One valuable change would be to ensure representation of returning citizens who can share insights from their first-hand experience

² Austermuhle, M. (2023, March 14). How A D.C. crime bill sparked a political firestorm and ended up blocked by Congress. *DCist*. <https://dcist.com/story/23/03/14/how-congress-blocked-dc-criminal-code-bill/>

³ See Ghandnoosh, N., & Nellis, A. (2023) [How many people are spending over a decade in prison?](#) The Sentencing Project.

⁴ National Institute of Justice. (2016). [Five things about deterrence](#).

⁵ John Jay College Research Advisory Group on Preventing and Reducing Community Violence. (2020). [Reducing violence without police: A review of research evidence](#); Sebastian, T., Love, H., Washington, S., Barr, A., Rahman, I., Paradis, B., Perry, A. M., & Cook, S. (2023). [A new community safety blueprint: How the federal government can address violence and harm through a public health approach](#). *Brookings*.

⁶ Muhammad, K. G., Western, B., Negussie, Y., & Backes, E. (Eds.) (2022). [Reducing racial inequality in crime and justice: science, practice, and policy](#). National Academies of Sciences, Engineering, and Medicine.

⁷ FWD.us. (2023, June 22). [More than 40 national and local organizations call on D.C. leaders to oppose safer stronger D.C. proposal that will worsen mass incarceration without improving public safety](#).

with incarceration, along the lines of what Minnesota has recently done. Another improvement, also following Minnesota's lead, would be to ensure that members include academic criminologists, restorative justice experts, and leaders who promote community safety through strong and supported community-based organizations.⁸

I'll conclude with a cautionary tale from another criminal justice agency: parole boards that make discretionary decisions about when certain people can be released from prison. Nationwide, parole board appointments are generally made by the executive branch. The proximity of parole commissioners to a single elected official has severely limited how often they use their discretion to release people from prison.⁹ As a result, the American Law Institute has called for abolishing the discretionary parole process.¹⁰

Please help to insulate the DC Sentencing Commission from politics and support reliance on expertise in sentencing.

⁸ 2023 Minn. Laws ch. 52, art. 6, § 1

⁹ Ruhland, E. L., Rhine, E. E., Robey, J. P., Mitchell, K. L. (2017). [The continuing leverage of releasing authorities: Findings from a national survey](#). Robina Institute; Ghandnoosh, N. (2017). [Delaying a second chance: The declining prospects for parole on life sentences](#). The Sentencing Project

¹⁰ American Law Institute. (2021). *Model Penal Code: Sentencing*. Prepublication Draft.