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# NEAR Act Police Reforms Advance Procedural Justice but Data Initiatives Stall

September 14, 2023

A report by the Office of the District of Columbia Auditor



Office of the District of Columbia Auditor

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# Executive Summary

## Why ODCA Did This Audit

The Neighborhood Engagement Achieves Results Act (NEAR Act) was intended to promote a public health approach to prevent violent crime in the District of Columbia. This report, the second ODCA report on the NEAR Act, reviews the implementation and impacts of the Act's police reform sections. It was initiated on a discretionary basis.

## What ODCA Found

- Procedural justice sections of the Act largely were implemented as intended. OPC assumed more authority to review claims of police misconduct, enhancing independent oversight. Arrests and convictions for assault on a police officer fell sharply because the Act defined the offense more precisely and created a new offense of resisting arrest to apply charges more fairly.
- By contrast, NEAR Act measures to expand data collection and reporting to boost transparency, promote accountability, and improve police practices have faced more obstacles. MPD has reported data on police stops required by the Act since 2019, but the data have not been used to develop and implement evidence-based policies to increase the benefits and reduce the harms from stops. The Deputy Mayor for Public Safety and Justice's annual reports on felony crime data only go through 2019. Meanwhile, a community policing working group and a task force on ending homicide have faltered amid low interest and support from senior officials.
- Finally, the Department of Forensic Sciences (DFS) Crime Scene Sciences Division (CSSD) faces personnel problems that threaten its ability to collect, analyze, and preserve evidence in criminal cases. DFS has used its NEAR Act authority to rehire retired MPD officers to help

staff CSSD on a transitional basis, but has not met the longer-term goal of fully staffing CSSD with civilian forensic scientists. Moreover, active-duty MPD officers have continued to help operate CSSD, contrary to a longstanding goal of civilianizing the division so officers can return to other police duties.

## What ODCA Recommends

**Key recommendations about police stop data include:**

- The Metropolitan Police Department (MPD) should commission independent analysis of whether there is racial or ethnic bias in police stops using the preferred research methods identified by The Lab @ DC.
- MPD should publish the police stop data required by the NEAR Act at regular six-month intervals.

**Key recommendations about police complaints and discipline include:**

- MPD should cease allowing an officer to undergo additional training as the sole response to a finding of misconduct by an Office of Police Complaints (OPC) hearing examiner.
- OPC should use its authority to audit the handling of police complaints that it refers to MPD or the Housing Authority Police Department.

**Other recommendations include:**

- MPD should appoint a Community Policing Working Group of 10 to 15 members to examine national best practices in community policing on an ongoing basis.
- The Department of Forensic Sciences (DFS) should transmit a plan to achieve and maintain full staffing of its Crime Scene Sciences Division to the Mayor and Council.

# Background

The Neighborhood Engagement Achieves Results Amendment Act of 2016, commonly known as the NEAR Act, was intended to implement a public health approach to preventing crime and violence in the District of Columbia by identifying and addressing root causes.<sup>1</sup> The D.C. Council unanimously approved this omnibus legislation, which became D.C. Law 21-125 and took effect on June 30, 2016.<sup>2</sup>

The NEAR Act responded to growing concern about violent crime in the District of Columbia, which was the subject of a September 16, 2015, public hearing of the Council's Committee on the Judiciary titled, Beyond 100 Homicides: Violent Crime in the District of Columbia. The testimony of government and public witnesses at that hearing, as well as an October 21, 2015, hearing on the NEAR Act and other criminal justice legislation, helped shape the Act by informing the Committee about promising practices nationwide and local initiatives.

The NEAR Act encompasses nine titles touching on crime and violence prevention; physical and behavioral health; police practices, hiring and retention, training, and oversight; data collection and reporting; and sentencing and rehabilitation. Reflecting the Act's broad sweep, it assigned new powers and duties to many D.C. government agencies including the Deputy Mayor for Public Safety and Justice (DMPSJ), Metropolitan Police Department (MPD), Office of Police Complaints (OPC), Department of Forensic Sciences (DFS), and Criminal Justice Coordinating Council (CJCC), while creating an Office of Neighborhood Safety and Engagement (ONSE), which was charged with identifying and redirecting those at highest risk of committing or becoming victims of violence.

After all sections of the NEAR Act had been in effect for more than three years, ODCA started an audit to assess whether this landmark legislation had been implemented as intended and was meeting its objectives. Several parts of the NEAR Act were not implemented immediately because the Chief Financial Officer (CFO) found that projected costs of \$25.6 million from FY 2016 through FY 2019 had not been budgeted.<sup>3</sup> Full implementation of the NEAR Act began on October 1, 2017, after the Mayor and Council enacted an FY 2018 budget that included sufficient funding to implement all of the law's provisions.<sup>4</sup>

The concern about violent crime that prompted the NEAR Act remains acute today because homicides have risen steadily, nearly doubling from 116 in 2017 to 226 in 2021, before dropping to 203 in 2022 (see Figure 1 on next page). Residents have been distressed by a sharp spike in carjackings, which more than tripled from 2019 to 2022, while police have been challenged by the spread of "ghost guns," which are untraceable, privately made firearms. From January 1 to September 5, 2023, homicides were up 29%, robberies had increased by 67%, and total violent crime had risen 39%, compared to the same period in 2022.

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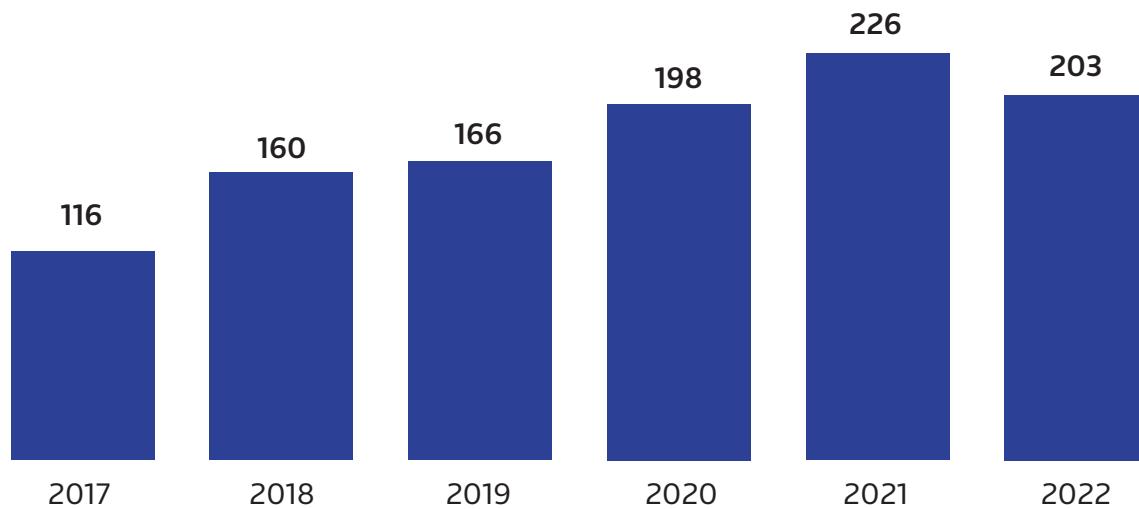
1 The U.S. Centers for Disease Control and Prevention defines the public health model as entailing four steps: (1) define the problem, (2) identify risk and protective factors, (3) develop and test prevention strategies, and (4) assure widespread adoption.

2 Mayor Bowser let the NEAR Act become law without her signature.

3 The sections that could not be immediately implemented were 101-105, 201-204, and 209-210.

4 D.C. Law 22-33, the "Fiscal Year 2018 Budget Support Act of 2017," repealed the language that froze the implementation of NEAR Act sections 101-105, 201-204, and 209-210.

**Figure 1: Homicides in the District of Columbia, 2017–2022**



Source: Metropolitan Police Department.

D.C.'s crime trends are complex: Total crime fell by 18% and total violent crime dropped by 14% from 2017 to 2022, even as homicides spiked. The District of Columbia is not alone in facing persistent problems of violent crime. In a study of 35 American cities, the Council on Criminal Justice found that the homicide rate in these cities climbed by 34% from 2019 to 2022, reflecting a large increase in 2020.<sup>5</sup> Motor vehicle theft jumped by 59% during the same period in this group of cities. As D.C. policymakers strive to reduce crime and violence, this audit is intended to assist that effort by identifying lessons from NEAR Act implementation and offering recommendations to increase its effectiveness.

Because the NEAR Act has such a broad scope, ODCA is issuing two reports on its implementation and demonstrated impacts. The [first report](#), which covered the NEAR Act sections central to the public health approach to preventing and reducing crime, was released in June 2022.<sup>6</sup> This second report focuses on the NEAR Act's police reform provisions, which are summarized in Table 1 on the next page.

5 See Richard Rosenfeld, Bobby Boxerman, and Ernesto Lopez, Pandemic, Social Unrest, and Crime in U.S. Cities: 2022 Year-End Update. Council on Criminal Justice, 2023.

6 This report, NEAR Act Violence Prevention and Interruption Efforts: Opportunities to Strengthen New Program Models, evaluated the implementation and impacts of (1) the creation of ONSE (NEAR Act sections 101-103), (2) establishment of an Office of Violence Prevention and Health Equity within DC Health (section 104), (3) expansion of OVSJG's hospital-based violence intervention program (section 104), (4) creation of a Community Crime Prevention Team Program by MPD and DBH (section 105); and (5) authorization of a private security camera incentive program operated by OVSJG (sections 214-215).

**Table 1: Police Reform Provisions of the NEAR Act**

Provision	Summary
<b>Title II, Subtitle A:</b> Community Policing Working Group	Requires MPD to convene a working group to examine national best practices in community policing and report its recommendations to the Mayor and Council biennially.
<b>Title II, Subtitle B:</b> Reestablishment of the Comprehensive Homicide Elimination Strategy Task Force	Reestablishes a task force to recommend to the Mayor and Council the most effective elements of a comprehensive plan to eliminate homicide in the District of Columbia.
<b>Title II, Subtitle C:</b> Police-Community Relations Survey	Directs the CJCC to conduct a public opinion survey of police-community relations in the District of Columbia and report the results to the Mayor and Council.
<b>Title II, Subtitle D:</b> Assault on a Police Officer	Narrows the definition of assault on a police officer and creates a new offense of resisting arrest.
<b>Title II, Subtitle E:</b> Officer Training	Requires annual in-service training for MPD officers to cover community policing, bias-based policing, use of force, limitations on chokeholds and neck restraints, behavioral and mental health awareness, and linguistic and cultural competency.
<b>Title II, Subtitle F:</b> Office of Police Complaints Independent Complaint Review Authority	Centralizes more authority to adjudicate police complaints under OPC, extends the period to file a complaint from 45 to 90 days, and requires OPC to report certain data on police complaints and use of force.
<b>Title II, Subtitle G:</b> Improving Stop and Frisk and Use of Force Data Collection	Requires MPD to collect and report certain data on the subjects, procedures, and results of police stops, searches, and uses of force.
<b>Title II, Subtitle H:</b> Crime Data Collection	Directs DMPSJ to report annually to the Mayor and Council on trends in felony crime statistics.
<b>Title I, Subtitle I:</b> Officer Retention and Recruitment Incentives	Allows the Chief of Police to grant time off to officers at the rank of Inspector or above, and to their civilian equivalents, for work exceeding 80 hours every two weeks. Reduces the minimum years of service for those applying to become an MPD officer based on service in the military or another police department.
<b>Title II, Subtitle J:</b> Rehiring of Retired Officers by the Department of Forensic Sciences	Allows DFS to rehire retired MPD officers as temporary employees without affecting their retirement benefits.
<b>Title III:</b> Traffic Citation Modernization for Operating a Vehicle	Repeals regulation barring a driver from hanging any object on a rear-view mirror.

Sources: NEAR Act and Committee on the Judiciary, "Report on Bill 21-360, the Neighborhood Engagement Achieves Results Amendment Act of 2016," January 27, 2016.

## Background on the NEAR Act's Police Reform Provisions

The NEAR Act's police reform provisions summarized in Table 1 vary considerably in scope and complexity. The Act sought to promote collaboration by creating advisory panels on community policing and homicide prevention, required research and data collection to track law enforcement practices and outcomes, strengthened external oversight to hold police accountable, and modified regulations and criminal law to enhance fairness. But several themes tie these disparate provisions together: building community trust and partnerships, enhancing accountability, and promoting procedural justice.

For example, Title II, Subtitle II-F (Office of Police Complaints Independent Complaint Review Authority) focuses on external oversight and accountability by giving OPC stronger authority to review complaints of police misconduct, but also seeks to enhance procedural justice as well as community trust in the police. Similarly, Subtitles II-G (Improving Stop and Frisk and Use of Force Data Collection) and II-H (Crime Data Collection) of Title II emphasize transparency and accountability by requiring the government to collect and report more data on police practices and crime trends, but the committee report on the NEAR Act also envisions positive impacts on "community participation and collaboration in policing."

Although the direct-service programs covered in ODCA's first NEAR Act report—such as the violence intervention and Pathways programs operated by ONSE, or the hospital-based violence intervention program run by OVSJG—might seem more tightly aligned with a public health approach to preventing violence, the more process-oriented police reforms are also consistent with the public health model. The police reform provisions of the NEAR Act eschew investigative or enforcement techniques—in some cases limiting them—while embracing non-law enforcement approaches to build community trust and cooperation in fighting crime. For example:

- The Community Policing Working Group (Title II, Subtitle A) would review national best practices for police-community partnerships to prevent crime and address its root causes. The committee report on the NEAR Act portrays the working group as a way to promote "genuine stakeholder engagement" and explicitly contrasts this approach to a "'tough on crime' incident response."
- Both the Community Policing Working Group and the Comprehensive Homicide Elimination Strategy Task Force (Title II, Subtitle B) would include non-governmental members and experts in addition to government officials, reflecting the NEAR Act's emphasis on collaboration between law enforcement and the community.
- The officer training requirements (Title II, Subtitle E) are intended to improve police interactions with community members while educating officers on the proper use of force.
- The new rules defining assault on a police officer (Title II, Subtitle D) and revising traffic citations (Title III) tighten limits on law enforcement to make criminal and civil procedures more just. The committee report on the NEAR Act notes that the definition of assault on a police officer was so broad that people had been prosecuted for wiggling while handcuffed, bracing a hand on the steering wheel during arrest, and yelling at an officer. Title III is intended to enhance fairness and procedural justice by curtailing officers' authority to stop drivers for having an object hanging from their rear-view mirror, which was seen as an overly broad basis for a police stop.

An important influence on the police reform sections of the NEAR Act was the President's Task Force on 21st Century Policing, created by President Obama to identify best practices and offer recommendations

on how police practices can reduce crime while building public trust. The final report of the President's Task Force,<sup>7</sup> which was issued in 2015, is cited at least five times in the "Committee Reasoning" section of the committee report on the NEAR Act.<sup>8</sup>

In explaining the requirement for the CJCC to conduct a survey on community relations (Title II, Subtitle C), the Committee noted that other jurisdictions had sponsored similar surveys based on a Task Force recommendation, thereby generating data on public trust, perceived legitimacy of law enforcement, and procedural justice. The Committee also justified the officer training provisions of Title II, Subtitle E, and the data collection and reporting requirements of Title II, Subtitles G and H, by pointing to Task Force findings and recommendations. To link the data collecting and reporting requirements to a public health approach to crime and violence prevention, the Committee quoted a Task Force statement that, "Data collection, supervision, and accountability are also part of a comprehensive systemic approach to keeping everyone safe and protecting the rights of all involved during police encounters." The alignment between the NEAR Act and the Task Force report, which describes "trust between law enforcement agencies and the people they protect and serve" as "essential in a democracy," reflects the law's emphasis on police reform measures that build community trust and involvement.

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<sup>7</sup> See President's Task Force on 21<sup>st</sup> Century Policing, Final Report of the President's Task Force on 21<sup>st</sup> Century Policing. Washington, DC: Office of Community Oriented Policing Services, 2015.

<sup>8</sup> One of the co-chairs of the President's Task Force was Charles Ramsey, who served as chief of the Metropolitan Police Department from 1998 to early 2007.

# Objectives, Scope, and Methodology

## Objectives

ODCA's main objective was to evaluate the implementation and impacts of the Neighborhood Engagement Achieves Results (NEAR) Act of 2016, which took effect as D.C. Law 21-125 on June 30, 2016. In addition, ODCA sought to identify changes that could close any gaps between intended and actual outcomes or make NEAR Act programs more effective.

## Scope

The audit scope entails NEAR Act implementation from June 30, 2016, through June 30, 2022. Nevertheless, the report includes some data and summarizes some developments after June 30, 2022, to provide relevant context.

As noted earlier, this second ODCA report on the NEAR Act focuses on the law's police reform provisions which entail:

- Title II, Subtitle A: Community Policing Working Group.
- Title II, Subtitle B: Reestablishment of the Comprehensive Homicide Elimination Strategy Task Force.
- Title II, Subtitle C: Police-Community Relations Survey.
- Title II, Subtitle D: Assault on a Police Officer.
- Title II, Subtitle E: Officer Training.
- Title II, Subtitle F: Office of Police Complaints Independent Complaint Review Authority.
- Title II, Subtitle G: Improving Stop and Frisk and Use of Force Data Collection.
- Title II, Subtitle H: Crime Data Collection.
- Title II, Subtitle I: Officer Retention and Recruitment Incentives.
- Title II, Subtitle J: Rehiring of Retired Officers by the Department of Forensic Sciences.
- Title III: Traffic Citation Modernization for Operating a Vehicle.

## Methodology

The audit is based largely on the review and analysis of program records and data, agency reports and policy statements, court filings, and other documentary evidence. In addition, the audit draws on information and views from interviews with D.C. government officials involved in NEAR Act implementation and members of advisory, advocacy, and community groups who monitor police and public safety issues in the District of Columbia. ODCA employed a process of triangulation—forming judgments by gathering information using different methods and drawing on multiple sources, and then weighing the collective evidence about NEAR Act programs and activities. The scope of ODCA's review of documents and electronic files is summarized in Appendix A and the scope of ODCA's interviews is summarized in Appendix B.

To understand the NEAR Act and its intent, we reviewed the law, as amended, and examined the report on the legislation by the D.C. Council's Committee on the Judiciary to understand the Act's goals and objectives. We also interviewed D.C. Councilmember Kenyan McDuffie, the NEAR Act's lead author, and

the former Committee on the Judiciary director to gain additional perspective on the NEAR Act and its intent.

This report was drafted, reviewed, and approved in accordance with the standards outlined in ODCA's Audit Policies and Procedures.

# Audit Results

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The NEAR Act's police reforms have advanced procedural justice, which refers to perceived fairness in the administration of justice and the impartial exercise of police discretion.<sup>9</sup> The Office of Police Complaints (OPC), with the cooperation of the Metropolitan Police Department (MPD), has effectively implemented most NEAR Act provisions that strengthen its independent review of complaints about police misconduct such as harassment, discrimination, and unnecessary or excessive force. Complainants benefit from a longer filing period and OPC now has exclusive authority to handle a broad range of cases—changes which could bolster community trust at a time when police-community relations are under serious strain nationwide. NEAR Act changes that define certain violations (assault on a police officer and driving with an obstructed view) more precisely have also reduced the likelihood of unjustified stops or charges, thereby promoting fairness and preventing interactions that can corrode police-community ties.

MPD's implementation of a NEAR Act mandate to conduct annual, in-service training for officers on topics such as biased policing, mental and behavioral health awareness, and linguistic and cultural competency has furthered the NEAR Act's emphasis on procedural justice and collaboration between the police and the community. Consistent with the NEAR Act's direction, MPD has launched initiatives to deepen officers' understanding of racial issues and cultural history in D.C. (including a partnership with the National Museum of African American History and Culture), train officers how to intervene if they witness misconduct by other officers, and provide a minimum of 20 hours of behavioral health training to all officers.

The effective implementation of the NEAR Act sections cited above largely reflect areas of consensus (or at least the absence of major disagreement) among the Mayor's office, MPD, the Council, and criminal justice advocacy groups. For example, the Deputy Mayor for Public Safety and Justice and MPD cited the need to revise the statute governing assault on a police officer (APO), as did criminal justice reform groups. The Bowser administration did not explicitly support or oppose the NEAR Act's officer training requirements, but stated that MPD was already implementing similar trainings. Nevertheless, these advances in procedural justice were fairly modest—affecting, for example, only one criminal offense (APO) and one traffic violation.

By contrast, implementation of NEAR Act provisions emphasizing data collection, expert advice, and evidence-based policymaking to enhance accountability, transparency, and evidence-based policymaking were generally less effective. MPD did not collect and disseminate data on police stops required by the NEAR Act until the summer of 2019, and an effort MPD launched in the fall of 2019 to research and implement evidence-based policies to increase the benefits and reduce the harms of stops has not advanced significantly. MPD's partnership with The Lab @ DC, Georgetown University, and Howard University has produced three reports summarizing the discussions from a series of community workshops, presenting options for changes in MPD policy and practice, and analyzing how to conduct

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9 The final report of President Obama's Task Force on 21<sup>st</sup> Century Policing identified four principles of procedurally just behavior: (1) treating people with dignity and respect, (2) giving individuals "voice" during encounters, (3) being neutral and transparent in decision making, and (4) conveying trustworthy motives.

research on the impacts of stops in a scientifically rigorous and transparent manner, but the research on impacts in D.C.—particularly about racial disparities in stops—has not been carried out.

Other efforts to generate data as a basis for better policymaking have similarly foundered. As required by the Act, the Criminal Justice Coordinating Council commissioned a survey of police-community relations and published the results, and the Deputy Mayor for Public Safety and Justice has issued reports on felony crime data, but use of the reports has been minimal at best. Moreover, the Deputy Mayor for Public Safety and Justice's felony crime data reports have not been timely; when this report was written, the most recent report was for 2019.

NEAR Act efforts to harness expert advice through two advisory groups—a Community Policing Working Group appointed by MPD and a Comprehensive Homicide Elimination Strategy Task Force (CHEST) appointed by the Mayor and Council—have also faced roadblocks. Although the Community Policing Working Group was supposed to examine national best practices in community policing and provide recommendations to the Mayor and Council every two years, the most recent report is from 2019 and the group's work has focused on local issues rather than national best practices.<sup>10</sup> For a variety of reasons largely outside its control—such as a slow appointment process—CHEST was unable to muster a quorum needed to conduct official business through much of its existence, and was unable to transmit a final report on homicide reduction strategies to the Mayor and Council.

These shortcomings in collecting, reporting, and analyzing data, and in using expert advice point to a need for D.C. policymakers to be clear about the intended uses of data, the needs of different users or audiences (Mayor, Council, public), the tasks assigned to advisory groups, and the support provided to such groups in terms of funding, staff assistance, and logistics. Data collection requirements and the establishment of expert advisory groups, by themselves, have not demonstrably informed policy debates and decisions.

Finally, a seemingly simple NEAR Act provision—authorizing the Department of Forensic Sciences (DFS) to rehire retired MPD officers on a temporary basis to help staff its Crime Scene Sciences Division—has been marred by flawed implementation. As intended, this authority has helped DFS fill positions in Crime Scene Sciences while it recruited civilian forensic scientists to staff the division, which collects, analyzes, and preserves evidence in criminal cases. Nevertheless, many of the retired officers have been placed in permanent positions and DFS has faced difficulty recruiting civilian forensic scientists needed to fully staff the division. DFS's reliance on retired MPD officers to help staff Crime Scene Sciences, originally intended as a transitional support, continues seven years after it was first authorized but is untenable in the long run because these individuals are likely to retire permanently in the next few years.

DFS claimed to lack information on the number of retired MPD officers working in Crime Scene Sciences, reflecting a lack of planning for the future needs of this important unit.<sup>11</sup> In addition to employing retired MPD officers, the DFS Crime Scene Sciences Division has continued to receive assistance from active-duty

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<sup>10</sup> In 2022, MPD released a summary of community listening sessions in place of a working group report.

<sup>11</sup> In a January 2023 response to questions from the Council's Committee on the Judiciary and Public Safety, DFS reiterated that it did not maintain information on the number of retired MPD officers working in the Crime Scene Sciences Division.

MPD officers, thereby undermining a major goal of the Bower administration when it shifted crime scene duties from MPD to DFS in 2015: allowing MPD officers to return to other duties such as patrol.

Audit findings and recommendations follow.

# Community Policing Working Group

**The Metropolitan Police Department has not fully complied with requirements to operate a Community Policing Working Group and compliance has declined over time.**

Title II, Subtitle A of the NEAR Act (Community Policing Working Group) required the Chief of Police to appoint a Community Policing Working Group to “examine national best practices in community policing and make recommendations.” The working group was to be comprised of at least 10 members from the government, non-profit and community organizations, and academic institutions. The Act further stated that the working group was to report its recommendations on best practices in community policing to the Mayor and Council by July 1, 2017, and every two years thereafter.

The Committee on the Judiciary’s report on the NEAR Act stated that the working group was needed because the executive branch had not examined leading practices in community policing nationwide. Moreover, the Committee noted the potential for effective community policing to help mend police-community relationships frayed by highly publicized cases of police misconduct.

The NEAR Act did not define “community policing,” but the committee report cited the following definition from the Community Oriented Policing Services (COPS) office of the U.S. Department of Justice: “a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.” MPD subscribes to the tenets of community policing, dividing its seven police districts into 57 police service areas (PSAs) where officers are expected to work with residents to address crime and disorder in their neighborhoods.

MPD’s compliance with the Community Policing Working Group requirements has declined over time. MPD released the first working group report in July 2017 and issued the second report in December 2019, five months late. MPD has not published a third working group report, which was due on July 1, 2021, nor has it published the next report, which was due on July 1, 2023.

In August 2022, MPD transmitted to the Council a report titled “2021 Community Policing Working Group Report,” but this document does not fulfill the NEAR Act requirements. Instead, it summarizes the discussions at six community listening sessions sponsored by MPD and Howard University in 2021 and 2022, as well as recommendations that emerged from these meetings. Although the listening sessions and the summary report may have considerable value, there was no working group and no examination of national best practices in community policing—the statutory purpose of the Community Policing Working Group.

Moreover, the 2017 and 2019 working group reports did not fulfill the NEAR Act mandate to examine national best practices in community policing. In fact, neither report refers to any practices that have shown promise nationwide or are used in other jurisdictions.

The 2017 and 2019 working group reports drew on the experiences and perspectives of group members, as well as their discussions with MPD officials, resulting in 35 recommendations (17 in the 2017 report and 18 in the 2019 report). The recommendations touched on topics such as communication and outreach, services to specific communities, and officer training. The discussion and recommendations in each report ranged from very general to specific, as shown in Table 2.

**Table 2: Selected Discussion and Recommendations from 2017 and 2019 Community Policing Working Group Reports**

	Report Discussion	Report Recommendations
<b>General</b>	<p><b>2017 Report:</b> “The Working Group identified communication as a specific area needing improvement.”</p> <p><b>2019 Report:</b> “The Working Group discussed the need for the Department and other agencies to build upon the collaboration that already exists among D.C. government agencies.”</p>	<p><b>2017 Report:</b> “Reinforce daily, positive community interaction between officers and the public.”</p> <p><b>2019 Report:</b> “Develop a portion of officers’ field training that focuses on positive community engagement.”</p>
<b>Specific</b>	<p><b>2017 Report:</b> “(T)he ‘Officer Friendly’ program was a widely recognized MPD initiative and exemplifies successful branding.”</p> <p><b>2019 Report:</b> “The Working Group highlighted that, as upper ranking officials are promoted or transferred to new assignments within MPD, the connections built with the community are not necessarily maintained.”</p>	<p><b>2017 Report:</b> “Hire a member of the deaf and hard of hearing community to serve as an outreach specialist and support services to the community.”</p> <p><b>2019 Report:</b> “Officers should visit the Domestic Violence Intake Center as part of their training to understand the services offered to victims.”</p>

**Sources:** Report of the Metropolitan Police Department Community Working Group, July 2017, and Report of the Metropolitan Police Department Community Working Group, July 2019.

The 2019 report of the Community Policing Working Group outlined changes made by MPD in response to recommendations made in the 2017 working group report. For example, MPD stated that it had revived the “Officer Friendly” program;<sup>12</sup> issued a contract for American Sign Language services to improve the availability and quality of interpretation services; and trained officers on how to interact with community members at crime scenes. MPD did not issue a progress report on the recommendations made by the 2019 working group. Outside the police department, senior officials in the executive and legislative branches interviewed by ODCA were either unaware of the working group reports or stated that they did not find them useful.

<sup>12</sup> The Officer Friendly program, which is targeted at elementary school students, provides safety lessons on topics such as pedestrian safety and stranger awareness. The program aims to build rapport among students, parents, and officers, and to foster positive attitudes toward law enforcement.

MPD highlighted several problems with the NEAR Act mandate for a community policing working group, noting that it is difficult to recruit national experts to serve on such a panel and that an examination of national best practices is likely to revert to a discussion of police practices in D.C. and how they are working.<sup>13</sup> Moreover, then-Chief of Police Robert Contee had made the community listening sessions a priority and highlighted them in his March 2021 confirmation hearing. A senior MPD official termed the report on the listening sessions as reflecting the spirit, if not the letter, of the NEAR Act requirement for a biennial community policing working group report. ODCA acknowledges the points raised by MPD, but they do not justify ignoring the clear statutory language.

ODCA's review of the policy and research literature on community policing identified key issues that the working groups could have reviewed for best practices or could explore in the future. The following list illustrates possible topics.

- Quality of life issues, such as neighborhood blight and poor lighting, that create conditions for crime.
- Recruitment, hiring, promotion, evaluation, and retention procedures that support effective community policing, including efforts to recruit and retain qualified personnel who reflect the community's diversity.
- Organizational structure, such as the creation of specialized units and the geographic assignments of patrol officers, and its impact on community policing.
- Police department performance measures and goals that reflect the importance and effectiveness of community policing.
- Resources needed to support community policing, including technology.
- Wellness programs that help officers cope with the stress and trauma associated with police work.
- Effective responses to crisis situations involving people who are mentally ill.
- Policies on adopting, implementing, and evaluating technologies that conduct surveillance and collect data about residents and visitors.

The working group activities in 2017 and 2019 are summarized in Figure 2 (next page). Some working group members interviewed by ODCA described the group process as largely top-down. One member of both working groups described the process as "led by MPD," including the agenda, presentations, and topics. Another member who served in 2019 stated that, "They told us the agenda, what we're going to do, what the expectations were, and what kind of feedback they're looking for." Still, a different member of the 2019 working group characterized the process as fair, stating that, "I feel very strongly that my voice was indeed heard."

