

<b><u>REALIGN AND REDUCE .....</u></b>	<b><u>2</u></b>
<b><u>SECTION I: MEETING CRISIS WITH SPECIALIZED SKILL AND COMPASSION.....</u></b>	<b><u>8</u></b>
<b><u>SECTION II: STRENGTHENING THE SAFETY NET AND DECRIMINALIZING POVERTY .....</u></b>	<b><u>13</u></b>
<b><u>SECTION III: BACK TO NORMAL: RE-ESTABLISHING POLICE-FREE SCHOOLS.....</u></b>	<b><u>18</u></b>
<b><u>SECTION IV: TRUSTING AND INVESTING IN COMMUNITIES TO STEM GUN VIOLENCE.....</u></b>	<b><u>22</u></b>
<b><u>SECTION V: EMBRACING A HARM-REDUCTION APPROACH TO POLICING.....</u></b>	<b><u>25</u></b>
<b><u>SECTION VI: DEVELOPMENTALLY APPROPRIATE: TAKING SPECIAL MEASURES TO PROTECT YOUNG PEOPLE FROM OVER-POLICING AND CRIMINALIZATION .....</u></b>	<b><u>35</u></b>
<b><u>SECTION VII: GUARDIANS FIRST: BUILDING A TRUSTED, COMMUNITY-CENTERED POLICE DEPARTMENT .....</u></b>	<b><u>39</u></b>
<b><u>SECTION VIII: HOLDING POLICE ACCOUNTABLE .....</u></b>	<b><u>43</u></b>

## Realign and Reduce

The unifying theme of this Commission's recommendations is that to make communities safer and allow them to thrive, we must build a broader set of public safety programs, rather than over-relying on police to meet the needs of District residents. This means police should be one of many public safety actors, rather than be at the center of the District's approach to public safety.

As we discuss in detail in the Introduction to this report, policing does not provide equal safety for everyone—especially not people of color in all their intersecting identities—and it never has. Policing has frequently and throughout our nation's history been a tool of systemic racism.

Policing also focuses on the symptoms of crime, not its root causes, often in ways that lead to more disorder, crime, violence, and suffering in communities where healing and safety are needed most. Only by shifting our collective focus and resources to address racialized poverty, widespread trauma, and underinvestment coupled with over-policing in communities of color, can the District begin to create a city where everyone, not just a privileged few, feels seen, safe, and valued; a city in which thriving, not merely surviving, is within everyone's reach.

Our recommendations, presented and discussed in the following eight sections of this report, move the District in that direction by calling for the scale-up or creation of social infrastructures—of services and supports that fully meet people's needs with care instead of criminalization, especially when they are vulnerable or in crisis. Equally important, we call on the District to reduce the footprint of police in communities, which includes removing officers from all public schools; to end particularly harmful MPD strategies and tactics; and to hold police more accountable in order to promote better service and stem abuses. In both these areas, we're calling for a community-led approach to public safety in which the people of DC are invested in one another's health and well-being. Indeed, there is overlap between what the Commission is recommending and the recommendations of BIPOC-led coalitions of District residents, advocates, and organizations, including Defund MPD. It is important that the Council consider not only this Commission's recommendations but also all the work being done outside the Commission, in developing and implementing a plan for building community alternatives to policing and resizing and reducing MPD.

When this Commission says that police need to be decentered as the primary source of public safety, we inevitably mean the Council must invest far more in community-centered programs that prevent harm while simultaneously realigning and reducing MPD's size, responsibilities, and budget in line with this narrower scope of work.

This shift must occur strategically: a smaller MPD does not guarantee a less harmful or more community-responsive department. Equally important, community members and organizations directly impacted by decades of under-investment and over-policing must be fully involved in realigning responsibilities and resources. Otherwise, the District risks creating a different set of oppressive policies and structures that are no more accountable to people of color.

This overarching call to action, supported by the Commission's many recommended changes in policy, practice, and funding that describe *how* to decenter police, is a charge to DC city leaders to embark on a new era of safety, health, and prosperity for all.

**Recommendation: To provide better community safety and neighborhood health, beginning in FY 2022, the Mayor and the Council should increase investment in programs that prevent violence and reduce harm, provide a more effective, non-law enforcement response to individuals in crises, and support the successful reentry of people returning home from incarceration.**

**To help fund this more comprehensive approach to public safety, and to help ensure that the District does not revert to the current harmful over-reliance on policing and incarceration, this investment should be accompanied by a realignment and reduction of MPD's size, responsibilities, and budget. To advance this reallocation of responsibilities and resources, the District should evaluate and consider the following steps, beginning in FY 2022:**

1. Revising the police department's budgetary decision-making and oversight process and presentation to improve transparency.
2. Revising the police department's budgetary decision-making and oversight process to center the voices of community members and organizations most impacted by harmful law enforcement practices.
3. Increasing the number of personnel in community-building and alternative public safety programs.
4. Reducing the number of MPD sworn officers by at least the rate of attrition over the next five years, consistent with the determination of an independent audit that reviews MPD staffing, duties, and responsibilities, including which functions can be shifted from sworn to non-sworn positions.
5. Reducing MPD overtime to the fullest extent possible, especially un-budgeted overtime, which should be no more than three percent of MPD's annual budget.

## **Discussion**

The recommendations in this report collectively de-center policing in order to provide more effective and less harmful public safety services to all communities in the District of Columbia. Many of the Commission's carefully considered recommendations for building up other government and community-based programs to share public safety responsibilities necessarily entail shifting resources and responsibilities away from MPD. These budget recommendations thus are a critical element of reimagining public safety to make it more effective and equitable, although they are less ambitious than the requests of many advocates.

There is national, bipartisan support for funding violence interrupters rather than continuing traditional policing methods. Four out of five likely voters support community-based programs

designed to interrupt and prevent violence, and a clear majority believe they are more cost-effective than increasing the number of police.<sup>1</sup>

National research, best practices, and experience point to non-law enforcement interventions that improve public safety and are effective in both appropriately responding to incidents and helping to prevent them from happening. The shift of responsibility from MPD to other agencies is also based on evidence and programmatic outcomes demonstrating that non-police responses are effective in protecting and even enhancing public safety and addressing the underlying factors that can lead to someone being involved in criminalized activities. Reallocating resources to non-law enforcement responses is an investment in advancing public safety.

Reconsidering long-held assumptions about the role of policing in public safety, investing in non-police public safety and community-building programs, and resizing the police department and its budget, all align with national trends.<sup>2</sup> Many large cities significantly reduced their police budgets in 2020. In contrast, the District of Columbia has increased MPD's budget by 12 percent since 2015.<sup>3</sup> The budget for policing dwarfs the budgets for affordable housing, employment services, physical and behavioral health (and is less than human services).<sup>4</sup> This over-investment in policing as the primary, and often exclusive public safety response, has failed to effectively reduce violent crime. Rather than continuing to increase investments in an approach that is not working and that causes unnecessary harm, the District should broaden its public safety strategy by investing in an array of community- and government-based services that, together, can provide effective public safety and help communities thrive.

It is critically important to note that it may be unhelpful, or even harmful, to reduce MPD's size and budget without also making qualitative changes to the Department and, most importantly, investing in community health and public safety in the manner discussed throughout this report.

---

<sup>1</sup> The Justice Collaborative Institute, *The Case for Violence Interruption as An Alternative to Policing* (June 2020), <https://www.filesforprogress.org/memos/violence-interruption.pdf> (accessed March 18, 2021).

