



Testimony Before the District of Columbia Council  
Committee on the Judiciary and Public Safety  
October 21, 2021

Public Hearing:  
B24-0254, “School Police Incident Oversight and Accountability Amendment Act of  
2021”  
B24-0306, the “Youth Rights Amendment Act of 2021”  
B24-0356, the “Strengthening Oversight and Accountability of Police Amendment Act  
of 2021”

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## Introduction

Thank you, Chairperson Allen, and members of the Committee, for the opportunity to testify. My name is Danielle Robinette. I am a policy attorney at Children's Law Center and a resident of Ward 6. Additionally, prior to law school, I was a public-school teacher. I am testifying today on behalf of the Children's Law Center which fights so every DC child can grow up with a stable family, good health, and a quality education. With almost 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.<sup>1</sup>

Children's Law Center represents children and youth in foster care and, through our medical-legal partnership, families facing barriers to healthy housing or special education for their children. In support of this work, we have long emphasized the importance of fair access to school for all students across the District. Barriers to access are most prevalent for students who have experienced trauma and students with complex special education needs. In both our *guardian ad litem* and special education work, we have had clients who experienced concerning interactions with police at school.

As we have testified before, the presence of police in schools has a disproportionate negative impact on Black and Brown students and students with disabilities.<sup>2</sup> The cumulative effect of these interactions contributes to school pushout for these groups of students. We therefore support the bills presently before the Committee

and consider them to be a good initial step towards minimizing the harmful impacts of policing on Black, Brown, and/or disabled young people in DC. My testimony today will focus on B24-0254, the “School Police Incident Oversight and Accountability Amendment Act of 2021” and B24-0306, the “Youth Rights Amendment Act of 2021.

### **Strengthening Oversight & Accountability of Police on School Grounds**

We support the School Police Incident Oversight and Accountability Amendment Act because it will provide the Metropolitan Police Department (MPD), this Committee, and the Council detailed information needed to conduct effect oversight of police activity in schools, as well as some level of increased transparency through public reporting and Council oversight hearings. Further, the bill broadly defines “law enforcement” to encompass not only School Resource Officers (SROs), but also civilian MPD employees, special police officers, campus police officers, employees of the Department of Corrections or Department of Youth Rehabilitation Services, and employees of the Court Services and Offender Supervision Agency, Pretrial Services, and Family Court Social Services.<sup>3</sup> By relying on a more inclusive concept of “law enforcement” in the context of school, the bill will continue to serve a meaningful purpose even after SROs are phased out of DC schools.

Transparency does not on its own, however, ensure accountability. In its current form, this bill will not capture the full scope of student interactions with law enforcement and other school security personnel. Instead, the bill relies on schools and MPD to report

incidents in which law enforcement interact with students. Schools are required to report when they call law enforcement, recover a weapon or contraband, or involve law enforcement in a school action or activity.<sup>4</sup> MPD is required to report school-based events involving MPD officers who “stop, detain, or arrest” individuals on school grounds.<sup>5</sup>

Children’s Law Center is concerned that by relying only on reports from schools and MPD, the data collected under this bill will not encompass the full range of concerns that students have regarding misconduct or harassment by law enforcement in their schools. The data required by this bill will reflect the perspectives of schools and MPD, but not those of students. Further, the data required to be reported may not capture informal interactions between students and law enforcement that may feel coercive or inappropriate to students as the law enforcement officer would have to report their own misbehavior. Such incidents create opportunities for police interactions with students that could escalate into coercive exchanges or improper conduct but would not be captured by the data reporting required by this bill.

Therefore, we encourage this Committee to work with the Committee of the Whole to explore ways in which students can report concerns regarding their experiences with law enforcement at school without fear of retaliation. Additionally, we have heard from students that they often do not know whether a law enforcement officer is an SRO, a contracted security guard, or an employee of another District agency. Any reporting mechanism, therefore, should be able to receive complaints from students regardless of

the specific type of law enforcement or school security officer involved and regardless of whether the student is able to correctly identify the particular type of officer involved. Finally, we encourage the Committee to engage directly with youth to ensure that any complaint or reporting mechanism developed meets students' needs.

### **Advancing Developmentally Appropriate Policing**

As we have testified before, MPD practices affect young people differently than adults and can contribute to school avoidance and the school-to-prison pipeline.<sup>6</sup> We therefore support the Youth Rights Amendment Act ("the Act") because it requires MPD to use developmentally appropriate policing tactics when interacting with young people.<sup>7</sup> Following the release of the Police Reform Commission's (PRC's) report, we testified in support of their recommendations that minors be granted special protections from unjust police practices that fail to account for normal adolescent behaviors and the neuroscience of adolescence.<sup>8</sup> The Act is a step in the right direction towards codifying the PRC's recommendations.

