

**DRIVERS AND CELLULAR TELEPHONES:  
INCREASING PUBLIC AWARENESS  
OF DISTRICT LAW**



**REPORT AND RECOMMENDATIONS OF THE  
POLICE COMPLAINTS BOARD**

**TO**

**MAYOR ADRIAN M. FENTY,  
THE COUNCIL OF THE DISTRICT OF COLUMBIA, AND  
CHIEF OF POLICE CATHY L. LANIER**

**September 13, 2007**

**POLICE COMPLAINTS BOARD**

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## I. INTRODUCTION AND OVERVIEW

In March 2004, the District of Columbia enacted the Distracted Driving Safety Act of 2004 (Act).<sup>1</sup> The Act prohibits, among other things, the use of a cellular telephone or any other electronic device while driving unless the phone or device is equipped with a hands-free accessory or the motorist is using the phone for emergency purposes, such as dialing 911.<sup>2</sup> Although the Act has been in effect since July 2004, there has been little public education about the law in recent years. As a result, the Office of Police Complaints (OPC) has received complaints from citizens who were ticketed for violating the law, but say that they were unaware of the Act's requirements. OPC has also received at least 18 complaints from motorists alleging that Metropolitan Police Department (MPD) officers were not complying with the statute, thereby raising the possibility that some MPD officers are either unfamiliar with or dismissive of the cellular phone law.

While it is generally true that "ignorance of the law is no excuse," the Police Complaints Board (PCB), as the governing body of OPC, is concerned that the irregular enforcement of the law, without an accompanying emphasis on public education, may negatively impact the relationship between MPD officers and the driving public, lead to claims of selective enforcement of the law or racially biased policing, and encourage the perception that the Act is not important.

To address these concerns, PCB recommends that the District's Department of Transportation (DDOT), with input from the Executive Office of the Mayor (EOM), the Department of Motor Vehicles (DMV), MPD, and other interested District offices and agencies, develop and implement a comprehensive plan to inform the public about the Act.<sup>3</sup> PCB believes that implementation of this campaign would assist MPD in the performance of its mission, eliminate concerns from the driving public about inconsistent enforcement of the law, and bring down the number of complaints against MPD officers. Most importantly, implementation of such a plan will send a message that the District is serious about enforcing the Act's provisions, thereby reducing the dangers created by drivers who are distracted while talking on their mobile phones.

In order to address concerns that MPD officers are not following the requirements of the law, PCB further recommends that officers receive training about the law during roll calls, where it should be emphasized that MPD officers must abide by the Act's provisions.<sup>4</sup>

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<sup>1</sup> D.C. Official Code § 50-1731.01, *et seq.* (2007).

<sup>2</sup> D.C. Official Code § 50-1731.04(a).

<sup>3</sup> PCB is making these recommendations pursuant to D.C. Official Code § 5-1104(d), which authorizes the Board to recommend changes to the Mayor, the Council of the District of Columbia, and MPD's Chief of Police if the reforms may reduce the incidence of police misconduct.

<sup>4</sup> PCB is grateful for the assistance of OPC's staff in preparing this report and accompanying recommendations. OPC's executive director, Philip K. Eure, and deputy director, Thomas E. Sharp, supervised the project. Other OPC staff members who performed research or assisted in drafting the report include the agency's special assistant, Nicole Porter, senior investigator, Natasha Bryan, and summer 2007 law clerk, Florence Pettiquoi,

## II. THE DISTRACTED DRIVING SAFETY ACT OF 2004

The Distracted Driving Safety Act of 2004 states, in pertinent part:

No person shall use a mobile telephone or other electronic device while operating a moving motor vehicle in the District of Columbia unless the telephone or other device is equipped with a hands-free accessory. . . . The provisions of this section shall not apply to the following: (1) Emergency use of a mobile telephone, including calls to 911 or 311, a hospital, an ambulance service provider, a fire department, a law enforcement agency, or first-aid squad; (2) Use of a mobile telephone by law enforcement or emergency personnel or by a driver of an authorized emergency vehicle, acting within the scope of official duties; or (3) Initiating or terminating a telephone call, or turning the telephone on or off.<sup>5</sup>