<sup>2</sup> "Reducing Violence Without Police: A Review of Research Evidence," *John Jay College of Criminal Justice Research and Evaluation Center*, <https://johnjayrec.nyc/2020/11/09/av2020/> (Including 11 recommendations such as: "place a priority on young people," and "increase pro-social bonds, promote anti-violence norms, and provide social supports and opportunities."); Igor Derysh, "Did we defund the police? No, but "big changes are happening" even after protests die down," *Salon*, December 25, 2020, <https://www.salon.com/2020/12/25/did-we-defund-the-police-no-but-big-changes-are-happening-even-after-protests-die-down/> (accessed March 29, 2021); Sam Levin, "These US cities defunded police: 'We're transferring money to the community,'" *The Guardian*, March 11, 2021, <https://www.theguardian.com/us-news/2021/mar/07/us-cities-defund-police-transferring-money-community#:~:text=New%20York%2C%20Los%20Angeles%2C%20Chicago,impacts%20of%20their%20new%20budgets> (accessed March 29, 2021).

<sup>3</sup> DC Fiscal Policy Institute, "Testimony of the DC Fiscal Policy Institute At the Public Budget Hearing of the Metropolitan Police Department DC Council Committee on the Judiciary and Public Safety, June 15, 2020," <https://www.dcfpi.org/wp-content/uploads/2020/06/6.15.20-MPD-Budget-Hearing-DCFPI.pdf> (accessed March 29, 2021).

<sup>4</sup> Office of the Budget Director, "Budget Look up tool," <https://dccouncilbudget.editorx.io/2021explained/dashboard> (accessed March 29, 2021).

### **1. Revising MPD’s budget process and presentation to improve transparency.**

The Council should require MPD to immediately publish, by line-item, its current budget and its expenditures over the past three fiscal years. MPD should engage the community to understand the kind of budget information that would be most helpful for the public, and then change its budget presentation format to reflect that.

### **2. Revising MPD’s budget process and presentation to center the voices of community members and community-based organizations most impacted by harmful law enforcement practices.**

In determining exactly how much of the District’s budget should be reallocated from MPD or elsewhere to accomplish both short-term and long-term changes recommended by this Commission, the Council and the Mayor should include in the decision-making process people who have devoted themselves to rethinking public safety.

Community engagement should include public budget forums specifically on the MPD budget every cycle, attended by the deputy mayor for public safety and the Chief of Police. MPD should present and explain its spending in the previous year and its budgetary decisions for the year ahead, and hear comments and concerns from community members, in advance of the Mayor finalizing budget recommendations.

### **3. & 4. Increasing the number of personnel in community-building and alternative public safety programs while reducing the number of MPD sworn officers.**

In the next 12 months, the Council should adopt a plan to strategically realign the District’s agency budgets, including MPD’s budget—beginning in FY 2022 and with a completion date by FY 2026—so the budgets align with ongoing community input and the recommendations of this report, which include investing in community-building programs; deprioritizing and limiting MPD’s involvement in certain types of events and circumstances; demilitarizing the police force;<sup>5</sup> and making structural changes to decriminalize Black and Brown youth.

This realignment is necessary to ensure that a more comprehensive, less harmful approach to public safety is successful. The necessary investment in community and violence reduction programs is likely greater than MPD’s budget, but it is important that MPD’s budget be reduced as part of this realignment and shift in responsibility. It is also important that this budget realignment be accompanied by a thoughtful, independent consideration of MPD’s core function; that is, what should MPD continue to do, and how should it do it, once the appropriate de-centering and shift in responsibilities and resources is complete.

---

<sup>5</sup> For the purposes of this recommendation, “demilitarize” means reducing the use of military-style equipment and tactics by MPD during daily police activities, as well as in the execution of search warrants and while policing protests. This includes, among other things, close oversight and restrictions of tear gas and other chemical agents to ensure that they are only used when necessary to prevent greater harm; and prohibiting the use of rubber bullets.

This independent audit should be conducted by an entity such as the DC Fiscal Policy Institute or the District Auditor. Some MPD functions may shift out of MPD entirely, others may shift from sworn officer positions to non-sworn employee positions. The scope of MPD's responsibilities should be carefully but fundamentally narrowed so that, even with a smaller budget overall, rather than being spread too thin, MPD has the resources it needs to successfully carry out its portion of the District's broader public safety response.

The Commission recommends that this build-up of community investment and resizing of MPD begin in FY 2022 and continue by at least the rate of officer attrition over the next five years, consistent with the determination of the independent audit noted above.

We focus the realignment of MPD's budget on sworn positions because 90% of the MPD budget supports personnel, and most of that reflects salaries and fringe benefits for sworn officers.<sup>6</sup> De-centering policing and shifting police functions to other agencies must therefore include a similar realignment in the number of MPD officers. In considering this recommendation, it is important to note that the District of Columbia relies on police significantly more than other large cities. Based on data collected nationally in 2018, DC had more police officers per capita than any other large city,<sup>7</sup> suggesting there is room to reduce the size of the police force, even before any functions are shifted. As of December 2020, there were 2,368 sworn positions and 688 non-sworn positions.

MPD concentrates its surveillance and arrest efforts almost exclusively on Black people and poor people. As the number of Black people and poor people residing in the city dwindles, these remaining neighborhoods become even more saturated with police.<sup>8</sup> During just five months, from July 22 to December 31, 2019, MPD recorded 63,000 pedestrian and traffic stops, 72 percent of which involved Black individuals.<sup>9</sup> These tactics have failed to reduce the District's homicide rate.

While the Commission believes that all tools to achieve appropriate officer levels need to be available—including buyouts, early-outs, reductions in force (RIF), and retirement—discussions

---

<sup>6</sup> Eliana Golding, *What's in the FY 2021 Police and Public Safety Budget?* (Washington, DC: DC Fiscal Policy Institute, 2020) <https://www.dcfpi.org/all/whats-in-the-fy-2021-police-and-public-safety-budget/> (accessed March 29, 2021).

<sup>7</sup> Eliana Block, "VERIFY: Does DC have more police per capita than any other US city?" *WUSA9*, July 15, 2021, <https://www.wusa9.com/article/news/verify/verify-does-dc-have-more-police-per-capita-than-any-other-us-city/65-9fae328a-5da3-4e0f-8e54-009f48b97b57> (accessed March 29, 2021); Federal Bureau of Investigation, FBI 2018 Crime in the United States Table 78 Full-time Law Enforcement Employees, <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/tables/table-78/table-78.xls/view>.

<sup>8</sup> Katherine Shaver, "DC has highest "intensity" of gentrification of any US city, study says," *Washington Post*, March 19, 2019, <https://www.washingtonpost.com/transportation/2019/03/19/study-dc-has-had-highest-intensity-gentrification-any-us-city/> (accessed March 23, 2021).

<sup>9</sup> Metropolitan Police Department, Stop Data Report, (Washington, DC: Metropolitan Police Department, February 2020), <https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/Stop%20Data%20Report.pdf> (accessed March 23, 2021).

with Councilmembers and MPD leadership suggest that the only opportunity at this time to shift resources from MPD to a broader public safety response would be by attrition. While the Commission recommends that the annual reduction during the next five years match MPD's officer attrition rate, we equally urge District leadership to achieve this goal through a variety of methods and not rely solely on attrition, in order to maintain a high standard of service rather than a diminishment of service. Nor should the District reject the possibility of larger reductions based on the actual experiences of shifting functions to other public safety programs, and the results of the independent audit.