An alternative approach proposed by one member of both working groups would be for MPD to give the group more authority over its internal procedures and activities while charging it with examining specific, high-priority issues in community policing to make the work more practical and relevant. In this way, the working group could provide MPD with the perspective of residents on issues of concern to MPD's leadership, and relate them to national best practices.

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<sup>13</sup> A related concern is that recommendations based on national best practices could be superficial or inappropriate without an extensive discussion of current practices in D.C.

**Figure 2: Community Policing Working Group Process in 2017 and 2019**



**Sources:** Report of the Metropolitan Police Department Community Working Group, July 2017, and Report of the Metropolitan Police Department Community Working Group, December 2019.

MPD's decision to convene separate working groups in 2017 and 2019 may have hampered the groups' effectiveness.<sup>14</sup> Figure 2 shows that each group operated for four to six months (January to June 2017, and June 2019 to September 2019), possibly impeding the development of knowledge, plans, and relationships. A working group member interviewed by ODCA stated that the process was too short and asked, "Why isn't this an ongoing thing?" Another member who served on both working groups expressed the view that three meetings were insufficient for a meaningful process. Yet another member who served on both working groups cited the potential to build capacity over time, stating that, "These were the first, and again they were a little bit awkward, but it's a start."

Allowing working group members to build on their knowledge and previous discussions by serving on a more continuous basis could help realize that potential. One indication of problems with the community

<sup>14</sup> There were nine members who served on both working groups, but they accounted for less than half the membership of each group.

policing working group structure and process is that some members interviewed by ODCA had difficulty recalling that they participated. Many working group members were closely involved in multiple civic and community groups, including MPD's Citizens Advisory Councils, but the pattern was nonetheless striking. A member of the 2017 working group stated that, "I don't know that I've been a member of that." Similarly, a member of the 2019 working group stated that, "I didn't know I was a member of this group," but later recalled that she might have attended a working group meeting.

The short-term nature of the 2017 and 2019 working groups, coupled with a lack of designated leadership positions, may have hindered the working groups from setting their own priorities and work plan. Neither MPD nor the groups created formal positions, such as a working group chairperson, to guide the research and report writing. One member stated that then-Chief of Police Peter Newsham "kinda ran the discussion," but credited Chief Newsham with listening as well as speaking. Another member suggested that future iterations of the Community Policing Working Group should be "more citizen-directed as opposed to department-directed."

Research on effective group work supports the view that MPD's Community Policing Working Group would be more effective if it selected its own leader or leaders, created its own work plan, and operated on an ongoing basis with support from MPD. A group leader guides the group's activities and schedule, communicates with the parent organization and seeks out the necessary resources, helps resolve conflicts, and coordinates administrative details. A work plan provides group members with a road map and helps the group track progress. Experts in group process note that a working group or task force may need to spend its initial meetings on building relationships, setting goals, and developing rules and procedures, and that the problem-solving work begins later. This pattern suggests that a working group operating for a longer period than MPD's 2017 and 2019 working groups could be more effective.

The research literature also emphasizes that smaller teams can be more focused and efficient. Although the NEAR Act requires a community policing working group of at least 10 members, the 2017 and 2019 working groups had 24 and 21 members, respectively. Reducing the size to 10 to 15 members might help group members feel more engaged and that their attendance and involvement is more crucial to the group's success.

## Recommendations

1. The Metropolitan Police Department should convene a Community Policing Working Group of 10 to 15 members to operate on a continuous basis and examine national best practices in community policing.
2. The Community Policing Working Group should appoint its own leaders and create its own work plan in consultation with the Metropolitan Police Department.

# Comprehensive Homicide Elimination Strategy Task Force

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## **The Comprehensive Homicide Elimination Strategy Task Force was unable to submit a final report to the Mayor and Council.**

Title II, Subtitle B of the NEAR Act re-established a Comprehensive Homicide Elimination Strategy Task Force (CHEST) charged with reporting to the Mayor and Council on ways to eliminate homicide in the District of Columbia by June 30, 2017. Comprised of 20 members from government agencies, non-profits, businesses, social service and civic organizations, religious organizations, organized labor, and other sectors, CHEST was to hold at least three public meetings before submitting its final report. The Mayor and Council each were to make 10 appointments, including a task force co-chair. A previous version of CHEST, established by statute in 2007, issued its final report to the Mayor and Council in 2008.<sup>15</sup>

CHEST did not issue a final report, even though the Council amended the NEAR Act twice to extend the reporting deadline—first to June 1, 2019, and then to June 1, 2021.<sup>16</sup> In December 2020, 10 CHEST members submitted a memorandum titled, “Creation of the Mayor’s Office for Homicide Elimination, Violence Prevention, and Community Empowerment,” to the Mayor and Council Chairman, but these members were speaking for themselves and not the full task force.

Noting that the District has a number of promising violence intervention programs that are “often siloed” and “could benefit from enhanced coordination,” the memo called on the Mayor to create an Office for Homicide Elimination, Violence Prevention, and Community Empowerment within the Office of the City Administrator. The new office would “develop, coordinate, and execute a District-wide public health approach to violence prevention and homicide elimination,” working across agencies and sectors.<sup>17</sup> The memo reflects CHEST members’ emphasis on making a small number of recommendations that could have the greatest impact and the need to institutionalize a multi-sector, cross-agency approach to preventing homicide.

It proved impossible for CHEST to submit a report to the Mayor and Council by the original deadline of June 30, 2017, because only five of 20 members had been appointed by that date. In fact, CHEST did not hold its first meeting until March 6, 2018.

Mayor Bowser made five appointments with an effective date of March 3, 2017, and named four more appointees after June 30, 2017 (the Mayor never made a 10<sup>th</sup> appointment). The Council Chairman made

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<sup>15</sup> The previous version of CHEST was established by section 501 of D.C. Law 16-262, the “Homeland Security, Risk Reduction, and Preparedness Act of 2006,” which took effect on March 14, 2007.

<sup>16</sup> Section 104 of D.C. Law 22-124, the “Fiscal Year 2018 Budget Support Clarification Amendment Act of 2017,” changed the report’s due date to June 1, 2019. Section 1001 of D.C. Law 23-274, the “Omnibus Public Safety and Justice Amendment Act of 2020,” changed the report’s due date to June 1, 2021.

<sup>17</sup> In January 2021, Mayor Bowser appointed the District’s first director of gun violence prevention, who is part of the Office of the City Administrator and performs a coordinating role somewhat similar to that envisioned in the CHEST members’ memo.

the Council's 10 appointments in a memorandum dated December 1, 2017. Table 3 lists the mayoral and Council appointees along with their effective dates.

**Table 3: Mayor and Council Appointments to the Comprehensive Homicide Elimination Strategy Task Force**

<b>Mayoral Appointments</b>	<b>Effective Date</b>	<b>Council Appointments</b>	<b>Effective Date</b>
Akosua Ali	March 3, 2017	Aaron Alexander	December 1, 2017
Bradley Holmes	March 3, 2017	David Bowers	December 1, 2017
Michelle Palmer	March 3, 2017	David Dzidzienyo	December 1, 2017
Tyrone Parker	March 3, 2017	Kristin Eliason	December 1, 2017
Barney Shapiro	March 3, 2017	Eduardo Ferrer	December 1, 2017
Johnny Allem	August 31, 2017	Rhonda Hamilton	December 1, 2017
Dierdre Brown	August 31, 2017	Jason Jones	December 1, 2017
Sean Gough	August 31, 2017	Natalie Marlow-Otero	December 1, 2017
Fred Jackson	October 21, 2017	Michele May	December 1, 2017
Olivia Henderson	November 7, 2019	LaShonia Thompson-El	December 1, 2017
		April Preston	November 5, 2019

**Sources:** Mayor's Office of Talent and Appointments and Mayor's Orders 2017-144, 2017-198, and 2019-117.

**Notes:** Olivia Henderson was appointed by the Mayor to replace Dierdre Brown. April Preston was appointed by the Council Chairman to replace Michele May.

CHEST members interviewed by ODCA stated that the lag between the Mayor's appointments and the Council's appointments hampered operations from the outset, because the task force lacked the 11 members needed to attain a quorum and conduct official business until December 2017. As originally enacted, the NEAR Act did not define a quorum for CHEST, but the Office of the Attorney General has issued advice, based on common law, that a quorum is a majority of a board or commission's membership if not explicitly set by statute.

Some mayoral appointees became immersed in other civic activities between the time of their appointment and the start of CHEST's work in March 2018, and the group had difficulty establishing a quorum after all appointments were made. The quorum problem became self-perpetuating, because members did not see value in participating when others did not seem engaged and the group could not take official action. One member stated that the quorum issue "made it difficult to get any momentum" and another stated that CHEST "spinned their wheels at the beginning."

The Council included language in the Omnibus Public Safety and Justice Amendment Act of 2020 that defined a quorum as one-third of CHEST's membership, but the quorum problem continued because

interest had already waned and the Covid pandemic further impeded participation. Moreover, there were no new appointments to CHEST after November 2019. One member noted that the number of active participants dwindled to six or seven—and a quorum requirement of one-third requires seven members to be present.

Some CHEST members saw the difficulties with the appointment process as emblematic of a lack of interest or support for the task force's work. One member described the group as operating in "a vacuum" and lacking an "intentional bridge" to the government, while another member cited "low to no expectations from the Mayor and Council." The perception that the D.C. government does not value the time or expertise of volunteer task force members, in turn, can hinder future civic involvement. One member cited the word "demoralized" as encapsulating the experience of serving on CHEST, while another noted that individuals who are deeply invested in anti-violence work may feel like their efforts were wasted.

CHEST members cited several other constraints on their ability to operate effectively, noting that it was difficult to tackle the complex and multifaceted issue of homicide prevention without dedicated funding and staff to do research and analysis. Members stated that the task force received help from staff of the Office of Neighborhood Safety and Engagement and the Deputy Mayor for Public Safety and Justice, but that task force members did most of the planning, research, and writing themselves. Finally, members cited logistical problems, such as difficulty getting a roster of CHEST members with their contact information and required ethics trainings that had to be rescheduled because the trainers did not show up.

CHEST reviewed the report of its predecessor task force and the report of the Mayor's Safer, Stronger DC Advisory Committee, while also hearing presentations from key D.C. government officials (such as then-Deputy Mayor for Public Safety and Justice Kevin Donahue), and agencies (such as the Office of Neighborhood Safety and Engagement), and non-governmental groups (such as Moms Demand Action and Cure Violence). Even though CHEST did not produce a final report, the group sought to support homicide reduction initiatives in other ways.

In 2021, CHEST requested that Council committees ask agencies under their purview four standard questions about homicide reduction efforts before annual hearings on agency performance. At least five committees—Government Operations and Facilities, Health, Housing and Executive Administration, Human Services, and Judiciary and Public Safety—posed the questions drafted by CHEST, which are shown in Table 4 (next page).<sup>18</sup>

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<sup>18</sup> Agency responses to the questions varied. Agencies such as the Office of Victim Services and Justice Grants, Office on Returning Citizen Affairs, Department of Human Services, and Department of Aging and Community Living provided detailed responses about their programs to prevent violence, allocation of resources, and collaboration with other agencies. On the other hand, the Office of Veterans Affairs replied that, "This initiative is not within the mission and scope of MOVA."

**Table 4: Performance Oversight Hearing Questions  
Prepared by the Comprehensive Homicide Elimination Strategy Task Force**

- 1.** Please describe three initiatives, programs, or projects currently underway within your agency directed at preventing homicide in the District.
- 2.** Please describe the resources currently allocated to these initiatives, programs, or projects, and describe what additional resources you would need to improve the efficiency or scale of these efforts.
- 3.** Please describe how your agency is working collaboratively with other District agencies toward the goal of reducing homicides. Please also describe how your agency is engaging non-governmental organizations and the community at large on the issue of homicide prevention.
- 4.** Please describe how you currently measure (or would measure) the efficacy of the aforementioned initiatives, programs, or projects. Additionally, if these metrics related to homicide prevention were added to your Key Performance Indicators, what should these metrics be?

**Source:** D.C. Council website, <https://dccouncil.gov/performance-oversight-2021/>.

**Note:** The questions prepared by CHEST also asked agencies that did not have homicide reduction initiatives underway to describe efforts they could undertake.

After the Bowser administration launched the Building Blocks DC program in February 2021 to focus on 151 blocks that accounted for 41% of gun crimes, and to use public health techniques to connect people affected by gun violence to programs and services, CHEST co-chair Eduardo Ferrer expressed CHEST members' interest in serving on a Building Blocks advisory group.<sup>19</sup> Nevertheless, the effort by CHEST to partner with the executive branch on this and other initiatives was unsuccessful.

There are no statutory limits on the terms of CHEST members, but in early 2023 the remaining active members of CHEST decided that it was an appropriate time to cease operations, and several submitted letters of resignation.<sup>20</sup> Because CHEST is no longer operating, and because the NEAR Act did not envision CHEST as an ongoing body, ODCA recommends that the Council amend the NEAR Act to sunset the task force officially.<sup>21</sup>

## **Recommendation**

- 3.** The Council should amend the NEAR Act to sunset the Comprehensive Homicide Elimination Strategy Task Force.

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<sup>19</sup> Building Blocks also awards violence prevention grants to community-based organizations, faith-based organizations, and small businesses.

<sup>20</sup> Those resigning included co-chair Eduardo Ferrer (the other co-chair, Michelle Palmer, had previously resigned), David Bowers, and Natalia Marlow-Otero.

<sup>21</sup> Section 203 of the NEAR Act originally stated that, "Immediately following the presentation of its report, the Task Force shall be dissolved." This sentence was deleted by D.C. Law 22-124, the "Fiscal Year 2018 Budget Support Clarification Amendment Act of 2017," effective July 3, 2018, but the law does not prescribe any responsibilities for CHEST other than submitting the report to the Mayor and Council.

# Police-Community Relations Survey

**The Criminal Justice Coordinating Council conducted a survey of police-community relations in the District of Columbia and reported the results to the Mayor and Council.**

Title II, Subtitle C of the NEAR Act (Police-Community Relations Survey) required the Criminal Justice Coordinating Council (CJCC) to conduct a survey of police-community relations in the District of Columbia and report the results to the Mayor and Council by January 31, 2017. CJCC's mission is to provide a forum for D.C. and federal officials to identify and address cross-cutting law enforcement and juvenile justice issues. The local and federal leaders who comprise the CJCC's 18 members include the Mayor, Council Chairman, Chairperson of the Council's Committee on the Judiciary and Public Safety, D.C. Attorney General, Chief of the Metropolitan Police Department, Chief Judge of D.C. Superior Court, and U.S. Attorney for the District of Columbia.

To explain the rationale for the police-community relations survey, the Committee on the Judiciary stated in its NEAR Act report that, "It is difficult for government to make informed policy decisions without a thorough analysis of where we stand today." The Committee observed that, "A number of jurisdictions have chosen to conduct similar surveys, in part at the recommendation of the Task Force on 21<sup>st</sup> Century Policing. Such surveys commonly measure public trust in law enforcement, perceived legitimacy, and evaluate the community's views on procedural justice."

The CJCC could not complete the police-community relations survey by the statutory deadline of January 31, 2017, because the FY 2017 budget did not include the necessary funding.<sup>22</sup> As a result, section 901 of the NEAR Act stated that the provision would not take effect until its fiscal effect was reflected in an approved budget and financial plan. Full implementation of the NEAR Act began on October 1, 2017, after the Mayor and Council enacted an FY 2018 budget that included enough funding to implement all parts of the NEAR Act, including the police-community relations survey.<sup>23</sup>

In June 2018, the Office of Contracting and Procurement entered into a firm fixed-price contract with CRP, Inc., to conduct the survey for the CJCC. CRP submitted the final report on the survey results in March 2019. The total cost of the contract was just under \$150,000 (\$149,988.46).

CRP used representative sampling procedures to pose a set of 25 questions to more than 2,100 residents reflecting the demographic makeup of the D.C. population. The survey questions probed three key factors that affect community perceptions of police: community policing, procedural justice, and legitimacy.

The final report stated that, "A key take-away is that ... findings and conclusions demonstrated a solid foundation of support on which to build public trust." Survey respondents generally reported that their interactions with police in routine, non-emergency situations were positive, while also expressing trust

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<sup>22</sup> The Chief Financial Officer estimated that it would cost the CJCC \$220,000 to conduct the survey, which had not been budgeted at the time the NEAR Act was approved.

<sup>23</sup> D.C. Law 22-33, the "Fiscal Year 2018 Budget Support Act of 2017," repealed the language that froze the implementation of NEAR Act sections 101-105, 201-204, and 209-210.

in police and willingness to obey officers. Nevertheless, Black residents reported less favorable views of police in a number of scenarios and were three times more likely than white residents to have been stopped by police in the past year. Although respondents could report their perceptions of any police agency operating in the District, nearly three-quarters reported contacts with MPD officers. See Appendix C for more detail about survey respondents' views on community policing, procedural justice, and legitimacy.

An issue for D.C. policymakers to consider is whether to repeat the police-community survey at regular intervals, such as every two years. President Obama's Task Force on 21<sup>st</sup> Century Policing recommended periodic community surveys about policing to assess progress (or the lack thereof) and promote accountability. The Task Force concluded that:

Law enforcement agencies should track the level of trust in police just as they measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.

In a 2016 report that discussed ways for MPD to apply the recommendations of the President's Task Force, the Police Complaints Board stated that, "MPD should, at systematic intervals, issue localized surveys to residents to identify perceived public safety problems amongst residents and 'take the temperature' of the community in order to effectively identify concerns and collaborate with citizens on customized solutions."<sup>24</sup> CRP, Inc.'s final report summarizing the D.C. police-community relations survey similarly called for "routine community surveys" that capture the same variables over time.

Police officials and civic leaders in Los Angeles have followed this approach. The Thomas and Dorothy Leavy Center for the Study of Los Angeles (part of Loyola Marymount University) conducted its second survey of police-community relations in 2022 (the first survey was performed in 2020) and a follow-up survey was planned for 2023. Other experts and organizations, including the International Association of Chiefs of Police, have noted that longitudinal surveys could measure police-community relations for an entire jurisdiction while looking more closely at community views in certain neighborhoods, such as those experiencing the highest levels of crime.

Since the CJCC published the police-community relations survey in 2019, public trust and confidence in the D.C. police may have changed significantly due to the killing of George Floyd by a Minneapolis police officer in 2020, subsequent protests of police brutality in D.C., and the Council's enactment of legislation on police and criminal justice reform. The Council also created a D.C. Police Reform Commission to examine police practices in the District and recommend evidence-based reforms. The Commission published its final report in April 2021, adding to a robust ongoing public discussion of police practices and performance.

On the other hand, it is not clear how extensively the police-community relations survey results have been used by D.C. officials and others concerned about policing and criminal justice issues. Key stakeholders

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<sup>24</sup> This report is titled, "21<sup>st</sup> Century Policing: Report and Recommendations of the Police Complaints Board."

interviewed by ODCA did not identify direct impacts of the survey results on police policies or practices, but one senior official credited the survey with enhancing her understanding of police-community relations and the perspectives of different subgroups.

The cost of the 2019 police-community relations survey (\$149,888.16) is relatively small compared to the CJCC's FY 2023 budget of nearly \$4.8 million. Accounting for inflation, a reasonable estimate is that it would cost at least \$175,000 to repeat the survey in 2023.<sup>25</sup>

ODCA concludes that the benefits of repeating the police-community survey are likely to outweigh the costs because the national and local discourse on policing has changed and become even more highly charged since 2019. Therefore, it would be useful to measure changes in community attitudes toward the police and the public's willingness to cooperate in preventing and solving crimes—and to conduct more in-depth surveys in select neighborhoods, as recommended by the International Association of Chiefs of Police. Such an approach could help MPD tailor its community outreach and policing strategies, although sampling select neighborhoods (in addition to a representative sample of residents citywide) would also increase costs. CJCC could also help publicize the survey findings and explore their policy implications through public meetings and the training and technical assistance sessions it sponsors for criminal justice partners.

## Recommendation

4. The Mayor and Council should provide the Criminal Justice Coordinating Council with ongoing funding to repeat the survey of police-community relations biennially to assess changes in community trust and involvement and identify areas where improvements are needed.

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25 There might be ways to offset the cost of repeating the police-community relations survey. For example, the CJCC is subject to other statutory requirements to report periodically on human trafficking, the root causes of youth incarceration, and youth sentencing and recidivism which could be modified or streamlined.

# Assault on a Police Officer

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## **The revised definition of assault on a police officer (APO) established by the NEAR Act is associated with a sharp reduction in arrests, court charges, and convictions for APO.**

Title II, Subtitle D of the NEAR Act (Assault on a Police Officer) narrowed the definition of assault on a police officer (APO) and established a separate offense for resisting arrest. These changes were prompted by concern that the existing APO statute was overly broad and included actions that did not involve physical assault on an officer.

Prior to the NEAR Act changes, the APO statute provided that:

Whoever without justifiable and excusable cause, assaults, resists, opposes, impedes, intimidates, or interferes with a law enforcement officer on account of, or while that law enforcement officer is engaged in the performance of his or her official duties shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned not more than 180 days or fined not more than the amount set forth in § 22-3571.01, or both.<sup>26</sup>

The Judiciary Committee's report on the NEAR Act cited the inclusion of resisting, opposing, impeding, intimidating, or interfering with a law enforcement officer in the definition of APO as problematic, noting that people who wiggled while handcuffed, braced a hand on the steering wheel during an arrest, or yelled at an officer had been charged with APO. The Committee cited expert testimony recommending reform of the provision as well as a statement by then-Chief of Police Cathy Lanier that, "The language is so broad, overly broad. That allows for too many things to fit into that category. So some of what's included in that is no physical assault at all."

The Committee also highlighted damaging consequences of the existing APO statute reported in an investigation by WAMU 88.5 and the Investigative Reporting Workshop at American University. Based on an analysis of nearly 2,000 APO cases from 2012 to 2014, the investigation found that:

- 90% of those charged with APO in the District of Columbia were Black, even though Black residents comprised approximately 50% of the District's population.
- Nearly two-thirds of those arrested with APO were not charged with any other crime, suggesting a weak legal justification for police to stop the individual.
- A higher proportion of individuals charged with APO needed medical attention after the incident than did police officers who were involved.
- The APO charge was issued three times more frequently in the District than in cities of comparable size.
- Prosecutors declined to press charges in 40% of APO arrests.<sup>27</sup>

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26 This language was found in D.C. Code § 22-405(b).

27 The D.C. Police Union challenged the conclusions of this investigation. For example, the union noted that D.C. may have had a higher rate of APO charges because other jurisdictions record resisting arrest or interfering with an arrest as a separate charge, whereas in D.C. those actions fell under the definition of APO at that time.

An ODCA report issued in January 2016, *The Durability of Police Reform: The Metropolitan Police Department and Use of Force, 2008-2015*, also described the pre-NEAR Act language of the APO statute as overly broad. The report noted that, “The statute’s vague language allowed arrests for conduct that did not match the common understanding of assaultive behavior, and accorded MPD officers broad discretion to make arrests for mere non-compliance with police officer commands. In some cases, relatively trivial instances of non-violent non-compliance … led to misdemeanor arrests for assault on a police officer.”<sup>28</sup> MPD agreed with the report’s recommendation to amend the statutory definition of APO to cover only actual assault, and pointed out that Mayor Bowser had proposed legislation to clarify the definition of APO and create a separate offense of resisting arrest.<sup>29</sup>

Based on the hearing testimony and an analysis of APO statutes in other states, the Committee (1) removed the language about resisting, opposing, impeding, intimidating, or interfering with a law enforcement officer from the definition of APO, and (2) added a separate definition of resisting arrest to allow officers to charge the offense most appropriate to the individual’s behavior. The NEAR Act affected only the misdemeanor charge of APO, leaving in place a felony charge for assault on a police officer that causes or creates a grave risk of bodily injury.<sup>30</sup>

To identify trends in APO arrests and convictions before and after the NEAR Act became law, and to measure use of the new charge of resisting arrest, ODCA examined MPD arrest data from 2013 to 2021 and reviewed court data for 2016-2019 compiled by the Deputy Mayor for Public Safety and Justice. As explained below, the data indicate a sharp drop in arrests, court charges, and convictions for APO. The number of arrests for resisting arrest offsets only a very small portion of the drop in arrests for APO.

**Arrests for APO.** ODCA examined MPD arrest data from 2013 to 2021 to provide several years of data on APO arrests before and after the NEAR Act took effect on June 30, 2016. The arrest data are classified by the “top charge” (most serious charge) that led to the arrest. Although this excludes cases in which APO was a secondary charge from the analysis, the data are relevant and appropriate because the changes to APO were partly motivated by concern that APO was used as a single, catchall charge when an individual had not committed any other violation—and even as a way to justify cases of police brutality.

The arrest data depicted in Figure 3 (next page) show a sharp drop in arrests (adult and juvenile) for APO that coincides with the implementation of the NEAR Act. Although the number of arrests with APO as the top charge fell from 2013 to 2015, such arrests fell much more sharply between 2015 (the last full year before the NEAR Act took effect) and 2017 (the first full year in which the NEAR Act was in effect). Arrests with a top charge of APO dropped 37%, from 818 in 2015 to 517 in 2017. Since 2017, these arrests have continued to fall, dipping below 400 in both 2020 and 2021. Between 2015 and 2021, top-charge APO arrests fell by more than half (52%), from 818 to 395.

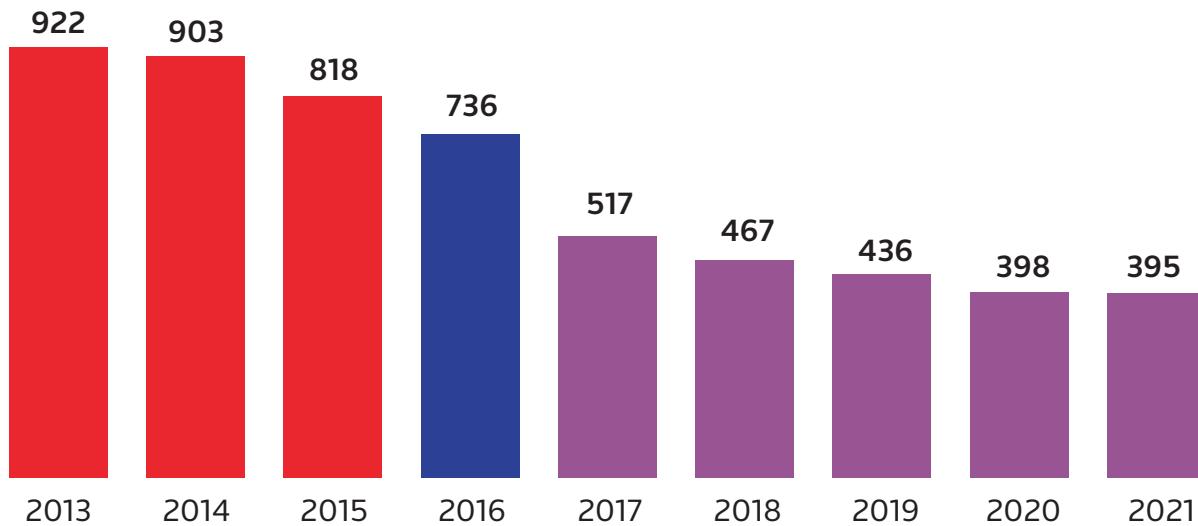
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28 See Office of the District of Columbia Auditor, *The Durability of Police Reform: The Metropolitan Police Department and Use of Force, 2008-2015*, p. xv.

29 This legislation was Bill 21-357, the “Public Safety and Criminal Code Revisions Act of 2015,” introduced by Chairman Mendelson at the request of Mayor Bowser. The Council did not enact this legislation.

30 The NEAR Act also left unchanged the definition of “law enforcement officer,” which includes officers of any police force operating and authorized to act in the District of Columbia, as well as MPD reserve officers or civilian employees, special police officers, and officers and employees of a correctional institution or other designated agencies.

Figure 3: Arrests with APO as Top Charge, 2013–2021



Source: Metropolitan Police Department data on top charges in adult and juvenile arrests.

Note: The years 2013–2015 are highlighted in red to reflect the pre-NEAR Act period, whereas the years 2017–2021 are highlighted in purple to reflect the post-NEAR Act period. The year 2016 is highlighted in blue because the NEAR took effect in the middle of the year (June 30, 2016).

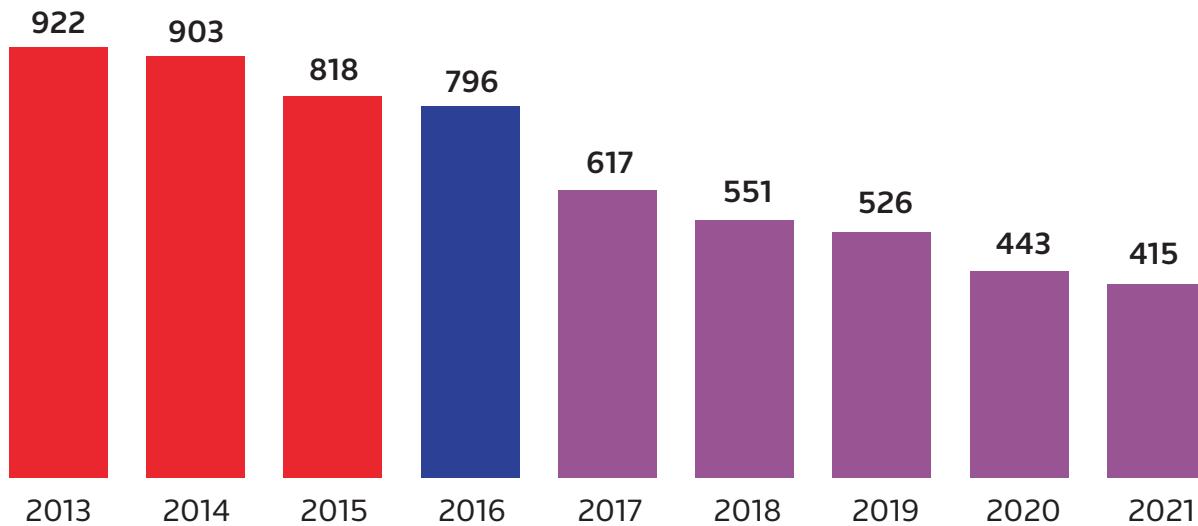
Although many factors could affect the change in APO arrests—changes in police directives, officer practices, or a pandemic can affect crime—the sharp decline in APO arrests at the time the NEAR Act became law suggests a direct, causal link.

