

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DISTRICT OF COLUMBIA,

Plaintiff,

v.

DONALD J. TRUMP, *et al.*,

Defendants.

Case No.: 1:25-cv-03005 (JMC)

Judge Jia M. Cobb

**BRIEF OF *AMICI CURIAE* LOCAL
CIVIL RIGHTS AND LEGAL SERVICES ORGANIZATIONS IN SUPPORT OF
PLAINTIFF DISTRICT OF COLUMBIA'S MOTION FOR PRELIMINARY
INJUNCTION AND SECTION 705 STAY**

TABLE OF CONTENTS

TABLE OF AUTHORITIES iii

DISCLOSURE STATEMENT ix

INTRODUCTION..... 1

INTERESTS OF THE *AMICI CURIAE* 2

ARGUMENT..... 2

**I. THE DISTRICT’S STRUGGLE FOR SELF-GOVERNANCE IS INTRINSICALLY
 INTERTWINED WITH RACIAL JUSTICE AND CIVIL RIGHTS.** 2

A. The Rise and Fall of Interracial Democracy in the District...... 3

B. The Civil Rights Movement Wins the District Home Rule. 7

C. The District’s Struggle for Full Self-Governance and Representation Continues. 11

**II. DEMOCRATIC ACCOUNTABILITY FOR LAW ENFORCEMENT IS AN
 ESSENTIAL ASPECT OF THE DISTRICT’S SELF-GOVERNANCE.** 15

**A. District Residents Faced Decades of Abuses by Law Enforcement and Fought to
 Have Control over Policing.** 16

**B. Community Safety Is a Quintessentially Local Issue, and Police Must Be
 Accountable to the Community.** 18

CONCLUSION 22

ADDENDUM..... A-1

TABLE OF AUTHORITIES

Cases

<i>Byrd v. Lamb</i> , 990 F.3d 879 (5th Cir. 2021).....	21
<i>Egbert v. Boule</i> , 596 U.S. 482 (2022)	21

Statutes

An Act for the Government of the District of Columbia and other purposes, 18 Stat. 116 (1874) 6	
D.C. Act 26-104, <i>Juvenile Curfew Emergency Amendment Act of 2025</i> (2025)	22
D.C. Code § 1-201.02(a).....	18
D.C. Code § 1-204.22(4).....	18
D.C. Code § 1-207.40(a).....	18
D.C. Code § 23-101(a).....	14
D.C. Code § 5-105.01(a).....	18
D.C. Code § 5–1104.....	21
D.C. Compensated Emancipation Act, ch. 54, 12 Stat. 376 (1862).....	4
D.C. Law 24-345 (2023).....	22
D.C. Suffrage Act, ch. 4, 14 Stat. 375 (1867)	4
Organic Act of 1801, ch. 15, 2 Stat. 103	3
Organic Act of 1878, 20 Stat. 102 (1878).....	6
Revised Criminal Code Act of 2022, D.C. Act 24-789, 70 D.C. Reg. 1361 (Jan. 25, 2023).....	12

Other Authorities

<i>23rd Amendment: Topics in Chronicling America</i> , LIB. OF CONG.: RSCH. GUIDES	9
<i>African American Heritage</i> , D.C. GOV: OFF OF PLANNING	8
Aidan Quigley & Andrew Menezes. <i>Trump endorses Senate-passed D.C. budget fix</i> , ROLL CALL, (Mar. 28, 2025)	13

An Act further to amend the Charter of the City of Washington, ch. 75, 2 Stat. 721 (1812)	4
Barbara Attard, <i>Oversight of Law Enforcement is Beneficial and Needed—Both Inside and Out</i> , 30 PACE L. REV. 5, 1548-49 (Sept. 2010)	20
Bridget Bowman, <i>Congressional Judicial Backlog Creates Problem for D.C. Court</i> , ROLL CALL (Dec. 3, 2015)	14
Cerise Castle, <i>A Tradition of Violence: The History of Deputy Gangs in the Los Angeles County Sheriff's Department</i> , KNOCK LA (2021)	19
Charles Coles Diggs, Jr., UNITED STATES HOUSE OF REPRESENTATIVES: HISTORY, ART & ARCHIVES	11
Chicago Justice Project, et al., <i>Targeted, Labeled, Criminalized: Early Findings on the District of Columbia's Gang Database</i> , WASHINGTON LAWYERS' COMMITTEE FOR CIVIL RIGHTS AND URBAN AFFAIRS (Jan. 2024).....	21
Chris Gelardi, <i>'Rage Induced Policing': Hacked Documents Reveal D.C. Police's Aggressive Robbery Crackdowns</i> , THE APPEAL (Dec. 6, 2021).....	19
Chris Myers Asch and George Derek Musgrove, <i>Chocolate City: A History of Race and Democracy in the Nation's Capital</i> , 48–49, 58–59, 114–16 (2017)	passim
Christian Flores, <i>Even with more officers out on D.C. streets, judge shortages continue delaying legal process</i> , ABC7NEWS, (Aug. 11, 2025)	14
<i>Courts of the District of Columbia</i> , FED. JUD. CTR.....	13
<i>Crim. Code Reform Comm'n Advisory Grp.</i> DC.GOV	12
<i>D.C. Home Rule</i> , COUNCIL OF THE DISTRICT OF COLUMBIA	passim
<i>D.C. Home Rule: What it Is, How it Works, and Why it Matters</i> , ACLU D.C. (Mar. 7, 2025) .8, 11	

Dan Ronan, <i>Law enforcement experts say D.C. needs more judges to fight crime</i> , WTOP NEWS, (Aug. 12, 2025)	14
Dennis A. Corkery, Interim Supervising Counsel, <i>Testimony for the October 4, 2023 Hearing on Traffic Bills</i> (Oct. 2, 2023)	21
Derek Gray, <i>The NAACP in Washington DC: From Jim Crow to Home Rule</i> 174 (2022)...	8, 9, 16
Dwight D. Eisenhower, <i>Annual Message to Congress on the State of the Union</i> , DWIGHT D. EISENHOWER PRESIDENTIAL LIBR., MUSEUM & BOYHOOD HOME, 13 (Feb. 2, 1953).....	7
Elise C. Boddie, <i>Racially Territorial Policing in Black Neighborhoods</i> , 89 U. CHI. L. REV. 477 (2022).....	19
Elizabeth Wolfe, <i>What we know about Tyre Nichols’ fatal beating and the officers involved</i> , CNN (May 8, 2025).....	19
Fauntroy, Walter Edward, U.S. HOUSE OF REPRESENTATIVES: HISTORY, ART & ARCHIVES.....	10
H.R. Res. 97, 118th Cong. (2023).....	12
Harry S. Truman, <i>Special Message to the Congress on Civil Rights</i> , HARRY S. TRUMAN LIB. & MUSEUM (Feb. 2, 1948)	7
<i>History of the District of Columbia</i> , ADVISORY NEIGHBORHOOD COMM’N 2C	4
<i>Home Rule for the District of Columbia, 1973–1974, Background and Legislative History of H.R. 9056, H.R. 9682, and Related Bills Culminating in the District of Columbia Self-Government and Governmental Reorganization Act, Approved December 24, 1973 (Public Law 93-198), Serial No, S-4, U.S. GOV’T PRINTING OFF. (Dec. 31, 1974)</i>	17
Ian T. Adams et al., <i>Police reform from the top down: Experimental evidence on police executive support for civilian oversight</i> , 44 J. POL’Y ANAL. & MGMT. 345, 347 (2025)	19

Jacob Fenston, <i>50 Years of Home Rule: A history of D.C.'s struggle for (semi-) self governance</i> , WAMU 88.5 (Jan. 29, 2024)	passim
Jeff Levine, <i>D.C. Courts Face Crisis Waiting For Judicial Appointments, Says Chief Judge and Attorneys</i> , D.C. WITNESS, (Jan. 23, 2025)	14
Jenny Gaithright, <i>Senate adjourns without confirming D.C. judges as 'vacancy crisis' persists</i> , WASH. POST, (Dec. 24, 2025)	14
John Herbers, <i>Dr. King to Fight Bias in the North; Will Submit Proposals at Johnson's Suggestion</i> , N.Y. TIMES (Aug. 6, 1965).....	9
Joseph V. Jaroscak & Ben Leubsdorf, <i>Governing the District of Columbia: Overview and Timeline</i> , CONGRESS.GOV (Jan. 29, 2024)	4
Juan Del Toro et al., <i>The Policing Paradox: Police Stops Predict Youth's School Disengagement Via Elevated Psychological Distress</i> , DEV. PSYCH. (July 2022).....	21
Julia Miller, <i>Trump suggests federal government take over DC if local leaders 'can't do the job'</i> , CBS42 (Mar. 14, 2025).....	1
Karis Lee, <i>The 1868 Mayoral Election, African-American Vote, and Riots that Followed</i> , BOUNDARY STONES (Feb. 10, 2025)	4, 5
Katherine Brodt, <i>In Washington, "Taxation Without Representation" is History</i> , BOUNDARY STONES, WETA (Feb. 12, 2020)	11
Kyle McLean & Justin Nix, <i>Understanding the Bounds of Legitimacy: Weber's Facets of Legitimacy and the Police Empowerment Hypothesis</i> , 39 JUSTICE Q. 1287 (2021).....	20
Legis. Detail for B25-0785 - Fiscal Year 2025 Loc. Budget Act of 2024, D.C. COUNCIL LEGIS. INFO. MGMT. SYS.	13