**5. Reducing overtime to the fullest extent possible, especially unbudgeted overtime, which should be no more than three percent of MPD's annual budget.**

The top 25 earners in MPD netted between \$100,000 and \$200,000 in overtime pay, on top of their base salaries, in 2019.<sup>10</sup> Overtime costs represent five percent of MPD's budget and six percent of personnel costs. Last year, MPD spent twice as much, necessitating a divestment of \$43 million from other agencies, including \$28.3 million from the Department of Health Care Finance in the midst of the coronavirus pandemic.<sup>11</sup> The Commission recognizes that overtime is a necessity due to holidays, parades, and unanticipated protests or other large gatherings but also makes distinctions between types of overtime, including:

1. Overtime in response to inaugurations and federal requests for service. When MPD is requested by federal partners to provide service, all such support should continue to be compensated by federal funds rather than the local budget.
2. Overtime for recurring but expected events, such as holidays, parades, protests, and other large gatherings. This overtime should be calculated based on the past three years and included in the annual budget.
3. Overtime for unexpected protests and large events. This overtime is unbudgeted and has a significant and negative impact on core city services, especially for vulnerable communities. This unbudgeted overtime should be capped at no more than three percent of the MPD budget in any given fiscal year.

---

<sup>10</sup> Metropolitan Police Department to Charles Allen, March 2, 2020, <https://dccouncil.us/wp-content/uploads/2020/03/JPS-Performance-Oversight-Responses-2020-MPD.pdf> (accessed March 23, 2021).

<sup>11</sup> Elliot C. Williams, "Nadeau announces police accountability bill after Bowser moves \$43 million to cover overtime costs," *DCist*, November 6, 2020, <https://dcist.com/story/20/11/06/dc-council-brianne-nadeau-police-mpd-overtime-spending-accountability-bill/> (accessed March 24, 2021).

## Section I: Meeting Crisis with Specialized Skill and Compassion

- 1. Recommendation: Make community-competent behavioral healthcare professionals the default first responders to 911 calls involving individuals in crisis. Specifically:**

**1(a) Recommendation:** The Council should immediately commission an independent assessment of the Community Response Team (CRT) and Children and Adolescent Mobile Psychiatric Service (ChAMPS). That assessment should be completed within six months and include the views of impacted residents and community-based behavioral healthcare providers. Results of the assessment will determine whether CRT and ChAMPS should be scaled up to provide a bona fide 24/7 emergency response to individuals in crisis throughout the District.

Based on findings from the assessment, the Council should provide the funding needed to scale up, refine, and operate CRT and/or ChAMPS as emergency first responders in all Wards; or if these interventions are not suitable for expansion, provide funding for the Department of Behavioral Health (DBH) to solicit bids from DC community-based healthcare providers to perform this function. In either case, the Council must ensure there is a dedicated and specialized team of behavioral healthcare professionals to respond to crises involving children.

**1 (b) Recommendation:** Once a system of behavioral healthcare first responders is in place, the Council should prohibit MPD from conducting wellness checks.

**1 (c) Recommendation:** The Council must ensure the District has reliable systems in place to deploy this expanded corps of behavioral healthcare first responders to handle appropriate 911 calls (see Recommendation 8 below for our recommended changes to the Office of Unified Communications) as well as calls to DBH's 24/7 Access HelpLine.

**1 (d) Recommendation:** In addition, these behavioral healthcare professionals should have a regular presence in communities and conduct proactive outreach to residents in need, as the existing CRT does, but on a larger scale.

- 2. Recommendation: Create the Community Crime Prevention Teams required under the NEAR Act, or another behavioral health/police co-response model to be deployed districtwide in situations where an individual in crisis has a weapon or for some other reason poses a significant danger to others.**

**2 (a) Recommendation:** The Council should require the Department of Behavioral Health (DBH) and MPD to create co-response teams staffed by experienced behavioral healthcare professionals who co-train with specially selected MPD officers for whom this is their primary assignment. Co-training must correspond with best practices and promote a community-attuned, anti-racist, de-escalating response to individuals who



may not trust police officers or healthcare professionals based on negative experiences in the past.

**2 (b) Recommendation:** DBH, not MPD, must have primary responsibility for managing these teams on a daily basis and for overseeing their staffing and performance more broadly.

**2 (c) Recommendation:** The Council must ensure the District has reliable systems in place to deploy these co-response teams to handle appropriate 911 calls (see Recommendation 8 below regarding changes to the Office of Unified Communications).

- 3. Recommendation:** The Council should amend DC Code Sec. 21-521 which governs involuntary commitment (FD-12), making it truly a last resort undertaken only by behavioral healthcare professionals and in ways that avoid further traumatizing people.
- 4. Recommendation:** Because patrol officers are likely to encounter individuals in crisis and may need to engage the person until a specialized responder arrives, every MPD officer currently must complete 40 hours of crisis intervention training (CIT). To supplement this, the Council should provide special funding to DBH to lead additional crisis intervention training that is open to the public and required for all MPD members. Specifically:

**4 (a) Recommendation:** The Council should require all current MPD officers to successfully complete this training within the next six months, followed by 8 hours of refresher training annually for the duration of their service in the department. Effective immediately, all new recruits should be required to complete the same 40-hour CIT training before graduating from the Police Academy. As recommended by the DC Developmental Disabilities Council, community-based behavioral health professionals and directly impacted community members should deliver this training.<sup>12</sup>

**4 (b) Recommendation:** Training should include clear guidance and supervision by MPD, with input from the Department of Behavioral Health, describing circumstances that require a specialized response; directing patrol officers to call for assistance immediately; and specifying what officers may do (and should not do) until those other professionals arrive on the scene.

**4 (c) Recommendation:** In line with recommendations by the DC Jails and Justice Task Force to require any special police officer or member of a DC-funded police force who has authority to carry a weapon or make an arrest to comply with all MPD regulations,

---

<sup>12</sup> When the CIO training program began, the DC chapter of the National Alliance on Mental Illness participated in developing and delivering training. The Commission encourages DBH to reestablish this collaboration. Disability Community and Policing Working Group as convened by the DC Developmental Disabilities Council, *Recommendations to Support DC's Disability Community* (2020).

such officers should also be required to complete 40 hours of foundational CIT training and eight hours annually of refresher training, beginning immediately.<sup>13</sup>

**5. Recommendation: Increase the use of pre-arrest diversion. Specifically:**

**5 (a) Recommendation:** With input from the Department of Behavioral Health, community-based behavioral healthcare professionals, and directly impacted residents, the MPD should amend General Order 502.04 to achieve the following: a) expand eligibility for pre-arrest diversion (PAD) and remove disqualifiers; b) expand the program to operate in all Police Service Areas (PSAs); and c) increase the number of officers certified to make PAD decisions. Once there are co-response teams operating districtwide as described in Recommendation 2 above, all of these officers must have authority to divert individuals away from the criminal legal system.

**5 (b) Recommendation:** The above changes in policy must be accompanied by officer training, clear directives, and performance evaluations that emphasize and incentivize the use of pre-arrest diversion.

**6. Recommendation: Adopt an approach to domestic violence 911 calls that relies less on police as sole responders. Specifically:**

**6 (a) Recommendation:** With funding from the Council, the Office of Victim Services and Justice Grants (OVSJG) should expand the number of domestic violence advocates and allied social workers and counselors who can be safely deployed as first responders in lieu of police or, alternatively, as co-responders along with officers in situations where violence is actively unfolding, could quickly escalate, or a weapon is involved.