MPD conducted three internal audits to review whether officers were applying the revised definition of APO and the new offense of resisting arrest correctly. As summarized below, the audits concluded that officers were almost always classifying both charges appropriately. In addition, the first audit found that use of the APO charge had dropped since the NEAR Act became law.

- The first audit, completed in 2018, found that 87% of APO arrests in a sample from 2016 and 2017 were properly classified but that the remaining cases either lacked sufficient documentation to make a determination, or seemed more appropriately classified as resisting arrest.
- The second audit, finished in 2020, concluded that 98% of arrests involving a charge of APO, resisting arrest, or both were properly classified in a sample from 2017 and 2018.
- The third audit, completed in 2021, found that all of the arrests for APO or resisting arrest in a sample from 2019 and 2020 were properly classified.

**Arrests for resisting arrest.** Although the sharp drop in arrests for APO could have been offset by arrests for the new offense of resisting arrest, the data do not show such a pattern. ODCA’s analysis of MPD arrest data show that annual arrests (adult and juvenile) with resisting arrest as the top charge have never exceeded 100 and have been as low as 20. Figure 4 (next page) shows the trend in total top-charge arrests for APO and resisting arrest, again showing a sharp decline since the NEAR Act took effect. Total top-charge arrests for APO in 2015 (818) were almost twice the number of combined top-charge arrests for APO and resisting arrest in 2021 (415).

Figure 4: Arrests with APO or Resisting Arrest as Top Charge, 2013–2021



Source: Metropolitan Police Department data on top charges in adult and juvenile arrests.

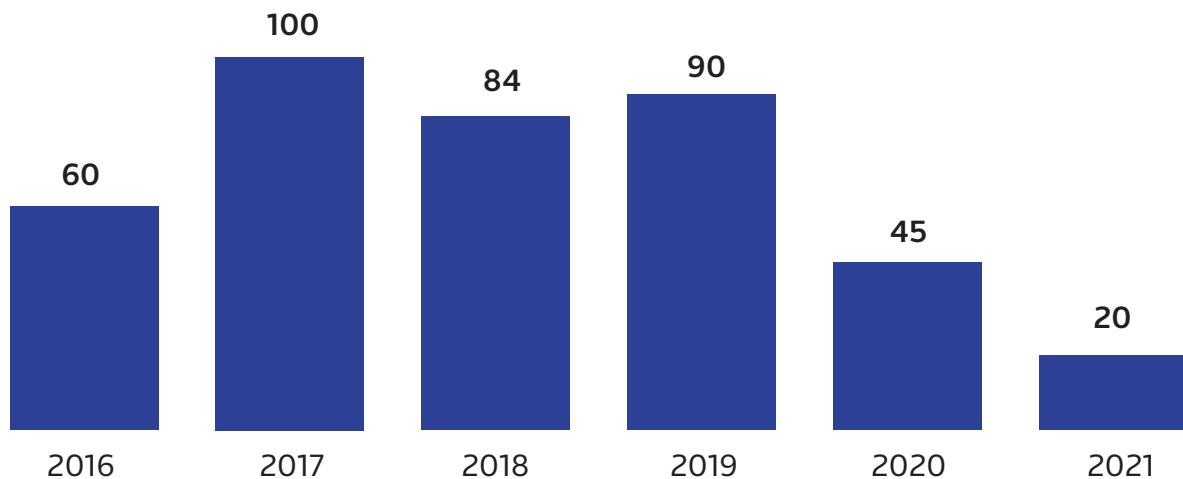
Note: The years 2013–2015 are highlighted in red to reflect the pre-NEAR Act period, whereas the years 2017–2021 are highlighted in purple to reflect the post-NEAR Act period. The year 2016 is highlighted in blue because the NEAR Act took effect in the middle of the year (June 30, 2016).

Top charges for resisting arrest have been on a sharp decline since the NEAR Act established the offense. The highest number of such arrests (100) was recorded in 2017, and the lowest number (20) was recorded in 2021 (see Figure 5 on the next page).

**Court charges and convictions.** ODCA was able to access only limited data on court charges and convictions for APO, drawing on annual reports on felony crime data published by the Deputy Mayor for Public Safety and Justice for 2016 to 2019. The NEAR Act requirement for the Deputy Mayor to prepare these reports took effect in 2016 and the 2019 report was the most recent at the time of this writing (see the Crime Data Collection section of this report for more details).

Although the NEAR Act was in effect for most of the 2016 to 2019 period (June 30, 2016, onward), a court case filed in 2016 (for example) might stem from an arrest made in 2014 or 2015. Therefore, these data reflect the flow of both pre-NEAR Act and post-NEAR Act APO arrests through the judicial system.

**Figure 5: Arrests with Resisting Arrest as Top Charge, 2013–2021**



**Source:** Metropolitan Police Department data on top charges in adult and juvenile arrests.

**Note:** The offense of resisting arrest was created by the NEAR Act, which took effect on June 30, 2016.

The data show a sharp drop both for APO charges filed in D.C. Superior Court as well as convictions on the charges. From 2016 to 2019, the number of APO charges (misdemeanor and felony) filed fell by 92%, from 803 to 65.<sup>31</sup> Fewer than 20 individuals were convicted of APO in D.C. Superior Court during 2019, down from more than 200 in 2016 (the data-sharing agreement between the D.C. Superior Court and the Deputy Mayor for Public Safety and Justice bars the Deputy Mayor from providing exact counts for categories with less than 20 cases).

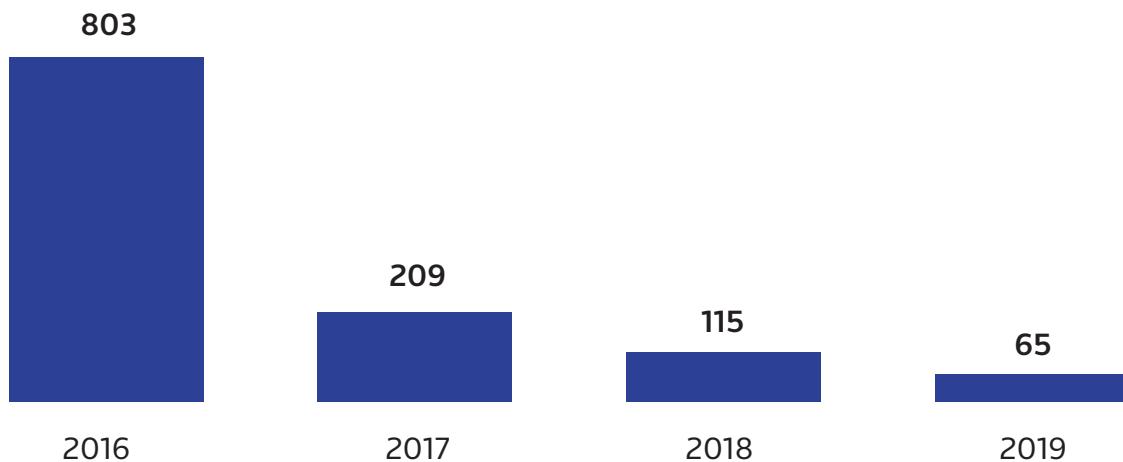
Figure 6 (next page) displays the number of APO charges filed in D.C. Superior Court from 2016 to 2019.

One reason for the very sharp drop in court charges and convictions for APO cited above, according to legal and criminal justice experts, is that prosecutors may choose to file charges of simple assault against defendants who were arrested for APO. Before the NEAR Act took effect, a misdemeanor charge of APO was punishable by up to 180 days in jail (a sentence which does not involve a right to demand a jury trial), whereas the NEAR Act allows for a six-month sentence, which is jury-demandable.

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<sup>31</sup> The D.C. Criminal Code Revision Commission also reported a sharp drop in APO court charges between 2017 and 2018.

**Figure 6: Assault on a Police Officer Charges Filed in D.C. Superior Court, 2016–2019**



Source: Office of the Deputy Mayor for Public Safety and Justice, annual reports on felony crime in the District of Columbia, 2016–2019.

Noting an increase in the number of court charges filed for simple assault (which is not jury-demandable) between 2017 and 2018, the Criminal Code Revision Commission stated that:

The elements of the simple assault offense are identical to the prior APO offense, except that the complainant's status as a law enforcement officer need not be proven. And the NEAR Act did not explicitly preclude prosecutors from using their discretion to charge what had previously been an APO case as a simple assault ... the shift in charges (to) simple assault suggests these charging decisions may be based on jury demandability rather than how the facts fit the law.

# Officer Training

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## **The Metropolitan Police Department has provided officers with in-service training in the six areas mandated by the NEAR Act.**

Since 2000, MPD officers have been required to receive at least 32 hours of continuing education every year. Title II, Subtitle E (Officer Training) of the NEAR Act specified that annual continuing education (also called in-service training) for officers must include instruction in the following six topics:

1. Community policing.
2. Recognizing and preventing biased-based policing.
3. Use of force.
4. Limitations on the use of chokeholds and neck restraints.
5. Mental and behavioral health awareness.
6. Linguistic and cultural competency.

The NEAR Act's officer training requirements were informed by the report of President Obama's Task Force on 21<sup>st</sup> Century Policing, which noted that police must respond to many challenges facing a more pluralistic society, including international terrorism, new technologies, rising immigration, and a growing mental health crisis. To help police address these issues more effectively, the Task Force recommended officer training in certain subjects, many of which are reflected in the NEAR Act mandate,<sup>32</sup> as well as higher levels of education for officers.

In practice, MPD goes beyond the statutory requirement by mandating 40 hours of continuing education for sworn officers every year, which can be provided in workshops or classrooms, electronically, at officer roll calls, on the job, or through off-site conferences. The continuing education builds on the training that new officers receive at the Maurice Turner, Jr., Metropolitan Police Academy and in 15 weeks of field training. Training at the Academy covers topics such as crimes against persons and property, rules of evidence, and investigative patrol techniques.

MPD has fulfilled the NEAR Act requirement to provide annual continuing education on the six topics. Table 5 (next page) shows the training offered by MPD on each topic in FY 2021 along with the method of delivering the training. ODCA also reviewed MPD's training courses for FY 2017 through FY 2020, which showed that MPD complied during those years as well.

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<sup>32</sup> For example, the Task Force recommended training in community policing, mental health, and language and cultural responsiveness, all of which are covered in Title II, Subtitle E of the NEAR Act.

**Table 5: Metropolitan Police Department Continuing Education  
in FY 2021 by NEAR Act Training Category**

<b>NEAR Act Training Category</b>	<b>Title of Training</b>	<b>Instructors</b>
<b>Community Policing</b>	Treat People Right	Roll-Call Sergeants
	Discretion	In-House Experts
<b>Recognizing and Preventing Biased-Based Policing</b>	History of Race and Violent Crime in D.C.	UDC Professors Sharita Thompson and Bernard Demczuk
<b>Use of Force</b>	Use of Force	Online Module
	Use of Force—Responding to Service Calls	Online Module
	Phase 1: Pistol Requalification	Online Module
	Phase 2: Pistol Requalification	In-House Experts
<b>Limitations on the Use of Chokeholds and Neck Restraints</b>	Use of Neck Restraints Policy	Online Module
<b>Mental and Behavioral Health Awareness</b>	Autism and Police Interactions	Roll-Call Sergeants
	Crisis Intervention for First Responders	Roll-Call Sergeants
	Alzheimer's and Dementia	Roll-Call Sergeants
	Searches of Mental Health Consumers	Roll-Call Sergeants
	Identifying and Overcoming Officer Burnout	Roll-Call Sergeants
	Coping in the Aftermath of the Attack on the U.S. Capitol	Roll-Call Sergeants
	Professional Counseling for Stress	Roll-Call Sergeants
	Importance of Mentoring	Roll-Call Sergeants
	Mindfulness	Roll-Call Sergeants
	Healthy Eating	Roll-Call Sergeants
	Officer Health and Wellness	In-House Experts
	Language Line App Reminder	Roll-Call Sergeants
<b>Linguistic and Cultural Competency</b>	Language Access Refresher Training	Online Module
	Hate Crimes and Violent Extremism	Anti-Defamation League

Source: Metropolitan Police Department.

The continuing education summarized above in Table 5 varies in intensity. For example, the “History of Race and Violent Crime in D.C.” is a four-hour course, whereas the trainings provided by MPD sergeants at daily officer roll calls are described by the department as “instruction or informational sessions of

short duration administered to sworn members, usually during their tour of duty.”<sup>33</sup> MPD counts roll-call training as .1 hours of continuing education. Notably, all but one of the FY 2021 trainings on mental and behavioral health awareness were roll-call trainings, but there were multiple offerings on this subject, some pertaining to residents’ mental health (such as “Alzheimer’s and Dementia”) and others concerning officers’ mental health (such as “Identifying and Overcoming Officer Burnout”).

Some of the FY 2021 continuing education courses listed in Table 5 could also qualify for multiple NEAR Act categories. For example, the class on the “History of Race and Violence Crime in D.C.,” classified by MPD as training on recognizing and preventing biased policing, could also qualify as training in linguistic and cultural competency. Similarly, the “Language Access Refresher Training,” categorized by MPD as training in linguistic and cultural competency, might also be valuable for community policing.

Senior MPD officials expressed the view that the department had initiated training in the required areas prior to the NEAR Act, but the law reinforced their importance and may have kept the topics in focus. MPD has implemented, or is implementing, several major training initiatives that support the NEAR Act’s training mandates.

In 2018, MPD launched a training partnership with the University of the District of Columbia (UDC) which draws on the resources of the National Museum of African American History and Culture (NMAAHC) to train officers in community policing, recognizing and preventing biased policing, and cultural competency. The partnership involves training in Black history and culture for all officers and MPD civilians, who undergo the training in groups of 25 to 30. UDC professors Sharita Thompson and Bernard Demczuk facilitate the training, which has included the following three phases:

- Phase 1 (2018-2019), a 10-hour class including a six-hour guided tour and discussion at the NMAAHC. This class covered the historical relationship of police to Black Americans nationwide and in D.C. to help officers understand community perspectives so they can engage more effectively with residents and build trust.
- Phase 2 (2020-2021), a four-hour class on focusing on Black history and the culture of policing.
- Phase 3 (2022-2023), a four-hour class focusing on the history of race as well as violence in urban centers and D.C., while also discussing discriminatory practices such as redlining and restrictive racial covenants.<sup>34</sup>

Although MPD extended the UDC partnership beyond the first phase based on feedback from officers and civilians who asked for more training on Black history and culture, plans to evaluate the program formally, announced in 2019, had not been fulfilled at the time of this writing. MPD had stated that it was working with The Lab @ DC on the evaluation, and that the evaluation would be completed by the end of FY 2021, but progress was delayed by the Covid pandemic and staff turnover. The project goal is to publish the results in a peer-reviewed journal, the timing of which is uncertain.

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33 See MPD General Order GO-PER-404.6, “Roll-Call Training,” effective July 31, 2002.

34 “Redlining” refers to racial discrimination in housing stemming from government maps that deemed predominantly black areas to represent risky investments, effectively barring blacks in those areas from obtaining mortgages from mainstream banks. “Racial covenants” refer to clauses included in property deeds that prevent non-whites from buying or occupying land.

In 2021, MPD joined a new national training program to provide officers with the skills to intervene effectively when they witness inappropriate or excessive use of force (and to accept intervention from peers). Known as Active Bystandership for Law Enforcement (ABLE), this training was developed by Georgetown Law's Center for Innovations in Community Safety and the Sheppard Mullin law firm, and builds on the well-regarded Ethical Policing Is Courageous program which started in New Orleans. ABLE involves eight hours of training for all officers, followed by two hours of refresher training each year, focusing on high-stress, high-stakes scenarios that officers face and striving to make a culture of peer intervention the norm. More than 100 police departments in the U.S. have joined ABLE, including those in New York, Los Angeles, and Chicago.

Finally, MPD is strengthening its training requirements for behavioral health knowledge and awareness by requiring all officers to undergo either crisis intervention officer (CIO) training (which entails 40 hours of training on behavioral health) or mental health first aid training (which involves 20 hours) over the next two years. The Department of Behavioral Health manages both training programs. The CIO program, which began in 2009, has trained approximately 100 MPD officers each year. Mental Health First Aid is a national program, sponsored by the National Council for Mental Wellbeing and the Missouri Department of Mental Health, that trains people to provide initial help and support to people who may be experiencing a behavioral health crisis.

Since the NEAR Act became law, the Council has expanded the mandatory continuing education requirements for MPD officers—most recently by enacting D.C. Law 24-345, the “Comprehensive Policing and Justice Reform Amendment Act of 2022,” which took effect on April 21, 2023. These changes, which are summarized in Table 6 (next page), modified several of the six topics mandated by the NEAR Act and added three topics that must be covered in annual continuing education.

**Table 6: Police Officer Continuing Education Requirements, 2016 and 2023**

<b>2016:</b> <b>NEAR Act Continuing Education Topics</b>	<b>2023:</b> <b>Expanded Continuing Education Topics</b>
Community Policing	Community Policing
Recognizing and Preventing Biased-Based Policing	Recognizing and Preventing Biased-Based Policing, Racism, and White Supremacy
Use of Force	Limiting the Use of Force and Employing De-Escalation Techniques
Limitations on the Use of Chokeholds and Neck Restraints	Prohibited Techniques (Asphyxiating Restraints and Neck Restraints)
Mental and Behavioral Health Awareness	Mental and Behavioral Health Awareness
Linguistic and Cultural Competency	Linguistic and Cultural Competency
	Identifying and Interacting with Individuals with Alzheimer's Disease or Other Dementias
	Constitutional Requirements for Conducting Searches and Seizures
	Duty to Report Suspected Misconduct or Excessive Use of Force

**Sources:** NEAR Act of 2016 and Comprehensive Policing and Justice Reform Act of 2022.

ODCA is not making any recommendations on continuing education for officers but cautions against adding more annual training mandates. There is a limited number of topics that can be covered in 40 hours of mandatory in-service training each year, 16 hours of which are devoted to firearms recertification. Moreover, if officers must spend more hours in training to cover new mandatory topics, that would impede a high-priority goal for D.C. policymakers: putting more officers on duty and increasing police presence in the community.

# Office of Police Complaints Independent Complaint Review Authority

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## The Office of Police Complaints has implemented most NEAR Act provisions to strengthen its independent review authority.

Title II, Subtitle F of the NEAR Act (Office of Complaints Independent Complaint Review Authority), strengthened the authority of the Office of Police Complaints (OPC) to review complaints against police officers. OPC's mission is to increase community trust in the police forces of the District of Columbia by providing a reliable police complaint system that holds officers accountable for misconduct. OPC performs this mission by receiving, investigating, and resolving police misconduct complaints filed by members of the public against sworn officers of the MPD or the Housing Authority Police Department (HAPD).

During the audit period, OPC's jurisdiction included seven types of complaints against MPD and HAPD officers: harassment, inappropriate language or conduct, retaliation, unnecessary or excessive force, discrimination, failure to identify, and failure to intervene.<sup>35</sup> Governed by a five-member Police Complaints Board (PCB) appointed by the Mayor and confirmed by the Council, OPC operates independently of both MPD and HAPD.

A major change made by the NEAR Act gave OPC the sole authority to dismiss, mediate, conciliate, or adjudicate police complaints in the areas under its jurisdiction, or to refer the complaints for further action to MPD or HAPD. Previously, an individual could file a complaint with OPC or either police agency, and the receiving agency would investigate and decide the case. Under the NEAR Act, MPD and HAPD may still receive complaints, but must transmit them to OPC for further action within three business days. In its report on the NEAR Act, the Council's Judiciary Committee stated that centralizing authority to review complaints under OPC would enable it to "further fulfill its mission of increased awareness about the complaint process and strengthen public confidence that citizen complaints are independently investigated and reviewed."

The NEAR Act also expanded access to OPC's independent review process by doubling the period for filing a complaint from 45 days to 90 days after an incident. Based on a review of police oversight practices in other cities, the NEAR Act further broadened PCB's and OPC's powers and duties by:

- Directing PCB to review specified topics pertaining to MPD, including (i) the number, type, and disposition of citizen complaints received, investigated, sustained, or otherwise resolved, (ii) the race, national origin, gender, and age of the complainants and officers, (iii) proposed and actual discipline imposed on officers after a complaint is sustained, (iv) use of force incidents, serious use of force incidents, and serious physical injury incidents as defined by MPD, and (v) in-custody deaths.

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<sup>35</sup> OPC's authority to review complaints of failure to intervene did not take effect until July 22, 2020, when Mayor Bowser signed D.C. Act 23-336, the "Comprehensive Policing and Justice Reform Second Emergency Act of 2020."

- Authorizing OPC to order an officer who was the subject of a complaint to undergo policy training, and requiring MPD and HAPD to notify OPC when the training is completed.
- Allowing OPC to audit the handling of citizen complaints that it referred to MPD or HAPD for further action and requiring the PCB to report annually to the Mayor and Council on the audits.
- Establishing a deadline of 10 business days for the MPD or HAPD chiefs of police to notify OPC, the complainant, and the officer or officers of disciplinary action taken by the Chief in response to a finding of misconduct by OPC.

Overall, the Committee on the Judiciary framed the NEAR Act changes to the police complaint process as ways to build public confidence and trust in the police. The Committee stated that, “(B)y increasing the agency’s auditing and monitoring functions, police-community relations will be greatly enhanced due to the additional transparency and accountability that comes with such review.”

Even though the NEAR Act and subsequent statutory changes expanded OPC’s authority, this does not mean that all police complaints are handled by OPC. Cases are not under OPC’s jurisdiction if they (1) involve officers from police departments other than MPD or HAPD, (2) are filed more than 90 days after an incident, or (3) do not fall into one of the complaint types listed above. These complaints are closed administratively or referred to the appropriate police agency.

The NEAR Act coincided with an immediate, sharp increase in the number of complaints filed annually with OPC. As shown in Figure 7 (next page), complaint filings rose from 438 to 773 (77%) between FY 2016 and FY 2017 (the NEAR Act took effect on June 30, 2016, the end of the third quarter of FY 2016). The OPC caseload has surpassed the FY 2017 level in each subsequent year and exceeded 800 in FY 2019, FY 2020, and FY 2021. As explained below, the NEAR Act was a major factor driving the caseload increase.<sup>36</sup>

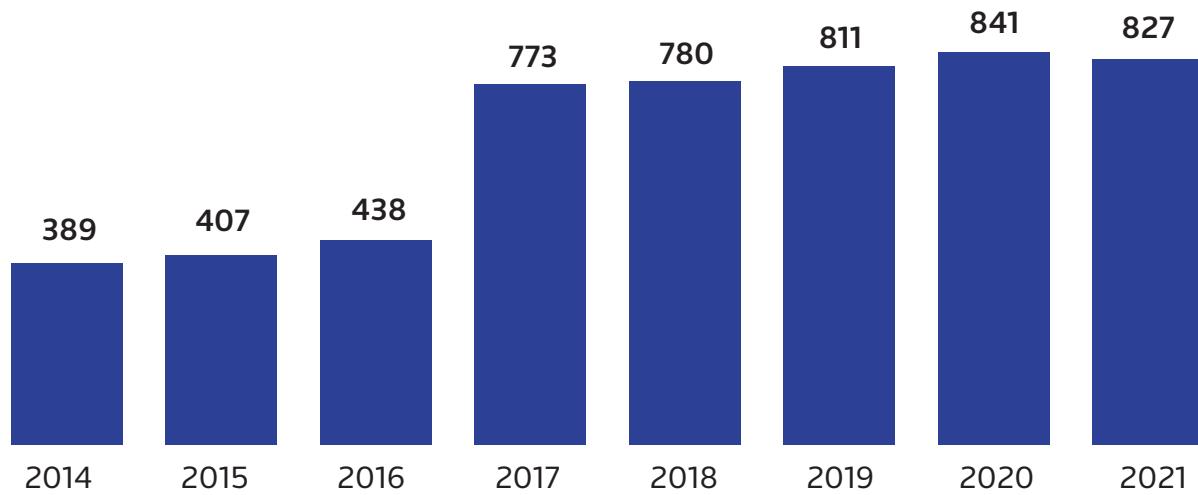
**Centralizing authority within OPC.** The NEAR Act centralized authority for the review and adjudication of police complaints under OPC. MPD revised its General Order on how to process complaints against officers, which requires MPD to notify OPC of all complaints MPD receives so OPC can determine which agency should investigate (99% of complaints received by OPC in FY 2021 concerned MPD officers).<sup>37</sup> MPD officers or civilians who receive a misconduct complaint must notify the watch commander or next senior official on duty of the complaint; in turn, the watch commander or senior official must obtain an incident summary tracking number and forward the complaint with any supporting documentation to MPD’s Internal Affairs Division (IAD). The Director of IAD is responsible for forwarding all complaints to OPC within three business days, aided by an OPC Liaison who tracks the cases sent to OPC and facilitates OPC information requests.

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<sup>36</sup> Non-NEAR Act factors that likely added to the caseload include OPC’s introduction of online complaint filing in FY 2016 as well as implementation of body-worn cameras for MPD officers, which might have given complainants more confidence that they could bring a case successfully.

<sup>37</sup> See General Order PER-120-25, “Processing Complaints Against Metropolitan Police Department Members,” effective October 27, 2017.

Figure 7: Cases Filed with the Office of Police Complaints by Fiscal Year



Source: Police Complaints Board Annual Reports.

A sample of 41 cases forwarded by MPD and HAPD to OPC in FY 2021 showed that 36, or 88%, were transmitted within three business days of receiving the complaint.

Because the NEAR Act granted OPC exclusive authority for handling certain types of cases, there was an immediate, exponential jump in cases referred to OPC by MPD and HAPD. After forwarding an average of eight cases per year to OPC from FY 2014 through FY 2016, MPD and HAPD forwarded 202 cases to OPC in FY 2017, accounting for more than half the caseload increase experienced by OPC between FY 2016 and FY 2017. The number of cases referred by MPD and HAPD to OPC exceeded 200 in every fiscal year from FY 2018 to FY 2021, reaching a high of 299 in FY 2020 before falling to 253 in FY 2021.

**Extending the time to file complaints.** The NEAR Act's doubling of the time frame for filing a complaint (from 45 to 90 days) also increased OPC's workload. OPC data show that it received 54 complaints during the 45-to-90-day window in FY 2017, and 53 such complaints in FY 2018, representing 7% of the cases filed in each year. Still, some of those complaints might have been filed within 45 days if the time frame had not been extended.<sup>38</sup>

OPC officials interviewed by ODCA saw the longer filing period as beneficial, viewing 90 days as a reasonable time frame to promote access, particularly for less advantaged members of the community. MPD officials did not see the extension of time as harmful, and the chairman of the D.C. Police Union similarly did not object, noting that the union wants to root out misconduct that tarnishes the reputations of officers who follow the rules and serve the community well. Representatives of civil liberties and social justice organizations saw more time to file as a positive step, but wanted to go further than 90

<sup>38</sup> From FY 2014 to FY 2016, OPC received an average of 30 complaints in the 45- to 90-day window. OPC could not investigate these complaints under the 45-day deadline. The 30 annual cases that were not actionable prior to the NEAR Act serve as a rough estimate of the impact of the NEAR Act's establishment of the 90-day deadline.

days because some individuals may be unfamiliar with the process, dealing with trauma, or incarcerated. One representative of a civil rights organization stated that people often come forward about police misconduct more than 90 days after an incident.

The OPC executive director pointed out that the 90-day filing period aligns with a D.C. regulation requiring MPD to keep body-worn camera footage for 90 days. If the filing period were extended beyond 90 days, some complainants might delay filing their cases and find that camera footage—a powerful tool for investigating claims—was unavailable, unless the regulation was also modified to allow a longer retention period. The OPC executive director also has the authority to grant good-cause exemptions to the 90-day filing deadline.

**Reviewing data on police complaints, use of force, and in-custody deaths.** PCB has partly fulfilled its duties to review data on complaints against MPD officers, their use of force, and in-custody deaths. In its annual reports, PCB provides data on the number, type, and disposition of complaints; the demographics of the complainants and the officers who were the subject of complaints; and the discipline imposed by MPD when OPC sustains a complaint of misconduct. The reports provide considerable detail and context; for example, the demographic data show the pairings of complainant and officer characteristics.

PCB has also published separate annual reports on MPD's use of force, beginning with FY 2017.<sup>39</sup> Once again, the reports include extensive data such as the number of incidents in which force was used, number of officers using force, types of force used, officers with five or more uses of force, firearms discharges, behavior of subjects of force, and the demographics of both officers and subjects involved in the incidents (see Appendix E for a summary of the use of force data).

Nevertheless, PCB's use of force reports have provided only partial data on serious use of force and serious physical injury incidents, as required by the NEAR Act and defined by MPD general order.

- **Serious use of force.** PCB's reports review data on firearm discharges and neck restraints, but do not cover other serious uses of force such as head strikes with an impact weapon, MPD canine bites, and all uses of force that create a substantial risk of death.
- **Serious physical injury.** PCB's reports review data on firearm fatalities and injuries, but not other types of serious physical injury, including hospital admissions, loss of consciousness, disability, or broken bones.

PCB's use of force report for FY 2017 noted the death of someone in MPD custody that year (a suicide by hanging in an MPD district station cell block), but PCB did not conduct a review of the death as required by the NEAR Act. OPC pointed out that its executive director participates in reviews of in-custody deaths as a member of the Use of Force Review Board, but ODCA notes that OPC's executive director is one of 13 voting members of the Board, and that the Board's review does not constitute PCB review, as the PCB is a separate five-member body.<sup>40</sup>

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39 After producing its first report on use of force in FY 2017, OPC switched to calendar year reporting for 2018-2021. OPC also recalculated its pre-2018 data to reflect calendar years to facilitate comparisons over time.

40 The majority of Use of Force Review Board members (seven) are appointed by the Chief of Police.

**Authorizing OPC to order policy training.** OPC uses the authority provided by the NEAR Act to order a police officer to undergo policy training when OPC investigators find that the officer appears to have violated a general order, D.C. law, constitutional ruling, or other directive, but that additional training would be best-suited to correcting the behavior. The policy training is intended to ensure better police service in the future.

OPC resolved 4% of cases closed in FY 2021 (15 cases) by ordering policy training. Although the percentage of case dispositions due to policy training has been similarly small in previous years, OPC officials see this option as valuable because it gives the agency a middle ground between dismissing a case and referring it to a hearing examiner to adjudicate. By avoiding this either-or choice, OPC can play a constructive role in improving police interactions with the community and advancing procedural justice. Moreover, policy training may be appropriate for cases in which an officer's behavior was unintentional.