<i>LETTER FROM WASHINGTON Correspondence of the Baltimore Sun, The Sun (1837-1994);</i> <i>May 31, 1867; ProQuest Historical Newspapers: The Baltimore Sun pg. 4</i>	5
Letter to U.S. Senators from Council for Court Excellence (July 30, 2018)	14
Lyndon B. Johnson, <i>Televised Statement by the President Concerning the Signing of the D.C.</i> <i>Home Rule Petition by a Majority of House Members</i> , THE AM. PRESIDENCY PROJECT (Sept. 3, 1964)	7
Mark Segraves, <i>Here’s what a second Trump presidency could mean for DC</i> , NBC Washington (Nov. 6, 2024)	1
Martin Austermuhle, <i>Four Decades After Getting Home Rule, The Fight in D.C. Goes on</i> , WAMU 88.5 (Nov. 15, 2013)	10
Meagan Flynn & Olivia George, <i>House GOP advances bills to remove elected D.C. AG,</i> <i>overhaul justice policies</i> , WASH. POST, (Sept 10, 2025)	15
Meagan Flynn, <i>House votes for \$1 billion in D.C. cuts while seeking to avert shutdown</i> , WASH. POST (Mar. 11, 2025)	13
Meilan Solly, <i>How the 1973 D.C. Home Rule Act Enabled the Nation’s Capital to Govern Itself –</i> <i>With Congressional Oversight</i> , SMITHSONIAN MAG. (Aug. 14, 2025)	passim
Michael Kohler, <i>In the 1870s, D.C. Briefly Had a Delegate in Congress</i> , BOUNDARY STONES, WETA (Feb. 11, 2025)	10
<i>National Intelligencer</i> , 7 Dec. 1865	6
Nazgol Ghandnoosh, <i>One in Five: Disparities in Crime and Policing</i> , THE SENTENCING PROJECT (Nov. 2, 2023)	19
<i>New Census Data Shows DC’s Population Surpasses 700,000 for the First Time in Five Years</i> , Executive Office of the Mayor (Dec. 19, 2024)	11

OFFICE OF POLICE COMPLAINTS, <i>File a Police Complaint</i>	21
<i>President and Other Leaders Join in Hailing D.C. Vote Amendment</i> , Evening Star, Mar. 30, 1961	7, 9
Press Release, Off. of Rep. Eleanor Holmes Norton, <i>Norton Calls D.C. Appropriations Bill Text</i> <i>‘Unreasonable’ and ‘Patronizing’ to 700,000+ D.C. Residents</i> , (July 20, 2025).....	13
Pub. L. No, 109-356, 120 Stat. 2019 (2006).....	12
Pub. L. No, 113-103, 128 Stat. 1155 (2014).....	12
Richard Nixon, <i>Statement on Signing the District of Columbia Self-Government and</i> <i>Governmental Reorganization Act</i> , AM. PRESIDENCY PROJECT (Dec. 24, 1973	7
Rocio Alejandra Paez & Rick Dierenfeldt, <i>Community Policing and Youth Offending: a</i> <i>Comparison of Large and Small Jurisdictions in the United States</i> , 25 INT’L J. ADOLESCENCE & YOUTH 141 (2020)	18
S.J. Res. 12, 118th Cong. (2023)	12
TIME, <i>Trump Threatens to Federalize D.C. After Beating of ‘Big Balls’</i> (YouTube, Aug. 6, 2025)	1
Tom Lewis, <i>Washington: A History of Our National City</i> , 193–94 (2015)	passim
U.S. Dep’t of Justice, Community Oriented Policing Services, <i>Community Policing Defined</i>	19
U.S. DEP’T OF JUSTICE, <i>Improving Law Enforcement Response to Sexual Assault and Domestic</i> <i>Violence by Identifying and Preventing Gender Bias</i> (2022).....	20
<i>Walter E. Fauntroy</i> , STANFORD: MARTIN LUTHER KING, JR. RSCH. & EDUC. INST.	10
<i>Why Statehood for D.C.</i> , GOVERNMENT OF THE DISTRICT OF COLUMBIA	15
Constitutional Provisions	
U.S. Const. art. I, § 8, cl. 17.....	3

DISCLOSURE STATEMENT

Pursuant to Local Civil Rule 7(o)(5), counsel for *amici* state that *amici* are non-profit, tax-exempt organizations that have issued no stock; have no parent corporations; and that there is no publicly owned corporation that owns 10% or more of their stock. Counsel further state that no counsel for any party authored this brief in whole or in part, and no person other than *amici*, its members, or its counsel made a monetary contribution to the brief's preparation or submission.

INTRODUCTION

The President’s unilateral decision to deploy the National Guard to conduct law enforcement activities in the District of Columbia occurs in a troubling historical context. Since the nation’s founding, D.C.’s residents—particularly its Black residents—have struggled to exercise political control over their city and have long sought local accountability for those who govern them. Although every other American city and state can take these basic elements of representative democracy as a given, for D.C., they have been elusive and, even when obtained, only tenuously held. Setting loose American troops—locally unaccountable and not trained for domestic law enforcement—to police the streets of D.C. neighborhoods on the thin pretext of an “emergency,” adds particular insult to this longstanding injury. The President’s use of the military to further his apparent desire to “take [the District] back,” “take it away from the Mayor,” and “run it the way it’s supposed to be run”¹ defies any notion of democratic representation and flies in the face of the more than 200-year old fight by District residents to achieve Home Rule. This assault on local control and accountability is as anti-democratic as it is unlawful. It is irreparably injuring the District and its residents, and ending it is undoubtedly in the public interest.

For these reasons, and those presented by the District in its Complaint and subsequent filings, *amici*—all of whom are D.C.-based civil rights or legal services organizations that directly serve D.C. residents—urge the Court to grant the Motion for Preliminary Injunction and Section 705 Stay.

¹ Julia Miller, *Trump suggests federal government take over DC if local leaders ‘can’t do the job’*, CBS42 (Mar. 14, 2025), <https://www.cbs42.com/hill-politics/trump-suggests-federal-government-take-over-dc-if-local-leaders-cant-do-the-job>; Mark Segreaves, *Here’s what a second Trump presidency could mean for DC*, NBC Washington (Nov. 6, 2024), <https://www.nbcwashington.com/news/local/heres-what-a-second-trump-presidency-couldmean-for-dc/3762595>; TIME, *Trump Threatens to Federalize D.C. After Beating of ‘Big Balls’*, at 0:16–0:23 (YouTube, Aug. 6, 2025), https://www.youtube.com/watch?v=Fb7yKvOQE_c.

INTERESTS OF THE *AMICI CURIAE*

Amici are a broad group of organizations dedicated to improving the lives of the citizens of the District of Columbia (the “District” or “D.C.”). These organizations represent leaders of the District’s legal and nonprofit community. All these organizations are strongly committed to an effective, accountable local government in the District. In light of core local government principles and Congress’s command in the Home Rule Act that local legislative powers be assumed by the District of Columbia “to the greatest extent possible, consistent with the constitutional mandate,” Section 102(a), *amici* believe that decisions on important local issues such as public safety should, in the case of any ambiguity, rest with the District’s elected leaders. *Amici* therefore have a strong interest in this case, which involves the validity of an important and longstanding measure undertaken by the District’s locally-elected government in order to protect the safety of its residents.

Amici include the Washington Lawyers’ Committee for Civil Rights and Urban Affairs, the American Civil Liberties Union of the District of Columbia, Amica Center for Immigrant Rights, Bread for the City, Children’s Law Center, DC Appleseed Center for Law & Justice, Disability Rights DC, Legal Aid DC, School Justice Project, Tzedek DC, and Washington Legal Clinic for the Homeless. Individual statements of interest for each *amicus* are appended at the end of this brief.

ARGUMENT

I. THE DISTRICT’S STRUGGLE FOR SELF-GOVERNANCE IS INTRINSICALLY INTERTWINED WITH RACIAL JUSTICE AND CIVIL RIGHTS.

The District’s journey to Home Rule was profoundly shaped by the broader trajectory of racial justice and civil rights in the United States. In essence, the struggle for Home Rule mirrors the nationwide fight for Black civil rights. Correspondingly, denying local control to D.C. residents

has been a key objective of those opposed to expanding rights to non-White citizens. It is with this historical context in mind that today's deployment of the National Guard in D.C. can be understood not only as a trampling of Washingtonians' rights to self-governance, but also as a dangerous regression toward a time in the District's history more greatly plagued by racial injustice.