Implementation of this recommendation must be accompanied by special training for 911 operators and could include establishing a domestic violence command center within the larger 911 call system. This change in practice should be accompanied by a public information campaign to build confidence in a new 911 system among the many domestic violence survivors who have been failed by police in the past, or who are otherwise reluctant to make a call for help that might spark an unhelpful (or worse) response by law enforcement. (See Recommendation 8 below for broader changes to the 911 system.)

**6 (b) Recommendation:** The Council should narrow the legal definition of domestic violence to focus on violence occurring within the scope of an intimate partner relationship. This will ensure that limited resources supporting a specialized and community-based response to domestic violence are used where they are needed most.

---

<sup>13</sup> Council for Court Excellence, *Jails and Justice: Our Transformation Starts Today, Summary of Phase II Recommendations* (Washington, DC: Council for Court Excellence, 2021), [www.courtexcellence.org/uploads/publications/Summary\\_of\\_Phase\\_II\\_Recommendations.pdf](http://www.courtexcellence.org/uploads/publications/Summary_of_Phase_II_Recommendations.pdf) (accessed February 26, 2021).

**6 (c) Recommendation:** Once a DV co-response model is in effect districtwide, the Council should repeal the mandatory arrest law and replace it with clear guidance that MPD officers should follow, making arrest decisions in consultation with domestic violence advocates on the scene and survivors themselves.

**7. Recommendation: Expand crisis intervention and services for survivors of sex trafficking and ensure that police can be a gateway to help rather than a pathway to jail. Specifically:**

**7 (a) Recommendation:** The Council should fund the Office of Victim Services and Justice Grants to expand community-based 24-hour crisis responders with links to emergency shelter for survivors of sex trafficking. Funds should go first to experienced service providers currently working with trafficked youth and adults. Implementation of this recommendation must be accompanied by changes to the 911 system, including special training for dispatchers so that they can redirect calls to community-based advocates or deploy advocates along with police. (See Recommendation 8 below for broader changes to the 911 system.)

**7(b) Recommendation:** The MPD and external oversight bodies must hold police officers accountable for fulfilling their duty under the law to refer trafficked youth to specialized service providers. In addition, the Council should amend this portion of the law (DC Code Sec. 22-2701(d)) to cover a person *of any age*, not just those under age 18—who discloses they are or were a victim of sex trafficking.

For this policy to work in practice, every MPD officer must receive training in the signs and underlying dynamics of sex trafficking. That effort should begin now, building on the limited training that has occurred to date. Training must be carried out by those who work with trafficked youth and adults and must include hearing directly from survivors.

**7 (c) Recommendation:** To build trust in law enforcement as a possible gateway to help, rather than a pathway to jail, the MPD should immediately adopt policies that: a) strongly discourage arresting or citing a potentially trafficked youth for any offense without first conferring with a specialized advocate, unless that individual poses a danger to others; and b) strongly discourage arresting or citing adults for the sale of sex (i.e., solicitation). These changes in policy must be accompanied by clear directives to officers, internal performance evaluations and incentives that encourage officers to comply with the policies, and active external oversight.

**8. Recommendation: Re-engineer and enhance the Office of Unified Communications (OUC) to be able to deploy a more diverse array of emergency responders, relying less on police. Specifically:**

**8 (a): Recommendation:** The Mayor should immediately direct the OUC to begin a thorough assessment of the changes in staffing, training, and technology that will be needed to effectively deploy a more diverse array of first responders as outlined in our recommendations above. This analysis, which should be completed within six months, should persuade the Council to provide additional funding for OUC to change internally in tandem with the rollout of new first responders.

**8 (b) Recommendation:** In the meantime, OUC must ensure that all 911 operators receive 40 hours of crisis intervention training. To facilitate this, the Council should provide special funding to DBH to provide additional crisis intervention training which is open to the public and required for all 911 operators (see Recommendation 4 above).

**8 (c) Recommendation:** The Council should provide special funding to OUC to add dispatch options including:

**8 (c) (i)** Direct transfers to non-police crisis response teams or co-response teams.

**8 (c) (ii)** Direct transfers to DBH's Access HelpLine or a new triage line staffed by behavioral healthcare professionals able to provide over-the-phone counseling and to route calls to non-police crisis response teams or co-response teams.

**8 (d):** Once the District has a more nuanced and nimble 911 system in place and with funding from the Council, OUC should launch a public information campaign to build awareness of and confidence in a more effective 911 system, particularly among residents who have been failed in the past by an ineffective or harmful response by police.

## Section II: Strengthening the Safety Net and Decriminalizing Poverty

1. **Recommendation:** With funding from the Council, and support of the Mayor, the Department of Behavioral Health (DBH) must increase investments in evidence-based, culturally competent behavioral health and wellness services to meet the current and anticipated needs of all District residents. Specifically:

**1(a) Recommendation:** The Council must increase funding for behavioral health services to meet the current and anticipated needs of all District residents by expanding the number of crisis beds available across the District, increasing the number of clinicians in public schools,<sup>14</sup> expanding the capacity of Assertive Community Treatment teams, and improving the training MPD officers receive regarding how to interact with individuals experiencing a behavioral health crisis.<sup>15</sup> Agencies should also receive additional funding and resources to recruit and retain highly skilled providers in order to provide stable case management for clients.

**1(b) Recommendation:** The Commission supports the following data collection and data sharing recommendations from the DC Justice Lab, the Council for Court Excellence, and the District Task Force on Jails & Justice to improve the District's treatment services for people with substance use disorders (SUDs); we also encourage these agencies to adopt similar practices for people with mental illnesses and developmental disabilities:

**1(b)(i):** MPD and DBH should collaborate to reduce the number of people who are classified as “familiar faces” due to repeat arrests, by developing and concentrating behavioral services and specialized training in the most-affected Police Service Areas.

“Familiar faces” or “super-utilizers” are individuals who have higher than average contacts with criminal justice and social service agencies. Since these individuals are constantly interacting with the same agencies—MPD, DBH, and DOC—proper data collection and sharing will allow service providers to match them appropriately with healthcare, shelter, or other social service providers, and develop strategies for addressing their needs more durably.<sup>16</sup>

**1(b)(ii):** DC should establish an inter-agency agreement to facilitate data sharing between all agencies that regularly come into contact with justice-involved SUD consumers. The agreement should create a process for agencies, on an ongoing and permanent basis, to combine their person-level data into a single

---

<sup>14</sup> See Section III, Recommendation 2.

<sup>15</sup> See Section I, Recommendation 4.

<sup>16</sup> Sarah J. Aristil, Noah E. Duncan, and Melissa J. Hopkins, *Care, Not Incarceration: A Quantitative Approach to How Data Analysis May Help Reduce the Arrest Rate of People in Crisis* (Washington, DC: The George Washington University Law School, 2020) <http://bit.ly/familiarfaces>.

anonymized dataset that includes all variables relevant to a person's behavioral health needs, service consumption, and justice involvement in the District of Columbia.

**1(b)(iii):** The Deputy Mayor for Health and Human Services (DMHHS) and the Deputy Mayor for Public Safety and Justice (DMPSJ) should collaborate to identify the appropriate entity, with adequate staffing and expertise, to manage this data sharing on an ongoing basis, ensure compliance from all participating DC agencies, and analyze the dataset.

**1(b)(iv):** The District should publish an annual report summarizing the inter-agency dataset analyzed about SUDs and justice system involvement, including any indicators of emerging barriers to care or significant population trends.

**1(c) Recommendation:** DBH should improve community care for individuals with SUDs to reduce the harms associated with substance misuse, and increase opportunities for treatment, and alleviate the need for a police/criminal legal system response.