The penalty for violating the Act is a \$100 fine. However, under the Act, the \$100 fine “shall be suspended for a first time violator who, subsequent to the violation but prior to the imposition of a fine, provides proof of acquisition of a hands-free accessory of the type required by this chapter.”<sup>6</sup> In public hearings leading up to the passage of the Act, District Council members noted that they had personally witnessed motorists engaging in distracted driving, and stated that the bill would help make District roads safer.<sup>7</sup> MPD also recognizes the dangers created by motorists who use their cellular phones without hands-free devices, pointing out recently that “[d]istracted driving is an ever increasing factor in traffic fatalities and major accidents.”<sup>8</sup>

The Act requires the District to take certain measures in order to educate the public about the new law and survey the law’s effectiveness. First, it requires the DMV to include educational information in its driver and motorcycle operator’s study manual, and provide on its

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who is currently enrolled at George Washington University Law School. Phillip Bach, a summer 2006 law clerk, who was enrolled at Fordham University School of Law at the time of his clerkship, also contributed significantly to this project. In researching issues related to this report, OPC contacted and obtained information from a number of District government offices, including MPD’s Maurice T. Turner, Jr., Metropolitan Police Academy, MPD’s Research and Resource Development Division, DDOT, and DMV and its data processing contractor, Affiliated Computer Systems, Inc., as well as other sources referenced in the report. PCB appreciates the input and assistance offered by each of these individuals and organizations.

<sup>5</sup> D.C. Official Code § 50-1731.04.

<sup>6</sup> D.C. Official Code § 50-1731.06(a).

<sup>7</sup> Council of the District of Columbia, Committee on Public Works and the Environment, Report at 3-4. Although research conducted in the 1990s suggested that hand-held cellular phone usage while driving was associated with an increased risk of traffic accidents, a growing number of studies now indicate that such an increased risk is associated with both hand-held and hands-free cellular phone usage. *See, e.g.,* William J. Horrey, et al., *Examining the Impact of Cell Phone Conversations on Driving Using Meta-Analytic Techniques*, 48 Human Factors, 196-205 (2006); David A. Strayer & William A. Johnson, *Driven to Distraction: Dual-Task Studies of Simulated Driving and Conversing on a Cellular Telephone*, Psychological Science (Nov. 2001). In light of these and other studies, the District should consider whether a more expansive ban prohibiting the use of hand-held and hands-free electronic devices is warranted.

<sup>8</sup> *See* E-mail from MPD Police Chief Cathy Lanier to OPC Executive Director Philip Eure (Aug. 24, 2007).

driver's license exam questions related to distracted driving and telephone usage.<sup>9</sup> Second, it requires MPD to include, in any accident report involving a motor vehicle, whether the use of a mobile telephone was a contributing cause of the accident. MPD must submit these reports to DDOT for review and analysis.<sup>10</sup> Finally, the Act requires DDOT to submit an annual report to the District Council detailing the results of its analysis.<sup>11</sup>

Pursuant to the statute, DMV has included information about the Act in its study manuals, and has added questions relating to the law on its driver's license exam.<sup>12</sup> MPD has also submitted to DDOT traffic accident reports in which distracted driving was cited as a factor in the crash, and DDOT has conducted a review and analysis of the reports, submitting an undated annual report to the Executive Office of the Mayor in late 2006.<sup>13</sup> To its credit, as a result of its review last year, DDOT proposed changes to MPD's traffic accident report form that would allow for better collection of data and more thorough analysis of these issues.<sup>14</sup>

District agencies and offices, acting upon their own initiative, have also made some public education efforts. As the agency responsible for enforcing the law, MPD has developed a webpage that publicizes the law and features a "Frequently Asked Questions" section.<sup>15</sup> The District's official government website also features some information about the Act. Finally, a number of District government offices issued newsletters in the summer of 2004, when the law was enacted, that discussed or referenced the new law.<sup>16</sup>

However, other than the inclusion of information in the DMV driver's education materials, there are no statutorily mandated public education requirements. And the District

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<sup>9</sup> D.C. Official Code § 50-1731.08.