A. The Rise and Fall of Interracial Democracy in the District.

From the outset, Washingtonians were subjected to a democratic deficit. The U.S. Constitution provides that Congress has the power “[t]o exercise exclusive Legislation in all Cases whatsoever, over [the] District.”² Acting on this authority, Congress passed the Organic Act of 1801, which formally brought the District under the authority of Congress and—not for the last time—stripped District residents (who had previously voted as citizens of Maryland or Virginia) of their representation in Congress, their right to vote in elections, and any vestige of self-governance.³ Following “complaints by residents,” Congress slowly expanded enfranchisement and self-governance in the District over the subsequent decades.⁴

In 1802, Congress granted White land-owning Washingtonians the right to vote for a local city council that had legislative authority, though Congress retained a veto power.⁵ In 1812, Congress split the council into two locally elected chambers, an eight-member board of aldermen and a twelve-member common council, and restructured the office of Mayor from a presidentially

² U.S. Const. art. I, § 8, cl. 17.

³ Jacob Fenston, *50 Years of Home Rule: A history of D.C.'s struggle for (semi-) self governance*, WAMU 88.5 (Jan. 29, 2024), <https://wamu.org/story/24/01/29/history-district-self-government-home-rule-2/?ref=51st.news>; see Organic Act of 1801, ch. 15, 2 Stat. 103.

⁴ See Meilan Solly, *How the 1973 D.C. Home Rule Act Enabled the Nation's Capital to Govern Itself — With Congressional Oversight*, SMITHSONIAN MAG. (Aug. 14, 2025), <https://www.smithsonianmag.com/history/how-the-1973-dc-home-rule-act-enabled-the-nations-capital-to-govern-itself-with-congressional-oversight-180987180/>.

⁵ See Solly, *supra* note 4; *D.C. Home Rule*, COUNCIL OF THE DISTRICT OF COLUMBIA, <https://dccouncil.gov/dc-home-rule/> (last accessed, Aug. 15, 2025).

appointed position to one elected by the board of alderman and the twelve-member common council.⁶ With the Act of 1820, White male Washingtonians gained the right to directly elect the Mayor of Washington, providing a limited form of self-governance to the nation’s capital for the first time.⁷

The Civil War and its aftermath accelerated the District’s fight for full self-governance, but racial backlash ultimately led to its unraveling. Though the District’s Black population had been majority free by 1830, the city had long been a major slavery trading hub, and it was only with the onset of the Civil War—and the departure of Southern representatives—that slavery was abolished in the District with the Compensated Emancipation Act of 1862.⁸

As part of the post-war fervor for equality and civil rights, Congress insisted that the country’s capital embody the egalitarian promises of the Union’s victory and that the District could be a test bed for Black enfranchisement.⁹ In 1867, three years prior to the passage of the 15th Amendment, Congress overrode President Andrew Johnson’s veto and passed the D.C. Suffrage Act, making the District the first jurisdiction in the country to grant Black men the right to vote in elections.¹⁰ Black District residents quickly embraced their new voting rights, “turn[ing] out in

⁶ Joseph V. Jaroscak & Ben Leubsdorf, *Governing the District of Columbia: Overview and Timeline*, CONGRESS.GOV (Jan. 29, 2024), <https://www.congress.gov/crs-product/IF12577>; An Act further to amend the Charter of the City of Washington, ch. 75, 2 Stat. 721 (1812).

⁷ *History of the District of Columbia*, ADVISORY NEIGHBORHOOD COMM’N 2C, <http://anc6e.org/history.htm> (last accessed Sept. 11, 2025);

⁸ D.C. Compensated Emancipation Act, ch. 54, 12 Stat. 376 (1862); Chris Myers Asch and George Derek Musgrove, *Chocolate City: A History of Race and Democracy in the Nation’s Capital*, 48–49, 58–59, 114–16 (2017).

⁹ Tom Lewis, *Washington: A History of Our National City*, 193–94 (2015); see Solly, *supra* note 4.

¹⁰ D.C. Suffrage Act, ch. 4, 14 Stat. 375 (1867); Karis Lee, *The 1868 Mayoral Election, African-American Vote, and Riots that Followed*, BOUNDARY STONES (Feb. 10, 2025), <https://boundarystones.weta.org/2020/03/12/1868-mayoral-election-african-american-vote-and-riots-followed>.

force to have their names added to the [voter registration] list.”¹¹

By the end of 1867, Black men made up nearly 50% of the District’s registered voters despite comprising only 30% of the District’s eligible population.¹² The District’s newly enfranchised Black community was a driving force in the mayoral election of 1868, which saw Radical Republican and abolitionist Sayles J. Bowen elected as Mayor of Washington¹³—which was the downtown core and one of the three distinct localities then recognized in the District (the others being Georgetown, which was a Maryland municipality before its incorporation into D.C., and Washington County, covering all remaining District territory east of the Potomac River).¹⁴ Bowen acted quickly, appointing Black men throughout his administration, integrating the city’s fire and police departments, installing Black men as ward commissioners, and appointing a Black doctor as the city’s public health physician.¹⁵ By 1870, the District’s elected council had banned racial discrimination in places of public entertainment, eateries, hotels, and other private establishments.¹⁶ The enfranchisement of Black men in the District had created a “biracial democracy in Washington [that] seemed to be on the verge of making revolutionary change.”¹⁷

Unfortunately, this era of District self-governance, biracial enfranchisement, and local political accountability was short lived. Opponents of Black voting rights began pushing for “consolidation,” an effort purportedly about merging Washington City, Georgetown, and

¹¹ *LETTER FROM WASHINGTON Correspondence of the Baltimore Sun, The Sun (1837-1994); May 31, 1867; ProQuest Historical Newspapers: The Baltimore Sun pg. 4; Lee supra note 10.*

¹² Asch & Musgrove, *supra* note 8, at 147.

¹³ *See id.* at 148–150; *see also* Lee, *supra* note 10; Lewis, *supra* note 9, at 194.

¹⁴ *See* Asch & Musgrove, *supra* note 8, at 35–37, 156. Prior to the retrocession of District land to Virginia, the City of Alexandria and the County of Alexandria were also separate administrative units with their own governments within the District. *See id.*

¹⁵ *See id.*, at 150–51.

¹⁶ *See id.*

¹⁷ *Id.* at 150.

Washington County into a single administrative governmental unit under tighter Federal control to address financial mismanagement, but which was actually “aimed to revoke self-government in the District” in order to disenfranchise Black men.¹⁸ George Vashon, the first professor at Howard University, contemporaneously condemned consolidation as “a base plot, designed to defraud the eight thousand freedmen therein of the elective franchise, and cheat them of their newborn freedom.”¹⁹

This racist backlash to Black voting rights and District self-governance ultimately prevailed. In 1871, Congress intervened, consolidating the District into a single territorial government and abolishing the elected office of Mayor.²⁰ Congress went further in 1874, fully eliminating all elected offices in the District and reverting to a presidentially appointed board of three commissioners to run the city. This arrangement was made permanent by Congress in 1878.²¹ As historian Derek Musgrove explained, the revocation of elected offices in 1874 and 1878 was “effectively . . . the end of local democracy for three generations in the District of Columbia” and in its place “[t]hree white men would run the city by themselves . . . for the next 100 years.”²² The District’s loss of self-governance and democracy—driven by racial resentment of the White majority—mirrored larger post-Civil War trends in American society and previewed the coming

¹⁸ *Id.* at 156–61.

¹⁹ *National Intelligencer*, 7 Dec. 1865; Asch & Musgrove, *supra* note 8, at 160.

²⁰ Solly, *supra* note 4; An Act to provide a Government for the District of Columbia, ch. 62, 16 Stat. 419 (1871).

²¹ Solly, *supra* note 4; Asch & Musgrove, *supra* note 8, at 164–65; *D.C. Home Rule*, *supra* note 5; An Act for the Government of the District of Columbia and other purposes, 18 Stat. 116 (1874); Organic Act of 1878, 20 Stat. 102 (1878).

²² Fenston, *supra* note 3; *see also* Asch & Musgrove, *supra* note 8, at 166 (“The scope of disenfranchisement was remarkable. ‘Under this bill,’ wrote the editors of the *Nation*, ‘not a vestige is left of popular municipal government. . . . With the new law, explained District commissioner Thomas Bryan, Congress hoped that it could ‘be forever free from the disturbing influence of elections in its immediate neighborhood.’”).

rollback of Reconstruction in the South.²³

B. The Civil Rights Movement Wins the District Home Rule.

The District languished without representation or local autonomy for decades, but with the end of World War II and the emergence of the Civil Rights Movement, there was growing bipartisan recognition that Washingtonians' lack of self-governance and elections was a stain on American democracy. Six times between 1948 and 1966, the Senate passed legislation that would have provided for varying degrees of D.C. Home Rule.²⁴ Indeed, every single President—both Republicans and Democrats—from Harry Truman through Richard Nixon endorsed the need for it.²⁵ But this broad support for D.C. Home Rule was repeatedly blocked by White segregationists in the House of Representatives, primarily Representative John McMillan, a South Carolina politician who used his power as chairman of the House District Committee to block Home Rule for 22 years.²⁶ Segregationists such as McMillan, who called Washington “the last plantation,” vehemently opposed granting self-governance and voting rights to District residents, who by 1957

²³ Asch & Musgrove, *supra* note 8, at 167.