**1(c)(i):** In addition to increasing distribution of the life-saving overdose antidote, Naloxone, DBH should improve access to medications that curb opioid cravings; connect individuals held in DC jail to drug treatment; and improve access to low- or no-cost treatment in communities.

**1(c)(ii):** The Commission supports the following recommendations from the Council for Court Excellence to DBH to increase access to its SUD services:

Revise D.C.M.R Chapter 22-A ("Mental Health") to allow any SUD provider to conduct assessments and referrals; amend D.C.M.R Chapter 22-A to remove the requirement that initial SUD assessments be conducted in person; and expand days and hours of access for the initial assessments, ensuring that at least one SUD provider is open 24 hours a day, seven days a week to assess and accept clients into each level of care and to serve individuals who are in acute withdrawal.

DBH should track the time between referrals and care initiation in the new "no wrong door" system, and set goals to decrease any wait times, particularly for people with SUDs suffering withdrawal.

DBH should minimize the time between identification of a treatment need and initiation of care by significantly expanding screening, brief intervention, and referral to treatment (SBIRT) referrals into broader community settings, and developing programs integrating behavioral health and primary care to foster close collaboration between care teams in a co-located setting.

**1(d) Recommendation:** The Council should establish a task force or coalition of providers and public officials to assess the adequacy of preventative community behavioral health and wellness programs, on an annual basis.

**1(e) Recommendation:** The increased funding should also include a public information campaign to educate residents on the programs and services available to them through government agencies and community-based organizations.

**2. Recommendation: The Council must prioritize addressing DC’s housing and homelessness crises by continuing to invest in pathways to safe and permanent housing and improving existing programs supporting community members experiencing homelessness.<sup>17</sup> Specifically:**

**2(a) Recommendation:** The DC Department of Human Services (DHS) and DBH must partner to determine a necessary number of temporary housing units specifically available for residents discharged from treatment facilities. The development of this infrastructure must happen in conjunction with the development of a pathway to permanent housing, specifically for this population.

**2(a)(i) Recommendation:** With consent of the individuals and adults in each family unit, by-name lists should be created, updated, and shared with other care providers, including day centers and community-based health providers like Mary’s House and Bread for the City. These lists should be used to construct a database to strengthen coordination across service providers.

**2(b) Recommendation:** DHS must increase funding to all emergency homeless shelters and transitional housing facilities to guarantee that both mental health counselling and SUDs counselling are available to all adults and children in their care in order to combat the physiological effects of trauma and sustained crisis response on the mind and body. All adults and children seeking refuge deserve this service.

**2(c) Recommendation:** DHS should increase its funding to support opening neighborhood-based day service centers for youth and adults with a minimum of one in each ward, in order to meet community members where they are instead of requiring residents to travel to access the services they need. Funding should also be expanded to provide 24/7 refuge and support at centers specifically serving youth as well as residential centers specifically serving survivors of sex trafficking.

**2(d) Recommendation:** The Council, Mayor, and Office of Victim Services and Justice Grants should develop public-private partnerships to expand temporary shelter for survivors of domestic violence. This must happen in conjunction with the development of

---

<sup>17</sup> Id. Additionally, Dr. Edwin Chapman told the Commission that a lack of permanent housing for clients who have been stabilized and discharged perpetuates the cycle of crisis. Dr. Edwin Chapman, meeting with the DC Police Reform Commission, February 5, 2021.

initiatives that help survivors secure safe and stable permanent housing within the District.

**2(e) Recommendation:** The Department of Housing and Community Development (DHCD) must enforce equitable development policies to protect community members in danger of being pushed out by land developers. The input of low-income citizens and BIPOC residents should govern urban development processes in order to shift away from the centralized decision-making power of wealthy developers.<sup>18</sup> A failure to consider the impact of urbanization and rapid development will worsen the housing and homelessness crises.

3. **Recommendation:** Youth aging out of foster care represent a sizable portion of new homeless youth and sex trafficking victims each year. The District must prioritize services to protect these youth from harm and housing instability. Specifically:

**3(a) Recommendation:** The Office of Victim Services and Justice Grants, with funding from the Council, should explore federal funding opportunities through the John H. Chafee Foster Care Independence Program (commonly referred to as “Chafee”), the Family First initiative, and concessions provided to foster care agencies through the latest COVID-19 relief package to optimize services for youth in transition.

**3(b) Recommendation:** The District must increase pathways to permanent and supportive housing for youth aging out of foster care, with programming that addresses their unique needs. Those determining these needs should center the perspectives of youth in foster care, young people aging out, and adults who experienced the child welfare system as a child. The Council should work with relevant agencies to facilitate necessary data collection.

4. **Recommendation:** The Council should decriminalize low-level offenses, including but not limited to illegal vending and panhandling.

**4(a) Recommendation:** MPD should educate officers to ensure that they do not violate the law by arresting people for fine-only infractions.<sup>19</sup>

5. **Recommendation:** The Council should invest in community-based organizations led by Black, Indigenous, and other people of color (BIPOC) to create safe and supportive community spaces to hold informal and organic restorative justice community circles for community building, celebrations, and healing in the wake of violent and traumatic events. Similarly, the Council should invest in BIPOC-led, community-based organizations to hold community healing circle dialogues to

---

<sup>18</sup> “Housing Justice Priorities and Impact Studies,” DC Grassroots Planning Coalition <http://www.dcgrassrootsplanning.org/priorities/> (accessed February 26, 2021).

<sup>19</sup> Barnett v. U.S., 525 A.2d 197 (1987).



**support parents and community members in adopting a restorative approach to life, communication, parenting, etc.**

## Section III: Back to Normal: Re-establishing Police-Free Schools

1. **Recommendation: Dismantle the school policing infrastructure and replace it with a holistic public health approach to school safety and crisis intervention that is relational, racially just, restorative, trauma-responsive, and trauma-informed.**

**1(a) Recommendation:** The Council should eliminate the MPD School Safety Division and create a community-led process to reallocate those resources (the roughly \$14 million in the existing budget) and designate additional funding to invest directly in services and resources that better protect youth and promote a safe and healthy learning environment.<sup>20</sup> Resources should be distributed based on schools' needs. The Council should consider these needs based on an analysis of violent crime occurring near schools as well as the percentage of special education students, English language learners, or economically disadvantaged students at each school. These services and resources should include but not be limited to the following:

- School-based mental health programs (SBMH): *An additional \$6.4 million to expand to the remaining 80 schools, placing a CBO clinician in every school.*
- Additional school counselors, psychologists, and social workers (to meet professional association standards): *An additional \$20.6 million.*
- Trauma-informed training, professional development, and supports for teachers and staff.
- Socio-emotional learning curriculum and implementation.
- Positive behavioral intervention and supports (PBIS) programs.
- Restorative justice programming (in both schools and in communities).
- School-based violence interrupter programming and training and community-based violence interrupter expansion: *\$5.6 million for the creation of school-based violence interrupter teams that are assigned to the designated safe passage priority areas in Wards 1, 5, 6, 7, and 8.*
- Expansion of roving leaders and credible messengers (in both schools and in communities).
- Safe passage programs driven by community members: *At least \$2.5 million to a pilot of 150-200 community members to support with safe passage.*
- Community based behavioral health services: *An additional \$4 million for behavioral intervention support staff, administrative staff, and behavioral support technicians at each school, including teachers' assistants responsible for behavior management support in the classroom.*
- Access to spaces where students can express themselves through reading, writing, art, music, dance, and other creative outlets.
- Crisis response and safe passage systems that are not driven by law enforcement.