<sup>10</sup> D.C. Official Code § 50-1731.07.

<sup>11</sup> D.C. Official Code § 50-1731.09(a).

<sup>12</sup> See Dep't. of Motor Vehicles, D.C. Driver's Examination Study Guide, <http://dmv.dc.gov/pdf/dltest.pdf> (last visited Aug. 30, 2007).

<sup>13</sup> We were informed by DDOT that the 2006 report has been the only report submitted by the agency since the Act's passage.

<sup>14</sup> In the 2006 report, DDOT noted, among other things, that MPD's traffic accident report, the MPD Form PD 10, did not include a field for MPD officers to indicate whether cellular phones or other electronic devices were contributing factors to the accident. Instead, there was a general field for "Driver Inattention." DDOT recommended that the PD 10 be revised to include fields for mobile phone usage and other electronic devices. If such a change were made, DDOT would be able to obtain better statistical information on the relationship between cellular phone usage and traffic accidents, and more accurately assess whether the law should remain in its current form or be amended. See Dist. Dep't. of Transp., Reporting Requirements in the Distracted Driving Safety Act of 2004. In the spring of 2007, as recommended, MPD revised its PD 10 to include specific fields for cellular phone usage.

<sup>15</sup> See Metro. Police Dep't., Distracted Driving Safety Act of 2004, [http://www.mpdc.dc.gov/mpdc/cwp/view,a,1240,q,547851,mpdcNav\\_GID,1552,mpdcNav,|.asp](http://www.mpdc.dc.gov/mpdc/cwp/view,a,1240,q,547851,mpdcNav_GID,1552,mpdcNav,|.asp) (last visited Aug. 30, 2007).

<sup>16</sup> See *In The News* (Executive Office of the Mayor, Washington, D.C.), June 25, 2004, at 6; *What's New in the Metro. Police Dep't.* (Metropolitan Police Department, Washington, D.C.), June 25, 2004, at 1; *The Ward 5 Report* (Councilmember Vincent B. Orange, Washington, D.C.), Summer/Fall 2004, at 3.

government has done very little to educate the public since the initial burst of publicity surrounding the law’s enactment in the summer of 2004.

### III. THE NEED FOR INCREASED PUBLIC AWARENESS

It is clear that more public education measures are warranted. According to statistics provided to OPC by DMV, from August 2004 to March 2007, over 20,000 drivers were cited for violating the cellular phone provisions of the Act. Thirty-two percent of the drivers were from the District of Columbia. The remainder, approximately 68%, was from out of state. The table below sets forth this information:

**Number of Drivers Cited for Cellular Phone Violations  
August 2004 to March 2007**

	<b>Total</b>	<b>District of Columbia</b>	<b>Maryland</b>	<b>Virginia</b>	<b>Other States</b>
<b>Violations</b>	20,492	6,564	8,687	3,893	1,348
<b>Percentage</b>	100%	32%	42%	19%	7%

According to DMV statistics, Maryland and Virginia motorists received 61% of the citations for mobile phone violations. Despite this fact, there is not a single road sign at the District borders with these states informing motorists of the restrictions on the use of cellular phones in the city. Spot checks by OPC could locate no signs on major roads entering the District such as Interstate 395, Interstate 295, the 14th Street Bridge, Route 1, Route 50, or Connecticut, Wisconsin, Georgia, Massachusetts, and Pennsylvania avenues, informing drivers of the law.<sup>17</sup>

Furthermore, as the nation’s capital, the District hosts approximately 15 million visitors each year.<sup>18</sup> Many of these tourists and business travelers may drive in the District, and are unlikely to be aware of the law restricting the use of mobile phones while driving. The fact that there are no similar laws in Maryland or Virginia likely adds to the confusion for motorists over whether driving while talking on a cellular phone without a hands-free device is permissible here, and makes it even more important that the District government increase its public education efforts.