OPC regulations state that when the agency orders policy training, it will notify MPD or HAPD in writing of the allegations against the officer, the rationale for policy training, and the type of training that would be most appropriate (OPC's first recommendation of policy training for an HAPD officer occurred during FY 2022). MPD has assigned its OPC liaison officer to receive policy training recommendations from OPC and forward them to the department's training academy to arrange the training. The OPC liaison then sends a training completion certificate to OPC. OPC reported that MPD officers have completed 118 policy trainings through FY 2021. Officers have an incentive to comply with the order because otherwise the case would be referred to a hearing examiner for adjudication.

OPC and MPD officials stated that they have used policy training orders to identify issues that need to be addressed more broadly, which has sometimes led MPD to mandate general training or issue directives to address the problems more systematically. As examples of collaboration to address patterns in civilian complaints, OPC stated that MPD agreed to provide roll-call trainings on two topics highlighted by OPC: implementation of language access rules, and improper ticketing of bicyclists for not riding in bicycle lanes.

The chairman of the D.C. Police Union cautioned that officers see a conflicting message when they are ordered to undergo policy training: that they were found not to have engaged in misconduct (because the complaint did not go to an OPC hearing examiner), but still must attend training to address a deficiency. Officers may also view the time spent in training as an unnecessary diversion from being on duty to protect the public.

OPC's power to mandate policy training added a new dimension to concerns expressed by OPC and PCB that the discipline imposed by MPD after an OPC hearing examiner has sustained an allegation of officer misconduct is inadequate.<sup>41</sup> The PCB has pointed out that when it refers a case to a hearing examiner for adjudication, it has concluded that policy training is *not* a sufficient remedy. Nevertheless, when OPC hearing examiners have sustained a complaint of misconduct, the Chief of Police (who retains the

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<sup>41</sup> In an open letter to then-Chief of Police Robert Contee dated March 25, 2022, OPC Executive Director Michael Tobin contended that Chief Contee had not issued a single suspension without pay in response to an OPC determination of officer misconduct. Mr. Tobin added that, "The failure of your office to take seriously the complaints of police misconduct from members of our community continues a trend that has been followed by virtually all of your predecessor chiefs since the current governing statute was first enacted."

authority to impose discipline) has sometimes allowed the subject officer to undergo education-based development, which MPD defined in a special order as “an alternative to discipline offered to sworn members in lieu of corrective action or a suspension of one to 10 days.” Similar to the policy training that OPC can require, education-based development involves retraining through in-person or online classes, or a policy review with a commander’s designee. The Chief of Police ordered education-based development in response to 11 cases sustained by OPC in FY 2017; nine in FY 2018; two in FY 2019; three in FY 2020; and two in FY 2021.

The PCB contended in a 2020 report on discipline that:

(E)ducation-based development is not discipline at all, and is merely additional training. For this reason, it is not listed in the Table of Penalties Guide ... If the allegations were deemed appropriate for training, then the case would have been referred for policy training, rather than going through the adjudication process to make a sustained merits determination.

ODCA shares PCB’s concern about MPD decisions to allow officers to undergo education-based development after OPC has sustained a complaint of misconduct. In such a case, the OPC statute sets forth a review process that culminates with the Police Chief’s “decision as to the imposition of discipline upon the subject police officer or officers.”<sup>42</sup> Therefore, a decision by the Police Chief to require education-based development, which MPD has defined as not constituting discipline, is inconsistent with the letter and spirit of the OPC statute unless it is accompanied by disciplinary measures such as a PD-750 (dereliction report) or a letter of reprimand.

**Allowing OPC to audit complaints referred to MPD or HAPD for further action unless it is accompanied by disciplinary measures such as a PD-750 (dereliction report) or a letter of reprimand.** As of this writing, OPC had not used its NEAR Act authority to audit the handling of citizen complaints that it referred to MPD or HAPD for further action. OPC could use this power to ensure that the police complaint system is functioning effectively, because it must refer cases to MPD or HAPD when they do not fall under OPC’s statutory jurisdiction or are not filed with 90 days of the incident.

Moreover, OPC used administrative authority to implement a rapid resolution process in FY 2017, which OPC can employ when it has jurisdiction for a case but finds no misconduct. Under rapid resolution, OPC refers the case back to MPD or HAPD for a supervisor to contact the complainant to discuss the incident, clarify the department’s policy, and explain the officer’s action. Through the end of FY 2021, OPC had disposed of 226 cases through rapid resolution. Although OPC officials expressed a positive view of rapid resolution (as did MPD officials and the D.C. Police Union chairman), OPC could have more solid evidence on rapid resolution’s effectiveness if it used its authority to audit citizen complaints referred to MPD and HAPD.

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42 See D.C. Official Code § 5-1112(e) and (g). The Chief of Police has the right to return a case of officer misconduct to OPC for a final review by a three-person panel, if the Chief concludes that the OPC decision clearly misapprehended the hearing record and was not supported by substantial, reliable, and probative evidence. But if this appeal to the final review panel does not succeed, the Chief is required by statute to impose discipline.

**Establishing a deadline for the Chief of Police to report disciplinary actions.** For FY 2021, OPC reported that it was notified of the police chief's discipline decision within 10 business days, as required by the NEAR Act, in 13 of 14 cases (93%).<sup>43</sup> The single case in which notice of disciplinary action to OPC was not timely stemmed from an HAPD complaint.

## Recommendations

5. The Police Complaints Board should ensure that it reviews all deaths in police custody.
6. The Police Complaints Board should ensure that its annual use of force reports review all serious uses of force as well as all serious physical injuries resulting from use of force.
7. The Chief of Police should cease allowing an officer to undergo education-based development as the sole response to a finding of misconduct by an Office of Police Complaints hearing examiner.
8. The Office of Police Complaints should use the authority provided by the NEAR Act to audit citizen complaints that it refers to the Metropolitan Police Department or the Housing Authority Police Department for further action.

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<sup>43</sup> There were two other cases in FY 2021 for which an OPC hearing examiner sustained a finding of misconduct, but the Chief of Police had not made a disciplinary decision. In one of those cases, the officer resigned; in the other, a disciplinary decision was delayed by a civil suit.

# Improving Stop and Frisk and Use of Force Data Collection

**The Metropolitan Police Department and the Police Complaints Board have published extensive data on police use of force but there are some gaps in reporting.**

**The Metropolitan Police Department has been publishing stop data required by the NEAR Act since 2019 but MPD must do more to address racial disparities in stops.**

Title II, Subtitle G (Improving Stop and Frisk and Use of Force Data Collection) of the NEAR Act requires MPD to collect certain data on police stops and uses of force, as shown in Table 7.

**Table 7: Data Collection Requirements for Police Stops and Uses of Force**

Police Stops	Police Uses of Force
<ul style="list-style-type: none"><li>■ Date, location, and time of the stop</li><li>■ Approximate duration of the stop</li><li>■ Alleged traffic violation(s) leading to the stop</li><li>■ Whether a search was conducted due to the stop</li><li>■ If a search was conducted:<ul style="list-style-type: none"><li>• The reason for the search</li><li>• Whether the search was consensual</li><li>• Whether a person was searched, and whether a person's property was searched</li><li>• Whether any contraband or other property was seized during the search</li></ul></li><li>■ Whether a warning, safety, equipment repair order, or citation was issued and the basis for issuing the warning, order, or citation</li><li>■ Whether an arrest was made</li><li>■ The crime charged if an arrest was made due to the stop or search</li><li>■ The gender of the person stopped</li><li>■ The race or ethnicity of the person stopped</li><li>■ The date of birth of the person stopped</li></ul>	<ul style="list-style-type: none"><li>■ Number of use of force incidents and the type of force used</li><li>■ Number of officers involved in each use of force incident</li><li>■ Number of persons involved in each use of force incident</li><li>■ Number of civilian complaints filed with MPD for excessive use of force, by police district, and the outcome of each complaint, including disciplinary actions</li><li>■ The crime charged if an arrest was made</li><li>■ The gender, race, age, and ethnicity of each person involved in a use of force incident</li><li>■ The gender, race, age, and ethnicity of each officer involved in a use of force incident</li></ul>

**Source: NEAR Act.**

MPD's definitions of use of force, stop, and protective pat down (also known as a "frisk") are as follows:

- **Use of force:** any physical coercion used to affect, influence, or persuade an individual to comply with an order from an officer.
- **Stop:** a temporary investigative detention of a person for the purpose of determining whether probable cause exists to make an arrest.
- **Protective pat down:** a limited protective search for concealed weapons or dangerous instruments. A pat down, also known as a frisk, consists of patting an individual's outer clothing to determine the presence of weapons and other dangerous objects.

In its report on the NEAR Act, the Committee on the Judiciary described the new requirements as part of an "open data" policy that promotes transparency and accountability. The Committee also cited the recommendations of President Obama's Task Force on 21<sup>st</sup> Century Policing, which called on law enforcement to make public all relevant policies and procedures, records, and data sets. The Council added \$150,000 to MPD's FY 2017 budget to implement the NEAR Act data collection requirements, reflecting the cost estimate prepared by the Chief Financial Officer.

As early as February 2017, MPD cited difficulties in meeting the NEAR Act's data requirements. The department stated that it would first make changes to its Personnel Performance Management System (PPMS) needed to share data on citizen complaints with the Office of Police Complaints, pursuant to a separate NEAR Act requirement. After completing that step, MPD would implement the system changes needed to collect and report the data on use of force. Data collection on police stops, which MPD described as "more challenging," would be implemented last, following the phased rollout of MPD's Cobalt database, which stores records on incidents, offenses, field contacts, arrests, and other activities.<sup>44</sup>

**Use of Force data collection and reporting.** Another NEAR Act section (Title II, Subtitle F, Office of Police Complaints Independent Complaint Review Authority, which is discussed in the previous section of this report) assigned the Police Complaints Board to publish an annual report on "all use of force incidents, serious use of force incidents, and serious physical injury incidents" by MPD officers, creating a link between MPD's duty to collect data on uses of force and OPC's duty to report the data.

In January 2018, PCB issued its first annual report on MPD's use of force, which covered FY 2017 and combined electronic data from PPMS with manual data. PCB has since issued use of force reports for each year from 2018 through 2021.<sup>45</sup> Preparing the subsequent reports was more efficient because MPD upgraded the PPMS to store the use of force data in discrete fields so the data could be aggregated.<sup>46</sup>

PCB's use of force reports have included data required by the NEAR Act on use of force incidents and the types of force used; the numbers of officers involved in use of force incidents; the gender, age, race, and ethnicity of subjects of force; and the gender, age, race, and ethnicity of officers using force (see Appendix

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44 In response to questions from the Council's Committee on the Judiciary and Public Safety, MPD stated that, "While we recognize that development associated with the NEAR Act is important, we have had to prioritize mission critical issues to be addressed in the system."

45 After producing the FY 2017 report on use of force, PCB switched to calendar year reporting for 2018-2021. PCB also recalculated its pre-2018 data to reflect calendar years to facilitate comparisons over time.

46 MPD Executive Order 18-001, "New Online Use of Force Incident Report (UFIR) and Reportable Incident Form (RIF) in the Personnel Performance Management System," effective January 2, 2018, instructed officers to complete all use of force reports in the PPMS.

E for more detail on the data and trends outlined in PCB's use of force reports). MPD also posted on its website incident-level data on each reported use of force in 2020 and 2021. The MPD spreadsheets include the data elements covered by PCB, except the age of the officers using force.

Nevertheless, the PCB reports and the MPD data on use of force have not included three types of data required by the NEAR Act (see Table 8). MPD has stated that it is working to ensure that future publications of data include these fields, which concern:

- the number of subjects involved in use of force incidents.
- the number of civilian complaints filed with MPD for excessive use of force, by police district, and the outcome of each complaint.
- the crime charged if an arrest was made.

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**Table 8: Use of Force Data Reported by the Police Complaints Board and the Metropolitan Police Department, 2021**

NEAR Act Data Element	PCB Annual Report	MPD Spreadsheets
Number of use of force incidents and the type of force used	Included	Included
Number of officers involved in each use of force incident	Included	Included
Number of persons involved in each use of force incident	Not Included	Not Included
Number of civilian complaints filed with MPD for excessive use of force, by police district, and the outcome of each complaint, including disciplinary actions	Not Included	Not Included
The crime charged if an arrest was made	Not Included	Not Included
The gender, race, age, and ethnicity of each person involved in a use of force incident	Included	Included
The gender, race, age, and ethnicity of each officer involved in a use of force incident	Included	Gender, race, and ethnicity included; age not included

**Sources:** Police Complaints Board's annual Report on Use of Force by the Washington, D.C. Metropolitan Police Department, and Metropolitan Police Department website, [www.mpdc.dc.gov](http://www.mpdc.dc.gov).

The incident-level data posted by MPD allows interested parties to examine patterns in the data and relationships among key variables. The MPD spreadsheets also include additional data elements not required by the NEAR Act, such as time of day, police district, MPD's disposition of the case and any action taken, the officer's number of years on the force, whether the use of force was serious, whether the incident occurred during a civil disturbance, and whether an animal was the subject of force.

The PCB would be better equipped than MPD to provide data on civilian complaints and excessive use of force by police officers, because the NEAR Act centralized authority to review and resolve police complaints under OPC, which is overseen by PCB. Moreover, PCB compiles extensive data on police complaints for its annual reports.

Expanded data collection and reporting seems to have affected MPD policy and practice on use of force. For example, OPC credits MPD with fully implementing eight of 14 recommendations outlined in the annual use of force reports since FY 2017. Changes made by MPD in response to the recommendations include creating a single use of force general order that consolidates the relevant guidance, resuming collection of data from firearm discharge incidents, and counting the pointing of a firearm as a use of force.

PCB's 2021 report on use of force included one new recommendation: that MPD should work to reduce racial disparities in where the use of force occurs. PCB noted that at least 89% of uses of force had been against Black residents in every year since 2017—far greater than their percentage of the D.C. population—and that 70% of uses of force in 2021 had been in census tracts where a majority of residents were Black. MPD has agreed on the need to reduce racial disparities in the use of force but has noted that, "(T)he racial disparities observed in use of force are matched by other racial disparities experienced by some neighborhoods and members of our community. These include disparities in education, economic opportunities, as well as contacts with law enforcement, both as victims of violent crime and offenders.<sup>47</sup>

**Stop and Frisk data collection and reporting.** As noted earlier, MPD found it more difficult to produce NEAR Act data on police stops than it did to provide use of force data. In February 2018, MPD published data on police stops and frisks from 2010 to 2016, but most of the data concerned stops before the NEAR Act took effect on June 30, 2016. Among the data fields required by the NEAR Act, this initial data release included only the date of the stop; the gender, age, race, and ethnicity of the persons stopped; and partial data on the location of the stop.<sup>48</sup> Not included were the time and duration of the stop, as well as the following data reflecting the reason for and result of the stop: (1) the violation that led to the stop, (2) whether a search occurred and if so, the reason for and result of the search, (3) whether a search was consensual, (4) whether a warning, order, or citation was issued, and (5) whether and for what charge an arrest was made.

MPD stated that it was working with the Department of Motor Vehicles (DMV) to assemble the necessary data, but seemed to lack a concrete plan or timetable for compliance.<sup>49</sup> In May 2018, MPD released stop and frisk data for 2017—the first full year when the NEAR Act was in effect—but these data suffered from the same deficiencies as the data from 2010 to 2016, described above.

MPD came under increasing pressure to comply with the NEAR Act stop-data requirements in May 2018, when Black Lives Matter D.C., the Stop Police Terror Project D.C., and the American Civil Liberties Union of the District of Columbia (ACLU-DC) filed a motion for injunctive relief asking the D.C. Superior Court to

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47 See Police Complaints Board, *2021 Report on Use of Force by the Washington, D.C. Metropolitan Police Department*, p. 47.

48 For example, some location data only provided the street name and quadrant, such as "Pennsylvania Avenue SE."

49 In a February 2018 response to questions from the Council's Committee on the Judiciary and Public Safety, MPD expressed its intent to examine "if there are creative ways to use existing data ... such as with potentially capturing other data from DMV records."

intervene and prevent further delay. The plaintiffs contended that, "Almost two years have passed since the D.C. Council passed a statute mandating that Defendants collect this essential data. However, the D.C. government has dragged its feet, indicating at best recalcitrance and at worst an institutional antipathy towards the law." Citing an MPD statement that many data elements required by the NEAR Act could not be readily sorted or summarized because the information was recorded in narrative form, the plaintiffs called on the Court to order MPD to create a new form for stop data collection and make the necessary changes to IT systems and training to achieve compliance in 90 days.

After several rounds of motions and a series of status conferences, D.C. Superior Court Judge John Campbell ruled in favor of the plaintiffs on June 27, 2019, issuing a preliminary injunction ordering MPD to collect the stop and frisk data required by the NEAR Act within 28 days using a one-page form designed by the ACLU-DC. The judge excoriated the D.C. government for its delay, stating that an interim solution could have been implemented within weeks of the NEAR Act's effective date, and that the District had made almost no progress in implementing the data collection mandate in three years. The judge found that plaintiffs had demonstrated irreparable harm from the District's non-compliance, because the delay "robs the community of essential information about the interactions of its police officers with its citizens."

Judge Campbell also dismissed the D.C. government's claim that the NEAR Act only requires MPD to collect the specified data on stops but not to report the data, stating that, "(T)he legislative history of the NEAR Act makes plain that these records were not simply to be kept in case MPD wished to use them for its own internal agency monitoring purposes." Rather, the data were to be shared with the public to promote a culture of transparency and accountability. The ruling rejected as "fatally flawed" an interim solution implemented by MPD which (1) required officers to enter the missing data about searches and arrests into a narrative field, and (2) used body-worn cameras (BWC) to capture missing data, including race and ethnicity of persons who were stopped and received a citation or warning. In particular, requiring interested parties to request and review BWC footage to gather information about police stops would involve an inordinate expense of time and money, defeating the NEAR Act's intent to make data available to the public.<sup>50</sup> Moreover, limiting data on the race and ethnicity of people receiving citations and warnings to BWC footage could make it impossible to assess racial and ethnic bias.

Shortly after Judge Campbell's order, MPD and DMV completed information technology upgrades begun the prior year to allow officers to record electronically (on handheld devices) all of the stop data required by the NEAR Act.<sup>51</sup> The relevant data could now be entered into discrete fields, allowing the data to be aggregated. MPD issued a new General Order instructing officers how to collect the necessary stop data,<sup>52</sup> which was reinforced by a mandatory online training course, and implemented the new data systems in July 2019.

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50 Judge Campbell observed that, "You cannot know how police are interacting with citizens until you have aggregated information about all such interactions, and you cannot reasonably aggregate it if doing so requires paying for and watching thousands and thousands of videos."

51 The information from ticket stops that result in a Notice of Infraction is stored in a DMV database because DMV collects the resulting fines and adjudicates any infractions that are contested.

52 See MPD General Order OPS-304.10, "Field Contacts, Stops, and Protective Pat Downs," effective July 9, 2019.

After MPD published four weeks of stop data (July 22, 2019 to August 18, 2019) using the new technology in September 2019, the plaintiffs joined the D.C. government in moving to vacate the preliminary injunction issued by Judge Campbell and dismiss the case. Stating that the D.C. government had implemented policies and procedures to ensure compliance with the NEAR Act's stop-data collection requirements, the motion cited a D.C. government "commitment to continue to collect all required NEAR Act data and publish it semi-annually." For the first time, MPD had disseminated stop data that covered all elements required by the NEAR Act, including duration of the stop, whether a search and protective pat down occurred, whether the person consented to the search, whether a warning or ticket was issued, and whether there was an arrest and if so, what crime was charged.

Six months later (March 2020), MPD published the next installment of stop data required by the NEAR Act, covering July 22, 2019, through December 31, 2019. As of this writing, MPD had posted stop data through December 31, 2022 on its website and on the Open Data D.C. website, and remained in compliance with the NEAR Act stop data requirements.

Nevertheless, MPD has not always fulfilled its pledge to disseminate stop data twice per year. Most notably, more than 11 months elapsed between MPD's posting of stop data for July 22, 2019 to December 31, 2019 and its next installment of stop data covering January 1, 2020 to March 14, 2020.<sup>53</sup> This lag led the ACLU-DC to file a motion for declaratory and injunctive relief in D.C. Superior Court in February 2021 to compel MPD to release the stop data, which the ACLU-DC had unsuccessfully sought to obtain through a Freedom of Information Act request. MPD published stop data for the first half of 2020 six days after the ACLU-DC filed suit.

MPD officials have noted that records management upgrades, other data collection mandates, and the complexity of combining stop data from multiple systems (especially data on non-ticket stops from MPD and data on ticket stops from DMV) sometimes cause the delays in releasing stop data.<sup>54</sup> Nevertheless, the significant gains in capacity by MPD and DMV to gather the data electronically in discrete fields should enable calculation and publication of the data at regular intervals. To ensure consistent production of the stop data, the Council amended the NEAR Act in 2022 to codify the requirement that MPD publish the stop data twice each year.<sup>55</sup>

The ACLU-DC has also issued some criticisms of the way MPD structures and characterizes the stop data. In particular, the ACLU-DC has pointed out that some options officers can choose from a pull-down menu to describe the reason for a stop do not reflect probable cause or reasonable suspicion. Rather, these options (such as a call for service, or an alert to "be on the lookout") state how the officer learned about a possible violation. Options that reflect probable cause or reasonable suspicion include observing a weapon, observing a moving violation, and the individual's demeanor during a field contact. Nevertheless, MPD has made a number of adjustments to its collection of stop data and has expressed its intent to

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53 The data for July 22, 2019 to December 31, 2019 were posted on March 4, 2020. The data for January 1, 2020 to March 14, 2020 were posted on February 22, 2021.

54 For example, MPD advised the Committee on the Judiciary and Public Safety that records management upgrades implemented in August 2021 delayed the production of stop data because the department had to ensure that the data were reported consistently before and after the changes.

55 This amendment was part of D.C. Law 24-167, the "Fiscal Year 2023 Budget Support Act of 2022," effective September 21, 2022.

expand the options officers can choose as reasons for a stop. In June 2021, MPD instructed officers that they could stop asking people they stop about their gender and race or ethnicity; instead, officers could record their perceptions of those characteristics. The new policy (which has since been enacted into law through an amendment to the NEAR Act) should prove a better practice because an officer's perception is important in measuring possible bias.<sup>56</sup>

**MPD analyses of stop data.** MPD has issued several analyses of the stop data, beginning with an initial report on the data collected from July 22, 2019 to August 18, 2019, which was followed by two reports covering longer periods (July 22, 2019 through the end of 2019, and calendar year 2020, respectively).<sup>57</sup> In each report, MPD noted that stops are essential in preventing and responding to crime and in enhancing traffic safety. MPD further contended that its stops protect the public while largely avoiding overly aggressive or intrusive tactics. The reports emphasized the following points:

- MPD stops have a clear purpose. Approximately 80% of stops resulted in a traffic ticket or an arrest for a crime.
- MPD stops play a vital role in supporting the District's Vision Zero initiative, which seeks to eliminate traffic deaths and serious injuries, by making streets safer for all. More than half of stops result in a ticket and 13% to 25% of arrests have included a charge for a criminal traffic violation.
- MPD stops help remove guns from the community. In 2020, MPD stops led to 1,605 gun seizures representing 69% of all guns recovered.
- Most stops are brief. Approximately three of four stops are finished within 15 minutes.
- Most stops do not involve physical contact. Approximately 85% of stops did not involve a protective pat down (frisk) or a pre-arrest search of a person or property.

MPD's stop data reports recognize that Black people are stopped at higher rates. For example, 74% of those stopped during 2020 were Black and only 13% of those stopped were white (the data were similar for 2019), with Black people comprising a particularly large share (87%) of those subject to non-ticket stops. U.S. Census Bureau data indicate that Black residents comprised 46% of D.C.'s population as of July 1, 2022, whereas non-Hispanic white people accounted for 37%.

Despite this sharp disparity, MPD has cautioned that additional data and analysis are needed to determine if there is racial or other forms of bias in its stops, because there are other factors—such as neighborhood crime rates and calls for service—that affect officer behavior. Moreover, sources of bias could extend beyond MPD—for example, there could be bias on the part of those who call 911. During 2020, the 6<sup>th</sup> and 7<sup>th</sup> police districts, which have the largest percentages of Black residents, had the most calls for service and together accounted for more than half of all calls for service about violent crime.<sup>58</sup> MPD has

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56 This amendment was part of D.C. Law 24-167, the "Fiscal Year 2023 Budget Support Act of 2022," effective September 21, 2022. For a discussion of the importance of recording officer perceptions about those stopped, see Center for Policing Equity and Policing Project at New York University School of Law, *Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities*. Washington, DC: Office of Community Oriented Policing Services, 2020, pp. 15-16.

57 See Metropolitan Police Department, *Stop Data Report: September 2019; Stop Data Report: February 2020; and Stop Data Report: January-December 2020*.

58 ODCA was unable to obtain data on the race of residents by police district, but instead used data on race for residents of Ward 7 (which largely overlaps with the 6<sup>th</sup> police district) and Ward 8 (which largely overlaps with the 7<sup>th</sup> police district).

pointed out that police activities are often dictated by events, noting that officers make stops after (1) identifying areas with frequent traffic violations, (2) observing a crime, (3) receiving a call for service and stopping someone based on the suspect's description, and (4) serving a search or arrest warrant at the direction of the courts.<sup>59</sup> Moreover, D.C. residents are not the only people who might be stopped by MPD officers. MPD's stop reports have consistently noted that more than two-thirds of those stopped for traffic violations had cars that were registered outside D.C.<sup>60</sup>

**ACLU-DC analysis of stop data.** In an analysis released in March 2021, ACLU Analytics and the ACLU-DC found that MPD continues to disproportionately stop and search Black people in the District, which the authors saw as confirming residents' claims that MPD unfairly over polices Black people.<sup>61</sup> The two organizations (hereafter referred to as "ACLU-DC" for brevity) called on MPD to address the disparities found in this analysis of MPD data on more than 80,000 stops in 2020.

Echoing MPD's analysis of the 2020 stop data described above, the ALCU-DC emphasized that Black people represented almost 75% of those stopped in 2020 despite comprising roughly 47% of the D.C. population. The ACLU-DC also highlighted even starker racial disparities in the conduct and outcomes of stops to support its claim of racial bias in police stops, including the following points:

- Black people comprised more than 90% of those subjected to a search or pat-down of their person or property. Among those who were stopped, Black people were five times more likely to undergo a body search than white people and were almost four times more likely to have their property searched than white people.
- Black people were the subject of 87% of stops and 91% of searches that resulted in no warning, ticket, or arrest, seeming to reflect a high proportion of stops and searches for innocent conduct.
- Black people were stopped disproportionately (compared to their share of the population) in every MPD district except the 6<sup>th</sup> District, leading ACLU-DC to conclude that "(T)he disparities in stops do not simply arise from the greater police presence east of the Anacostia River."

The ACLU-DC report also cited very sharp disparities in juvenile stops, similar to patterns reported in an analysis by the Criminal Justice Coordinating Council (CJCC), as explained below. In 2020, Black people represented 89% of juvenile who were stopped by MPD; Black youths were 12 times more likely to be stopped than white youths.

Finally, the ACLU-DC contended that MPD's stop-and-frisk tactics were ineffective in removing weapons from the streets. Only 1.2% of stops in 2020 led to seizure of a weapon. Even among stops that involved a search, only 6.7% led to seizure of a gun and only 8.4% led to seizure of any weapon.

**CJCC analysis of juvenile stop data.** In November 2021, the CJCC released an analysis of juvenile stops from July 2019 through June 2022, based on MPD's stop data. Juvenile stops, which comprised less than

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59 ODCA notes that the issue is complicated; even when police respond to a call, they retain some discretion in what actions to take.

60 Nevertheless, the presence of commuters and visitors from outside the District should lead to *lower* stop rates for black individuals, because the share of black residents is likely to be lower elsewhere. According to the Metropolitan Washington Council of Governments, only 26% of Washington metropolitan area residents (a group that would frequently come to the District for work or leisure) are Black.

61 See ACLU Analytics and the ACLU of the District of Columbia, Racial Disparities in Stops by the Metropolitan Police Department: 2020 Data Update.

4% of all stops, were very different from adult stops (juvenile refers to someone under the age of 18). The vast majority of juvenile stops (95%) were non-ticket stops, whereas the majority of adult stops (59%) were ticket stops.

Sharp racial disparities characterized juvenile non-ticket stops. Although Black youths comprised only 56% of the District of Columbia's juvenile population in 2020, they were the subject of 91% of non-ticket stops, as well as 90% of those subject to a frisk or other pre-arrest search and 91% of those arrested after such a stop. By contrast, Black youths were underrepresented in the relatively small number of ticket stops, comprising only 44% of those stopped.

**Police stop workshop series and deliverables.** The difficulty in establishing a benchmark of how stops would affect different population groups in the absence of bias prompted MPD to call for more rigorous research and analysis of disparities in police stops. In September 2019, MPD stated that it was working with The Lab @ DC (part of the Office of the City Administrator) to promote independent research on racial disparities on police stops that would be transparent and valid scientifically.<sup>62</sup> Researchers from Georgetown and Howard Universities then joined MPD and The Lab @ DC in an effort to develop an evidence-based research and policy agenda on police stops for the District.

The joint effort began with a seven-part Reimagining Stops Workshop Series in the fall of 2020, involving more than 130 stakeholders from law enforcement, advocacy groups, research organizations, and the community who discussed the following questions:

1. Is there racial bias in stops made by the MPD? If so, at what level(s) is this bias operating—individual, agency, and/or citywide?
2. What are the effects of police stops? What are the benefits and what are the harms?
3. What research and policy efforts can D.C. and other jurisdictions undertake to better understand police stops and reduce harm while preserving public safety benefits?

Following the workshop series, The Lab @ DC and researchers from both universities were tasked with translating the insights from the workshop series into three deliverables:

1. A white paper detailing the discussions and findings emerging from the workshop series.
2. A suite of expert and evidence-based recommendations for harm-reducing policy and programmatic interventions related to stops for possible implementation.
3. A literature review and measurement guide for quantifying bias, harms, and benefits from stops along with a research agenda on the role of stops in the District, to be translated into a request for proposals and eventually D.C.-specific evidence and recommendations.

Originally targeted for completion in 2021, these deliverables were not released until March 2023. Table 9 (see next page) summarizes key points from each deliverable.

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<sup>62</sup> The Lab @ DC uses scientific insights and methods to test and improve policies, and to provide timely, relevant, and high-quality analysis to inform D.C. government decisions.

