



U.S. Department of Justice

Michael R. Sherwin
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District of Columbia

Judiciary Center
555 Fourth St., N.W.
Washington, D.C. 20530

September 1, 2020

Honorable Muriel Bowser
John A. Wilson Building
1350 Pennsylvania Ave. NW
Washington, DC 20004

Hon. Mayor Bowser:

This correspondence is respectfully submitted in response to your letter of August 31, 2020.

Your recent portrayal of the federal response to violence in the District as insufficiently vigorous seems to contrast sharply with your earlier criticism of the federal response in the District as overly aggressive. Regardless, the record itself refutes your characterization. Since the outbreak of the violence in late May, the United States Attorney's Office has worked in close concert with the Metropolitan Police Department to charge more than 125 criminal cases. This represents the most criminal cases charged by any United States Attorney's Office nationwide. Those cases include defendants charged with violent assaults on police officers and civilians, breaking and entering public and private property, arson, and the destruction of federal property and monuments. With the assistance of ATF and the FBI, the United States Attorney's Office continues to investigate additional criminal cases from that time period and expects additional persons charged in the near future.

As I am sure you are aware, without some evidence to establish probable cause of a particular arrestee's criminal conduct—*e.g.*, a police officer's observation or video footage of the alleged crime—we cannot bring federal charges. Surely, by your comments, you are not suggesting that this Office skirt constitutional protections and due process.

In response to your criticism of how this Office failed to "prosecute 41 of 42" rioters on August 13-14, the answer is simple – MPD's arresting documents lacked sufficient probable cause to support any criminal charge. The "42 rioters" were arrested as a collective by MPD and presented to the Office without any articulable facts linking criminal conduct to each individual arrested. Simply put, we cannot charge crimes on the basis of mere presence or guilt by association. I immediately met with MPD leadership on August 15th to discuss this matter and request their assistance to further develop these cases to establish a bare minimum of probable cause. To date, no sufficient evidence has materialized.

The same situation repeated this past weekend, in which 19 persons were arrested for rioting. Again, MPD failed to provide the bare minimum of articulable facts linking the charged persons with alleged individual criminal conduct. Of these cases, only one met this minimum threshold and was charged.

You further claim we are not “holding accountable” criminals who assault police officers, and cite eight arrests by MPD on August 27-28, 2020 as an example. This is patently incorrect – the United States Attorney’s Office charged four of the five criminal cases presented to us (three of which were charged with assaults on police officers); the remaining three cases were never presented to the Office because MPD issued citations to these persons and released them without presentation.

The United States Attorney’s Office remains committed to working with MPD and our other law enforcement partners to ensure the safety of our community. We recognize what a difficult job the police have and we want to work with your officers to ensure we can all do our jobs to protect the District and its citizens. To that end, the Attorney General has asked to convene a working session tomorrow with leadership from the MPD and the United States Attorney’s Office. You are welcomed to attend as well. Please do not hesitate to contact me at any time to further discuss.

I can assure you that we will continue to aggressively charge any and all cases presented to this Office, but facts and evidence will dictate criminal charges, not political leveraging or personal agenda.

Very respectfully,

A handwritten signature in blue ink, appearing to read 'MRS', followed by a long horizontal flourish.

Michael R. Sherwin
Acting United States Attorney