Local newspapers have periodically reported on the lack of a public education campaign geared towards motorists. In an April 2005 article that appeared in *The Washington Post*, a West Virginia resident was quoted as wondering why drivers are not informed of the law, particularly on streets that connect the District with neighboring Maryland counties. In the article, the

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<sup>17</sup> During the preparation of this report, OPC periodically sent staff members to look for such road signs.

<sup>18</sup> See Washington, D.C., Convention & Tourism Corp., Washington, D.C.’s 2006 Visitor Statistics, at 5.

individual was quoted as saying, “not one sign—a major artery like [Georgia Avenue]. If they are going to pull people over, they should make people aware.”<sup>19</sup>

Such sentiments have been echoed in complaints filed with OPC. In one complaint that OPC received, the complainant, a visiting neurosurgeon, alleged that an MPD officer stopped him for driving while talking on his cellular telephone. He explained to the officer that he was from Kentucky and was unaware that he was violating the law by not using a hands-free device. The doctor informed the officer that this conduct was not illegal in Kentucky, and that he had not seen any road signs indicating that it was illegal in the District. The complainant successfully contested his ticket during a Bureau of Traffic Adjudication proceeding on the ground that he did not know that his conduct violated District law.

In another complaint filed with OPC, the complainant, an attorney, received a citation for driving while operating her mobile phone. The complainant acknowledged that she was speaking on the phone at the time that she was stopped, but alleged in her complaint that she had recently moved to the area from Utah and was not yet familiar with District laws. Complaints like these clearly demonstrate the need for a long-term public education campaign.

#### **IV. POLICY AND LEGAL CONCERNS**

The way that the law is currently enforced, without an accompanying emphasis on education, gives rise to a number of concerns. One problem is that drivers may be ticketed for a law that they never knew existed, leaving motorists, particularly those from out of state, with a less than favorable perception of MPD officers and Washington, D.C. Because of the lack of road signs at critical points of entry into the District, as well as the absence of electronic display boards in the District informing motorists of the law, many people clearly do not know about the restrictions on the use of cellular phones.

The lack of publicity surrounding the law also invites concerns about biased policing or selective enforcement of the law. Because the law is not adequately publicized, some motorists may not understand why they are being stopped at all. Thus, they may conclude that the stop was pretextual or that they were ticketed for an impermissible reason. In one complaint filed with OPC, the complainant, who was stopped and ticketed for using her cellular phone, speculated that she was pulled over because of her race.

PCB recognizes that pretextual stops – stops where an officer asserts a typically minor violation as grounds for a stop when there is actually an ulterior motive – are constitutional. In *Whren v. United States*, the U.S. Supreme Court ruled that pretextual traffic stops are reasonable under the Fourth Amendment, provided that probable cause exists to believe that a traffic violation has occurred.<sup>20</sup> Although pretextual automobile traffic stops are lawful, discriminatory

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<sup>19</sup> Clarence Williams, *Despite Law, Drivers Keep Dialing with No Headsets*, The Washington Post, Apr. 3, 2005, at C1.

<sup>20</sup> 517 U.S. 806, 819 (1996).

traffic stops that violate the Fourteenth Amendment's Equal Protection Clause are not.<sup>21</sup> PCB believes that increased awareness of the law, coupled with more consistent enforcement by MPD officers, will contribute to the public's greater understanding that the law applies equally to all drivers, thus helping to dispel concerns about biased policing and selective enforcement of the law.