**Table 9: Deliverables from D.C. Government Initiative to Reimagine Police Stops**

<p><b>Deliverable 1:</b>          Georgetown Law's Center for Innovations in Community Safety, Howard University, and The Lab @ DC, Reimagining the Role of Police Stops in Public Safety: A White Paper Informed by a Workshop Series on Reducing Harm through Research, Policy, and Practice.</p>	<p><b>Key Points:</b></p> <ul style="list-style-type: none"> <li>■ Simplistic analyses of stop data, such as comparisons of people stopped to their percentages of the population, can mislead policymakers.</li> <li>■ Research into police stops must be community-centered to avoid the errors and omissions of previous efforts.</li> <li>■ A police stop's impact is bigger than the stop itself, carrying with it the historical baggage of biased policing and, for many, the trauma of past experiences with police.</li> <li>■ Reimagining stops requires us to reimagine policing, in particular by identifying non-law enforcement solutions that keep communities safe.</li> <li>■ Changing officer perspectives on stops requires us to rethink police accountability and reward systems.</li> </ul>
<p><b>Deliverable 2:</b>          Howard University School of Law and Howard University Thurgood Marshall Civil Rights Center, Reimagining Police Stops: Policy Considerations.</p>	<p><b>Key Points:</b></p> <ul style="list-style-type: none"> <li>■ This paper focuses on five recommendations listed below to reduce the harm and maximize the benefits of police stops, along with different ways to implement the recommendations (or parts thereof).             <ol style="list-style-type: none"> <li>1. Remove police from traffic enforcement.</li> <li>2. Ban the use of pretextual justifications for stops, limit permissible justifications for reasonable suspicion to conduct a stop, and prohibit jump-outs.</li> <li>3. Shift police funding to grassroots and other community-based organizations that are addressing public safety and community violence.</li> <li>4. Improve mental health crisis response.</li> <li>5. Ban consent searches or increase oversight of their use.</li> </ol> </li> <li>■ The Lab @ DC found that the research evidence on these recommendations was generally sparse. Most of the options do not have a long history of implementation or have been tried only in a few jurisdictions.</li> </ul>

**Deliverable 3:**

The Lab @ DC, Sample Learning Agendas and Measurement Guide for Reimagining Police Stops.

**Key Points:**

- Accurate measurement of racial bias in police stops is challenging due to limitations in administrative data. Nevertheless, recent advancements offer far more accurate and actionable measures than are typically used.
- Understanding the source(s) of bias is critical in developing effective policy solutions that target the root causes of the disparities we observe.
- Stops can have far-reaching effects beyond the immediate interaction between a police officer and a civilian.
- There is significant opportunity for innovation and creativity in reimagining police stops in ways that preserve public safety benefits while reducing harms.

**Sources:** Georgetown Law's Center for Innovations in Community Safety, Howard University, and The Lab @ DC, *Reimagining the Role of Police Stops in Public Safety: A White Paper Informed by a Workshop Series on Reducing Harm through Research, Policy, and Practice*; Howard University School of Law and Howard University Thurgood Marshall Civil Rights Center, *Reimagining Police Stops: Policy Considerations*; and The Lab @ DC, Sample Learning Agendas and Measurement Guide for Reimagining Police Stops.

The goal of developing an evidence-based research and policy agenda on stops is laudable because the data serve little purpose if they are not analyzed and used to assess police policies and practices.<sup>63</sup> Nevertheless, there has been limited progress in moving the agenda beyond the stakeholder discussions and the review of research methods. MPD officials indicated that they found the recommendations offered by the Howard University researchers to be overly broad and designed to decrease stops and promote alternatives to policing. The Lab @ DC's measurement guide explains the complexities of trying to measure bias in policing and summarizes the pros and cons of the research methods, but does not set forth a plan to assess possible bias in MPD stops that addresses those complexities. MPD had envisioned that a literature review and measurement guide for measuring bias in stops, along with a research agenda on the role of stops in the District, would lead to a request for proposals and D.C.-specific evidence and recommendations, but this additional work to use research and analysis to inform police policy and practices has not taken place.

To obtain stronger evidence about whether stops are achieving their public safety objectives and whether residents, visitors, and commuters are treated fairly, MPD could commission independent analysis on these topics using more rigorous methodologies outlined by The Lab @ DC. Two sets of priority questions identified by The Lab @ DC seem particularly ripe for research on the benefits and costs of police stops because they go beyond fact finding to explore policy implications; those questions, along with potential data sources and research approaches, are summarized in Table 10 (next page).

<sup>63</sup> The Center for Policing Equity and the Policing Project at NYU School of Law have stated that, "Collecting stop data means little without thorough analysis." See Center for Policing Equity and the Policing Project at NYU School of Law, *Collecting, Analyzing, and Responding to Stop Data: A Guidebook for Law Enforcement Agencies, Government, and Communities*, p. 29.

**Table 10: Selected Priority Questions on Police Stops and Research Approaches**

Priority Questions	Potential Data Sources	Potential Research Approaches
<b>Are certain types of stops more beneficial or more harmful than others? What stops are most associated with improvements to public safety? What stops are less efficient in delivering public safety benefits?</b>	Police department administrative records, national surveys, community surveys.	Statistical analysis of observed benefits and harms of specific types of stops; qualitative research on which stops police and community members find most beneficial or harmful; piloting and evaluation of different approaches to stops such as deflection and diversion programs.
<b>What incentives do officers face related to recovering illegal guns? Are certain types of stops more effective at recovering illegal guns? What other methods beyond stops can be tried to recover or reduce the prevalence of illegal guns?</b>	Police department administrative records, surveys, police officer interviews and observations.	Qualitative and statistical analysis of observed gun recoveries; experimental and quasi-experimental evaluations of other methods to recover or reduce the prevalence of illegal guns.

**Source:** The Lab @ DC, *Sample Learning Agendas and Measurement Guide for Reimagining Police Stops*.

The stronger methodologies identified by The Lab @ DC for assessing whether there is racial or ethnic bias in police stops fall into two categories: (1) more accurate approaches that rely on existing data, and (2) prospective, more conclusive approaches that will require additional data collection. These methodologies are summarized in Table 11 (next page).

**Table 11: Stronger Methodologies for Addressing Bias in Police Stops**

More Accurate Methods Using Existing Data	
<b>Veil of Darkness</b>	Takes advantage of changes in the amount of daylight to assess presence of racial bias in traffic stops. If a smaller percentage of Black drivers were stopped at night than during the day, that would suggest biased behavior.
<b>Regression-Adjusted Benchmark Tests</b>	Uses regression analysis to adjust stop rates for the rates at which people of different races are arrested in a police precinct or neighborhood.
<b>Regression-Adjusted Outcome or Hit-Rate Analysis</b>	Uses regression analysis to estimate “hit rates” for suspected crimes to control for factors besides race that affect stops. If a higher percentage of stops do not generate a “hit” (such as criminal possession of a weapon) for a particular racial group after these controls are included, that may indicate that the group is subject to unnecessary stops.
<b>Bounded Estimates of Race Effects</b>	Goes beyond hit-rate analysis to try to control for bias that could affect who is stopped in the first place. If white people are stopped only for more egregious behavior due to racial bias, and white people have similar arrest rates as Black people after being stopped, it would be erroneous to find that there is no racial bias—in this case, the white people should have higher arrest rates if there is no bias during the stop.
Prospective and More Conclusive Approaches That Will Require Additional Data	
<b>Combining Administrative Data with Video or Photographic Data</b>	Compares the rates at which drivers of different races or ethnicities are ticketed by red-light and speed cameras to the rates they are subject to vehicle stops by police officers.
<b>New Data Collection</b>	Assigns researchers to observe a random, representative sample of sites in-person or by video to record behavior that could warrant a police stop and the race or ethnicity of people exhibiting the behavior, which would then be compared to the race or ethnicity of people actually stopped.

Source: **The Lab @ DC**, *Sample Learning Agendas and Measurement Guide for Reimagining Police Stops*.

In 2006, MPD released a study of police stops that required original data collection similar to one of the methodologies recommended by The Lab @ DC. Conducted by Lamberth Consulting on behalf of MPD, the study deployed trained surveyors to observe traffic stops at 20 locations and pedestrian stops at five

locations at randomly selected dates and times over a three-month period.<sup>64</sup> The analysis found that Black and Hispanic motorists were stopped at rates very similar to their presence at the locations observed.

Still, there was evidence of bias at two of five locations where the research team examined pedestrian stops; Black and Hispanic people were stopped at higher rates than their percentages of the neighborhood population, particularly at one location where the majority of passers-by were white. At the three other locations where pedestrian stops were studied, the population was almost entirely Black as were the people who were stopped. Nevertheless, the sites were not selected randomly and cannot be regarded as representative of the District of Columbia. In light of the stop data now collected and reported by MPD, it might be possible to do a higher-quality study.

After a difficult implementation process, MPD and DMV now have the capacity to collect and publicize a broad range of stop data. The challenge is to use the data to increase understanding of whether stops are achieving public safety objectives and are being implemented fairly in D.C., and to build community trust through improved transparency and dialogue about police practices. The results of that analysis, in turn, can influence changes in police tactics, policies, and training.

## Recommendations

9. The Metropolitan Police Department and the Police Complaints Board should collect and report data on the number of subjects involved in use of force incidents, and the crime charged if an arrest was made in a use of force incident.
10. The Council should amend the NEAR Act to make the Police Complaints Board responsible for reporting the number of complaints of excessive force filed against officers, by police district, and the outcome of each complaint.
11. The Metropolitan Police Department should publish the stop data required by the NEAR Act at regular six-month intervals.
12. The Metropolitan Police Department should commission independent analysis of the outcomes of police stops and whether there is racial or ethnic bias in stops using the preferred research methods identified by The Lab @ DC.

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<sup>64</sup> Lamberth Consulting and MPD jointly chose the locations, which spanned all four quadrants of the District, based on several factors including a high level of police stops, police deployment, and accessibility for surveyors.

# Crime Data Collection

**The Deputy Mayor for Public Safety and Justice has published annual reports on felony crime data required by the NEAR Act, but the reports have not been timely.**

Title II, Subtitle H of the NEAR Act (Crime Data Collection) requires the Deputy Mayor for Public Safety and Justice (DMPSJ) to report annually to the Mayor and Council on trends in felony crime statistics in the District of Columbia. The report, which is due on December 31<sup>st</sup> of each year, must include certain data on felony crime arrests and the characteristics of felony crime victims, which are listed in Table 12. In its report on the NEAR Act, the Committee on the Judiciary cited this section as reinforcing efforts to expand open data as a tool of transparency and accountability.

**Table 12: Felony Crime Data Collection Requirements**

Felony Arrests	Characteristics of Victims
<ul style="list-style-type: none"><li>■ Number and type of felony arrests made by MPD</li><li>■ Number of felony arrests that resulted in conviction and the sentence imposed</li><li>■ Location of felony arrests by ward, district, and police service area</li><li>■ Number of suspects involved in each felony arrest</li><li>■ Number of victims involved in each felony arrest</li><li>■ Characteristics of each suspect arrested for a felony, including:<ul style="list-style-type: none"><li>• Age</li><li>• Race</li><li>• Gender</li><li>• Level of education</li><li>• Police service area of residence</li><li>• Number of prior arrests by MPD</li><li>• Number and type of prior convictions</li><li>• Relationship, if any, to the crime victim</li><li>• Known prior contact with DBH</li></ul></li></ul>	<ul style="list-style-type: none"><li>■ Age</li><li>■ Race</li><li>■ Gender</li><li>■ Level of education</li><li>■ Police service area of residence</li><li>■ Number of prior contacts with MPD</li><li>■ Number and type of prior convictions</li><li>■ Relationship, if any, to suspect</li></ul>

**Source:** NEAR Act.

As of this writing, the DMPSJ had published annual reports on felony crime statistics for 2016, 2017, 2018, and 2019. The 2020 and 2021 reports were delayed due to the demands of the Covid pandemic, which required the employee with lead responsibility for the reports to assume other duties. Nevertheless, none of the pre-pandemic reports met the statutory publication deadline (December 31<sup>st</sup> of the following year), and each report was more delayed, as shown in Table 13 (next page). The DMPSJ's office stated that it was working on the 2020 and 2021 reports to get back on a regular publication cycle.

**Table 13: Annual Felony Crime Reports Published by the Deputy Mayor for Public Safety and Justice**

<b>Felony Crime Report Year</b>	<b>Date Transmitted to the Council</b>
2016	February 2, 2018
2017	February 8, 2019
2018	March 5, 2020
2019	June 8, 2021

**Source:** Office of the Deputy Mayor for Public Safety and Justice, annual reports on felony crime for 2016-2019.

The felony crime data reports prepared by the Deputy Mayor for Public Safety and Justice piece together data from the Metropolitan Police Department, D.C. Superior Court, D.C. Sentencing Commission, and Department of Behavioral Health, and point out the limitations and complexities of the data.<sup>65</sup> Key points from the reports are summarized below, but they may be of limited use to policymakers and the public because the data reflect crime patterns before the Covid-19 pandemic.

**Felony crime incidents.** The number of felony crime incidents in the District of Columbia dropped by 15% between 2016 and 2019, from 21,043 to 17,908. Each incident, which may reflect multiple offenses, is classified by its most serious or “top” offense; for example, a robbery that resulted in a homicide would be classified as a homicide. In 2019, the most frequent top offenses in D.C. felony crime incidents were theft (4,572), assault (3,330), robbery (2,126), and weapons violations (1,301).

**Felony crime arrests.** The number of felony crime arrests fell 21% between 2016 and 2019, from 7,339 to 5,826. Still, felony arrests for weapons violations went in the opposite direction, rising 44% from 1,682 in 2016 to 2,425 in 2019. In 2019, felony arrests involved 5,132 individuals (some people were arrested more than once) and a total of 8,433 felony arrest charges (some cases involved multiple charges). The largest numbers of felony arrest charges in 2019 were for weapons offenses (2,425), assault (1,404), failure to appear (1,347), and drug offenses (1,316).

During 2019, 58% of felony crime arrests took place in three wards: Ward 8 (23%), Ward 7 (18%) and Ward 5 (16%).<sup>66</sup> Similarly, 58% of felony crime arrests in 2019 occurred in three police districts: the 7th District (21%), 6th District (20%), and 5th District (17%). Nevertheless, the location of the arrest is not necessarily the place where the crime occurred.

**Felony crime victims and arrestees.** In 2019, the majority of felony crime victims in D.C. (57%) were Black, whereas 29% were white, 10% were Hispanic or Latino, and 3% were Asian (Hispanics and Latinos can be of any race).<sup>67</sup> Victims were more likely to be male (59%) than female (40%); the gender of the other 1% was listed as unknown. The 25- to 34-year-old age group accounted for the largest percentage of felony crime victims (30%).

<sup>65</sup> For example, the data on sentencing for felony offenses in 2019 may concern crimes that occurred in prior years.

<sup>66</sup> The percentages for the three wards do not add to 58% because of rounding.

<sup>67</sup> Some felony crime victims were of unknown race or ethnicity.

In 2019, most of those arrested for felony crimes were Black (90%), whereas 7% were white and 4% were Hispanic or Latino. Most felony crime arrestees (82%) were male; 17% were female.<sup>68</sup> The largest share of felony crime arrestees (35%) fell into the 25- to 34-year-old age group and 79% of felony arrestees were between the ages of 18 and 44.<sup>69</sup>

The Deputy Mayor for Public Safety and Justice was unable to obtain consistent data on prior convictions of felony arrestees or victims, partly because it is difficult to connect arrest data maintained by MPD to conviction data from D.C. Superior Court, which is federally funded and operates independently of the D.C. government. Still, DMPSJ reported that 69% of felony arrestees in 2019 had multiple previous felony or misdemeanor arrests by MPD, 11% had one previous arrest by MPD, and 19% had no prior arrests by MPD in the previous 10 years.

Among the 5,132 felony arrestees in 2019 with a unique police department identification number, the Department of Behavioral Health identified 1,269 (25%) who had received behavioral health services, such as outpatient mental health care or substance abuse treatment, through the agency that year. Because MPD and DBH do not use a common identifier for arrestees and behavioral health consumers, there may have been other felony arrestees who received services from DBH but were not identified.<sup>70</sup>

**Frequency and disposition of charges in D.C. Superior Court.** The 2019 report on felony crime data included felony and misdemeanor charges in D.C. Superior Court because the court data identify only felony and misdemeanor cases, each of which can contain both types of charges. The 10,433 cases filed in 2019 contained 19,045 criminal charges (down from 13,561 cases filed in 2016 containing 24,170 charges). The top four charges in 2019 were for assault (22% of all charges), drugs (15%), other (14%), and weapons (12%).<sup>71</sup>

Among the 10,433 cases filed in D.C. Superior Court in 2019, 2,852 (27%) were classified as felony cases, with 2,571 individuals named as defendants. Because MPD reported that there were 5,826 felony arrests made in 2019, the DMPSJ report concluded that a high percentage of felony arrests do not result in prosecution.

In 2019, less than one-quarter of all charges (23%) resulted in a conviction, while 41% were dismissed, 26% remained open, and 2% resulted in acquittal. The remaining charges resulted either in a deferral or a diversion. The vast majority of convictions (90%) came through a guilty plea.

Conviction rates varied widely for different crimes in 2019, as shown in Figure 8 (next page). Homicide cases (which are not included in Figure 8) had a low reported conviction rate, but most of the cases (90 of 119, or 76%) remained open at the end of the year.

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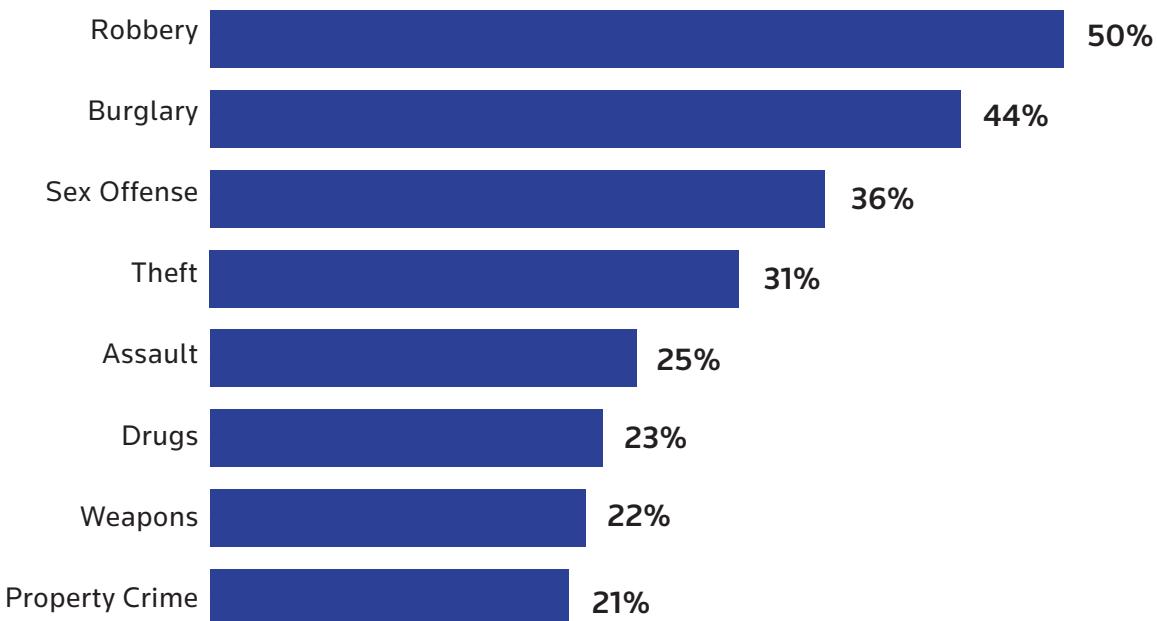
68 The percentages do not add to 100 due to rounding. Almost 0.2% of felony crime arrestees were of unknown gender.

69 The data do not include arrests of anyone under the age of 18.

70 DMPSJ has enlisted The Lab @ DC as an intermediary to protect the privacy of individuals while matching MPD arrest records to DBH client data. The Lab @ DC administers a process of “data hashing” which generates a unique identifier to represent a person’s name and date of birth. The Lab @ DC then counts the identifiers that appear on both the MPD and DBH lists, thereby protecting each person’s anonymity.

71 “Other” serves as a catchall category including diverse crimes such as arson, extortion, and illegal dumping.

Figure 8: Criminal Charge Conviction Rates in D.C. Superior Court, 2019



Source: Office of the Deputy Mayor for Public Safety and Justice, A Report on Felony Crime in the District of Columbia for 2019.

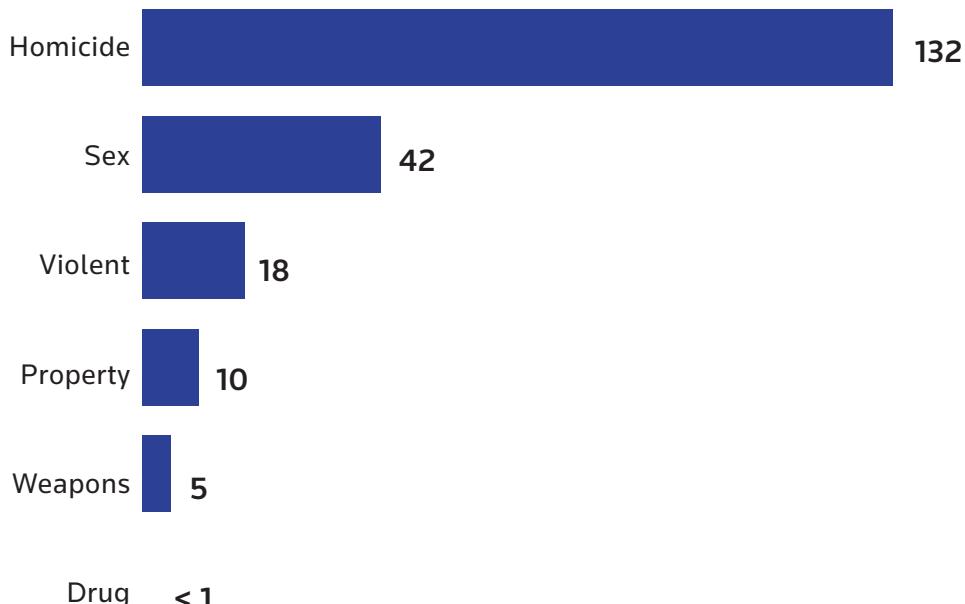
**Median sentence by offense.** The 2019 report on felony crimes included data on the distribution of sentences for various offenses, based on offense classifications used by the D.C. Advisory Committee on Sentencing. Figure 9 (next page) shows the median sentences issued in 2019, but it is important to note that the medians can conceal a wide range. For example, there was a weapons-related sentence of 19 years even though the median sentence for a weapons offense in 2019 was five months.

Notably, the median sentence for weapons violations dropped from 18 months in 2017 to 12 months in 2018 and then to five months in 2019. The data do not show if sentences were served consecutively or concurrently when a person was convicted of more than one crime.

In addition to the lack of complete data on prior convictions for felony crime victims or arrestees mentioned earlier, the following types of information required by the NEAR Act have not been included in the annual felony crime reports because MPD does not collect the data:

- Prior arrest history for felony crime victims.
- Level of education of victims and arrestees.
- Relationships, if any, between victims and arrestees.

Figure 9: Median Sentences for Various Offenses in 2019 (Months)



Source: Office of the Deputy Mayor for Public Safety and Justice, A Report on Felony Crime in the District of Columbia for 2019.

The DMPSJ's annual reports on felony crime data provide a wealth of information intended to provide a more comprehensive view of outcomes in the District's bifurcated, local-federal criminal justice system, tracing crimes from their occurrence through their adjudication in court. Nevertheless, ODCA interviews with D.C. policymakers in the executive and legislative branches indicated that the reports are not widely used; one senior official involved in criminal justice policy stated that she had not looked at the reports.

Improved timeliness would help make the annual felony crime data reports more useful to policymakers. After preparing four annual reports (2016-2019), DMPSJ and its partners in other government agencies have in place the procedures and data-sharing agreements needed to compile the report, which should facilitate quicker production and compliance with the NEAR Act's statutory deadline.

ODCA observes that the Criminal Justice Coordinating Council may be better suited to prepare the annual report on felony crime data after the DMPSJ has completed the 2020 and 2021 reports. The CJCC's mission to serve as the forum for District and federal members to identify cross-cutting local criminal and juvenile justice issues gives it a comparative advantage in tracking felony crime incidents through a criminal justice system comprised of local and federal partners. Top officials from relevant agencies, including the Chief of Police, D.C. Attorney General, U.S. Attorney for the District of Columbia, and the Chief Judge of the D.C. Superior Court, serve on the CJCC. Moreover, research and analysis is a core function of the CJCC, which operates a Statistical Analysis Center responsible for collecting, analyzing, and disseminating data about the District's criminal and juvenile justice systems. Finally, the CJCC might provide a venue for policymakers to consider the report's findings and their implications, and to offer feedback on the report, through the CJCC's committees (particularly its Combating Violent Crime Committee) and its training and technical assistance activities.

## **Recommendation**

13. The Council should amend the NEAR Act to shift responsibility for the annual report on felony crime data to the Criminal Justice Coordinating Council after the Deputy Mayor for Public Safety and Justice completes the reports for 2020 and 2021. The amendment should require the relevant agencies to provide the necessary data to the CJCC.

# Officer Retention and Recruitment Incentives

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**The Metropolitan Police Department has implemented the NEAR Act provisions to encourage officer retention and recruitment, but the impacts appear minimal.**

Title II, Subtitle I of the NEAR Act (Officer Retention and Recruitment Incentives) sought to bolster officer retention by allowing MPD to grant time off to MPD officers at the rank of Inspector or above, as well as their civilian equivalents, for working more than 80 hours during a biweekly pay period. The Mayor was to issue rules to implement the provision of compensatory time, which is subject to the following statutory limitations:

- The award of compensatory time is exempt from the requirements of the Fair Labor Standards Act.
- Compensatory time cannot exceed 80 hours in a 12-month period.
- Compensatory time must be forfeited if it is unused at the end of the leave year after the leave year when it was earned.
- Compensatory time cannot be included in a leave payment if it is unused at the end of an employee's service.

In addition, Title II, Subtitle I was intended to enhance officer recruitment by easing the standards for individuals seeking to become officers. Applicants must meet minimum standards for education, military service, or service with another police department. The NEAR Act reduced the required length of service in the military from three years to two, and dropped the required amount of experience in another police department from five years to three.

These policy changes stemmed from a proposal made by the Bowser administration in Bill 21-357, the "Public Safety and Criminal Code Revisions Amendment Act of 2015," which was introduced by Chairman Mendelson at the request of the Mayor. The only substantive difference between the Mayor's bill and the subtitle as enacted is that the Mayor sought to lower the minimum service in another police department to two years, whereas the NEAR Act settled on three years.

In a written statement on Bill 21-357 to the Committee on the Judiciary, then-Deputy Mayor for Public Safety and Justice Kevin Donahue stated that the compensatory time provisions were intended to "retain some of our most experienced officers" in the face of "unprecedented retirement eligibility looming at the command staff levels." Donahue also framed the lower eligibility standards for veterans and officers from other jurisdictions as needed to help MPD compete, stating that, "Of 19 relevant jurisdictions—identified either because they hire locally or they are major city police departments, only Montgomery County has higher qualifications."

In its report on the NEAR Act, the Committee on the Judiciary expressed support for granting compensatory time by highlighting its potential impacts on officer wellness. The Committee stated that, "An appropriately compensated, healthy, and engaged police force is critical to crime intervention and prevention, as well as—in practical terms—preventing attrition." Still, the Committee cautioned that increased time off could compound staff shortages.

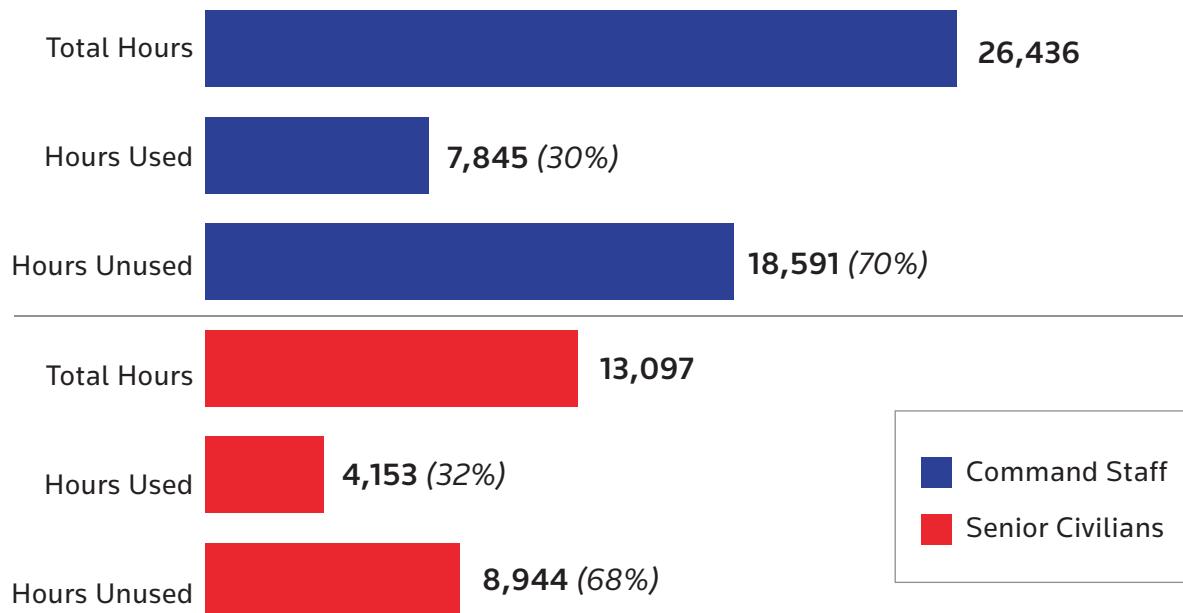
**Compensatory time for MPD command staff and civilian equivalents.** The executive branch did not issue regulations to govern the authorization and use of compensatory time off, but MPD issued Executive Order 17-014 (Exempt Time Off) on May 10, 2017, to define the eligible employees and the procedures for granting and using compensatory time. The executive order reflected the NEAR Act language making sworn officers at the rank of Inspector and above eligible for up to 80 hours of compensatory time per year, while defining their civilian equivalents as employees at grade 15 or above, Legal Service employees, and Excepted Service employees.

Payroll data indicate that during a period just over six years (September 26, 2016, to October 22, 2022), MPD command staff and their civilian equivalents earned 39,532 hours of compensatory time. The command staff claimed two-thirds (67%) of the total and the civilian staff accounted for the other third (33%).