²⁴ Solly, *supra* note 4; *D.C. Home Rule*, *supra* note 5.

²⁵ Harry S. Truman, *Special Message to the Congress on Civil Rights*, HARRY S. TRUMAN LIB. & MUSEUM (Feb. 2, 1948), <https://www.trumanlibrary.gov/library/public-papers/20/special-message-congress-civil-rights>; Dwight D. Eisenhower, *Annual Message to Congress on the State of the Union*, DWIGHT D. EISENHOWER PRESIDENTIAL LIBR., MUSEUM & BOYHOOD HOME, 13 (Feb. 2, 1953), https://www.eisenhowerlibrary.gov/sites/default/files/file/1953_state_of_the_union.pdf; *President [Kennedy] and Other Leaders Join in Hailing D.C. Vote Amendment*, Evening Star, Mar. 30, 1961, at A-4, <https://www.newspapers.com/article/evening-star-president-and-other-leaders/178803273/>; Lyndon B. Johnson, *Televised Statement by the President Concerning the Signing of the D.C. Home Rule Petition by a Majority of House Members*, THE AM. PRESIDENCY PROJECT (Sept. 3, 1964), <https://www.presidency.ucsb.edu/documents/televised-statement-the-president-concerning-the-signing-the-dc-home-rule-petition>; Richard Nixon, *Statement on Signing the District of Columbia Self-Government and Governmental Reorganization Act*, AM. PRESIDENCY PROJECT (Dec. 24, 1973), <https://www.presidency.ucsb.edu/documents/statement-signing-the-district-columbia-self-government-and-governmental-reorganization>.

²⁶ Fenston *supra* note 3; Lewis, *supra* note 9, at 390–91.

were majority Black.²⁷

As efforts for D.C. Home Rule floundered, local Black leaders began explicitly tying the District’s struggle for self-governance with the broader Civil Rights Movement.²⁸ This linkage was not merely rhetorical. In an era where Civil Rights leaders fought for Black suffrage across the South, the nation’s first majority-Black major city—Washington, D.C.—was fully disenfranchised and ruled by Congressional and Executive dictate.²⁹ The District’s plight was not just a microcosm of the broader struggle for Black civil and voting rights, but was itself a core injustice that the Civil Rights Movement sought to overcome.

In 1965, future Washington, D.C. Mayor Marion Barry, who was at the time a leading figure in the Student Nonviolent Coordinating Committee, arrived in the District and sought to “use the energy and momentum of civil rights to jump-start the struggling local home rule movement.”³⁰ Barry founded the Free D.C. movement, which organized rallies, boycotted businesses, and lobbied Congress in support of Home Rule, while tying the of lack local autonomy to “problems that plagued Black Washingtonians.”³¹

In August of that year, the Reverend Doctor Martin Luther King Jr. traveled to the District to attend the signing ceremony for the Civil Rights Act of 1965 and to support a bill proposed by President Johnson that would have provided for an elected mayor and city council for the District.³²

²⁷ Lewis, *supra* note 9, at 390–91; *African American Heritage*, D.C. GOV: OFF OF PLANNING, <https://planning.dc.gov/page/african-american-heritage> (last accessed on Sept. 10, 2025).

²⁸ *D.C. Home Rule: What it Is, How it Works, and Why it Matters*, ACLU D.C. (Mar. 7, 2025), <https://www.acludc.org/news/dc-home-rule-what-it-how-it-works-and-why-it-matters/>.

²⁹ See *D.C. Home Rule*, *supra* note 5; Asch & Musgrove, *supra* note 8, at 1.

³⁰ Asch & Musgrove, *supra* note 8, at 343.

³¹ *Id.* at 345; Derek Gray, *The NAACP in Washington DC: From Jim Crow to Home Rule* 174 (2022); Solly, *supra* note 4.

³² Gray, *supra* note 31, at 173–74; Asch & Musgrove, *supra* note 8, at 344; Fenston, *supra* note 3; Lewis, *supra* note 9, at 401–02.

Immediately after the signing, King joined a D.C. Home Rule march down 14th Street N.W. He spent the next two days in the District advocating for Home Rule, drawing crowds of thousands and making eight separate appearances across the city.³³ Unfortunately, this push for Home Rule was “ultimately unsuccessful, as a unified local and federal White establishment presented insurmountable challenges for Black activists,” with McMillan himself dismissing Free D.C. as a “Communist Plot” and initiating an investigation into Barry for supposedly violating federal law.³⁴ As the *Congressional Quarterly* noted, the 1965 Home Rule Bill had been defeated by “Southerners and some Northerners of both parties that [feared] the Negro majority would dominate the city elections.”³⁵

Despite this resistance, the District obtained crucial victories on its path towards Home Rule. In 1961, the 23rd Amendment to the Constitution was ratified, providing District residents the right to vote in Presidential elections for the first time in over 150 years.³⁶ In 1967, after President Johnson’s Home Rule bill failed to pass, he convinced Congress to replace the District’s three-commissioner system with a singular Mayor-Commissioner. The measure passed and President Johnson appointed Walter Washington to the position, giving District residents their first Black city executive, a move that “incensed” segregationist McMillan in the House.³⁷ In 1970, the

³³ See Gray, *supra* note 31, at 173–74; Fenston, *supra* note 3; John Herbers, *Dr. King to Fight Bias in the North; Will Submit Proposals at Johnson’s Suggestion*, N.Y. TIMES (Aug. 6, 1965), <https://www.nytimes.com/1965/08/06/archives/dr-king-to-fight-bias-in-the-north-will-submit-proposals-at.html>; Solly, *supra* note 4.

³⁴ Gray, *supra* note 31, at 176.

³⁵ Asch & Musgrove, *supra* note 8, at 344.

³⁶ Solly, *supra* note 4; see *23rd Amendment: Topics in Chronicling America*, LIB. OF CONG.: RSCH. GUIDES, <https://guides.loc.gov/chronicling-america-23rd-amendment> (last accessed on Sept. 10, 2025); *President [Kennedy] and Other Leaders Join in Hailing D.C. vote Amendment*, Evening Star (Mar. 30, 1961), <https://www.newspapers.com/article/evening-star-president-and-other-leaders/178803273/>.

³⁷ Lewis, *supra* note 9 at 402; see Asch & Musgrove, *supra* note 8, at 351–52.

District gained an elected non-voting delegate to Congress, which it had lacked since disenfranchisement in the 1870s.³⁸ Walter Fauntroy³⁹ was elected to the position, providing Washingtonians yet another Black voice to represent their interests.⁴⁰

The last push that finally won Home Rule occurred not in the District, but in the South. Following the passage of the Voting Rights Act of 1965, Civil Rights leaders in the District and elsewhere pushed for Black voter registration across the country. One particular target was McMillan's congressional district in South Carolina. Fauntroy and other leaders "led a vigorous campaign to help unseat McMillan" by using "the arithmetic of our [Black] power politics" to register and organize Black voters in his district.⁴¹ Fauntroy also focused on key districts across the nation by lobbying Black voters to support congressional candidates that would back Home Rule legislation.⁴² In 1972, their efforts finally paid off when McMillan—whose district's share of registered Black voters had grown to nearly 30%—lost reelection.⁴³ McMillan's 22-year reign on the District Committee ended and he was replaced as Committee Chair by Congressman Charles

³⁸ See Asch & Musgrove, *supra* note 8, at 378; Solly, *supra* note 4; see also Michael Kohler, *In the 1870s, D.C. Briefly Had a Delegate in Congress*, BOUNDARY STONES, WETA (Feb. 11, 2025), <https://boundarystones.weta.org/2021/05/05/1870s-dc-briefly-had-delegate-congress>.

³⁹ Fauntroy served as the director of the Washington bureau of the Southern Christian Leadership Conference (SCLC), a position through which he helped organize the 1963 March on Washington, the 1965 Selma to Montgomery March, and the 1968 Poor People's Campaign. President Johnson later appointed Fauntroy as Vice Chairman to the White House Conference on Civil Rights in 1966 and Vice Chairman of the D.C. City Council in 1967. *Fauntroy, Walter Edward*, U.S. HOUSE OF REPRESENTATIVES: HISTORY, ART & ARCHIVES, <https://history.house.gov/People/Detail/13023> (last accessed, Sept. 10, 2025); *Walter E. Fauntroy*, STANFORD: MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., <https://kinginstitute.stanford.edu/fauntroy-walter-e> (last accessed, Sept. 10, 2025).

⁴⁰ See Asch & Musgrove, *supra* note 8, at 379.

⁴¹ *Id.*; Solly, *supra* note 4.