Inadequate education about the law also encourages the perception that the law is not important, as does the routine sight of police officers who do not pull over drivers with mobile phones cradled to their ears. It is plain for everyone to see that there is massive non-compliance with the law in Washington. Under these circumstances, many drivers are no doubt emboldened to ignore the restrictions on the use of cellular telephones, thereby endangering other motorists and pedestrians.

The problem is not limited to officers who ignore motorists violating the law. OPC has received at least 18 complaints from citizens alleging that officers use their mobile phones for non-official reasons while driving.<sup>22</sup> PCB recognizes that it is virtually impossible for a citizen to know, in any given situation, whether an officer is using a mobile phone for personal reasons, particularly if the citizen observed the officer from afar and could not hear the officer speaking. Whether real or imagined, these observations by citizens may confuse some members of the public into thinking that it is perfectly legal to drive and talk on the phone in the District without using a hands-free device, thereby undermining the already limited attempts to promote awareness of the Act. On the other end of the spectrum, people who are informed of the law may resent officers for appearing to violate the very law that MPD seeks to enforce. This will inevitably erode public trust in MPD's ability to enforce the law fairly and consistently.

MPD has already taken some proactive steps to address this issue. In July 2004, MPD issued a special order emphasizing that MPD officers must comply with the Act's requirements.<sup>23</sup> Additionally, in February 2007, in response to the high number of complaints received by MPD about officers using cellular phones while driving, MPD conducted a series of roll call training sessions for MPD officers. These sessions emphasized that the law "applies to all members of the Metropolitan Police Department."<sup>24</sup> MPD plans to repeat this roll call training this month. Furthermore, in August 2007, MPD stated that the department planned to develop, within 90 days, a roll call training component that would emphasize the importance of

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<sup>21</sup> See, e.g., *Whren*, 504 U.S. at 813; see also *U.S. v. Montero-Camargo*, 208 F.3d 1122, 1135 (9th Cir. 2000) ("stops based on race or ethnic appearance send the underlying message to all our citizens that those who are not white are judged by the color of their skin alone.").

<sup>22</sup> In one complaint received by OPC, the citizen reported seeing an officer driving erratically while speaking on his cellular phone. Initially, the complainant did not know that it was an MPD officer because the officer was not in uniform and was driving an unmarked car. After the complainant refused to allow the officer to switch into his lane, the officer gave him a ticket. The complainant explained to the officer that he refused to allow the lane switch because he did not realize it was a police officer since the officer had been using his phone and driving erratically. The officer then allegedly stated, "I can be on the cellular phone all I want, that law doesn't apply to me, fool."

<sup>23</sup> See Special Order 04-11, Distracted Driving Safety Act of 2004 (effective July 2, 2004).

<sup>24</sup> Distracted Driving Safety Act of 2004 Roll Call Training Materials 1 (Metropolitan Police Department, February 2007).



enforcing and complying with the Act.<sup>25</sup> Continued policy and training reminders such as these to educate officers about the requirements of the law, along with a well-publicized enforcement campaign, would strengthen the relationship between MPD and the driving public.

## V. BEST PRACTICES

In an effort to increase public safety and reduce traffic accidents, several other jurisdictions have enacted laws similar to the District's. When the District first passed the Act in 2004, only one state, New York, had a law banning the use of cellular phones without hands-free devices. By August 2007, three other states – California, Connecticut, and Utah – and a host of municipalities had enacted “primary enforcement laws” prohibiting the use of an electronic device without a hands-free accessory.<sup>26</sup> Many of these jurisdictions have benefited from their efforts to publicize their laws.

Connecticut posted signs at more than 20 of the state's major entry points to educate drivers about the law.<sup>27</sup> Other cities, including Chicago and Brooklyn, Ohio, have also installed signs,<sup>28</sup> and the District should do so as well.