Overall, eligible MPD officials have used only 11,998 hours, or 30% of the total hours of leave authorized. As shown in Figure 10, MPD command staff and senior civilians have used similar percentages of the compensatory time they earned.

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**Figure 10: Compensatory Time Earned and Used by MPD Command Staff and Senior Civilians, September 2016–October 2022**



Source: Metropolitan Police Department.

The impact of the compensatory time on retention of police officers and civilian staff is unknown, because so many factors affect retention including salary, opportunities for advancement, work environment, and job stress. MPD officials interviewed by ODCA acknowledged that the effect of compensatory time is probably minimal because senior staff are frequently unable to use the benefit. Still, these officials stated that granting compensatory time has both practical and symbolic value and helps boost morale.

**Lower experience requirements for military veterans and officers from other law enforcement agencies applying to become MPD officers.** MPD has implemented the new minimum experience standards for former military service members and officers from other police departments, but the impact has been minimal. The first eligibility screen for applicants is whether they have 60 hours of post-secondary education at an accredited college or university, as required by D.C. law. MPD data from FY 2019 through FY 2022 show that that 92% of the officers hired during this period (710 of 768) qualified on the basis of education. The other 58 officer recruits qualified based on the second screening factor, military service, but 57 of those recruits would have qualified without the NEAR Act change (in other words, 57 of 58 had three or more years of military service and were not affected by the new minimum of two years).

MPD officials acknowledged that the impact of the NEAR Act changes on officer recruitment has been minor. A senior MPD official expressed the view that the lower experience threshold for outside law enforcement officers had little effect because MPD pay levels were not competitive, but saw potential for greater impact after MPD reached a new collective bargaining agreement with the D.C. Police Union in July 2022 and gained authority to offer \$20,000 hiring bonuses.<sup>72</sup>

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72 The D.C. government and the D.C. Police Union reached agreement on a labor contract covering the period from October 1, 2020, to September 30, 2023, which included retroactive pay increases. In April 2023, the hiring bonus was increased from \$20,000 to \$25,000.

# Department of Forensic Sciences Rehiring of Retired MPD Officers

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**The Department of Forensic Sciences has hired retired police officers to help staff its Crime Scene Sciences Division, but is not in compliance with NEAR Act rules on the classification and tenure of the employees. Moreover, DFS has not achieved the longer-term goal of fully staffing the division with civilian forensic scientists.**

Title II, Subtitle J of the NEAR Act (Rehiring of Retired Officers by the Department of Forensic Sciences), allows DFS to rehire a retired MPD officer, except a disability annuitant, without affecting the individual's retirement benefits. DFS can assign a retired police officer hired under these rules to a temporary supervisory or non-supervisory position.

This proposal was originally made by the Bowser administration in Title VIII of Bill 21-357, the "Public Safety and Criminal Code Revisions Amendment Act of 2015," which was introduced by Chairman Mendelson at the request of the Mayor. In a statement on Bill 21-357 to the Committee on the Judiciary, then-Deputy Mayor for Public Safety and Justice Kevin Donahue contended that the provision would help DFS fill crime scene positions, noting that more than 100 MPD officers were working as crime scene investigators in the District's crime lab.

Although DFS was trying to civilianize some positions, Mr. Donahue stated that it would take time to train the new hires, making continued reliance on MPD likely. Allowing retired MPD officers to fill crime scene positions at DFS would reduce the need for active-duty officers to fill those roles and allow MPD to return the officers to other duties—a pressing issue as MPD foresaw a "retirement bubble." For its part, the Committee on the Judiciary stated that that the proposal "comports with MPD's broader efforts to remove sworn officers from positions that could be filled with civilian personnel ... there is no compelling reason why the work of the Crime Scene Sciences Division at DFS must be performed by sworn officers."

DFS's authority to hire retired MPD officers without any impact on their retirement benefits took effect on March 3, 2016, before the NEAR Act became law, due to emergency legislation approved by the Council and signed by Mayor Bowser.<sup>73</sup> The NEAR Act then made the hiring authority permanent.

The Bowser administration began shifting responsibility for crime scene services from MPD to DFS in 2015, with the goal of hiring highly trained civilian forensic scientists to generate forensic intelligence early in an investigation and to process and track crime scene information for immediate and future analysis. The forensic scientists are responsible for recognizing, recording, and receiving physical evidence at crime scenes by collecting, photographing, and analyzing the evidence, and must have broad knowledge of the principles, theories, and practices of analytical chemistry, physical science, or biology.

To oversee crime scene investigations, DFS established a Crime Scene Sciences Division (CSSD) comprised of a Crime Scene Sciences Unit which collects, processes, analyzes, and preserves evidence in criminal

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<sup>73</sup> This was D.C. Act 21-327, the "Crime Scene Investigator Hiring Clarification Emergency Amendment Act of 2016."

cases; and a Central Evidence Unit which handles the intake of evidence, processes it for laboratory analysis, and transfers it to stakeholder agencies. Although the National Accreditation Board of the American National Standards Institute withdrew its accreditation of DFS's Forensic Sciences Laboratory in May 2021, this action did not directly affect CSSD because it was not accredited.<sup>74</sup> Still, the resulting damage to DFS's reputation may have compounded CSSD's difficulties in recruiting staff, which are discussed below.

DFS has encountered difficulty in recruiting and retaining experienced civilian crime scene scientists due to strong regional competition and had to scale back the goal of full civilianization, which at one point was targeted for completion in FY 2018. DFS was still striving to increase the numbers of civilian scientists as of January 2022, and in a March 2022 statement to the Committee on the Judiciary and Public Safety, DFS's Interim Director expressed his intent to conduct crime scene investigations with "a majority civilian workforce" during FY 2023. In March 2023, after the audit period ended, Mayor Bowser proposed shifting responsibility for crime scene sciences back to MPD, but the Council did not adopt the proposal.<sup>75</sup>

In light of DFS's recruitment challenges, DFS and MPD officials interviewed by ODCA agreed that the NEAR Act authority for DFS to rehire retired MPD officers has helped maintain crime scene sciences staffing levels and provided the unit with valuable experience. In fact, the current CSSD Director and her predecessor both joined DFS upon retiring from MPD after nearly 30 years of service apiece.<sup>76</sup> As of January 2023, retired MPD officers occupied key leadership positions within CSSD, including a Crime Scene Sciences Supervisor and a shift supervisor.

In January 2022, DFS reported to the Council's Committee on the Judiciary and the Public Safety that 15 retired MPD officers were working at DFS. Nevertheless, DFS management, which almost completely turned over after the agency lost accreditation in 2021, disavowed the accuracy of the data provided to the Committee. DFS management then promised to compile and submit accurate data on its hiring of retired police officers, but after repeated follow-up requests changed course and stated that it did not have and could not provide any data, citing the D.C. Department of Human Resources (DCHR) as the repository of personnel records.<sup>77</sup>

Because DFS is a subordinate agency under the Mayor's authority, DCHR serves as the personnel authority responsible for overseeing DFS personnel practices and approving DFS personnel decisions. (D.C. Law 24-348, the "Restoring Trust and Credibility to Forensic Sciences Amendment Act of 2022," effective on April 21, 2023, would remove DFS from DCHR's authority but its provisions do not apply until its fiscal effect is reflected in an approved financial plan and budget). Nevertheless, effective personnel management is a responsibility shared by DFS and DCHR. For temporary employees, hiring agencies

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<sup>74</sup> The withdrawal of accreditation applied to the following DFS units: firearms examination, forensic biology, forensic chemistry, latent fingerprint, and digital evidence.

<sup>75</sup> Mayor Bowser made the proposal in Bill 25-202, the "Fiscal Year 2024 Budget Support Act of 2023," which was introduced by Chairman Mendelson at the Mayor's request.

<sup>76</sup> The current CSSD Director, Alesia Wheeler-Moore, was an MPD Lieutenant. Her predecessor, Christopher LoJacano, was an MPD Commander.

<sup>77</sup> In a January 2023 response to questions from the Council's Committee on the Judiciary and Public Safety, DFS reiterated that it had no information on the number of retired MPD officers working in the Crime Scene Sciences Division, stating that, "DFS does not maintain retirement records of MPD officers. MPD Human Resources holds the official retirement records for MPD officers."

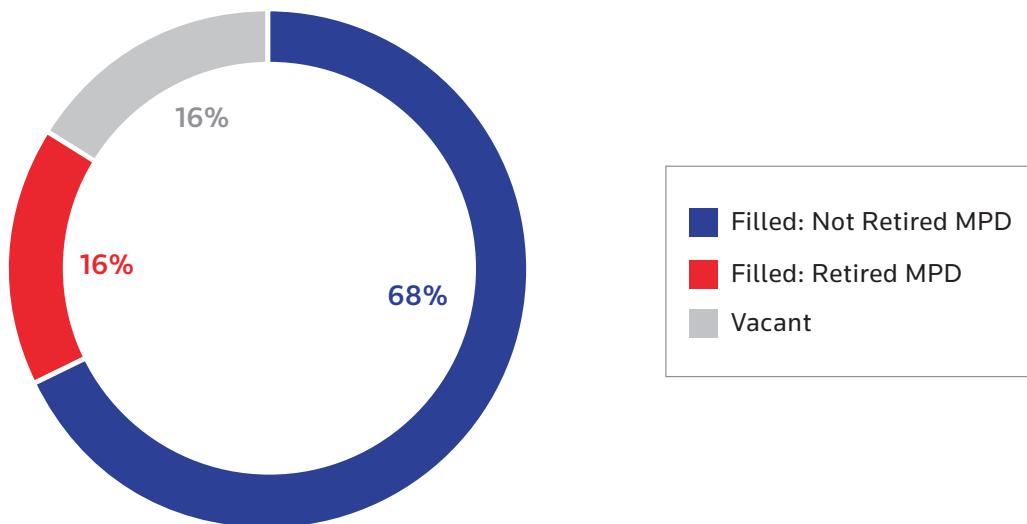
must submit a Personnel Action Request, position description, and signed employment application to DCHR for approval. Moreover, D.C. government agencies must obtain, use, and report current and accurate personnel data to manage their operations effectively. DCHR guidelines for agency workforce planning note the importance of metrics such as a list of mission-critical positions, employee turnover by position type and tenure, average time to fill a position, current number of vacancies, and the number of employees eligible to retire in the next two years.<sup>78</sup>

DFS's lack of transparency about the number of retired officers working in Crime Scene Sciences reflects weak internal controls—the processes that management uses to help ensure that an organization achieves its goals.<sup>79</sup> Internal control principles emphasize using quality information to meet organizational objectives, communicating that information internally and externally, and using the information to evaluate issues and remediate deficiencies.

ODCA verified independently that 13 retired MPD officers were working in DFS's Crime Scene Sciences Division as of January 2022, including the critical positions cited earlier (Director of the Crime Scene Sciences Division, a crime scene sciences supervisor, and two shift supervisors). The DFS staff roster from January 2022 shows that 68 of 81 CSSD positions (84%) were filled. Without the 13 retired MPD officers, CSSD would have filled only 68% of its positions (55 of 81), as depicted below in Figure 11.<sup>80</sup> Therefore, the NEAR Act authority for DFS to hire retired MPD officers has fulfilled its goal of helping DFS fill crime scene sciences positions with experienced personnel.

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**Figure 11: Crime Scene Sciences Positions in the Department of Forensic Sciences (Jan. 2022)**



**Source:** Annual responses to performance oversight hearing questions from the Council's Committee on the Judiciary and the Public Safety, 2015-2022, and independent ODCA research.

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<sup>78</sup> Retired police officers would obviously fall into the latter category.

<sup>79</sup> More formally, the U.S. Government Accountability Office states that, "An internal control system is a continuous built-in component of operations, effected by people, that provides reasonable assurance, not absolute assurance, that an entity's objectives will be achieved."

<sup>80</sup> It is possible that DFS might have intensified its efforts to fill positions with other forensic scientists if the MPD retirees were not available.

Nevertheless, DFS's Crime Scene Sciences Division faces serious risks because the assistance from MPD retirees was intended to be transitional. As noted earlier, the NEAR Act deemed their positions to be temporary, which means they are limited to 12 months and cannot be filled above the DS-12 level. Moreover, the MPD retirees—most of whom worked for MPD for 25 to 30 years before joining DFS—are unlikely to keep working for much longer. Many of the MPD retirees have already worked at DFS for five years or more, suggesting that they may soon retire permanently.

Moreover, DFS is in violation of the NEAR Act language limiting retired MPD officers to temporary positions. Data provided by DCHR indicate that nine of the 13 retired officers working in CSSD as of February 2023 had permanent appointments to the Career Service or Management Supervisory Service; only two had temporary appointments. The other two retired officers working in CSSD had term appointments, which can last from 13 months to four years.

DFS needs to fully staff its Crime Scene Sciences Division with skilled employees—and to follow D.C. law while doing so—in order to help solve crimes by collecting, preserving, and analyzing evidence. DFS reported that CSSD fell short of targets for its two key performance indicators in FY 2022, responding to crime scenes within 30 minutes only 80.6% of the time (the goal was 90%), and completing crime scene reports within 14 days only 83% of the time (the goal was 95%). Moreover, CSSD affects MPD's performance, not only by providing the evidence needed to solve crimes but by relieving patrol officers who arrive first at a crime scene and must protect the evidence until CSSD personnel arrive. In a March 2023 response to performance oversight questions from the Committee on the Judiciary and Public Safety, MPD stated that:

DFS does not have the manpower to handle the full workload for crime scenes in the District of Columbia. As a result, MPD sworn members, both those who are trained at a reserve crime scene level and those who are assigned to the Crime Scene Investigations Division (CSID), handle scenes where the only need is for photographs, latent print processing, buccal swabs, or in sounds of gunshots events where casings need to be collected.

An additional problem is that DFS has also relied on active-duty MPD officers to perform CSSD duties, contrary to the goal of civilianizing crime scene positions so that MPD crime scene investigators can return to patrol or other duties.<sup>81</sup> On August 3, 2015, MPD assigned 24 active-duty officers to work from DFS on crime scene response.<sup>82</sup> As of March 2023, seven active-duty officers were still working in this capacity, reflecting DFS's continued inability to operate CSSD without MPD assistance.

In response to performance hearing questions from the Committee on the Judiciary, MPD stated in 2015 that, "(I)t is imperative that civilians take over [crime scene] functions as envisioned so that officers can

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<sup>81</sup> For example, in a written statement submitted to the Council's Judiciary Committee for a May 2017 budget hearing, then-DFS Director Jenifer Smith pledged that, "Upon completion of hiring and training of ... civilians, DFS will fully assume responsibility for District-wide crime scene evidence and collection, allowing the return of all [Crime Scene Investigations Division]/MPD officers to regular police duties."

<sup>82</sup> Although MPD and DFS have referred to these officers as "detailees" in responding to questions from the Committee on the Judiciary and Public Safety, DFS has since disavowed this terminology because there was no paperwork formally assigning the officers to DFS. Instead, they continued to work on crime scene response as MPD officers.

return to operational duties.” That imperative is even more acute eight years later, as DFS continues to rely on retired and active-duty MPD officers, and faces difficulties recruiting and retaining civilian forensic scientists in its Crime Scene Sciences Division. Accordingly, DFS needs a detailed staffing and succession plan to meet the future needs of the Crime Scene Sciences Division and ensure that the hiring of retired police officers complies with D.C. law. That plan could include a proposal by DFS to amend the NEAR Act to allow retired MPD officers to fill permanent positions in Crime Scene Sciences given the critical role that the retirees still play.

Leading practices in human capital management underscore the importance of data-driven workforce and succession planning. The U.S. Government Accountability Office (GAO) cites succession planning as an essential part of human capital management, stating that, “Leading organizations engage in broad, integrated succession planning and management efforts that focus on strengthening both current and future organizational capacity.”<sup>83</sup> GAO further emphasizes that human capital decisions should be “informed by complete, valid, and reliable data … Agency leaders use this information to manage risk by spotlighting areas for attention before crises develop and to identify opportunities for improving agency results.”

Similarly, the U.S. Office of Personnel Management’s human capital framework calls on agencies to (1) plan for and manage current and future workforce needs, (2) design, develop, and implement proven strategies to hire, develop, and retain talent, and (3) close knowledge, skills, and competency gaps. Because DFS is slated to gain independent personnel authority once the funds needed to implement D.C. Law 24-348 have been appropriated, DFS must immediately plan for the future needs of the Crime Scene Sciences Division and address any risks that could hamper its critical operations.

## **Recommendation**

- 14.** The Department of Forensic Sciences should develop and submit to the Mayor and Council, within six months, a plan with timetables for achieving full, long-term staffing of the Crime Scene Sciences Division and bringing CSSD personnel practices into compliance with D.C. law and regulations.

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<sup>83</sup> See “Leading Practices in Human Capital Management,” found at [www.gao.gov/leading-practices-human-capital-management](http://www.gao.gov/leading-practices-human-capital-management).

# Traffic Citation Modernization for Operating a Vehicle

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**The NEAR Act's repeal of a regulation establishing a moving violation for driving with an object on a rear-view mirror, windshield, or window has removed a possible basis for pretextual stops.**

Title III of the NEAR Act (Traffic Citation Modernization for Operating a Vehicle) repealed language in Title 18, Chapter 22 of the D.C. Municipal Regulations (Moving Violations) that barred a motorist from driving with any object suspended from or attached to the rear-view mirror, windshield, or windows.<sup>84</sup> Motorists who violated this rule were subject to a fine of \$15. Title III also amended an existing provision of Title 18, Chapter 22 to state that a motorist shall not drive with any object that obstructs a significant portion of his or her view or interferes with his or her control of the vehicle.<sup>85</sup> Motorists who violate this rule are subject to a fine of \$25.

The effect of Title III was to define the moving violation in terms of the general risk of harm from driving with an obstructed view rather than particular objects that might cause an obstruction.<sup>86</sup> By tailoring the rules more narrowly, Title III was intended to remove a basis for police officers to make pretextual stops of motorists, which occur when police use minor traffic or equipment violations (such as a broken taillight or failure to signal a turn) as an opening to investigate if someone is involved in other, more serious crimes. Pretextual traffic stops have been a cause for concern because research has shown that Black and Latino drivers are more likely to be stopped for traffic violations, including minor infractions, than white drivers.

The language in Title III closely reflected language proposed by the Bowser administration in Title XII of Bill 21-357, the “Public Safety and Criminal Code Revisions Amendment Act of 2015,” which was introduced by Chairman Mendelson at the request of the Mayor. In a written statement on Bill 21-357 to the Committee on the Judiciary, then-Deputy Mayor for Public Safety and Justice Kevin Donahue noted that, “Amending these provisions eliminates some of the grounds for officers stopping a vehicle for trivial traffic law violations and reduces the need for an unnecessary and likely unwelcome interaction between the officer and a member of the public.”

On July 1, 2016 (the day after the NEAR Act took effect), MPD issued instructions about the revised traffic regulations to all officers through a teletype titled, “Violation for Objects Hanging from a Mirror Repealed.” The instructions were to be read at officer roll calls for two weeks.

To assess Title III’s impact, ODCA analyzed data on traffic citations from 2014 through 2021 provided by the Department of Motor Vehicles (DMV). ODCA chose this period to span a significant amount of time before and after the NEAR Act took effect on June 30, 2016. In consultation with DMV, ODCA identified three traffic violation codes relevant to driving with an obstructed view: T189 (driving with obstructed vision), T190 (driving with hanging objects), and T193 (driving with an obstructed windshield).

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84 Title III of the NEAR Act repealed subsections 2213.7 and 2213.8 of section 2213 of Title 18 of the D.C. Municipal Regulations.

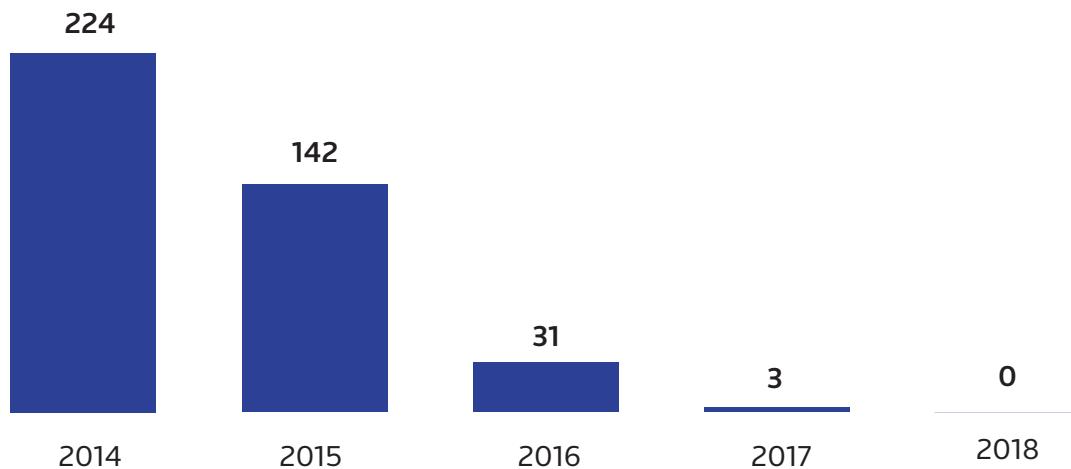
85 Title III of the NEAR Act amended subsection 2213.1 of section 2213 of Title 18 of the D.C. Municipal Regulations.

86 The Committee on the Judiciary’s report on the NEAR Act referred to “concern for pretextual stops being conducted on the basis of any object, no matter how small, hanging from the rearview mirror,” including a “so-called ‘fuzzy dice’ scenario.”

As shown in Figure 12, traffic citations for violation T190, driving with hanging objects, dropped precipitously from 224 in 2014 to three in 2017, before being eliminated in 2018. Although there should have been no citations for this violation in 2017 because the NEAR Act was then in effect, the NEAR Act achieved the goal of removing a potential basis for pretextual stops.

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**Figure 12: Traffic Citations for Driving with a Hanging Object, 2014–2018**



**Source:** Department of Motor Vehicles.

**Note:** Traffic citations for driving with a hanging object have remained at zero since 2018.

Traffic citations for T189 (driving with obstructed vision) and T193 (driving with an obstructed windshield) also fell after the NEAR Act took effect, indicating that police officers did not try to substitute other violations for the repealed violation. The data show that:

- Citations for driving with obstructed vision (T189) totaled 40 in 2015 but only reached double digits once since then (11 citations in 2017). As noted earlier, the NEAR Act revised the definition of driving with obstructed vision to reflect obstruction of a “significant portion” of the driver’s view.
- Citations for driving with an obstructed windshield totaled 37 in 2015 but only reached double digits once since then (10 in 2019).

# Conclusion

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The NEAR Act's police reforms have been followed by subsequent legislative and policy proposals to hold police more accountable for fair treatment of residents and keeping the public safe. In its April 2021 report, *Decentering Police to Improve Public Safety*, a Police Reform Commission (PRC) established by the Council called for a "smaller, more appropriate and constructive role for police" that would represent "a clean break with the District's and the nation's legacy of over-policing yet under-protecting people of color." The PRC was authorized in a 2020 emergency bill that was largely incorporated into D.C. Law 24-345, the "Comprehensive Policing and Justice Reform Amendment Act of 2022," which took effect on April 21, 2023. An omnibus bill that includes 26 subtitles, D.C. Law 24 -345 also gave new powers to the Office of Police Complaints and the Police Complaints Board, established limits on consent searches, defined discipline of officers as a management right that cannot be negotiated through collective bargaining, and created a Deputy Auditor for Public Safety position within ODCA.

Even as other initiatives have claimed public attention, the NEAR Act remains important because it formalized a public health approach to violence prevention in the District and emphasized community collaboration, procedural justice, and data-driven policies as keys to fair and effective policing. The PRC and groups as varied as the ACLU-DC and the NAACP's Washington, D.C. Branch have reaffirmed NEAR Act principles and requirements in discussions of public safety and criminal justice policy, reflecting the law's continuing relevance. A major public safety bill proposed by Mayor Bowser in May 2023 echoed the NEAR Act's emphasis on data analysis in support of evidence-based policy making, tasking the CJCC with providing data to the Mayor, Council, and public every quarter about the process and outcomes of criminal justice programs including the results of alternative disposition and sentencing agreements.<sup>87</sup>

Not surprisingly, some of the NEAR Act police reform sections that were implemented most smoothly reflected areas of consensus between the Council and the executive branch, such as new rules that narrowed the offense of assault on a police officer and the traffic violation of driving with an obstructed view. These provisions provide a template for changes in police practices that enhance public safety and fairness by focusing enforcement on activities that create direct harm or risk of harm. Nevertheless, these changes in law or regulation were relatively modest and discrete.

NEAR Act police reform sections that built on existing capacity also met their objectives. After 15 years of investigating and resolving police complaints, the Office of Police Complaints was prepared to assume sole responsibility to handle designated types of cases, manage a larger workload, and use its new authority to order officers to undergo policy training. The Metropolitan Police Department implemented new training requirements for officers that were intended to improve police interactions with community members and expanded on prior efforts to train officers about behavioral health issues, cultural competency, and de-escalation of conflicts.

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<sup>87</sup> The relevant legislation is Bill 25-291, the "Safer Stronger Amendment Act of 2023," introduced by Chairman Mendelson at the request of Mayor Bowser on May 16, 2023. As of this writing, the bill was under consideration by the Committee on the Judiciary and Public Safety.

The NEAR Act has also created additional capacity that D.C. officials can use to promote more effective police practices and protect the public. The Lab @ DC and outside experts agree that police stop data, which are now reported publicly by MPD, can help MPD and policy makers assess and address racial and other disparities in stops, while also improving police practices. For example, the data can help identify stops that are more likely to yield benefits, such as seizures of weapons and contraband, and represent the most effective use of police resources. The annual reports of the Police Complaints Board, as well as its annual use of force reports, provide extensive data on police complaints and use of force incidents, as well as the officers and residents involved in those incidents, which MPD and OPC can use (and have used) to pinpoint problems and address them through changes to training, supervision, discipline, and other practices.

This report recommends ways to advance NEAR Act objectives that have been implemented less fully or effectively—particularly efforts to harness the advice of policy experts and community leaders (such as reestablishment of the Comprehensive Homicide Elimination Strategy Task Force) and enhance data collection and reporting (such as the annual felony crime data reports assigned to the Deputy Mayor for Public Safety and Justice). Executive and legislative branch officials should ask advisory groups and task forces to provide input on specific policy or research questions of pressing interest, while ensuring these bodies have enough financial, staff, and logistical support to fulfill their duties. To promote evidence-based policy making, senior officials should ensure that data reports and analyses required by law are presented in public forums such as Council hearings or Criminal Justice Coordinating Council meetings.

ODCA commends executive branch staff for their responsiveness and cooperation with our many requests for information for this audit. We are grateful for the time they spent responding to our questions and for the courtesies they extended to the audit team. ODCA also appreciates the willingness of community leaders, policy experts and advocates, and academics to share their knowledge with us.

# Summary of Report Recommendations

Findings	Recommendations
The Metropolitan Police Department has not fully complied with requirements to operate a Community Policing Working Group and compliance has declined over time.	<ol style="list-style-type: none"><li>1. The Metropolitan Police Department should convene a Community Policing Working Group of 10 to 15 members to operate on a continuous basis and examine national best practices in community policing.</li><li>2. The Community Policing Working Group should appoint its own leaders and create its own work plan in consultation with the Metropolitan Police Department.</li></ol>
The Comprehensive Homicide Elimination Strategy Task Force was unable to submit a final report to the Mayor and Council.	<ol style="list-style-type: none"><li>3. The Council should amend the NEAR Act to sunset the Comprehensive Homicide Elimination Strategy Task Force.</li></ol>
The Criminal Justice Coordinating Council conducted a survey of police-community relations in the District of Columbia and reported the results to the Mayor and Council.	<ol style="list-style-type: none"><li>4. The Mayor and Council should provide the Criminal Justice Coordinating Council with ongoing funding to repeat the survey of police-community relations biennially to assess changes in community trust and involvement and identify where improvements are needed.</li></ol>
The revised definition of assault on a police officer (APO) established by the NEAR Act is associated with a sharp reduction in arrests, court charges, and convictions for APO.	(None)
The Metropolitan Police Department has provided officers with in-service training in the six areas mandated by the NEAR Act.	(None)

Findings	Recommendations
<p>The Office of Police Complaints has implemented most NEAR Act provisions to strengthen its independent review authority.</p>	<ol style="list-style-type: none"> <li data-bbox="644 264 1472 337">5. The Police Complaints Board should ensure that it reviews all deaths in police custody.</li> <li data-bbox="644 348 1472 454">6. The Police Complaints Board should ensure that its annual use of force reports review all serious uses of force as well as all serious physical injuries resulting from use of force.</li> <li data-bbox="644 464 1472 612">7. The Chief of Police should cease allowing an officer to undergo education-based development as the sole response to a finding of misconduct by an Office of Police Complaints hearing examiner.</li> <li data-bbox="644 623 1472 770">8. The Office of Police Complaints should use the authority provided by the NEAR Act to audit citizen complaints that it refers to the Metropolitan Police Department or the Housing Authority Police Department for further action.</li> </ol>
<p>The Metropolitan Police Department and the Police Complaints Board have published extensive data on police use of force but there are some gaps in reporting.</p>	<ol style="list-style-type: none"> <li data-bbox="644 813 1472 1003">9. The Metropolitan Police Department and the Police Complaints Board should collect and report data on the number of subjects involved in use of force incidents, and the crime charged if an arrest was made in a use of force incident.</li> <li data-bbox="644 1013 1472 1161">10. The Council should amend the NEAR Act to make the Police Complaints Board responsible for reporting the number of complaints of excessive force filed against officers, by police district, and the outcome of each complaint.</li> </ol>
<p>The Metropolitan Police Department has been publishing stop data required by the NEAR Act since 2019 but MPD must do more to address racial disparities in stops.</p>	<ol style="list-style-type: none"> <li data-bbox="644 1199 1472 1305">11. The Metropolitan Police Department should publish the stop data required by the NEAR Act at regular six-month intervals.</li> <li data-bbox="644 1315 1472 1463">12. The Metropolitan Police Department should commission independent analysis of the outcomes of police stops and whether there is racial or ethnic bias in stops using the preferred research methods identified by The Lab @ DC.</li> </ol>
<p>The Deputy Mayor for Public Safety and Justice has published annual reports on felony crime data required by the NEAR Act, but the reports have not been timely.</p>	<ol style="list-style-type: none"> <li data-bbox="644 1510 1472 1742">13. The Council should amend the NEAR Act to shift responsibility for the annual report on felony crime data to the Criminal Justice Coordinating Council after the Deputy Mayor for Public Safety and Justice completes the reports for 2020 and 2021. The amendment should require the relevant agencies to provide the necessary data to the CJCC.</li> </ol>

Findings	Recommendations
<p>The Metropolitan Police Department has implemented the NEAR Act provisions to encourage officer retention and recruitment, but the impacts appear minimal.</p>	<p>(None)</p>
<p>The Department of Forensic Sciences has hired retired police officers to help staff its Crime Scene Sciences Division, but is not in compliance with NEAR Act rules on the classification and tenure of the employees. Moreover, DFS has not achieved the longer-term goal of fully staffing the division with civilian forensic scientists.</p>	<p><b>14.</b> The Department of Forensic Sciences should develop and submit to the Mayor and Council, within six months, a plan with timetables for achieving full, long-term staffing of the Crime Scene Sciences Division and bringing CSSD personnel practices into compliance with D.C. law and regulations.</p>
<p>The NEAR Act's repeal of a regulation establishing a moving violation for driving with an object on a rear-view mirror, windshield, or window has removed a possible basis for pretextual stops.</p>	<p>(None)</p>

# Agency Comments

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On August 1, 2023, we sent a draft copy of this report to the Office of the Deputy Mayor for Public Safety and Justice (DMPSJ) for review and written comment. DMPSJ responded with comments on August 15, 2023.