⁴² Martin Austermuhle, *Four Decades After Getting Home Rule, The Fight in D.C. Goes on*, WAMU 88.5 (Nov. 15, 2013), https://wamu.org/story/13/11/15/four_decades_on_dc_continues_fighting_for_home_rule/.

⁴³ Fenston, *supra* note 3; Austermuhle, *supra* note 42.

Diggs, one of the founding members of the Congressional Black Caucus.⁴⁴ With this barrier lifted, the D.C. Home Rule Act finally passed both chambers of Congress and it was signed into law by President Nixon in 1973, taking effect in 1975.⁴⁵

C. The District's Struggle for Full Self-Governance and Representation Continues.

The passage of Home Rule was a major win for Washingtonians' struggle for self-governance and representation, but it was not a full victory. To this day, Congress retains plenary authority over the District, depriving residents of representation in legislation on national matters and also on purely local issues. Most notably, Home Rule failed to provide Washington, D.C. with voting representation in Congress.⁴⁶ This stark injustice is acutely felt by the District's over 700,000 residents, whose license plates read "End Taxation Without Representation."⁴⁷

While the Home Rule Act permits D.C. residents to elect local lawmakers, it also permits Congress to legislate on any local D.C. issue at any time and it further requires that any law passed by the D.C. Council first go through a Congressional review period before taking effect, allowing Congress to contravene the express will of D.C. voters acting through their elected representatives.⁴⁸ During that review period, the law may be blocked by a joint disapproval

⁴⁴ Solly, *supra* note 4; Austermuhle, *supra* note 42; Asch & Musgrove, *supra* note 8, at 379; Charles Coles Diggs, Jr., UNITED STATES HOUSE OF REPRESENTATIVES: HISTORY, ART & ARCHIVES, <https://history.house.gov/People/Detail/12254> (last accessed on Sept. 13, 2025).

⁴⁵ Asch & Musgrove, *supra* note 8, at 379; *D.C. Home Rule: What it Is, How it Works, and Why it Matters*, ACLU District of Columbia (Mar. 7, 2025), <https://www.acludc.org/news/dc-home-rule-what-it-how-it-works-and-why-it-matters/>.

⁴⁶ *D.C. Home Rule*, COUNCIL OF THE DISTRICT OF COLUMBIA, <https://dccouncil.gov/dc-home-rule/> (last accessed Sept. 12, 2025).

⁴⁷ *New Census Data Shows DC's Population Surpasses 700,000 for the First Time in Five Years*, Executive Office of the Mayor (Dec. 19, 2024), <https://mayor.dc.gov/release/new-census-data-shows-dc%E2%80%99s-population-surpasses-700000-first-time-five-years>; Katherine Brodt, *In Washington, "Taxation Without Representation" is History*, BOUNDARY STONES, WETA (Feb. 12, 2020), <https://boundarystones.weta.org/2020/02/12/washington-taxation-without-representation-history>.

⁴⁸ D.C. Code § 1-206.02(c)(1).

resolution passed by both Houses of Congress and signed by the President.⁴⁹ The review period is 30 days for most legislation,⁵⁰ but 60 days for legislation related to criminal law and procedure.⁵¹ Congress's ability to second guess legislation passed by D.C.'s elected officials leads to wasted time and resources, deep frustration within the District community, and the contravention of D.C. voters' will by a body in which these same voters have no voting representative. For example, in 2023, Congress blocked the implementation of an updated criminal code passed by the D.C. Council.⁵² Congress's disapproval resolution effectively voided six years of careful study and compromise that incorporated input from local judges, prosecutors, and defenders.⁵³

Congress has further used its power to legislate on a wide range of purely local District issues: for example, Congress passed a law to clarify the application of D.C.'s Height Act on penthouse apartments,⁵⁴ as well as to require D.C.'s taxi cabs to utilize fare meters instead of the existing zone system.⁵⁵ In addition, Congress's control over D.C. is often exerted through the inclusion of general policy provisions (referred to as "riders") within the federal budget that direct or limit how the District expends funds. Riders are used by Congress to effectively revoke policies passed by D.C. officials. Budget riders currently included in the House's proposed fiscal year 2026 appropriations bill include provisions requiring D.C. to recognize firearms permits issued in other jurisdictions, a repeal of D.C.'s local "Death with Dignity" act, and a ban on D.C. using local funds

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ D.C. Code § 1-206.02(c)(2).

⁵² Revised Criminal Code Act of 2022, D.C. Act 24-789, 70 D.C. Reg. 1361 (Jan. 25, 2023); H.R. Res. 97, 118th Cong. (2023); S.J. Res. 12, 118th Cong. (2023).

⁵³ *Crim. Code Reform Comm'n Advisory Grp.* DC.GOV, <https://ccrc.dc.gov/page/ccrc-advisory-group>.

⁵⁴ Pub. L. No. 113-103, 128 Stat. 1155 (2014).

⁵⁵ Pub. L. No. 109-356, 120 Stat. 2019 (2006).

to enforce its ban on motorists making a right turn on a red light.⁵⁶

Congress also wields its control over the District's budget to the direct detriment of D.C. residents. In August of 2024, the District submitted its Fiscal Year 2025 budget to Congress, which was deemed approved in September 2024.⁵⁷ On March 14, 2025, six months into the District's fiscal year, Congress passed a Continuing Resolution that mandated the District revert to its Fiscal Year 2024 spending levels, requiring cuts of up to \$1 billion dollars.⁵⁸ Congress forced these cuts even though they only impacted D.C.'s locally-raised tax dollars and, thus, made no difference to federal spending.⁵⁹

Congress also harms D.C. residents with its handling of the District's court system. In contrast to other states, D.C.'s local courts are federal courts.⁶⁰ As a result, District leaders lack final say over who serves as judges in D.C.'s judiciary because the President and the Senate ultimately decide who serves on D.C.'s Superior Court and Court of Appeals.⁶¹ With Senate

⁵⁶ Press Release, Off. of Rep. Eleanor Holmes Norton, *Norton Calls D.C. Appropriations Bill Text 'Unreasonable' and 'Patronizing' to 700,000+ D.C. Residents*, (July 20, 2025), <https://norton.house.gov/media/press-releases/norton-calls-D.C.-appropriations-bill-text-unreasonable-and-patronizing-700000>.

⁵⁷ Legis. Detail for B25-0785 - Fiscal Year 2025 Loc. Budget Act of 2024, D.C. COUNCIL LEGIS. INFO. MGMT. SYS., <https://lms.D.C.council.gov/Legislation/B25-0785>.

⁵⁸ Meagan Flynn, *House votes for \$1 billion in D.C. cuts while seeking to avert shutdown*, WASH. POST (Mar. 11, 2025), <https://www.washingtonpost.com/dc-md-va/2025/03/11/house-spending-bill-dc-budget/>.

⁵⁹ Aidan Quigley & Andrew Menezes, *Trump endorses Senate-passed D.C. budget fix*, ROLL CALL, (Mar. 28, 2025), <https://rollcall.com/2025/03/28/trump-washington-dc-budget-fix/>.

⁶⁰ *Courts of the District of Columbia*, FED. JUD. CTR., <https://www.fjc.gov/history/courts/courts-district-columbia>.

⁶¹ The members of the Judicial Nomination Commission ("JNC") are appointed by the Mayor, D.C. Council, D.C. Bar, Chief Judge of the U.S. District Court for D.C., and the President. *See* <https://jnc.D.C..gov/page/jnc-members>. The JNC selects three applicants for each judicial vacancy. From those, the President sends one name to a Senate Committee, which chooses one to send to the full Senate for confirmation. *See* <https://jnc.D.C..gov/page/jnc-application-process>. D.C. has no Senators and thus no vote in either the Committee or in the full Senate on such confirmations. Votes in the Senate would help restore this right.

failures to confirm an adequate number of judges, D.C.'s Superior Court currently has a 25% vacancy rate.⁶² These vacancies increase workload and cause disruptions, meaning that D.C. courts cannot resolve cases in a timely fashion.⁶³

This federal control extends to D.C.'s prosecutorial system. The U.S. Attorney for D.C., selected by the President without any required consultation with local officials, prosecutes all local felony adult crimes. Consequently, federal prosecutors are not meaningfully accountable to D.C. residents or elected officials. In contrast, D.C.'s Attorney General, who is elected by D.C. voters, has authority to prosecute only those crimes committed by juveniles and a narrow set of adult misdemeanors.⁶⁴ Local control provides an important check on prosecutorial discretion, ensuring that enforcement of criminal laws reflect the concerns and values of the community. This accountability does not exist in D.C.

The District's lack of full self-governance and of any voting representation in Congress has pushed Washingtonians to call for full statehood. A 2016 referendum found that 86% of

⁶² Dan Ronan, *Law enforcement experts say D.C. needs more judges to fight crime*, WTOP NEWS, (Aug. 12, 2025), <https://wtop.com/D.C./2025/08/law-enforcement-experts-say-D.C.-needs-more-judges-to-fight-crime/>.