MPD has pointed out that the posting of signs may actually lead to “sign clutter,” as well as an increase in traffic accidents, because motorists may be distracted by taking their eyes off the road to read the signs.<sup>29</sup> The District, however, already has signs about its seatbelt law in various locations, including at the intersection of Constitution Avenue and 23rd Street, a major approach into the District from Interstate 66 in Virginia. The sign, which reads “Click It or Ticket,” is relatively small and takes up little space. Although there does appear to be a legitimate issue about signs possibly distracting drivers, that concern seems to be focused on electronic signs with flickering, flashing, or streaming lights.<sup>30</sup> Clearly, DDOT should use its expertise to weigh the advantages and disadvantages of placing signs or electronic display boards, including safety and aesthetics considerations, throughout the District. Taking MPD's views into account, PCB believes that erecting standard-issue metal or plastic signs about the Act at prominent sites in the city, such as major entry points from Virginia and Maryland, would be an easy and effective way to inform drivers – and remind them – of the law.

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<sup>25</sup> See E-mail from MPD Police Chief Cathy Lanier, *supra* n.8.

<sup>26</sup> See Insurance Institute for Highway Safety, Cell Phone Laws as of August 2007, [http://www.iihs.org/laws/cell\\_phones.html](http://www.iihs.org/laws/cell_phones.html). (last visited Aug. 21, 2007). New Jersey and Washington State have also enacted laws prohibiting motorist use of cellular phones without hands-free devices. However, the laws in these states are secondary enforcement measures, meaning that they can only be enforced when the driver has been stopped for another infraction.

<sup>27</sup> Mark Ginocchio, *Signs on Cell Phone Law Are Coming Soon*, The Stamford Advocate, Apr. 23, 2006.

<sup>28</sup> See Ginocchio, *supra* n.27; Matthew C. Kalin, *The 411 on Cellular Phone Use: An Analysis of the Legislative Attempts to Regulate Cellular Phone Use by Drivers*, 39 SUFFOLK U. L. REV. 233, 244 (2005) (“Drivers entering the town of Brooklyn, Ohio, are now greeted with the sign, ‘Park 2 Talk: It’s the Law’”).

<sup>29</sup> See E-mail from MPD Police Chief Cathy Lanier, *supra* n.8.

<sup>30</sup> See Susan Gvozdaz and Nia-Malika Henderson, *New Traffic Hazard: Moving Signs Electronic and Mechanical Ads Near Highways Concern Anne Arundel Official*, The Baltimore Sun, Aug. 7, 2007, at 1A.

California requires car rental companies to distribute brochures on safe usage to people who rent cars equipped with cellular phone devices.<sup>31</sup> The District could take a similar approach with car rental agencies, by encouraging those operating in Washington to provide all customers with information about the Act. In addition, although the District does not have enforcement powers over car rental companies outside its borders, the District could develop a flyer with information about the law and encourage car rental firms in the metropolitan area – especially those at Reagan National, Dulles, and BWI Marshall Airports – to provide these materials to customers.

The District could also encourage cellular phone retailers in the District to furnish information about the law to their customers. OPC visited several mobile phone stores in the District – specifically, Verizon, Cingular Wireless, Nextel, and Sprint – and interviewed on-site managers at each location.<sup>32</sup> Although stores that sell hands-free devices already have an incentive to educate the public about the law, only Sprint had posted an advertisement encouraging the use of hands-free devices when OPC made spot checks in 2006. An informational pamphlet or poster that could be displayed at cellular phone stores in the District and throughout the Washington metropolitan area would be helpful to the public.

In addition, DDOT has recently made a number of worthy suggestions to OPC, including the possibility of distributing informational pamphlets to driving schools that operate in the District.<sup>33</sup> Likewise, DDOT also suggested that the District could partner with the Washington Metropolitan Area Transit Authority to ensure that Metrobus drivers are aware of the Act’s requirements.<sup>34</sup> This idea could be extended to drivers who operate the cross-town D.C. Circulator buses. DDOT further proposed that the District impress upon overnight delivery services, such as Federal Express, United Parcel Service, and DHL, to educate those firms’ drivers about the Act.<sup>35</sup> All of these strategies and related ones would be important in alerting motorists about the law, and should be adopted by the District.