We also sent a draft copy of this report to the Criminal Justice Coordinating Council (CJCC) for review and written comment on August 1, 2023. CJCC responded with comments on August 7, 2023.

Finally, we sent a draft copy of this report to the Office of Police Complaints (OPC) for review and written comment on August 8, 2023. OPC responded with comments on August 21, 2023.

Agency comments are included here in their entirety.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Deputy Mayor for Public Safety and Justice**



August 15, 2023

Kathleen Patterson  
District of Columbia Auditor  
717 4<sup>th</sup> Street, N.W., Ste. 900  
Washington, DC 20005

**Re: Response to the Draft ODCA Report “NEAR Act Reforms Advance Procedural Justice but Data Initiatives Stall”**

Dear Auditor Patterson:

The Executive is in receipt of the August 1, 2023, draft audit report of the District of Columbia Auditor (ODCA) related to implementation and impacts of the NEAR Act’s police reform sections.

As a general matter, the Executive appreciates the acknowledgement from the ODCA of the hard work of the Metropolitan Police Department (MPD) in areas that align with or were required by the NEAR Act. MPD strives to provide world class training to its members through the Metropolitan Police Academy and in-house and guest lecturers. MPD’s comprehensive training helps to provide our officers with the knowledge and skills to provide fair, Constitutional, compassionate, and professional service to our communities. The revision to the statutes for assault on a police officer (APO), with the addition of the resisting arrest charge, and blocking the rearview mirror, had the desired impacts of ensuring APOs were only charged for assaultive behavior and minimizing vehicles stops and tickets for needless equipment-related violations. And while the retention and recruitment provisions did not have a clear impact, MPD is still committed to developing innovative ways to recruit and retain the strongest officers and leaders for MPD and the city.

**Responses to ODCA Draft Audit Findings/Recommendations**

Specifically, the Executive responds to your office’s findings and recommendations, in relevant part, as follows:

- **The Metropolitan Police Department should convene a Community Policing Working Group of 10 to 15 members to operate on a continuous basis and examine national best practices in community policing.**
- **The Community Policing Working Group should appoint its own leaders and create its own work plan in consultation with the Metropolitan Police Department.**

**Metropolitan Police Department Response:**

*Agree.* Although the Department's prior work in this area was conducted in good faith, the DC Auditor's concerns are well taken. We will be asking the Chief of Police's Citizens Advisory Council (CAC) to establish a standing subcommittee on Community Policing that will meet the parameters of the legislation. The Chief of Police's Citizens Advisory Council provides the Chief with input and advice on matters affecting the entire Department. The Chief's Citizens Advisory Council consists of the chairs of each district CAC, as well as At-Large members who represent different communities of interest in the District. The standing subcommittee will establish its own work plan in consultation with the Chief of Police. It will include members of the public who are not members of the CAC.

- **The Chief of Police should cease allowing an officer to undergo education-based development as the sole response to a finding of misconduct by an Office of Police Complaints hearing examiner.**

**Metropolitan Police Department Response:**

*Disagree.* The Department disagrees with the recommendation that the Chief of Police not allow education-based development (EBD) in lieu of discipline in cases in which the Office of Police Complaints (OPC) issue a sustained finding of misconduct by a hearing examiner. EBD is designed to proactively address the root cause of and prevent the recurrence of misconduct as opposed to simply disciplining the officer. While some officers engage in intentional misconduct, others make mistakes and want to correct their behavior going forward. MPD does not believe in a one-size-fits-all model for discipline, nor do we believe that suspensions are a universal solution to reducing misconduct and improving employee behavior.

Prior Chiefs of Police have taken the concerns in this area very seriously and have minimized the use of EBD in OPC cases. As noted in the audit report, the number of times this has happened has decreased substantially, from 11 cases sustained in Fiscal Year (FY) 2017, and nine cases in FY18, to just two in FY19, three in FY20, and two in FY21. But for the workforce to accept the validity of the Department's disciplinary system and process, it must be perceived as reasonable, fair, and consistent. The majority of discipline cases are the result of MPD investigations. This includes both allegations of misconduct identified by the Department as well as public complaints. Although all public complaints are referred to OPC, more than half are eventually referred back to MPD for handling. MPD also sustains substantially more of its investigations than OPC sustains. In calendar years 2021-2022, MPD sustained 12 to 13 percent of complaints from members of the public, whereas OPC sustained 1 and 2 percent. When MPD assesses discipline, regardless of whether a case was investigated by OPC or MPD, it must maintain a level of consistency throughout these all cases, both to support the validity of the process and to increase the likelihood that cases will be upheld in case of appeal. Therefore, in rare instances, a Chief will determine that EBD is the appropriate outcome for an OPC case.

- **The Metropolitan Police Department and the Police Complaints Board should collect and report data on the number of subjects involved in use of force incidents, and the crime charged if an arrest was made in a use of force incident.**

### **Metropolitan Police Department Response:**

*Agree.* The Department continues to make progress on modifications to its data collection system that will support greater data reporting.

- **The Metropolitan Police Department should publish the stop data required by the NEAR Act at regular six-month intervals.**

### **Metropolitan Police Department Response:**

*Agree – with comments.* The Department will continue to strive to maintain a regular reporting schedule for this data. The regularity of the reporting has improved significantly. However, combining the data from four data systems in order to produce a single consistent dataset is a complex manual process. It is reasonable to acknowledge that the production timeline may vary for several important reasons.

- *The underlying data systems may change.* Whereas data about harbor and other non-traffic stops are collected in MPD systems, information about traffic stops relies on collaboration with the Department of Motor Vehicles (DMV). Tickets may be either issued by officers either via electronic devices or handwritten tickets. DMV is a strong partner, but any changes to their business processes may impact this data. Even when the systems and processes are under MPD control, there can be an impact because of competing priorities. There was a delay in posting the 2021 data because of upgrades made to MPD's records management system, the primary data system for capturing reports of all crimes and incidents in the District. While the upgrades improved the technical environment overall for MPD's data, the data team had significant work to ensure that the new data set would be consistent with the prior stop data set so that it could continue to be a valid tool for research and analysis.
- *The data requirements may change.* In 2022, the Council enacted legislation that requires the “bureau, division, unit, and if applicable, police service area, of the officer who conducted the stop, at the time it was conducted” to the data required to be reported. (D.C. Law 24-167. *Fiscal Year 2023 Budget Support Act of 2022*) This change has to be applied to all of the data sets which once again requires manual work from the data team to produce a dataset that will be as consistent as possible with prior data sets. This new reporting will be included for the first time in the data set for January – June 2023, and is still being compiled.
- *Staff members working on the process may change.* Since the pandemic, the United States has seen significant shifts in the labor market. The District government has seen this across many industries. At MPD, we have experienced this as higher turnover among both the sworn and professional staff, including among the data professionals, a highly marketable skillset. Only one member of the team from the data original 2019 data production remains, and with each new reporting period, the senior team members are training new team members.
- *This data production is, at times, in competition with other public safety priorities.* While the Department recognizes the importance of this data production and continues to assign senior professional staff to the project, it does not trump the need for analytical work that more directly supports combating crime, the Department's core mission. At times, producing data or analysis to support deployment decisions or explore innovative approaches to crime fighting may temporarily take priority over data production.

Therefore, while MPD will continue to strive to maintain a regular data reporting cycle, we urge stakeholders to understand that many variables reasonably impact the ability to do so.

- **The Metropolitan Police Department should commission independent analysis of the outcomes of police stops and whether there is racial or ethnic bias in stops using the preferred research methods identified by The Lab @ DC.**

#### **Metropolitan Police Department Response:**

*Agree - with comments.* The Department appreciates the work of The Lab@DC, as well as Georgetown and Howard Universities, for the 2020 Convening on Police Stops and the resulting report that was published in March 2023. While it is premature to make an announcement at this time, MPD is currently working on a Memorandum of Understanding with two accredited universities on a study of police stops.

That said, we encourage other strong research teams to consider developing research plans and proposing them to the Department or the Administration. There is an opportunity to conduct important research that may have an impact on policing and communities throughout the country. While MPD needs to be an active partner in such a study, and the work is still limited by the availability of MPD personnel to support it, it would not necessarily need to be commissioned by the Department or paid for by District taxpayers.

- **The Department of Forensic Sciences should develop and submit to the Mayor and Council, within six months, a plan with timetables for achieving full, long-term staffing of the Crime Scene Sciences Division.**

#### **Department of Forensic Sciences Response:**

*Agree - with comments.* The Department of Forensic Sciences (DFS) has developed recruitment pipelines for crime scene forensic scientists with multiple university programs. These efforts are changing the composition of DFS' Crime Scene Services Unit. DFS has hired 19 forensic scientists for Crime Scene in the past 12 months. Currently, there are five forensic scientist vacancies posted for Crime Scene and three crime scene manager positions. DFS will continue to work diligently to fill these critical vacancies and will submit its recommended plan to Mayor within six months.

- **The Council should amend the NEAR Act to shift responsibility for the annual report on felony crime data to the Criminal Justice Coordinating Council after the Deputy Mayor for Public Safety and Justice completes the reports for 2020 and 2021.**

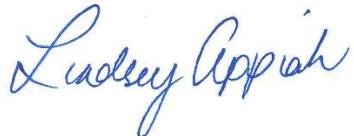
#### **The Office of the Deputy Mayor for Public Safety and Justice Response:**

*Partially agree.* As the report points out, in order to craft the annual report on felony crime data, the Office of the Deputy Mayor for Public Safety and Justice must compile data from the MPD, D.C. Superior Court, D.C. Sentencing Commission, and Department of Behavioral Health, and point out the limitations and complexities of the data. The Executive does not control all of the entities that must provide data, leading to challenges in meeting statutory timelines. Given the role of the Criminal Justice Coordinating Council (CJCC) in regularly procuring, compiling, and analyzing data from local and federal criminal justice system stakeholders, we agree the CJCC is

best situated to assume these responsibilities. In light of the ongoing post-COVID-19 challenges in data collection, we believe such responsibilities should begin with the 2021 report.

Thank you for the opportunity to provide responses on behalf of the Executive. If you have any questions or concerns regarding these responses, please do not hesitate to contact me directly.

Respectfully,



Lindsey Appiah  
Deputy Mayor for Public Safety and Justice

Cc:

Betsy Cavendish, Executive Office of the Mayor  
Kevin Donahue, City Administrator  
Helder Gil, Office of the City Administrator  
Pamela Smith, Acting Chief of Police - Metropolitan Police Department  
Ben Haiman, Metropolitan Police Department  
Kelly O'Meara, Metropolitan Police Department  
Dr. Francisco Diaz, Interim Director - Department of Forensic Sciences  
Gretchen Brumley, Department of Forensic Sciences  
Nicole Peckumn, Office of the Deputy Mayor for Public Safety and Justice



## GOVERNMENT OF THE DISTRICT OF COLUMBIA OFFICE OF POLICE COMPLAINTS

August 21, 2023

Kathleen Patterson  
District of Columbia Auditor  
Office of the District of Columbia Auditor  
717 14<sup>th</sup> Street N.W.  
Suite 900  
Washington, DC 20005

Dear Kathleen Patterson:

The Office of Police Complaints (OPC) appreciates the opportunity to review the Office of the District of Columbia Auditor's (ODCA) report on the implementation of the Neighborhood Engagement Achieves Results (NEAR) Act of 2016. The comprehensive ODCA report provides an in-depth review of OPC's and other agencies' implementation of the NEAR Act provisions. This report also provided three recommendations for how OPC and the Police Complaints Board (PCB) can improve their implemented provisions of the NEAR Act. Below is OPC's reply to these three recommendations.

In the report, ODCA recommended that going forward the PCB must release findings and recommendations related to each in-custody death. According to the NEAR act, the PCB only has jurisdiction over in-custody deaths that occur under the supervision of the Metropolitan Police Department (MPD), which usually take place in MPD district station cell blocks. Therefore, the PCB does not have jurisdiction over in-custody deaths that occur in D.C. Jails as they are under the jurisdiction of the Department of Corrections. There have been two in-custody deaths in MPD custody since the inception of the NEAR act. One in-custody death in a second district cellblock in January of 2017 was ruled a suicide. This was reviewed by the Use of Force Review Board (UFRB), of which the OPC Executive Director is a member. Therefore, according to the NEAR act the Executive Director was acting on behalf of the PCB when reviewing this in-custody death. This death was also reported in the FY17 Use of Force (UOF) report. There was also an in-custody death that occurred in February 2023, and it is still under investigation. In accordance with the Comprehensive Policing and Justice Reform Amendment Act of 2022, the findings and recommendations related to the February 2023 in-custody death will be discussed in the 2023 UOF report.

The ODCA report also recommended that the PCB ensure its annual UOF reports review all serious uses of force, including all serious physical injuries resulting from police use of force. Specifically, the ODCA would like the UOF report to include information on head strikes with an impact weapon, MPD canine bites, hospital admissions, loss of consciousness, disability, or broken bones. While the UOF reports do not explicitly report on the summaries of these specific uses of force, the UOF reports do include the number of uses of force and excessive force reviewed by the UFRB. Specifically, the UOF reports include the exact number of determinations that were regarding allegations of excessive force. The UOF report also includes

the rate of injuries for certain uses of force. For example, the 2022 UOF report included the injuries for control holds, firearm discharges, fist/knee/40mm extended impact weapons, ASP strikes, OC spray, and tactical takedowns. However, the PCB will consider this recommendation in future UOF reports. Also, the PCB will consider recommending that MPD better track the injuries community members sustain during uses of force in the 2023 UOF report.

Lastly, the ODCA recommended that OPC should use its authority to audit complaints referred to MPD or the Housing Authority Police Department (HAPD). The Chief Investigator at OPC does receive quarterly reports from MPD regarding the complaints forwarded to MPD for statutory jurisdiction or due to the incident date of the complaint being more than 90 days prior to the reported date. In these reports MPD provides information regarding the status, disposition, and potential officer discipline of the complaint. MPD also provides the date the complaint was filed, referral date, and the date MPD closed the complaint. While this is not a formal audit, OPC is able to review the cases referred to MPD and follow up on any cases. In these quarterly reports, MPD also provides detailed information about the cases OPC refers to MPD for rapid resolution in the form of internal notes. In these internal notes MPD details how they contacted the complainant and their explanation to the complainant as to how the incident fell within MPD's general orders. They also note when they were unable to contact the complainant. OPC will consider adding information to the annual reports regarding these quarterly reports from MPD. Since FY21, OPC has received 12 complaints regarding HAPD officers, 2 of which were referred back to HAPD. With this small number of HAPD complaints, OPC is able to reach out for updates regarding these complaints. Similar to the complaints referred to MPD, OPC will consider adding information to the annual reports regarding complaints referred to HAPD.

Again, OPC appreciates the opportunity to review this ODCA report. The recommendations included by the ODCA seek to enhance both OPC's and the PCB's functions, which ultimately give the community of D.C. more trust in MPD and HAPD through increased transparency.

Sincerely,

*Michael G. Tobin*

Michael G. Tobin  
Executive Director  
Office of Police Complaints



August 7, 2023

Ms. Kathleen Patterson  
District of Columbia Auditor  
Office of the District of Columbia Auditor  
1331 Pennsylvania Avenue, NW  
Suite 800 South  
Washington, DC 20004

Dear Ms. Patterson:

The Criminal Justice Coordinating Council for the District of Columbia (CJCC) appreciates the opportunity to review and comment on the Office of the District of Columbia Auditor's (ODCA) draft report entitled *NEAR Act Reforms Advance Procedural Justice but Data Initiatives Stall*.

CJCC's mission is to serve as a forum for identifying challenges and generating solutions to enhance public safety and the fair administration of justice for District of Columbia residents, visitors, victims, and justice-involved individuals. The CJCC facilitates information sharing and collaboration, conducts research and analysis, and provides training and technical assistance on behalf of its District and federal member agencies. CJCC offers the following comments regarding the recommendations that pertain directly to the agency.

**Recommendation 4: The Mayor and Council should provide the Criminal Justice Coordinating Council with ongoing funding to repeat the survey of police-community relations biennially to assess changes in community trust and involvement and identify areas where improvements are needed.**

**CJCC Response:** As described in the report, the CJCC engaged a research partner to plan and conduct a citywide survey of District residents to obtain their perspectives on police-community relations, as required by the NEAR Act. As ODCA has stated, best practices for such surveys are to replicate them periodically to assess whether public perception has changed or remains the same and where improvements are needed. With the requisite funding, the CJCC welcomes the opportunity to conduct the police-community relations survey biennially. We will also look for opportunities to enhance our dissemination and communications regarding the survey results.

**Recommendation 13: The Council should amend the NEAR Act to shift responsibility for the annual report on felony crime data to the Criminal Justice Coordinating Council after the Deputy Mayor for Public Safety and Justice completes the reports for 2020 and 2021.**

**CJCC Response:** CJCC is also open to the opportunity to assume responsibility for the annual report on felony crime data required by the NEAR Act. CJCC has ready access to Metropolitan Police Department (MPD) and DC Superior Court data that, with those agencies' approval, could be used to generate much of the required analysis pertaining to arrests, suspects and convictions. However, there are other data, such as information on victims, level of education, and known prior contacts with the Department of Behavioral Health (DBH), that are currently not readily available to the CJCC. Therefore, CJCC requests that if the DC Council chooses to amend the legislation to shift this responsibility to the CJCC, the legislation should also require the relevant agencies to provide the necessary data to the CJCC. In addition, based on CJCC's prior experience, amendments to the Data Sharing and Information Coordination Amendment Act of 2010 and the DC Mental Health Information Act of 1978 may be necessary to obtain DBH data in a way that complies with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and local laws.

Thank you for your evaluation of the implementation of the NEAR Act and your recommendations for how the CJCC can help ensure the public safety goals of the act are accomplished.

Sincerely,



Kristy Love  
Executive Director  
Criminal Justice Coordinating Council

# ODCA Response to Agency Comments

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ODCA appreciates the detailed comments on the draft report from the Office of the Deputy Mayor for Public Safety and Justice (DMPSJ), Office of Police Complaints (OPC), and the Criminal Justice Coordinating Council (CJCC). The DMPSJ comments incorporated responses from the Metropolitan Police Department (MPD) and the Department of Forensic Sciences (DFS) to ODCA's recommendations.

ODCA also notes the constructive responses to its recommendations, reflecting a commitment by the executive branch to build on and refine the police reforms mandated by the NEAR Act. The DMPSJ expressed outright agreement with three of our recommendations, agreed with three others subject to explanatory comments, and disagreed with one recommendation.

**DMPSJ Comments.** ODCA commends MPD for its willingness to make changes that will strengthen the operations of its community policing working group, but cautions that MPD's plan to add a standing subcommittee on community policing to the Chief of Police's Citizens Advisory Council may not achieve the goal. The NEAR Act charges the working group with examining national best practices in community policing, whereas the Citizens Advisory Council is a vital forum for addressing community concerns. In addition, ODCA believes that the community policing working group will need to receive guidance from the executive office of the Chief of Police about critical issues and problems it could address, and to draw on logistical support from the chief's office.

ODCA appreciates MPD's detailed explanation of its disagreement with ODCA's recommendation that the Chief of Police cease allowing education-based development (additional training) as a sole response to an OPC finding of officer misconduct, and acknowledges the need to ensure that disciplinary actions are fair and consistent. Nevertheless, ODCA's concern is that education-based development is not a form of discipline, which the Chief of Police is required by provisions in D.C. Code to impose after OPC has found misconduct.<sup>88</sup> In fact, MPD General Order PER-120.21, "Sworn Employee Discipline," defines education-based development as an "alternative to discipline." Discipline does not have to mean suspending an officer; rather, it could entail a PD-750 (dereliction report) or a letter of reprimand.

ODCA appreciates MPD's willingness to modify its data collection systems to collect and report data on the number of subjects involved in use of force incidents, and the crime charged if an arrest resulted from a use of force incident. In addition, ODCA is encouraged that MPD is developing a memorandum of understanding with two universities to analyze police stop data. ODCA further acknowledges MPD's point that research and analysis of stop data can be conducted by external entities, but notes that MPD made a written commitment to develop a research plan and identify independent researchers to analyze MPD's stop data, working with The Lab @ DC. MPD also pledged to examine the quality of police interactions with individuals who are stopped as part of an effort to consider and adopt evidence-based changes to police practices and policies.

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<sup>88</sup> If the Chief of Police finds that the OPC hearing examiner's decision clearly misapprehended the record and was not supported by substantial, reliable, and probative evidence, the Chief can seek review by a three-person OPC final review panel. If the final review panel sustains all or part of the complaint, the Chief must impose discipline. See D.C. Code 5-1112.

ODCA is encouraged by DFS' commitment to develop and submit to the Mayor, within six months, a plan with timetables for achieving full, long-term staffing of the DFS Crime Scene Sciences Division (CSSD). Nevertheless, ODCA reiterates its recommendation that DFS submit this plan to the Mayor and the Council. Earlier this year, Mayor Bowser proposed in the FY 2024 Budget Support Act that responsibility for CSSD be shifted back to MPD—a proposal the Council did not accept. In light of significant concern about CSSD staffing and performance, sharing information could promote cooperation between the executive and legislative branches to improve crime scene response and the collection, preservation, and analysis of evidence.

**OPC Comments.** In response to ODCA's recommendation that the Police Complaints Board (PCB) fulfill its NEAR Act mandate to review all deaths that occur in police custody, OPC stated that an in-custody death in January 2017 was reviewed by the Use of Force Review Board, which includes the OPC executive director. Nevertheless, ODCA disagrees with OPC's statement that, "Therefore, according to the NEAR Act, the Executive Director was acting on behalf of the PCB when reviewing this in-custody death." ODCA reiterates that the OPC executive director is one of 13 members of the Use of Force Review Board, the majority of whom are MPD officials, and that review by that board does not represent PCB review. OPC also stated that the January 2017 in-custody death was "reported" in the PCB's FY 2017 report on MPD's use of force, but the death is cited only in a summary of Use of Force Review Board case dispositions and does not rise to the level of a PCB review of the death. If the PCB believes its review requirement is unnecessary, it can seek a statutory change that limits the review responsibility to the Use of Force Review Board.

ODCA appreciates OPC's willingness to consider including in its annual use of force reports data on head strikes with an impact weapon, canine bites, hospital admissions, loss of consciousness, disability, and broken bones. ODCA also reiterates that the PCB's annual reports on police complaints and MPD use of force provide a wealth of useful data and analysis.

**CJCC Comments.** ODCA notes CJCC's agreement that it is important to repeat the survey of police-community relations periodically to track changes in community trust and willingness to collaborate with the police. The CJCC stated that, "With the requisite funding, the CJCC welcomes the opportunity to conduct the police-community relations survey biennially." ODCA also appreciates the CJCC's commitment to enhance its dissemination and communication about the survey results.

In addition, ODCA commends the CJCC for its willingness to assume responsibility for the annual felony crime data report now assigned to the DMPSJ. As noted in its comments, the CJCC has access to MPD and D.C. Superior Court data that are critical to this report. ODCA has also revised its recommendation about the shift in responsibility to include the CJCC's suggestion that the Council require the relevant agencies to provide the necessary data to the CJCC. Nevertheless, ODCA does not support the DMPSJ's recommendation that the CJCC assume responsibility for the annual reports starting with calendar year 2021. DMPSJ officials had stated last year that they were working on the 2020 and 2021 reports, and it would be unwise to burden the CJCC with a backlog of several years as it assumes responsibility for the felony crime data reports.

# Appendices

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## Appendix A

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**ODCA's review of documents and electronic files relevant to NEAR Act implementation and impacts included:**

- Agency reports to the Mayor and Council, including reports mandated by the NEAR Act.
- Metropolitan Police Department general orders and policy directives.
- Program summaries and materials.
- Agency and program budgets.
- Agency and program data summaries and dashboards.
- Regulations, contracts, and meeting agendas and minutes.
- Court filings and decisions.
- Testimony to the Council by executive branch officials, advocacy group members, researchers and policy analysts, and residents.
- Legislative records.
- Agency responses to questions from Council committees before annual performance oversight hearings.
- Studies and reports about NEAR Act implementation and impacts prepared by D.C. government agencies and external entities.
- The final report of the D.C. Police Reform Commission.
- Studies, reports, and summaries of programs with similar goals, designs, or services as NEAR Act programs, including reports published by the U.S. Department of Justice.

## Appendix B

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**ODCA's interviews of individuals about the implementation and impacts of NEAR Act police reform provisions included:**

- Executive branch officials from the Office of the Deputy Mayor for Public Safety and Justice, Metropolitan Police Department, Department of Forensic Sciences, Office of Police Complaints, and Criminal Justice Coordinating Council.
- Councilmember Kenyan McDuffie and Council staff members.
- Members of the Community Policing Working Groups and the Comprehensive Homicide Elimination Strategy Task Force created by the NEAR Act.
- Advocacy group representatives, academics, and national experts who have monitored NEAR Act implementation or are familiar with similar initiatives implemented elsewhere.

## Appendix C

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## Summary of Police-Community Relations Survey by the Criminal Justice Coordinating Council:

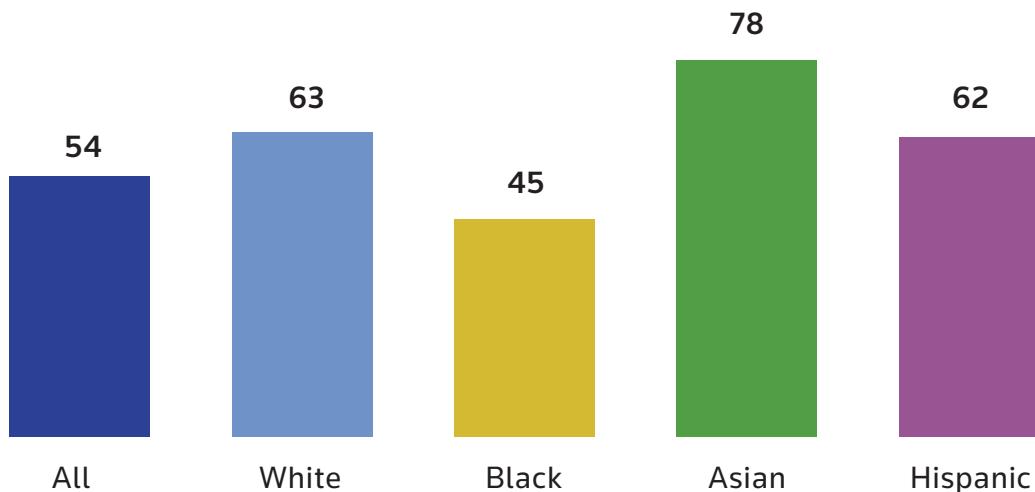
Title II, Subtitle C of the NEAR Act (Police-Community Relations Survey) required the Criminal Justice Coordinating Council (CJCC) to conduct a survey of police-community relations in the District of Columbia and report the results to the Mayor and Council. The report, prepared by CRP, Inc. under contract with the CJCC, was finished in March 2019 and is summarized below.

The final report stated that, "A key take-away is that ... findings and conclusions demonstrated a solid foundation of support on which to build public trust." Survey respondents generally reported that their interactions with police in routine, non-emergency situations were positive, while also expressing trust in police and willingness to obey officers. Nevertheless, Black residents reported less favorable views of police in a number of scenarios and were three times more likely than white residents to have been stopped by police in the past year. Although respondents could report on their perceptions of any police agency that operates in the District, nearly three-quarters reported contacts with MPD officers.

More detailed results about community policing, procedural justice, and legitimacy are outlined below.

**Community Policing.** A majority of D.C. residents surveyed (54%) agreed or strongly agreed that police in D.C. do a good job working with the community to solve local problems, but Asian and white residents were more likely to hold these positive views than Black residents (see Figure 13).

**Figure 13: % of DC Residents Who Agree or Strongly Agree that Police Do a Good Job Working with the Community**

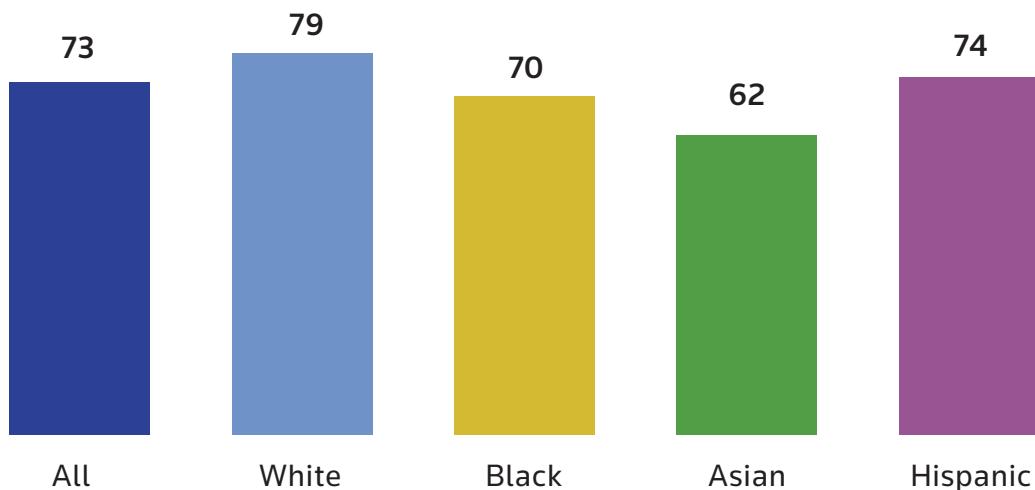


Source: Criminal Justice Coordinating Council, District of Columbia Police-Community Relations Survey, FY 2018: Findings and Statistics—Final Report.