⁶³ *Id.*; Jenny Gaithright, *Senate adjourns without confirming D.C. judges as 'vacancy crisis' persists*, WASH. POST, (Dec. 24, 2025) <https://www.washingtonpost.com/D.C.-md-va/2024/12/24/D.C.-judges-vacancies-senate/?ref=51st.news>; Christian Flores, *Even with more officers out on D.C. streets, judge shortages continue delaying legal process*, ABC7NEWS, (Aug. 11, 2025), <https://wjla.com/news/local/D.C.-judges-shortages-delay-legal-process-courts-superior-appeals-circuit-trial-criminal-cases-arrest-cops-pirro-trump-juveniles-adults-judicial-vacancies-university-virginia-metropolitan-police-expert>; Jeff Levine, *D.C. Courts Face Crisis Waiting For Judicial Appointments, Says Chief Judge and Attorneys*, D.C. WITNESS, (Jan. 23, 2025), <https://D.C.witness.org/D.C.-courts-face-crisis-waiting-for-judicial-appointments-says-chief-judge-and-attorneys/>; Bridget Bowman, *Congressional Judicial Backlog Creates Problem for D.C. Court*, ROLL CALL (Dec. 3, 2015), <https://www.rollcall.com/news/senate-moves-D.C.-judges-amid-backlog-concerns>; Letter to U.S. Senators from Council for Court Excellence (July 30, 2018), http://www.courtexcellence.org/uploads/publications/73018_CCE_Ltr_to_Senators_re_D.C._judicial_vacancies.pdf.

⁶⁴ For example, D.C.'s Attorney General is charged with prosecution of disorderly conduct and lewd, indecent, or obscene acts. *See* D.C. Code § 23-101(a).

Washingtonians favored making D.C. a state.⁶⁵ The District of Columbia is the only political and geographical entity within the United States whose citizens bear the full responsibilities of citizenship, including income taxation, without sharing in the full rights and privileges of citizenship. Indeed, Washington’s residents pay more federal taxes than residents in 19 states and pay more per capita to the federal government than any state.⁶⁶

The recent federalization of the Metropolitan Police Department (“MPD”) and the deployment of the National Guard at the center of this action underscore the District’s vulnerability to federal interference. And now, seemingly at the urging of the President, Congress is contemplating a series of bills that would roll back numerous aspects of the District’s autonomy.⁶⁷ The partial democracy afforded by D.C.’s Home Rule Act is under attack to a degree never seen since its passage in the 1970s. This renewed and comprehensive attack not only compounds the historical racialized harms endured throughout the struggle for Home Rule, it causes fresh injury to D.C. residents and communities every day.

II. DEMOCRATIC ACCOUNTABILITY FOR LAW ENFORCEMENT IS AN ESSENTIAL ASPECT OF THE DISTRICT’S SELF-GOVERNANCE.

D.C. residents have fought hard (and continue to fight) for the right to fully govern themselves, ensuring that those making choices about running the District are accountable to those who will feel the impacts of their decisions. This accountability is critical in all areas of local governance, but nowhere more so than policing. Modern policing practices recognize that crime is a local issue that cannot be meaningfully addressed without buy-in from the community. For

⁶⁵ *Why Statehood for D.C.*, GOVERNMENT OF THE DISTRICT OF COLUMBIA, <https://statehood.dc.gov/page/why-statehood-dc>, (last accessed on Sept. 10, 2025).

⁶⁶ *Id.*

⁶⁷ Meagan Flynn & Olivia George, *House GOP advances bills to remove elected D.C. AG, overhaul justice policies*, WASH. POST, (Sept 10, 2025), <https://www.washingtonpost.com/dc-md-va/2025/09/10/house-republicans-crime-home-rule/>.

police to effectively address crime, they need trust from the community, which oversight and accountability help to foster. Deploying armed National Guard units—many of which hail from states far from D.C.—to police local neighborhoods feeds community distrust and undermines accountability mechanisms that have taken years to build. Accordingly, trading locally-controlled police forces that are subject to some mechanisms of accountability for armed forces from across the United States that lack these mechanisms will only make District residents less safe.

District leadership is capable of addressing concerns about community safety, including crime and police misconduct. More importantly, if residents feel that their needs are not being met by the local government, they, like citizens of every state in the United States, can use their power at the ballot box to elect different leadership that will implement new strategies. In accordance with basic principles of democracy, District residents and the officials they elect should be trusted to determine what measures will protect their communities.

A. District Residents Faced Decades of Abuses by Law Enforcement and Fought to Have Control over Policing.

Failures of D.C. police—and residents’ powerlessness to force reforms—were a major impetus for Washingtonians’ fight for democratic control of the District. The decades prior to the passage of Home Rule saw discrimination by and within D.C.’s police department, lack of accountability for law enforcement, and rampant police brutality. In the 1950s, the MPD systematically evaded accountability to D.C. residents. The D.C. NAACP repeatedly pushed for answers from the Department about police shootings of Black men arrested for misdemeanors, but got only cursory responses from the MPD chief, and was rarely granted a meeting with the federally-appointed President of the Commissioners of D.C.⁶⁸ Few MPD officers were ever

⁶⁸ Gray, *supra* note 31, at 145.

indicted, let alone tried and convicted, and the Police Board never took disciplinary action.⁶⁹ Reporting by The Wall Street Journal from the time found that Black District residents saw the police as an “army of occupation” and “full of racist cops who hate Negroes.”⁷⁰

The fight for greater control over D.C. police was part and parcel of District residents’ fight for democratic control. District residents chafed under a police regime that fell short of representing the interests of the diverse population in the District and discriminated against Black Washingtonians without any accountability mechanisms or recourse available for District residents.⁷¹ Residents rejected even attempts at reform because they were conceptualized and implemented without input from the community.⁷² They knew that no reform could be effective if it did not address the fundamental anti-democratic character of D.C.’s police. It is thus unsurprising that when the Black United Front held neighborhood hearings on police misconduct in the District following a series of police shootings on 14th Street N.W. in 1968, what emerged was a list of thirteen demands for “community control” of the police department.⁷³

In the debates over Home Rule, some federal politicians were skeptical about local control over the police.⁷⁴ Representative Ancher Nelsen introduced an amendment that would have given the President the authority to appoint the MPD Chief, but the amendment was defeated in the House.⁷⁵ Thus, in a victory for Washingtonians, the Home Rule Act embraced the commonsense

⁶⁹ See *id.*

⁷⁰ *Id.* at 178.

⁷¹ See Asch & Musgrove, *supra* note 8, at 370.

⁷² See *id.* at 367–70.

⁷³ *Id.* at 367.

⁷⁴ See *Home Rule for the District of Columbia, 1973–1974, Background and Legislative History of H.R. 9056, H.R. 9682, and Related Bills Culminating in the District of Columbia Self-Government and Governmental Reorganization Act, Approved December 24, 1973 (Public Law 93-198)*, Serial No. S-4, U.S. GOV’T PRINTING OFF. (Dec. 31, 1974), at 1763–64.

⁷⁵ See *id.* at 2406. The amendment would have put in place a Board of Police Commissioners composed of the Secret Service Director, the FBI Director, and the Mayor, who would be

notion that crime is a local issue, vesting local, democratically-accountable officials with authority over District policing. Home Rule's purpose is to "relieve Congress of the burden of legislating upon essentially local District matters," and, importantly, to do so "to the greatest extent possible, consistent with the constitutional mandate."⁷⁶ The Mayor is placed in charge of the MPD.⁷⁷ Section 740 of the Home Rule Act preserves this distinction, permitting the President to request the services of the MPD in narrow, carefully circumscribed situations when "special conditions of an emergency nature exist which require the use of the Metropolitan Police force *for federal purposes*."⁷⁸ By placing policing in the community's control and supervision, Congress recognized the essentially local nature of community safety and respected the inherent dignity of District residents in allowing them the right to govern themselves through their elected representatives.

B. Community Safety Is a Quintessentially Local Issue, and Police Must Be Accountable to the Community.

Community safety is a local concern that is best addressed by the community and District officials who are democratically accountable to local residents. Law enforcement and crime reduction best practices now recognize the importance of officers maintaining close ties with the community and working with local groups and stakeholders to address the root causes of crime. Partly due to a growing recognition across the country of the need for accountability and community involvement, law enforcement in the United States has largely shifted toward encouraging community partnerships and relationships.⁷⁹ Although the on-the-ground reality is far

responsible for presenting the President with three nominees for the position. The President would then appoint one of the nominees.

⁷⁶ D.C. Code § 1-201.02(a)

⁷⁷ D.C. Code § 1-204.22(4); *see also* § 5-105.01(a).

⁷⁸ D.C. Code § 1-207.40(a) (emphasis added).