As for MPD, it is “exploring the possibility of using semi-permanent decals on marked MPD vehicles with a brief slogan about the law.”<sup>36</sup> PCB hopes that this plan can be implemented as it would go a long way towards educating District residents, commuters, visitors to the city, and MPD officers about the law.

Experiences in other jurisdictions reveal that continued publicity is crucial to ensuring long-term compliance with such laws. According to a report prepared by the Insurance Institute for Highway Safety, New York’s law restricting the use of mobile phones while driving took

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<sup>31</sup> See Cal. Veh. Code § 28090 (2006).

<sup>32</sup> The visits and interviews were conducted by OPC staff in July 2006.

<sup>33</sup> See E-mail from DDOT Director Emeka Moneme to OPC Executive Director Philip Eure (Aug. 30, 2007).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> See E-mail from MPD Police Chief Cathy Lanier, *supra* n.8.

effect in November 2001 with “considerable unpaid publicity.”<sup>37</sup> For the first few months, cellular phone use while driving in New York dropped from 2.3% before the ban to 1.1% in March 2002.<sup>38</sup> However, the state did not to develop and implement a statewide enforcement campaign, and by the one-year anniversary of the law, cellular phone use while driving had nearly returned to pre-ban levels.<sup>39</sup> The report, citing the effectiveness of seatbelt campaigns, noted that publicity is a critical factor in ensuring motorists’ compliance with a particular law, and maintained that “[w]ithout substantial and highly publicized enforcement efforts, compliance is likely to be quite low.”<sup>40</sup>

With that in mind, it is clear that the District needs a comprehensive, sustained, and long-term plan to publicize the law. Such an effort would likely need to be coordinated by DDOT, along with input from interested agencies such as MPD and DMV. The campaign could involve re-issuing news releases to media outlets asking them to remind the public about the law, creating public service announcements for broadcast on television and radio, updating the District’s official website to include more information about the Act, erecting signs at the borders, and incorporating the other proposals mentioned above.

Because such a campaign is not without costs, it is important that the District government provide adequate funding for the effort. Although DDOT has identified one possible source of funding from a federal National Highway Traffic Safety Administration grant it receives, according to DDOT, the money that could be used from the grant would not be enough to sustain an ongoing, long-term campaign.<sup>41</sup> Therefore, the city should explore a variety of options to help pay for the initiative, including applying for other federal grants and arranging for intra-District transfers of funds from MPD and DMV to DDOT. Having enacted the law, the District Council also has a special responsibility to ensure that it appropriates sufficient funds to support efforts related to the Distracted Driving Safety Act.

## VI. CONCLUSION

After surveying how the District has publicized and enforced the law restricting the use of mobile phones while driving, it is clear that the effort has been lacking. Overall, the District has not adopted an approach that fully and effectively gives meaning to the 2004 law. Anyone on the streets of Washington can see that there is widespread non-compliance with the law’s requirements. Unfortunately, the current situation gives the impression that the city is not serious about publicizing or fully implementing the cellular phone law.

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<sup>37</sup> Anne T. McCartt, et al., *Longer Term Effects of New York State’s Law on Drivers’ Handheld Cell Phone Use, Injury Prevention* 10, 11 (2004).

<sup>38</sup> *Id.* at 13.

<sup>39</sup> *Id.* at 12.

<sup>40</sup> *Id.* at 14.

<sup>41</sup> Telephone interview by Nicole Porter, OPC Special Assistant, with Carole Lewis, DDOT Highway Safety Program Coordinator (Sept. 4, 2007).

As things stand, District residents and visitors to the city are not being well served by the current lack of information about the law and MPD's irregular enforcement. More importantly, public safety is put at risk when, having enacted legislation aimed at preventing accidents caused by distracted drivers, the District has not followed through with a concerted effort to implement the law. The District should immediately adopt measures that give full meaning to the goals behind the Distracted Driving Safety Act.