---

<sup>20</sup> DC Code § 5–132.02. “Establishment of the Metropolitan Police Department School Safety Division; functions of the School Safety Division,” <https://code.dccouncil.us/dc/council/code/sections/5-132.02.html>.

**1(b) Recommendation:** Support schools in shifting from a punitive to a restorative approach to discipline. Engage community-based organizations, including Restorative DC, to develop and implement a multi-year plan to create a restorative culture and build restorative justice approaches and practices in DC public schools. This plan should include restorative justice training and community-building experiences for teachers, administrative staff, students, and families. In addition to using restorative justice to address harm and conflict that occurs within schools, restorative approaches should be used for relationship and community building throughout the school year.

**1(c) Recommendation:** To facilitate the deployment of violence interrupters in schools, the DC Council should amend DC Code § 4–1501.05(c)(5) and 6-B DCMR § 416.2(c) to remove non-violent felony convictions from the list of convictions that disqualify volunteers from working in DC Public Schools or Public Charter Schools.

**1(d) Recommendation:** DCPS should eliminate the outsourcing of school security to better ensure that the people responsible for keeping students safe are integrated into the school system holistically and comprehensively. This includes the following:

- Change the role currently held by school security officers into a diverse group of care-based positions that explicitly contribute to a positive school climate.
- In addition to the 40 hours of basic training provided by DCPS' Social Emotional Learning team, require all members of school safety teams to complete additional trainings on topics such as mental health emergencies; culturally relevant verbal de-escalation; mental health first aid; and school crisis prevention intervention (CPI) (verbal and physical de-escalation).<sup>21</sup>

**1(e) Recommendation:** In the application and selection process, give first preference to current security personnel for the new school safety roles proposed in Recommendation 1(d).

**1(f) Recommendation:** Ensure that all DC public schools have plants, clean drinking water, healthy and ample food options, quality ventilation systems, and access to fresh air.

**1(g) Recommendation:** Ensure that DC public school curricula reflect the histories and accomplishments of children and adults of all ethnic backgrounds, races, and genders.

## **2. Recommendation: Reduce opportunities for youth to be arrested at school.**

**2(a) Recommendation:** The Council should prohibit MPD from serving warrants, detaining, or arresting youth on campus or at school-related events for non-school-based offenses or custody orders. The Council should also require any other law enforcement agency to present a

---

<sup>21</sup> Oakland Unified School District, *The George Floyd District Safety Plan Phase 1* (Oakland, CA: 2020), 26, <https://oaklandside.org/wp-content/uploads/2020/12/20-2147-Board-Memorandum-Resolution-Plan-George-Floyd-District-Safety-Plan-Phase-1-Second-Reading-1292020.pdf>, (accessed March 08, 2021).

warrant to a school administrator when seeking to enter nonpublic school grounds<sup>22</sup> and detain or arrest a student at any District of Columbia public schools or public charter school absent exigent circumstances.<sup>23</sup>

**2(b) Recommendation:** The Council should prohibit MPD from detaining or arresting youth on campus for school-based offenses, except for arrests for violent incidents involving the use of a dangerous “weapon” as defined by the District of Columbia Public Schools Chapter B25 of the DC Municipal Regulations. The Council should also prohibit DC public schools from allowing other law enforcement agencies to detain or arrest youth on campus for school-based offenses, except for arrests for violent incidents involving the use of dangerous “weapons” as defined by the District of Columbia Public Schools Chapter B25 of the DC Municipal Regulations.

**2(c) Recommendation:** MPD should amend the “Handling School-Related Events” General Order<sup>24</sup> to reflect the prohibitions outlined in recommendations 1(a) and 1(b).

**2(d) Recommendation:** The Council should prohibit police from accessing children’s school records without a warrant or written permission from the child’s guardian.

**2(e) Recommendation:** The Council should prohibit school administration, teachers, or other school-affiliated personnel, including school-based MPD representatives from detaining, arresting, questioning, or in any way facilitating the coordination of a student or a student’s family to state, District, or federal immigration agencies.

**2(f) Recommendation:** The Council should prohibit school administration, teachers, or other school-affiliated personnel, including school-based MPD and other school security representatives from reporting or providing any student or student’s family information, including student photos or descriptions, to the US Immigration and Customs Enforcement or MPD without a warrant.

---

<sup>22</sup> “Nonpublic school grounds” means any part of the school not open to the public at the time, which could be all of the school grounds or certain areas of the school. When public events are hosted on school grounds, law enforcement would not need a warrant.

<sup>23</sup> Exigent circumstances are “circumstances that would cause a reasonable person to believe that entry (or other relevant prompt action) was necessary to prevent physical harm to the officers or other persons, the destruction of relevant evidence, the escape of the suspect, or some other consequence improperly frustrating legitimate law enforcement efforts.” “Exigent Circumstances,” Cornell Law School Legal Information Institute, [https://www.law.cornell.edu/wex/exigent\\_circumstances#:~:text=Exigent%20circumstances%20%2D%20%22circumstances%20that%20would,some%20other%20consequence%20improperly%20frustrating](https://www.law.cornell.edu/wex/exigent_circumstances#:~:text=Exigent%20circumstances%20%2D%20%22circumstances%20that%20would,some%20other%20consequence%20improperly%20frustrating) (accessed March 9, 2021).

<sup>24</sup> MPD GO-RAR-310.08 (Handling School-Related Events), § II. Effective September 11, 2020, [https://go.mpdconline.com/GO/GO\\_310\\_08.pdf](https://go.mpdconline.com/GO/GO_310_08.pdf) (accessed February 28, 2021).

- 3. Recommendation: Make schools weapon-free<sup>25</sup> for both adults (including law enforcement) and youth. Law enforcement officers must disarm before going into school facilities, unless responding to violent incidents involving the use of a lethal weapon such as firearms, as described in 18 U.S.C. § 921 (2000), explosives, and chemical weapons.**

---

<sup>25</sup> See District of Columbia Public Schools Chapter B25 for the full list of weapons: 15, <https://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/DCMR-Chapter-25-Title-5-Final-Rulemaking-2009.pdf>.

## Section IV: Trusting and Investing in Communities to Stem Gun Violence

1. **Recommendation:** To have a meaningful and lasting impact on gun violence, the District must de-center policing and take a far more integrated, coordinated, inquisitive, data-driven, and long-term approach to supporting community-based solutions. Without this overall shift, none of the specific investments we recommend below will fully pay off.

2. **Recommendation:** Streamline and scale up violence interruption initiatives as a crucial first line of intervention. Specifically:

**2 (a) Recommendation:** The District should consolidate the violence interruption initiatives currently run by ONSE and the OAG and operate both under ONSE. This shift should be accompanied by an independent assessment funded by the Council, designed to illuminate the respective strengths and weaknesses of these somewhat different programs to ensure that the best of each is preserved.

**2 (b) Recommendation:** The Council should fund the strategic expansion of violence interruption initiatives, enabling these programs to serve more neighborhoods that experience elevated and/or quickly rising rates of gun violence. This expansion should occur in tandem with increasingly rigorous efforts to assess their effectiveness, understanding that programs of this kind can take five to seven years to mature and bear fruit. Expansion should also involve a concerted effort to reach more deeply into communities, forging new or stronger partnerships, including with faith-based organizations that for decades have been at the forefront promoting peace.