The Act makes two important changes to the DC Code to protect young people during interactions with law enforcement. First, the Act requires MPD to ensure that minors are provided with developmentally appropriate *Miranda* warnings and that youth knowingly, intelligently, and voluntarily agree to waive their rights.<sup>9</sup> A recent report by the DC Justice Lab and the Georgetown Juvenile Justice Initiative clearly outlines the insufficiencies of the current *Miranda* doctrine when applied to minors.<sup>10</sup> The report

notes, “Because children’s cognitive abilities are still developing, most children cannot meaningfully understand their *Miranda* rights. More specifically, only 20% of youth adequately understand their *Miranda* rights.”<sup>11</sup> Because most children do not understand their rights under the *Miranda* doctrine, they should have extra protections in protect them from police coercion. Further, this report demonstrates how Black youth and youth with disabilities are disproportionately impacted by the current coercive practices employed by MPD.<sup>12</sup>

Second, the Act prohibits the use of consent searches on anyone under the age of 18.<sup>13</sup> For many of the same reasons that current *Miranda* warnings are insufficient for children, the use of consent searches on minors takes advantage of the inherently unjust power dynamic between youth and police. This power imbalance means that youth cannot freely consent to searches by police.

Neuroscience tells us that adolescents are more likely than adults to be impulsive and sensation-seeking, to make decisions based on “immediate” gains rather than long-term consequences, and to be susceptible to peer pressure.<sup>14</sup> Moreover, race and disability can intensify the fundamental power imbalance between a young person and a police officer. For all DC youth, the use of developmentally appropriate policing practices will lessen the likelihood that an interaction between a young person and the police escalates into a dangerous situation. For our clients specifically, namely youth in foster care and children with disabilities, we are hopeful that this change will also limit

the instances in which manifestations of trauma and/or disability in youth are often misread as noncompliance or involuntary consent by law enforcement.

## Conclusion

Thank you for this opportunity to testify, and I welcome any questions.

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<sup>1</sup> Children’s Law Center fights so every child in DC can grow up with a stable family, good health, and a quality education. Judges, pediatricians, and families turn to us to advocate for children who are abused or neglected, who aren’t learning in school, or who have health problems that can’t be solved by medicine alone. With almost 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC’s poorest neighborhoods – more than 5,000 children and families each year. And we multiply this impact by advocating for city-wide solutions that benefit all children.

<sup>2</sup> See, e.g., *School Security in the District of Columbia and Public Charter Schools*, Public Roundtable Before the Comm. of the Whole, D.C. Council, (April 21, 2021) (testimony of Danielle Robinette, Policy Attorney, Children’s Law Center), available at: [https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony\\_School-Security-in-the-District-of-Columbia-and-Public-Charter-Schools.pdf](https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony_School-Security-in-the-District-of-Columbia-and-Public-Charter-Schools.pdf)

<sup>3</sup> See B24-0254 “School Police Incident Oversight and Accountability Amendment Act of 2021,” Sec. 2(a).

<sup>4</sup> See *id.*, at Sec. 2(b) (amending DC Code § 38-236.09).

<sup>5</sup> See *id.*, at Sec. 3 (amending DC Code § 5-113.01).

<sup>6</sup> See, e.g., *School Security in the District of Columbia and Public Charter Schools*, Public Roundtable Before the Comm. of the Whole, D.C. Council, (April 21, 2021) (testimony of Danielle Robinette, Policy Attorney, Children’s Law Center), available at: [https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony\\_School-Security-in-the-District-of-Columbia-and-Public-Charter-Schools.pdf](https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony_School-Security-in-the-District-of-Columbia-and-Public-Charter-Schools.pdf)

<sup>7</sup> See B24-0306 “Youth Rights Amendment Act of 2021” (amending DC Code § 16-2316(b) and § 23-256).

<sup>8</sup> See *The Recommendations of the Police Reform Commission*, Joint Public Roundtable Before the Comm. on Judiciary and Public Safety and the Comm. of the Whole, D.C. Council, (May 20, 2021) (testimony of Danielle Robinette, Policy Attorney, Children’s Law Center), available at:

[https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony\\_Joint-Hearing-on-PRC-Recommendations\\_Revised.pdf](https://childrenslawcenter.org/wp-content/uploads/2021/07/CLC-Testimony_Joint-Hearing-on-PRC-Recommendations_Revised.pdf)

<sup>9</sup> See B24-0306 “Youth Rights Amendment Act of 2021” Sec. 2(b).

<sup>10</sup> See Katrina Jackson & Alexis Meyer, “Demanding a More Mature Miranda for Kids,” at 1-2 (Oct 2020), available at: <https://www.defendracialjustice.org/wp-content/uploads/toolkit-files/Policy-Advocacy/Sample-Policy-Reports/More-Mature-Miranda.pdf>

<sup>11</sup> *Id.*, at 1.

<sup>12</sup> *Id.*, at 2.

<sup>13</sup> See B24-0306 “Youth Rights Amendment Act of 2021” Sec. 3.

<sup>14</sup> See *J.D.B. v. North Carolina*, 564 U.S. 261, 273 (2011); see also Laurence Steinberg, et. al., “Are Adolescents Less Mature than Adults? Minors’ Access to Abortion, the Juvenile Death Penalty, and the Alleged APA ‘FlipFlop’,” 64 AM. PSYCHOL. 583, 592 (2009), available at: [https://pubmed.ncbi.nlm.nih.gov/19824745/#:~:text=Simmons%20\(2005\)%2C%20which%20abolished,are%2020as%20mature%20as%20adults](https://pubmed.ncbi.nlm.nih.gov/19824745/#:~:text=Simmons%20(2005)%2C%20which%20abolished,are%2020as%20mature%20as%20adults)