## VII. RECOMMENDATIONS

Based on its examination of the information and issues discussed above, PCB makes the following recommendations to the Mayor, the Council of the District of Columbia, and MPD's Chief of Police:

1. **Develop and Implement a Long-Term Plan that Effectuates the Purposes of the Act.** The District, under the guidance of DDOT, should develop a comprehensive plan to educate the public about the law. The effort could involve issuing news releases to media outlets asking that they remind the public of the law, creating public service announcements for broadcast on television and radio, and incorporating the other elements below. The plan should take into account the input of the Executive Office of the Mayor, MPD, DMV, and other interested stakeholders.
2. **Place Signs at Entry Points into the District Alerting Drivers to the Law.** Placing signs at various entry points to the District is an easy and effective way to notify drivers of the law. DDOT should consider installing signs on major roads leading into and passing through the District, such as Interstate 295, Interstate 395, Route 1, Route 50, and Connecticut, Wisconsin, Georgia, Massachusetts, and Pennsylvania avenues.
3. **Use Electronic Display Boards in the District to Remind Drivers of the Law.** There are no electronic display boards in the District that alert motorists to the requirements of the law. DDOT should consider strategically placing electronic display boards in high traffic areas to assist with increasing compliance with the law.
4. **Provide Informational Pamphlets to Car Rental Companies.** The District should encourage car rental companies operating in the city to distribute informational pamphlets to customers. If those efforts are unsuccessful, the District should consider requiring that these materials be provided to customers. In addition, the District should encourage car rental companies in the metropolitan area outside of the District, including those located at Reagan National, Dulles, and BWI Marshall Airports, to do the same.
5. **Provide Informational Pamphlets to Mobile Phone Retailers.** The District should encourage mobile phone retailers in the city to display posters and provide informational pamphlets to customers about the law. If those efforts are unsuccessful, the District should consider requiring that information about the law be displayed in stores and distributed to customers. The District should also encourage other mobile

- telephone retailers in the metropolitan area to provide customers with similar information.
6. **Provide Informational Pamphlets to Driving School or Driver Education Businesses that Operate in the District.** The District should develop an informational pamphlet that can be distributed to driving schools and their students in the metropolitan area.
  7. **Provide Informational Pamphlets to Hotels, District Visitor Centers, Museums, and Other Places of Interest.** The District should develop an informational pamphlet that can be made available at sites visited by large numbers of people from out of town.
  8. **Ensure that Metrobus and D.C. Circulator Operators are Aware of the Act.** The District should work with the Washington Metropolitan Area Transit Authority (WMATA) and the D.C. Circulator bus system to make sure that all bus drivers know about the law and are complying with it.
  9. **Ensure that Overnight Delivery Companies and their Drivers are Aware of the Act.** The District should work with overnight delivery companies to ensure that their drivers know about the law and are complying with it.
  10. **Place Logos or Decals About the Law on MPD Police Cruisers.** Under this plan, MPD's efforts would go a long way towards helping to educate residents, commuters, visitors to the city, and MPD officers about the requirements of the Act.
  11. **Provide Continued Training to MPD Officers on the Importance of Enforcing and Complying with the Law.** MPD should continue to emphasize to its officers – through roll calls, training opportunities, and internal MPD publications – the importance of officer compliance with the law and of the need to apply it fairly and consistently. Officers who do not follow the law or enforce it fairly should be disciplined.
  12. **Furnish Adequate Funds to Carry Out the Act.** The District should explore a variety of options to help pay for the initiative, including applying for other federal grants and arranging for intra-District transfers of funds from MPD and DMV to DDOT. Having enacted the law, the District Council also has a special responsibility to ensure that it appropriates sufficient funds to support efforts related to the Distracted Driving Safety Act.