**2 (c) Recommendation:** The Council should ensure that the new Level-3 trauma center at St. Elizabeths East, serving Wards 7 and 8, includes a hospital-based violence intervention program (HVIP) operated in partnership with a local community-based organization akin to the District's other HVIPs.

The Council and Department of Health must also hold Universal Health Services and George Washington University Hospital accountable for fulfilling their promise to meaningfully consult with residents of Wards 7 and 8 throughout the process of planning, building, and staffing the facility so that it provides culturally competent care and meets the healthcare needs of residents as they define them.

3. **Recommendation:** Invest in the people on the frontlines of stemming gun violence. Specifically:

**3 (a) Recommendation:** People working as violence interrupters, credible messengers, outreach workers, and in related positions, both full-time and part-time, should receive compensation reflecting the skill and importance of their work and the dangers they may face. Manageable workloads and adequate supervision are also crucial to ensuring that

individuals are supported and can be effective in their work. With input from all District agencies spearheading this type of work, and from the CBOs that undertake it, the gun violence prevention coordinator should develop compensation and staffing standards for the District. Those standards should aim for parity with other essential workers, particularly police, and consider the value of employee benefits and other incentives (e.g., paid vacation, hazard pay, housing supplements, retirement account contributions) to recruit and maintain the most capable and dedicated staff.

**3 (b) Recommendation:** Training and other learning opportunities for the growing number of violence interrupters, credible messengers, outreach workers, and related staff should be rooted in best practices and become standardized Districtwide. To this end, the gun violence prevention coordinator should build on the work begun by ONSE and seek input from other agencies to develop a dynamic, comprehensive approach to training, refine it based on experience, and provide training Districtwide with funding from the Council.

**3 (c) Recommendation:** To facilitate advanced education for those who seek it—but never as a requirement to work as a violence interrupter, credible messenger, or outreach worker—the gun violence prevention coordinator (GVPC) should partner with one or more local colleges/universities and select leading experts to establish a related course of study that results in an associate's degree. In tandem, the Council should establish a scholarship fund to offset the costs of advanced education and other professional development undertaken through this new degree program or any other relevant course of study. Furthermore, the GVPC, and more broadly the Mayor, should commit to creating a pipeline for professional advancement within the area of violence interruption and the broader fields of public safety and public health.

**3 (d) Recommendation:** In recognition of the difficulty of violence interruption and the fact that many staff on the frontlines are living with their own trauma from past exposure to violence, the GVPC should lead the development of Districtwide standards that prioritize truly effective strategies for healing and self-care. In particular, the availability of regular counseling sessions with a community-competent licensed therapist should become the norm, not action taken in the wake of a crisis on the job.

- 4. Recommendation: Invest more in community-based programs and other services that support healing and constructive life change. These programs and services should be rooted in evidence-based practice while also leveraging local knowledge and potential for innovation. They should be trauma-informed and trauma-responsive, and seamlessly connected to allied programs and initiatives, including violence interruption initiatives. This is part of strengthening the safety net for vulnerable residents, many of whom are at risk of involvement in violence. (See Section II of this report for allied recommendations.)**

**4 (a) Recommendation:** The administration, with oversight by the Council, should ensure that a majority of the funds allocated annually to operate the Building Blocks

initiative flows directly to community-based organizations, which are in the best position to nurture and sustain durable gains in safety and overall community well-being.

**4 (b) Recommendation:** Subject to additional data showing positive outcomes for participants, the ONSE Pathways program should be expanded to serve more people for whom it could truly be a pathway out of violence. Such analysis should provide persuasive evidence to the administration and Council to allocate funding for strategic incremental growth of this program.

**4 (c) Recommendation:** To create reliable on-ramps to jobs in the competitive labor market for those who excel in Pathways and similar life-change programs, the Department of Employment Services must be a core partner in the District's efforts to reduce gun violence, and the Council and Mayor should seek to expand public-private partnerships with the business community, labor unions, and nonprofit organizations.

**4 (d) Recommendation:** To be able to connect more people with healing, life-changing programs, the gun violence prevention coordinator, with funding from the Council, should oversee a competitive RFP process to identify community-based organizations that could effectively operate new or expanded programs with appropriate financial support and technical assistance.

**4 (e) Recommendation:** The Council should increase funding to the District's Collaboratives and fund other community-based organizations that are well-positioned to provide emergency financial aid to individuals and families with pressing needs that are not covered (at all or sufficiently) by core government assistance programs (e.g., an unexpected medical bill, an urgent car repair, a child in need of new shoes for school, etc.).

**4 (f) Recommendation:** The Community Advisory Group established to guide the Building Blocks initiative must be a vehicle for community members with relevant lived expertise to guide the District's efforts to stem gun violence and hold government accountable. To be effective in that regard, this group of experts must be inclusive in its composition, engage meaningfully and often with residents of communities with elevated rates of violence, and operate on par with the parallel advisory group composed of expert professionals.

- 5. Recommendation:** The District should partner with a local university to establish a state-of-the-art research center to advance public health-centered, trauma-informed solutions to gun violence. The Council and Mayor should lead this effort.



## Section V: Embracing a Harm-Reduction Approach to Policing

### I. CONDUCTING LAWFUL, EFFECTIVE, HARM-MINIMIZING STOPS, PAT-DOWNS, AND WARRANTLESS SEARCHES

1. **Recommendation:** MPD should suspend Crime Suppression Teams (CSTs) and the Gun Recovery Unit (GRU)—specialized units that utilize aggressive, confrontational tactics more likely to result in unwarranted stops, searches, arrests, and uses of force, including potentially lethal force—until: (1) MPD produces data that establishes the scope and impact of the practices of these units and proves that these units are more effective than ordinary patrol units in addressing serious crime in a lawful manner; and (2) an outside, independent analysis shows the same. If such analyses justify the re-activation and continued use of CSTs, the GRU or both, then MPD must regularly assess the tactics utilized by these units to ensure that they comply with law and policy, effectively combat serious crime, and foster police legitimacy and community trust.

In parallel, MPD should enhance the use of person-based focused deterrence as a more targeted, more effective, less harmful strategy for reducing gun violence, and one with significant research behind it. MPD should pursue this work in close partnership with the District’s Gun Violence Prevention Coordinator.

2. **Recommendation:** Unless conducting an authorized undercover operation, on-duty officers who work the street and are not plainclothes detectives, including members of all specialized units who work the street, should be readily identifiable as police officers, with names and badge numbers visible on their uniforms (including service uniforms, soft “BDU” uniforms, and casual clothes), and in marked police cars.
3. **Recommendation:** MPD officers may make stops only when both lawful and verifiably effective at addressing serious crime; must conduct stops in a fair and impartial manner that exhibits restraint and promotes police legitimacy; and must document the facts justifying stops with specificity and without resort to boilerplate language. Specifically:

**3 (a) Recommendation:** The Council should prohibit the practice of officers exiting marked or unmarked cars to question, pat-down, or search people, including by asking them to lift their shirt and show their waistbands (sometimes called “jump outs”). To reinforce this prohibition, MPD should amend General Order 304.10 (Field Contacts, Stops, and Protective Pat Downs) and deliver training.

**3 (b) Recommendation:** The Council should prohibit the following from factoring in to whether reasonable articulable suspicion (“RAS”) for a stop exists:

- a. Presence in a “high crime area” or any other geographic location, including a specific location (e.g., a corner, outside a particular building, or a section of a park).
- b. Nervousness in the presence of law enforcement.
- c. The race, ethnicity or gender of a person, unless accompanied by additional, particularized information from a trustworthy source about the suspect’s description, the suspect’s location, and the time of observation of the suspect.
- d. “Furtive” gestures or movements, unaccompanied by a more specific description of what the officer observed and why the officer believed it was suggestive of criminal activity.
- e. Response to the presence of police, including attempts to avoid contact with an officer (e.g., declining to talk, walking away, or running away).
- f. A generic “bulge in clothing,” unaccompanied by a more specific description of what the officer observed and why the officer believed it was a dangerous weapon.
- g. Time of day, unless accompanied by other facts establishing RAS.

