

Advice from the Silver Spring Citizens Advisory Board re:

BILL 14-23, POLICE - LATE NIGHT BUSINESS SAFETY PLAN



SILVER SPRING CITIZENS ADVISORY BOARD

March 13th, 2023

County Executive Marc Elrich

County Council President Glass

[Delivered via e-mail]

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Dear County Executive Elrich and County Council President Glass,

The Silver Spring Citizens Advisory Board (SSCAB) is thankful for this opportunity to weigh in on the proposed late night safety bill that Council President Glass has introduced at CE Elrich's request (Bill 14-23, Police – Late Night Business Safety Plan). We commend the CE and Council for taking action to address the public safety challenges related to late-night businesses, particularly clubs, lounges, and bars. This proposed bill is a good start. We recommend it be passed with amendments.

As you are aware, over the last several years, Downtown Silver Spring (DTSS) has experienced an increasing level of crime, public disturbances, and even violence late at night. This is not unique to Silver Spring – these same crime trends affect all of Montgomery County and reflect trends across the United States. DTSS is unique in that we host a significant number of bars, clubs, and lounges, which draw patrons – most of whom enjoy themselves, support our local economy, and don't cause problems – from all over the DC region, and we have the greatest population density countywide.

This letter's recommendations are nuanced because there is no single perspective on the safety problems or the bill itself within our community, or even within our Board. We have consulted DTSS residents of a range of ages, races and ethnicities, and personal feelings of safety. SSCAB members spoke with business owners, community leaders, and other Silver Spring stakeholders. This letter identifies areas where we have found consensus, issues that concern multiple people, and also some areas of conflict. We hope that this provides useful guidance as you move forward and we urge you to amend the bill to address our concerns.

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What the proposed legislation gets right:

- Improvements to lighting, high resolution security cameras, and the presence of private security staff are reasonable, helpful requirements that can address some of the roots of the problems.
- Three-year plan renewals are reasonable and less burdensome than annual renewals.
- The penalties for violating the law are mostly appropriate - with the exception that many-time repeat offenders should be required to close their businesses.

Concerns:

- This bill is written so narrowly that it will affect few places other than DTSS, which is unfair. Silver Spring residents and business owners demand public safety improvements, particularly late at night, but also expect to be treated fairly.
- The County's own data indicates that the increase in late-night crime has been moderate, not extreme, and that larger increases in crime have come at other times of day. A minority of people we engaged with expressed concern that this bill goes too far in reaction to the relatively modest increase in late-night crime.
- This bill will be expensive for business owners operating in a low-margin industry that is struggling across our region.
- Some people expressed disappointment that businesses will still be allowed to remain open after 2 a.m. under any circumstances, because some problems in DTSS have stemmed from businesses operating after that time not complying with the additional legal restrictions.
- Business owners in DTSS expressed disappointment that the bill does not address issues like improper disposal of trash and other impacts on street fronts and neighboring business properties.
- A sizable minority of people we engaged with are concerned about the exclusive role that the Montgomery County Police Department (MCPD) would play in implementation and supervision.
- The OMB estimates that this will have no net costs to the County and that implementing the law will take as little as 40 hours of staff time. This is unrealistic.

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Recommendations for amending the bill:

- **Rather than limiting the requirement to have and comply with an approved late night safety plan just to those businesses in areas that have historically had higher levels of call volume to police, the bill should require *all* late night establishments across the County to do so.** This will also ensure that MCPD has flexibility to respond appropriately, without need for more legislation, across the entire County. Silver Spring is far from the only late-night hot spot across the county, but this bill feels overly tailored to Silver Spring. It should not be written or implemented in a way that requires our community to abide by stricter rules than similar businesses and communities in Bethesda, Wheaton, Rockville, etc.
- **The bill should be amended to require the County to update the data analysis that serves as justification for the new rules on a regular basis.** Crime trends change frequently. Updating that analysis and adjusting policies as needed should take place every one to three years on a reliable schedule, with a transparent process.
- **The bill should be amended to require the County to revoke a business's permit to operate if they exceed a certain threshold of violations of the regulations or their approved late night safety plan.** MCPD can provide guidance on the right number or establish the number in regulations they will promulgate. But business owners must know that losing their business is the final, unavoidable consequence.
- **The County should consider whether late-night businesses should be required to close all together at 2 a.m.** It would be reasonable to allow 3 a.m. closures on weekends, holidays, and other special occasions. It would also be sensible to align Montgomery County's late night business laws with those of our neighboring jurisdictions. There was no consensus on the Board about this, so we ask that the CE and Council consider the issue further.
- **The County should consider providing financial support in the form of donations, grants, and low-cost loans to affected businesses already in operation.** Becoming compliant with this law, if passed as is, will create several expensive one-time expenses (lighting upgrades, camera upgrades) and additional labor costs on an ongoing basis (security personnel). Some of the business owners in DTSS have expressed that this will be difficult for them to afford, given the thin profit margins of the restaurant industry.

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- **This should be a cross-agency effort, not fully placed on the Police Department.** MCPD is an essential partner, but should not be the only agency tasked with helping businesses become compliant - they should be approving late night safety plans, supervising neighborhoods that have higher-than-average late night call volumes, and ensuring that business owners are abiding by the new rules.

We encourage the County to integrate support from agencies that better understand small business operations, especially during the initial implementation. Given the public health dimensions of crime, community violence, and the excessive alcohol and drug use cited as contributors to problems in DTSS, it may be appropriate to include the Department of Health and Human Services.

- Some SSCAB members are hesitant to increase police presence and supervision in DTSS, while the majority of members are supportive. Expanding responsibility to another, relevant County agency (or agencies) as well as MCPD is, we think, a reasonable compromise.
- **The Office of Management and Budget's conclusion that this legislation will not cost the County any money is unrealistic.** If the County does not appropriately plan for the amount of staff work required to implement the new regulations, work with affected business owners, address non-compliance when necessary, and review and approve or deny business owners' new or renewed late night safety plans, the policy will be a failure. It is unlikely that the initial implementation could be successfully carried out in the mere 40 hours that OMB estimates. We urge the CE and Council to reconsider whether it is appropriate to pass this bill without recognizing its costs in staff time and those incurred by business owners.
- **Finally, we urge you not to rush the process of amending and finalizing this bill, in order to ensure that the new policy will be effective, fair, and lasting.** It is not feasible to pass the bill, then MCPD will have 180 days to write regulations, and provide a reasonable period of time for businesses to come into compliance before that season returns in 2023. That said, our community needs support this summer. Last year, MCPD implemented several interventions to curb the usual summertime increase in crime in DTSS - this was associated with a reduction of crime compared to the same period in 2021. Those interventions should be continued and potentially expanded this summer.

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In conclusion, this is an important but imperfect proposal. We urge the County Council to amend the legislation to address our concerns and pass an updated version of the bill; likewise, we recommend that the CE support the updated version.

On behalf of the entire Silver Spring Citizens Advisory Board, thank you for considering our feedback.

Katherine Lucas McKay*
Chair

Melanie Fonder Kaye*
Vice-Chair

Debra Wylie*
Parliamentarian

Don Slater*
Secretary

(*Signatures on file)

CC: Members of the Montgomery County Council
Jacob Newman, Silver Spring Regional Area Director
Members of the SSCAB