⁷⁹ *See* Rocio Alejandra Paez & Rick Dierenfeldt, *Community Policing and Youth Offending: a Comparison of Large and Small Jurisdictions in the United States*, 25 INT'L J. ADOLESCENCE & YOUTH 141 (2020), <https://pure.psu.edu/en/publications/community-policing-and-youth-offending-a-comparison-of-large-and->

more complicated and dynamic, modern law enforcement theory, at least, has recognized the commonsense proposition that order cannot be imposed externally on the community by actors who are neither familiar with nor accountable to it; only with buy-in and trust from residents, and transparency and accountability from leadership, can communities engage with local issues.⁸⁰ Of course, this model is hardly a panacea for policing's many ills: far too often, law enforcement in the United States continue to engage in shocking abuses of the communities they purport to serve;⁸¹ over-police Black and Latino communities;⁸² and contribute to crime, disorder, and fear rather than remedying them.⁸³ But, conceptualizing crime as a specific and local problem requiring local solutions permits oversight and accountability.

In turn, accountability and oversight increase law enforcement effectiveness. Law enforcement is often viewed skeptically by the communities they police, particularly by communities of color.⁸⁴ Many individuals, including in *amici*'s experiences with our clients,

⁸⁰ See U.S. DEP'T OF JUSTICE, Community Oriented Policing Services, *Community Policing Defined*, 3–5, 9 (n.d.), <https://www.ojp.gov/ncjrs/virtual-library/abstracts/community-policing-defined-0>.

⁸¹ See, e.g., Elizabeth Wolfe, *What we know about Tyre Nichols' fatal beating and the officers involved*, CNN (May 8, 2025), <https://www.cnn.com/2025/05/08/us/tyre-nichols-officers-trial-what-we-know>.

⁸² See, e.g., Elise C. Boddie, *Racially Territorial Policing in Black Neighborhoods*, 89 U. CHI. L. REV. 477 (2022), https://lawreview.uchicago.edu/sites/default/files/07_Boddie_Racially%20Territorial%20Policing%20in%20Black%20Neighborhoods_89UCLR477.pdf; Nazgol Ghandnoosh, *One in Five: Disparities in Crime and Policing*, THE SENTENCING PROJECT (Nov. 2, 2023), <https://www.sentencingproject.org/reports/one-in-five-disparities-in-crime-and-policing/>.

⁸³ See, e.g., Cerise Castle, *A Tradition of Violence: The History of Deputy Gangs in the Los Angeles County Sheriff's Department*, KNOCK LA (2021), <https://knock-la.com/tradition-of-violence-lasd-gang-history/>; Chris Gelardi, 'Rage Induced Policing': Hacked Documents Reveal D.C. Police's Aggressive Robbery Crackdowns, THE APPEAL (Dec. 6, 2021), <https://theappeal.org/dc-police-robbery-crackdown-leaked-emails/>.

⁸⁴ See Ian T. Adams et al., *Police reform from the top down: Experimental evidence on police executive support for civilian oversight*, 44 J. POL'Y ANAL. & MGMT. 345, 347 (2025), https://www.researchgate.net/publication/381953850_Police_reform_from_the_top_down_Experimental_evidence_on_police_executive_support_for_civilian_oversight.

understandably believe that law enforcement will not treat them fairly and will not make them safer. When communities do not perceive law enforcement as legitimate, they are less likely to report crimes or testify as witnesses, making solving crimes—or even accurately tracking them—more difficult.⁸⁵ Accordingly, it is imperative for law enforcement to earn the trust of the communities in which they work. Local oversight is a critical tool for building trust between law enforcement and the community.⁸⁶ This is particularly true for domestic violence and sexual assault survivors, for whom a lack of trust in law enforcement can oftentimes be a significant barrier to reporting crime.⁸⁷ Deployment of soldiers who report only to the President and his designees is antithetical to local oversight.

Already-vulnerable populations face increased risks from policing by the National Guard. For more than two decades, *amicus* Washington Legal Clinic for the Homeless has provided training to nearly every MPD recruit class on homelessness in the District and on connecting unhoused people to resources; National Guardsmen have had no such specialized training. Further, MPD requires that officers “understand and are sensitive to the needs and rights of homeless persons in the District of Columbia,” while the National Guard has no such mandate.⁸⁸ And over-

⁸⁵ See Kyle McLean & Justin Nix, *Understanding the Bounds of Legitimacy: Weber’s Facets of Legitimacy and the Police Empowerment Hypothesis*, 39 JUSTICE Q. 1287 (2021), <https://digitalcommons.unomaha.edu/cgi/viewcontent.cgi?article=1093&context=criminaljusticefacpub>.

⁸⁶ See Barbara Attard, *Oversight of Law Enforcement is Beneficial and Needed—Both Inside and Out*, 30 PACE L. REV. 5, 1548-49 (Sept. 2010), <https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1755&context=plr>; Adams, et al., *supra* note 84 at 405–06.

⁸⁷ See U.S. DEP’T OF JUSTICE, *Improving Law Enforcement Response to Sexual Assault and Domestic Violence by Identifying and Preventing Gender Bias* (2022), 6–7, https://www.justice.gov/d9/pages/attachments/2022/05/31/gender_bias_guidance.final_.pdf.

⁸⁸ *Interactions with Homeless Persons*, General Order OPS-308.14 (Oct. 31, 2011), <https://go.mpdonline.com/GO/GO-OPS-308-14.pdf>

policing has serious harms for youth in particular, including disengagement in school.⁸⁹

Local oversight of policing in the District takes many forms. Impacted residents may file misconduct complaints against District officers with the Office of Police Complaints.⁹⁰ D.C. law establishes a Police Complaints Board, appointed by the Mayor and confirmed by the Council, that periodically reviews the citizen complaint process and makes recommendations about aspects of MPD management that impact police misconduct, among other matters.⁹¹ Local attorneys and civil rights groups monitor police misconduct, reporting abuses of power,⁹² lobbying elected officials,⁹³ and bringing both individual and systemic litigation where necessary. Aggrieved residents can bring claims under 42 U.S.C. § 1983, challenging both one-off instances of misconduct and patterns or policies of illegal behavior directed or sanctioned by leadership. These systems are far from perfect, and do not prevent or address all instances of police abuse. Nonetheless, District residents' democratic, administrative, and litigation avenues to hold MPD accountable dwarf comparable mechanisms available regarding federal officers.⁹⁴

⁸⁹ Juan Del Toro et al., *The Policing Paradox: Police Stops Predict Youth's School Disengagement Via Elevated Psychological Distress*, DEV. PSYCH. (July 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9465843/pdf/nihms-1831786.pdf>.

⁹⁰ OFFICE OF POLICE COMPLAINTS, *File a Police Complaint*, <https://policecomplaints.dc.gov/service/file-a-complaint>.

⁹¹ See D.C. Code § 5–1104(a), (d).

⁹² E.g., Chicago Justice Project, et al., *Targeted, Labeled, Criminalized: Early Findings on the District of Columbia's Gang Database*, WASHINGTON LAWYERS' COMMITTEE FOR CIVIL RIGHTS AND URBAN AFFAIRS (Jan. 2024), <https://www.washlaw.org/wp-content/uploads/2024/01/Edited-TARGETED%5EJ-LABELED%5EJ-CRIMINALIZED-Final-Conforming-Edits-01-11-24.pdf>.

⁹³ E.g., Dennis A. Corkery, Interim Supervising Counsel, *Testimony for the October 4, 2023 Hearing on Traffic Bills* (Oct. 2, 2023), <https://www.washlaw.org/wp-content/uploads/2023/10/WLC-Testimony-for-October-4-Hearing-on-Traffic-Bills-10.02.23-1.pdf>.

⁹⁴ Cf. *Egbert v. Boule*, 596 U.S. 482, 491 (2022) (explaining that “*Bivens*” damages claims against federal officers for constitutional violations are “disfavored”) quoting *Ziglar v. Abbasi*, 582 U.S. 120, 137 (2017)); *Byrd v. Lamb*, 990 F.3d 879, 883 (5th Cir. 2021) (Willett, J., specially concurring) (“Virtually everything beyond the specific facts of the *Bivens* trilogy is a new context And new context = no *Bivens* claim”) (cleaned up).

Democratically-elected officials are incentivized to be responsive regarding both crime and police misconduct in the District. For example, in 2022, the Council passed the Comprehensive Policing and Justice Reform Amendment Act, which implemented reforms on uses of force and increased transparency and accountability for police officers.⁹⁵ It has also passed legislation to address local spikes in crime.⁹⁶ Whether one agrees or disagrees with these measures, they are democracy in action—a locality balancing different interests, opposing groups, and District-specific problems in an open and accountable manner. And if residents find these measures to be inadequate, they can elect new leaders to implement different solutions.

Turning over policing of the District to a National Guard that is responsive only to a federal chain of command erases District residents’ hard-earned rights and unjustly denies the community input in its own welfare. Washingtonians have no say in the race for governor of South Carolina, or Ohio, or Louisiana. And citizens of those states will not feel the consequences of deployment of the National Guard on our streets. As D.C. becomes less safe for its residents living at the barrel of the gun of these state militias, D.C. residents have no democratic recourse. It should be for District residents, who experience both the fluctuations in crime and the excesses of the police, to determine how to keep our community safe.

