

March 13, 2023

Re: Proposed Legislation Bill 14-23; Late Night Business Safety Plan

Council President Glass, Council Vice-President Friedson and members of the County Council:

I am a life-long resident of Silver Spring, Maryland who has resided in the downtown area for over 12 years. Over the past three years, the downtown area has grappled with a dramatic increase in violent and quality-of-life crimes that have been a blight on the vibrant community that I love.

I have personally been impacted by this surge in crime when on July 21, 2021, a stray bullet entered a bedroom in my condo unit mere feet from where my 85-year-old mother was sleeping. The gunfire which caused the incident was from a fight which broke out between patrons from the all-night business who were loitering on Bonifant Street at 4:00 am. On December 13, 2021, in the early morning hours, five businesses on Bonifant Street were riddled by stray bullets because of another shooting involving - yet again - patrons loitering in the street after leaving a nighttime establishment. On December 28, 2021, mere feet away from my condominium, a third shooting occurred involving patrons milling around in front of the all-night restaurant on Bonifant Street.

Most recently, on March 5, 2023, there was a fatal shooting in front of the same all-night eating establishment involved in the December 28, 2021, shooting.

The common denominator in these shootings is the location in which they occurred - Bonifant Street. On that street alone, in a single block situated between Georgia Avenue and Fenton Street, four all-night Hookah Lounges and one all night eating establishment are allowed to operate 24/7. These businesses operate in close proximity to a senior residential building housing the elderly and vulnerable and a condominium community that both young families and single adults call home.

It is with this historical chronology in mind that it is apparent that Bill 14-23 falls far short in addressing concerns previously raised by area residents related to safety. Bill 14-23 should have been proactive legislation introduced when the County undertook its plan to make the area a nightlife destination in a mixed-use community. In its current form, Bill 14-23 is untimely and stronger legislation is necessary to protect residents - particularly in hotspot crime zones such as Bonifant Street.

The specific deficiencies in the proposed bill plan which must be considered so that the legislation can be re-worked include the following:

- Late-night businesses are still permitted to stay open 24 hours therefore not addressing the impact for increased criminal activity during hours when police resources are reduced or the significant noise disturbances that occur routinely between the hours of 2am and 6am, when area residents, young and old, are trying to sleep. As set forth above the loitering of customers leaving the late-night establishments directly contributed to three shootings on Bonifant Street in 2021. It is only a matter of time, unless addressed by our leaders, before an innocent resident is murdered from random gunfire related to the loitering of patrons who frequent these establishments.
- The level of detailed oversight and verification required of the police in achieving uniformity in the application of the Late-Night Safety Plan Policy is substantial and raises questions as to how police will routinely monitor a plan that is reissued every 3 years. The bill requires no uniformity in requirements such as surveillance, security personnel, or training and implies that some businesses may or may not be required to include all of these items in their plans. ***It also raises concern on how the police will monitor the quality of the technology and manpower employed by all the businesses to prevent crime.***
- The police force is already significantly understaffed, and resources are stretched to capacity. Resources would be better served elsewhere. A legislative plan closing late night businesses specifically near residential properties and in identified hotspot crime zones between 2am-6am would reduce loitering which leads to criminal activity. ***It is the most effective and efficient plan of action to maximize resource allocation and minimize crime.***
- The county has a legislative blueprint which the Courts have upheld that is available to it from Baltimore County which imposed operational hour restrictions on Hookah lounges. Baltimore County's [legislation](#) had the dual benefits of reducing certain all-night establishments in hotspot crime zones and providing health oversight for its constituents by prohibiting the sale of tobacco products and smoking 24 hours/day, 7 days a week. A similar [ordinance](#) was enacted in Daytona Beach. ***It is difficult to understand why the County will not use the legislative power it has and why it is unwilling to confront the statistical evidence from Bonifant Street alone that all-night establishments create a conducive environment for loitering and allow patrons who have been heavily drinking during the night to mill about and increase the likelihood that quality-of-life criminal activity will escalate to violent crime.***
- While I applaud those business owners who are compliant and have proactively implemented safety measures there are already businesses that

have been identified as less cooperative. In my opinion, County agencies like ABS have been lenient with some of these same businesses and have not aggressively monitored and enforced establishments for violations. ***At this time, there is no assurance that the Late-Night Safety Plan will be uniformly, and aggressively enforced, and non-compliant businesses immediately shut down.***

In summary, the proposed plan is inadequate to address the significant rise in violent and quality-of-life crimes known to escalate to violent crime in Downtown Silver Spring. ***When notice of the substantial risk to life and limb has been given, it should not be bold, risky, or controversial to political careers for our elected leaders to enact effective legislation to keep residents safe and free of crime.*** As an attorney I am routinely asked to identify risks and develop solutions to mitigate risk exposure. As such, I implore you to work harder for the constituents you swore an oath to serve and protect and to rewrite the existing Safety Plan for Downtown Silver Spring to include a limitation on operational hours in designated high crime zones. I leave you with two questions to ask yourself and hope they will guide you to do the right thing: (1) What would you do to protect yourself and your family if the likelihood of a stray bullet entering your home was statistically significant?; and (2) How will you explain to a grieving family who's loved one is murdered from a stray bullet related to the loitering from all-night establishments that it was more important to keep the night life going 24/7 than to protect people?

Sincerely,

Gina Marie Smith

Gina Marie Smith, Esquire