Note: The only statistically significant differences in the percentages shown above are those between white and Black people, and between Asian and Black people.

Almost three-quarters of D.C. residents (73%) reported positive or very positive interactions with police in routine, non-emergency situations but once again, white people were more likely to have had these positive experiences than Black people (see Figure 14 on the next page).

Figure 14: % of DC Residents Who Say Routine Interactions with Police are Positive or Very Positive

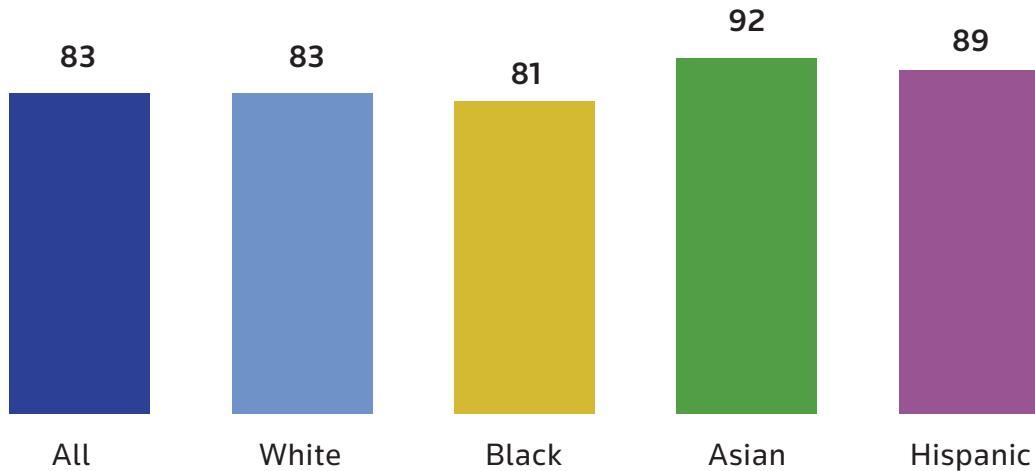


Source: Criminal Justice Coordinating Council, District of Columbia Police-Community Relations Survey, FY 2018: Findings and Statistics -- Final Report.

Note: The only statistically significant differences in the percentages shown above are those between white people and Black people. The lack of a statistically significant difference between white people and Asian people may reflect the relatively small number of Asian residents surveyed.

A vast majority (83%) of D.C. residents stated that they were likely or very likely to provide information about criminal activity in their neighborhoods to police, but Asian and Hispanic people were significantly more likely to assist police than Black people (see Figure 15).

Figure 15: % of Residents Who are Likely or Very Likely to Provide Information about Criminal Activity to Police

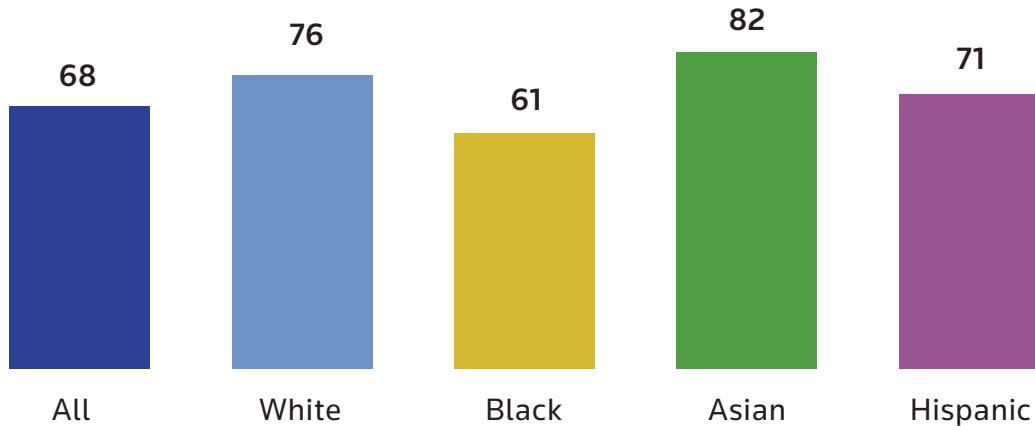


Source: Criminal Justice Coordinating Council, District of Columbia Police-Community Relations Survey, FY 2018: Findings and Statistics—Final Report.

Note: The only statistically significant differences in the percentages shown above are those between Asian and Black people, and between Hispanic and Black people.

**Procedural Justice.** The survey questions that focused on procedural justice revealed a similar pattern: most residents expressed the view that police treated them fairly, but Black residents were less likely to share such positive views. For example, more than two-thirds of respondents (68%) agreed or strongly agreed that the police with whom they had the most contact were generally fair and unbiased, but both white and Asian American residents were significantly more likely than Black residents to report such opinions (see Figure 16).

**Figure 16: % of Residents Who Agree or Strongly Agree that Police are Generally Fair and Unbiased**

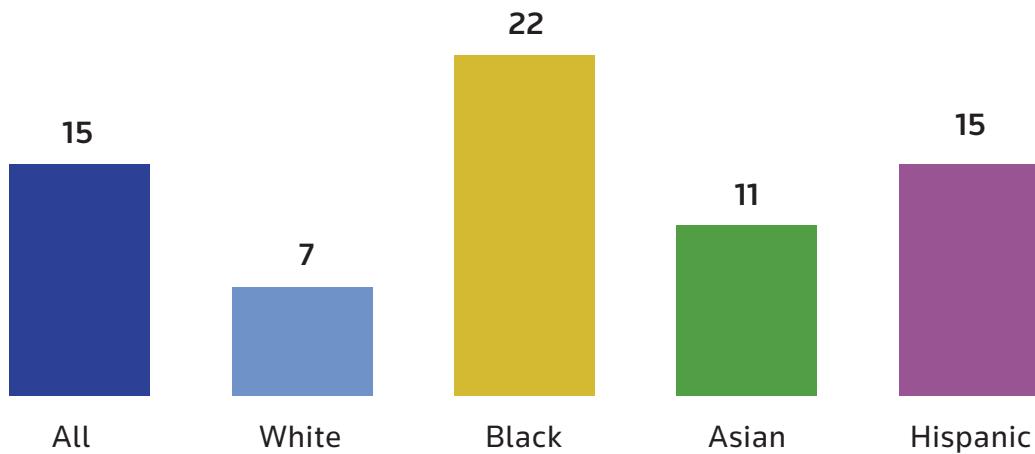


**Source:** Criminal Justice Coordinating Council, District of Columbia Police-Community Relations Survey, FY 2018: Findings and Statistics—Final Report.

**Note:** The only statistically significant differences in the percentages shown above are those between white and Black people, and between Asian and Black people.

As noted earlier, Black people were three times more likely to report being stopped by a police officer in the last year than white people (22% vs. 7%). The percentages of Asian and Hispanic residents who reported being stopped in the past year (11% and 15%, respectively) fell in between (see Figure 17 on the next page), but only the differences between stops of Black and white people were statistically significant. The vast majority of the stops (89%) reported by the respondents were made by MPD officers.

Figure 17: % of Residents Who Report Being Stopped by Police in the Last Year

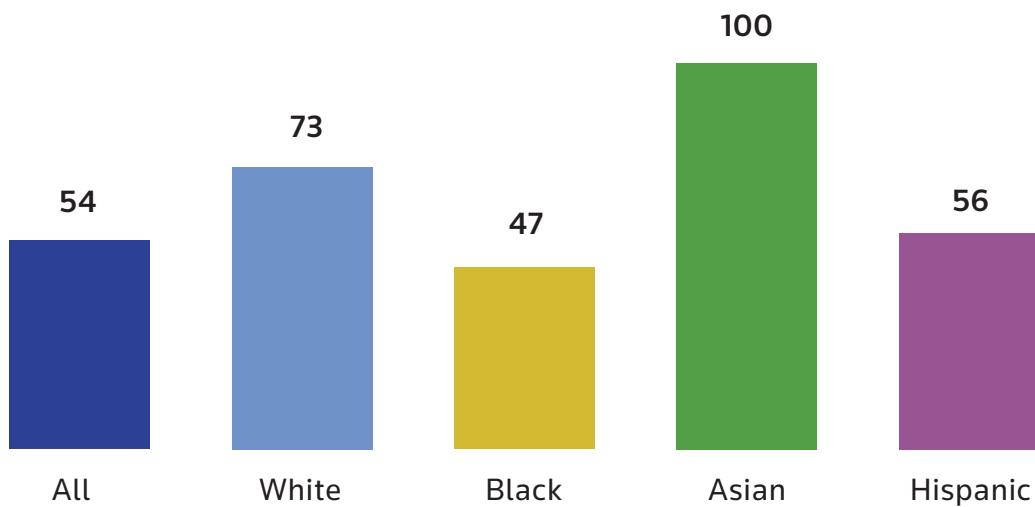


Source: Criminal Justice Coordinating Council, District of Columbia Police-Community Relations Survey, FY 2018: Findings and Statistics—Final Report.

Note: The only statistically significant differences in the percentages shown above are those between Black and white people.

Among the 15% of respondents who reported being stopped by police, there were mixed views on the conduct and outcome of the stop. Although 54% of respondents agreed or strongly agreed that the officer's actions were fair and justified, Black people were significantly less likely than white people or Asian people to express such views (see Figure 18). Nevertheless, more than two-thirds (69%) of respondents who were stopped felt that the outcome of the stop was fair or very fair, with no statistically significant differences by race or ethnicity.

Figure 18: % of Residents Stopped by Police in the Last Year Who Felt the Stop was Fair and Justified



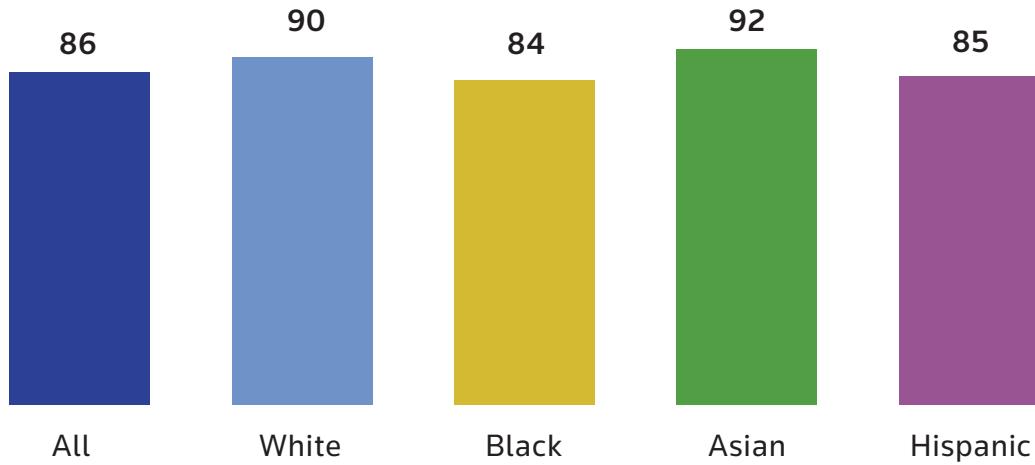
Source: Criminal Justice Coordinating Council, District of Columbia Police-Community Relations Survey, FY 2018: Findings and Statistics—Final Report.

Note: The only statistically significant differences in the percentages shown above are those between Black and white people, and between Black and Asian people.

**Legitimacy.** The survey questions probing legitimacy showed that high percentages of D.C. residents believe they should follow the orders of police. For example, 86% of residents agreed or strongly agreed that people generally have an obligation to obey the police (see Figure 19). Asians were significantly more likely than Black people to express that view, but the percentage of Black people who agreed or strongly agreed (84%) was only slightly below the average for D.C. residents.

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**Figure 19: % of Residents Who Agree or Strongly Agree that Residents Generally are Obligated to Obey Police**



**Source:** Criminal Justice Coordinating Council, District of Columbia Police-Community Relations Survey, FY 2018: Findings and Statistics—Final Report.

**Note:** The only statistically significant differences in the percentages shown above are those between Black and Asian people.

The same percentage of residents (86%) also agreed or strongly agreed that when a police officer makes a lawful request, it is appropriate to comply even if the person does not agree with the request or like it. There were no statistically significant differences by race or ethnicity in responses to this question.

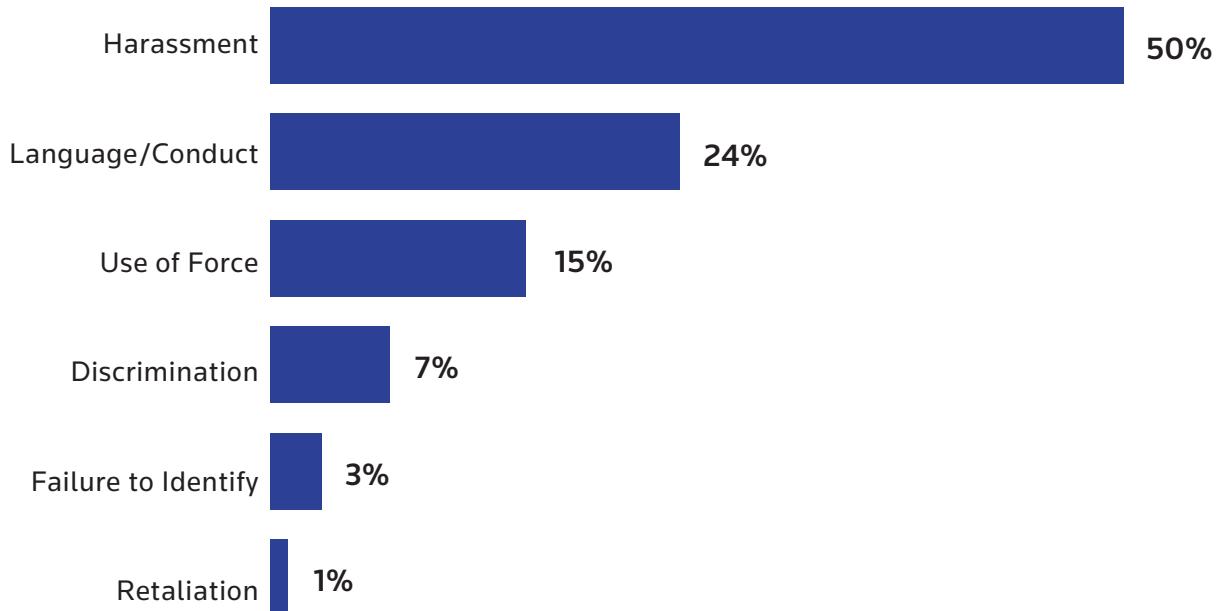
## Appendix D

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## Summary of OPC Annual Report Data on Police Complaints, Case Outcomes, and Discipline Imposed:

**Police complaints.** OPC received 827 complaints in FY 2021 that included 1,263 allegations of misconduct by police officers. As shown in Figure 20, 50% of allegations concerned harassment and 24% involved the officer's language or conduct.<sup>89</sup>

Figure 20: Claims of Misconduct in Office of Police Complaints Cases, FY 2021



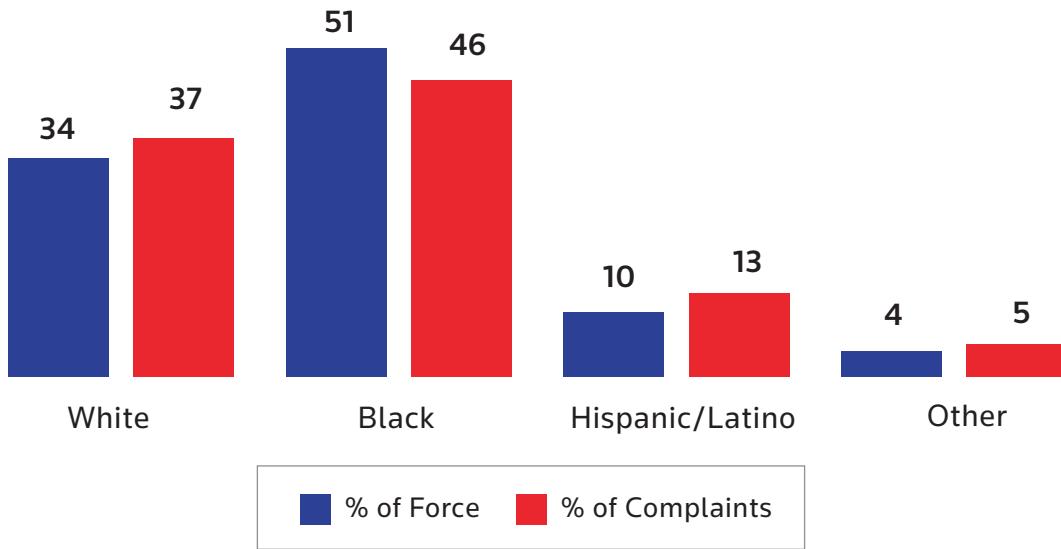
Source: Police Complaints Board, Annual Report 2021.

In FY 2021, two of every three complainants (66%) were Black, whereas complainants were evenly split by gender (50% male and 50% female). The largest percentage of complainants (44%) fell into the 35- to 54-year-old category, with 41% in the 15-to-34 age group, and 15% aged 55 or older.

Among the officers who were the subject of complaints filed in FY 2021, 46% were Black, 37% were white, 13% were Hispanic or Latino, and 4% were Asian. Figure 21 (next page) compares the race or ethnicity of officers who were subject to complaints that year to their percentage of the police force. Male officers were cited in the vast majority of cases (82%), slightly larger than their 77% share of the force. Officers under the age of 35 received a disproportionate share of complaints (47%); this group comprised only 35% of the police force.

<sup>89</sup> Examples of harassment complaints include unlawful arrest, bad tickets, threats, and mishandling property. Examples of language and conduct complaints include demeanor and tone, profanity, and racial or ethnic slurs.

**Figure 21: Racial Comparison of MPD Officers  
All Officers v. Officers Subject to Police Complaint**

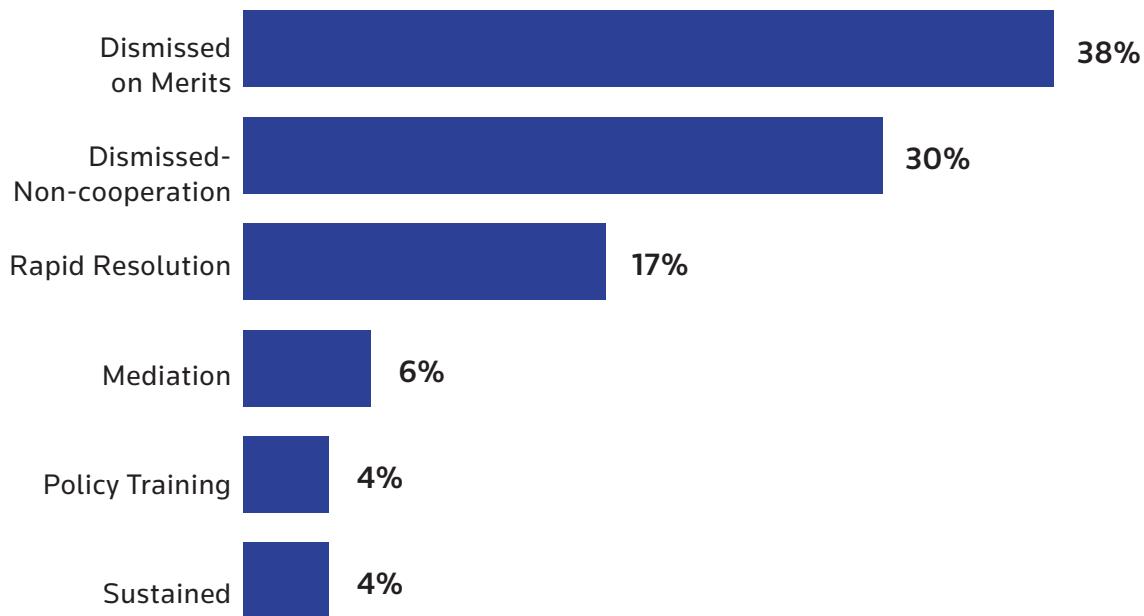


Source: Police Complaints Board, Annual Report 2021.

OPC has also presented demographic data that matches complainant characteristics to officer characteristics in each case. The most common racial pairings in FY 2021 involved Black complainants filing cases against Black officers (35%) and Black complainants filing cases against white officers (28%). The most common gender pairings in FY 2021 involved males filing cases against male officers (43%) and females filing cases against male officers (40%).

**Case outcomes.** As shown in Figure 22 (next page), OPC reported that more than two-thirds of cases were dismissed in FY 2021, either due to a lack of merit (38%) or the complainant's failure to cooperate (30%). Only 4% of complaints were sustained after an OPC investigation and review by a hearing examiner, but there were a range of intermediate outcomes including rapid resolution (17% of cases), mediation (6%), and referral of an officer to policy training (4%). Rapid resolution refers to a case in which OPC finds no misconduct but MPD agrees to assign a supervisor to contact the complainant to discuss the incident and clarify MPD policy.

**Figure 22: Office of Police Complaints Case Outcomes for FY 2021**



Source: Police Complaints Board, *Annual Report 2021*.

**Discipline imposed.** OPC has also reported on the discipline imposed by MPD and HAPD after OPC sustained a complaint of police misconduct. OPC does not have the authority to impose discipline; rather, MPD's Chief of Police and the HAPD chief exercise that authority. In FY 2021, OPC hearing examiners sustained at least one allegation of misconduct in 16 of 17 cases after an OPC investigation found reasonable cause to believe misconduct had occurred. The disciplinary actions taken by the Chief of Police in the 16 cases are shown in Table 14 (next page), with the most frequent types of discipline being a dereliction of duty report (four cases); suspensions without pay (three cases); and a job performance documentation (three cases).

**Table 14: Discipline Imposed by the Metropolitan Police Department in FY 2021  
for Complaints of Misconduct Sustained by the Office of Police Complaints**

<b>Case Number</b>	<b>Discipline Imposed</b>
19-0511	15-day suspension without pay
19-0682	25-day suspension without pay 12-day suspension without pay
19-0723	Dereliction of duty report
20-0144	Pending
20-0233	Education-based development
20-0247	Letter of prejudice
20-0388	Dereliction of duty report
20-0462	N.A.—officer resigned before discipline was imposed
20-0584	Dereliction of duty report
20-0638	Pending
20-0671	Official reprimand
20-0742	Job performance documentation; education-based development; letter of prejudice
20-0777	Job performance documentation
21-0041	Job performance documentation
21-0123	Pending

**Source: Police Complaints Board, Annual Report 2021.**

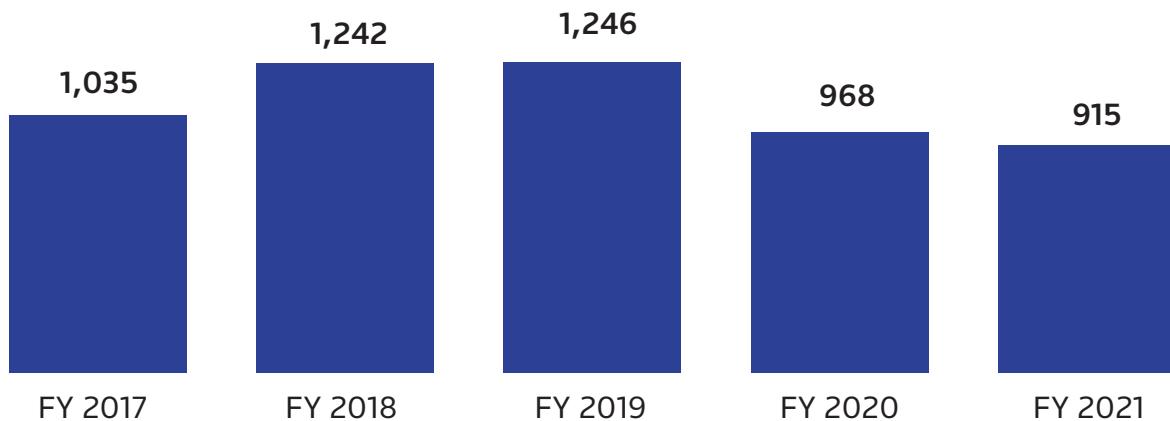
## Appendix E

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### Summary of OPC Annual Use of Force Reports:

OPC's annual reports on MPD's use of force indicate that such incidents peaked at 1,246 in 2019 and then fell 27%, to 915 in 2021 (see Figure 23). Total uses of force (an incident can involve more than one use of force) peaked one year earlier, at 2,873 in 2018, before falling 34%, to 1,896 in 2021.

Figure 23: Use of Force Incidents Reported by the Metropolitan Police Department, 2017–2021



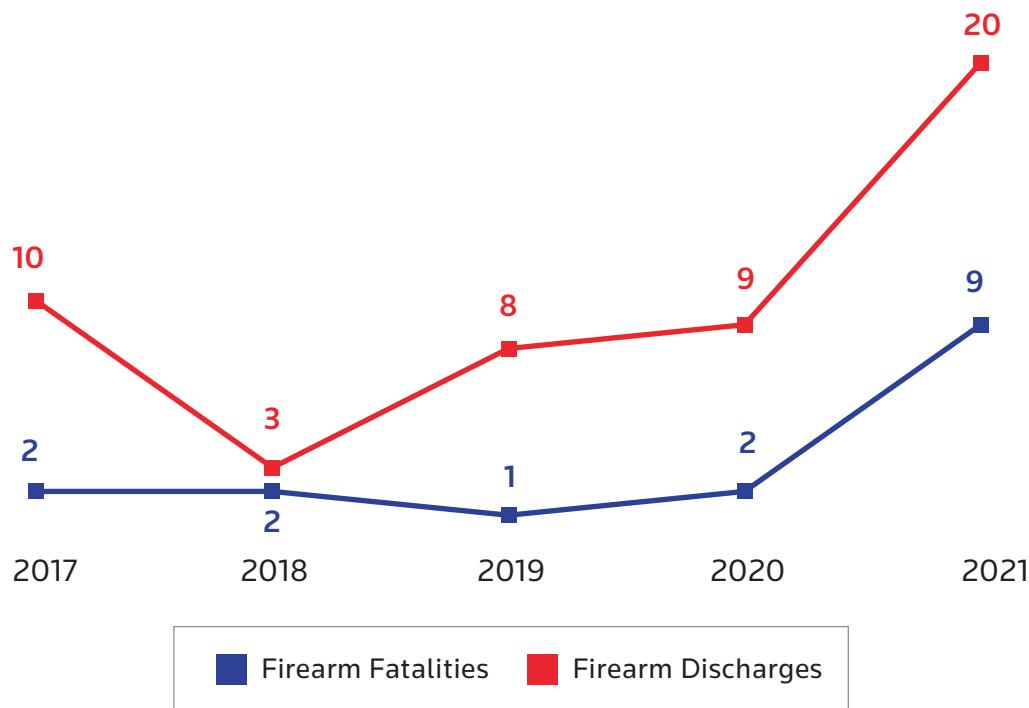
Source: Police Complaints Board, 2021 Report on the Use of Force by the Washington, D.C. Metropolitan Police Department.

Similarly, the number of MPD officers who reported using force rose to 1,322 in 2018 before falling to 1,042 in 2021 (a 21% drop). Overall, 29% of MPD officers reported using force in 2021. Takedowns and control holds were the most commonly used types of force in 2021, accounting for 63% of all uses of force.

MPD officers reported discharging their firearms at 20 people in 2021; five people were fatally injured in those incidents.<sup>90</sup> These totals more than doubled from 2020, when MPD officers discharged their firearms at nine people, two of whom were killed. In 2021, two MPD officers also discharged their firearms at one dog, and there were five cases of negligent discharge of firearms. As shown in Figure 24 (next page), MPD officers' firearm discharges at people have increased since 2018 and the resulting fatalities have increased since 2019.

90 The incidents involved 83 rounds shot by 22 officers at 20 individuals.

Figure 24: Firearms Data for Metropolitan Police Department Officers, 2017–2021



Source: Police Complaints Board, 2021 Report on the Use of Force by the Washington, D.C. Metropolitan Police Department. Note: Only intentional firearm discharges are shown in Figure 24.

In 2021, MPD's Use of Force Review Board examined five neck restraint cases, some of which occurred in previous years, but this represented a sharp drop from 13 neck restraint cases reviewed in 2020. The five neck restraint cases examined in 2021 involved eight neck restraints, all of which were found to be "Not Justified, Not Within Department Policy" by the Use of Force Review Board.

According to OPC, 56 officers reported using force five or more times in 2021 (a drop of more than 50% from 113 officers in 2018), and 10 officers used force 10 times or more (up from six officers in 2018).

Compared to their respective shares of the police force, white officers, male officers, and officers under the age of 35 were more likely to have used force.

OPC stated that officers' reported use of force was commensurate with MPD's prescribed level of force for the type of incident 55% of the time and was lower than the prescribed level of force 41% of the time in 2021; in the remaining 4% of cases, the level of force exceeded the prescribed level.

The subjects of force were reported to have assaulted officers in 30% of use of force incidents in 2021, while 24% of incidents involved subjects with a weapon of some kind and 17% involved subjects possessing a firearm (the latter percentage rose from 11% in 2019). Moreover, 30% of use of force incidents were described as involving a subject under the influence of alcohol or drugs, or showing signs of mental illness, double the 15% reported in 2018. Officers reported being injured in 11% of use of force incidents in 2021, and that the subjects of force were injured in 45% of incidents.

The vast majority (92%) of subjects of MPD's use of force in 2021 were reported as Black, double the 46% of D.C. residents who are Black. The most frequent racial pairings in use of force cases in 2021 involved Black officers using force on Black people (40%), followed by white officers using force on Black people (36%). A majority of MPD uses of force that year (61%) occurred in the 5<sup>th</sup>, 6<sup>th</sup>, and 7<sup>th</sup> police districts, similar to previous years.

OPC's use of force reports also summarize the determinations made by MPD's Use of Force Review Board, a 13-member panel that reviews all use of force investigations conducted by MPD's Internal Affairs Division, all firearms discharges, all vehicle pursuits that result in a fatality, and any other investigations forwarded by the Assistant Chief of the Internal Affairs Bureau. In 2021, the Board ruled that 90% of the 509 uses of force it reviewed were justified and within MPD policy, while sustaining four of 13 determinations of excessive force (31%). The other excessive force determinations were deemed unfounded.

# About ODCA

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