CONCLUSION

In addition to the reasons set forth in the District’s brief demonstrating the necessity of a preliminary injunction and stay pursuant to 5 U.S.C. § 705, *amici* urge the Court to grant the requested relief in order to prevent irreparable injury to the District and its residents, and because such relief is in the public interest. As described *supra*, Defendants’ deployment of National Guard

⁹⁵ See D.C. Law 24-345 (2023).

⁹⁶ E.g., D.C. Act 26-104, *Juvenile Curfew Emergency Amendment Act of 2025* (2025).

troops in the District for local law enforcement purposes causes irreparable harm to the District and its residents. The damage to public trust and safety caused by shifting law enforcement from local police to state militias constitutes irreparable harm. So too does the stripping of District residents' hard-fought right to govern themselves and to direct how D.C. is policed. Absent relief from the Court, this illegal occupation will continue to diminish Washingtonians' safety, dignity, and right to self-determination. In turn, the public interest is served by upholding District residents' civil rights and returning control over community welfare to their hands.

Respectfully submitted,

/s/ Madeleine Gates

Madeleine Gates (D.C. Bar #90024645)

Kaitlin Banner (D.C. Bar #1000436)

Washington Lawyers' Committee
for Civil Rights and Urban Affairs

700 14th Street, NW, Suite 400

Washington, DC 20005

(202) 319-1000

madeleine_gates@washlaw.org

kaitlin_banner@washlaw.org

Scott Michelman (D.C. Bar No. 1006945)

American Civil Liberties Union

Foundation of the District of Columbia

529 14th Street NW, Suite 722

Washington, D.C. 20045

(202) 457-0800

smichelman@acludc.org

Counsel for Amici

ADDENDUM

Amicus **Washington Lawyers' Committee for Civil Rights and Urban Affairs** is a nonprofit civil rights organization founded in 1968. The Committee works to eradicate discrimination and poverty by enforcing civil rights laws through litigation, providing public education, and advocating for policy change in the District of Columbia, Virginia, and Maryland. The Committee recognizes the central role of current and historic race discrimination in sustaining inequity and the critical importance of identifying, exposing, combating, and dismantling the systems that sustain racial oppression. To advance this mission, the Committee works with and directly represents individuals and communities in vulnerable circumstances.

Amicus **American Civil Liberties Union of the District of Columbia** ("ACLU-DC") is a non-profit, non-partisan organization with more than 10,000 members. Throughout its six decades of existence, the ACLU-DC has advocated for the constitutional rights of everyone who lives in, works in, or visits the nation's capital. Fundamental to all these rights is the right to democratic self-government, which is why the ACLU-DC has been a steadfast advocate for statehood, and—until statehood is achieved—for home rule, for respect for the District's democratic institutions and the will of the District's residents, and for maximum self-determination for the D.C. community. Correspondingly, the ACLU-DC has consistently opposed federal interference in local District affairs and governance.

Amicus **Amica Center for Immigrant Rights** ("Amica Center"), formerly known as Capital Area Immigrants' Rights ("CAIR") Coalition, is a nonprofit organization that provides legal services to indigent noncitizens, including residents of the District of Columbia at risk of detention and removal, throughout the Mid-Atlantic and beyond. Amica Center is the only organization dedicated to providing legal services and representation to individuals detained by Immigration and Customs Enforcement ("ICE") throughout the D.C. metropolitan area, including

facilities in Maryland and Virginia. Amica Center staff provide know-your-rights presentations and *pro se* legal assistance to residents of the District, many of whom are detained in ICE detention facilities in Virginia given ICE does not maintain immigration detention facilities within the District. Amica Center also offers in-house direct representation, secures pro bono representation, and brings impact and appellate litigation on behalf of noncitizen residents of the District and proximate jurisdictions. The outcome in this case is central to Amica Center's mission to advance the rights and dignity of all immigrants at risk of immigration detention and deportation, particularly those who are vulnerable to such heightened enforcement under the deployment of the National Guard in the District.

Amicus **Bread for the City** is a nonprofit organization that each year provides more than 30,000 low-income residents of Washington, D.C. with free comprehensive services, including supplemental food, clothing, medical care, social services, and civil legal services. The Legal Clinic at Bread for the City provides free civil legal services in the areas of family, landlord-tenant, immigration, and public benefits law. The mission of Bread for the City is to help Washington, DC residents living with low income develop their power to determine the future of their own communities. We work to uproot racism, a major cause of poverty. We believe strongly in Washington, DC and its residents' right to self-determination and that recent attempts to undermine the District's right to Home Rule are a direct racist attack against a Black-led, Black and brown majority autonomous city.

Amicus **Children's Law Center** believes every child should grow up with a strong foundation of family, health and education and live in a world free from poverty, trauma, racism and other forms of oppression. Our more than 100 staff—together with DC children and families, community partners and pro bono attorneys—use the law to solve children's urgent

problems today and improve the systems that will affect their lives tomorrow. Since our founding in 1996, we have reached more than 50,000 children and families directly and multiplied our impact by advocating for city-wide solutions that benefit hundreds of thousands more.

Amicus **DC Appleseed Center for Law & Justice** is an independent non-profit organization dedicated to solving pressing public policy problems facing the District of Columbia area. For more than 30 years, DC Appleseed has served as a leading advocate in the movement to bring greater democracy and better local governance to the residents of the District of Columbia. To advance this mission, DC Appleseed works with volunteer attorneys, business leaders, and community experts to identify those problems, conduct research and analysis, make specific recommendations for reform, and advocate effective solutions. DC Appleseed's projects include working with broad coalitions, issuing reports, participating in regulatory proceedings, bringing lawsuits, managing public education campaigns, and meeting with and/or testifying before governmental decision-makers.

Amicus **Disability Rights DC** ("DRDC") at University Legal Services serves as the federally-mandated Protection and Advocacy ("P&A") Program for people with disabilities in the District of Columbia. As the P&A, DRDC advocates for the human and civil rights of D.C. residents with disabilities to receive quality services and supports in their communities and to be free from abuse, neglect and discrimination. DRDC represents hundreds of individual clients with disabilities annually, with thousands more benefitting from the results of investigations, systemic litigation, outreach, education and group advocacy efforts. Our Jail and Prison Advocacy Project advocates for returning citizens with psychiatric disabilities, intellectual disabilities or traumatic brain injuries who need access to services in the District. DRDC advocates for criminal legal system policies and practices that promote successful reentry, which this federal interference does

not. In addition, DRDC assists many District residents with disabilities who are unhoused and need access to housing and community-based services, and we oppose the criminalization of homelessness, poverty and mental illness that this federal interference creates.

Amicus **Legal Aid DC** (“Legal Aid”) is the oldest and largest general civil legal services provider in the District. Legal Aid provides direct legal services that help more than 10,000 District residents each year and advocates for systemic change to improve laws and policies that affect people living in poverty in the District. Legal Aid has been a leader in access to justice to ensure that every District resident has a meaningful ability to participate in the judicial process—an interest that has been significantly impaired by residents’ fears of going to court due to expanded and unlawful law enforcement activities. In addition, Legal Aid represents domestic violence survivors to help achieve safety and stability. Survivors’ fear in reporting crime to law enforcement has increased because of federal incursions into the District’s law enforcement processes.

Amicus **School Justice Project** (“SJP”) believes that all students, regardless of race, income, court-involvement, and disability, should have meaningful access to a quality education. To further this work, SJP uses special education law to ensure that older, court-involved students with disabilities can access a quality education. SJP’s special education attorneys work with their clients to protect and enforce special education rights. Through our individual representation and systemic advocacy programs, we aim to spark a system-wide overhaul, changing the educational landscape for older court-involved students with special education needs who are involved in DC’s juvenile and criminal justice systems.

Amicus **Tzedek DC** draws its name from the Jewish teaching of “*Tzedek, tzedek tirdof*,” or “Justice, justice you shall pursue.” Its mission is to safeguard the legal rights and financial health of D.C. residents with lower incomes dealing with the often devastating consequences of abusive

debt collection practices and other consumer related issues. The organization has represented more than 5,000 D.C. residents in individual cases and catalyzed systemic change for hundreds of thousands more. Tzedek DC regularly represents victims of financial and identity theft crimes, enhancing the organization's interest in outcomes that foster a healthy relationship between the D.C. community and law enforcement.

Amicus **Washington Legal Clinic for the Homeless**, incorporated in 1987, envisions a District of Columbia where housing is a human right, racial justice is a reality, and all people have true and meaningful access to the resources needed to thrive. The Legal Clinic's mission is to achieve justice for neighbors experiencing the injustice of homelessness and poverty. A critical aspect of that work is supporting community members in holding their locally-elected decisionmakers accountable, which is only possible under Home Rule. The Legal Clinic also works to ensure that unsheltered D.C. residents—who disproportionately interact with and are impacted by law enforcement due to their lack of housing—are treated respectfully and lawfully.

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2025, I electronically filed this motion with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all attorneys of record by operation of the Court's electronic filing system.

/s/ Madeleine Gates

Madeleine Gates

D.C. Bar No. 90024645

Counsel for Amici