**3 (c) Recommendation:** MPD should modify General Order 304.10 and corresponding training to expressly (1) require officers to document the specific, individualized facts justifying stops and protective pat-downs; and (2) prohibit officers from using the following boilerplate language, unaccompanied by additional specific facts, when documenting the factual justifications for stops and protective pat-downs:

- a. “Bulge in clothing”
- b. “Characteristics of an armed person”
- c. “For officer safety”
- d. “Knowledge, training and experience”
- e. “Matched description”

**4. Recommendation:** MPD should prohibit pretext stops—stops legally justified for lesser offenses (e.g., traffic violations, crowding/obstructing/incommoding) but in fact made to investigate more serious offenses—unless an officer obtains supervisory approval and the reason for the stop is to investigate a “crime of violence,” as defined in DC Code 23-1331.

5. **Recommendation:** To focus law enforcement resources on offenses that imminently threaten public safety, the Council should eliminate MPD's authority to enforce certain traffic and vehicle regulations and narrow its authority to enforce others.

5 (a) **Recommendation:** The Council should transfer from MPD to the Department of Transportation ("DDOT") the authority to enforce traffic and vehicle regulations whose violation does not imminently threaten public safety. Correspondingly, the Council should require DDOT to hire and train qualified employees to properly enforce such regulations.

5 (b) **Recommendation:** The Council should prohibit traffic stops—whether by DDOT or MPD—based solely on the alleged violation of vehicle operation infractions that are not an immediate threat to public safety (though violations could be charged in connection with either a collision or a stop based on another infraction).

5 (c) **Recommendation:** The Council should require either repeal or revision of traffic and vehicle regulations whose violation does not threaten public safety.

5 (d) **Recommendation:** The Council should prohibit MPD from conducting Traffic Safety Compliance Checkpoints (see MPD General Order 308.03), except in response to repeated community complaints about particular traffic violations that pose an imminent threat to public safety.

6. **Recommendation:** In the interest of both public safety and harm prevention, the Council should strictly limit vehicle pursuits.

6 (a) **Recommendation:** The Council should make it unlawful for police officers to engage in vehicle pursuits except where: (a) the officer reasonably believes that failure to apprehend the fleeing suspect places another person in immediate danger of death or serious injury; *and* (b) pursuit will not endanger any person other than the fleeing suspect.

6 (b) **Recommendation:** The Council should make it unlawful for police officers (a) to intentionally use their vehicles to contact a fleeing vehicle, including by ramming, roadblock, boxing in, or any other means; or (b) to attempt to force a fleeing vehicle into another object or off the road.

7. **Recommendation:** MPD should modify Section II.C. of General Order 304.10 to clearly and unequivocally explain that, to justify a protective pat-down, which involves an officer running their hands over a person's outer clothing, the officer must have reasonable articulable suspicion ("RAS") that the person (1) has committed, is committing, or is about to commit a crime; *and* (2) is armed with a weapon and dangerous. MPD also should provide all officers and recruits with

immediate in-service training on this constitutional requirement and should hold officers accountable for documenting the facts necessary to support their RAS that an individual is involved in criminal activity, armed, and dangerous.

8. **Recommendation:** The Council should modify Section 110 of Act 23-336 (“Limitations on Consent Searches”) by prohibiting all consent searches—warrantless searches permitted based solely on the consent of the individual whose person or property is searched—and, in criminal cases, should require the exclusion of any evidence obtained from a consent search.
9. **Recommendation:** The Council should codify MPD policy restricting strip, squat, and body cavity searches and, in criminal cases, should require exclusion of any evidence obtained in violation of these restrictions.

**9 (a) Recommendation:** Consistent with existing MPD General Order 502.01, the Council should prohibit searches of undergarments and private body parts in public places.

**9 (b) Recommendation:** Consistent with existing MPD General Order 502.01, the Council should require that any body cavity search be conducted (1) by a physician at the nearest hospital in a private and secure location; and (2) only upon a watch commander’s determination of probable cause that the arrestee is concealing evidence of crime in a body cavity.

10. **Recommendation:** MPD should modify the way it collects, reports, and publishes data on stops. These modifications are necessary to fully achieve the transparency and accountability objectives of the NEAR Act; to ensure that MPD officers receive the instruction they need to conduct stops lawfully and document them properly; and to facilitate rigorous, evidence-based assessments of MPD’s claim that its current approach to gun violence is justified despite the attendant intrusions on freedom and racial disparities.

**10 (a) Recommendation:** MPD should disaggregate data on pedestrian stops from traffic stops (as well as from bicycle and harbor stops). Relevant data on each type of stop should be recorded, made available, and analyzed and reported separately, as well as in the aggregate.

**10 (b) Recommendation:** MPD should require officers to record their assignment at the time of a stop (e.g., Patrol District, Crime Suppression Team, NSID-Narcotics Enforcement, NSID-Gun Recovery Unit).

**10 (c) Recommendation:** MPD should stop requiring officers to ask the gender, race, and ethnicity of the individuals they stop.

**10 (d) Recommendation:** MPD should modify the electronic report form that officers complete for stops (see appendix to General Order 304.10) to generate clear reporting, produce maximally meaningful data, and prompt officer adherence to law and policy. See “Discussion” below for details.

**10 (e) Recommendation:** To fully achieve the transparency and accountability objectives of the NEAR Act, MPD should publish its raw stop data twice annually on specified dates. MPD should make the raw data available through an application programming interface so that organizations and community members can readily organize the data through custom dashboards and interfaces and perform their own analyses.

**11. Recommendation:** The Council should impose a moratorium on MPD’s use of canines for purposes other than explosive ordnance detection until MPD publishes comprehensive data regarding its use of canines, including, among other things, (a) the number and effectiveness of canine searches, showing no hit and false hit rates and broken down by suspect race and ethnicity and type of contraband found (if any); and (b) all canine uses of force broken down by suspect race and ethnicity.

## II. EXECUTING SEARCH WARRANTS JUSTLY AND SAFELY

**12. Recommendation:** The Council should amend the DC Code, and MPD should modify its policies, to ensure that MPD officers execute search warrants lawfully, safely, and in a manner that minimizes harm to people and property. Specifically:

**12 (a) Recommendation:** The Council should enact legislation, similar to the Search Warrant Execution Accountability Act of 2016, that would:

- A. Require officers to establish by a preponderance of the evidence, and demonstrate that they made all reasonable efforts to verify, that the suspect whose property is the subject of a warrant application either owns the residence or lives there.
- B. Require both MPD and the Deputy Auditor for Public Safety (see Section VIII) to conduct a full investigation of any search conducted at the wrong premises (either a wrong address or an address where the suspect does not actually live) and publish a report of its findings regarding the causes of the error.

**12 (b) Recommendation:** The Council should ban no-knock warrants. Additionally, the Council should limit quick-knock raids, in which officers enter a home with a warrant immediately after knocking and announcing their presence, by: (1) requiring approval from the pertinent commander; and (2) (a) requiring at least 30 seconds to elapse with no response or a refusal to permit entry after officers knock-and-announce at least three

times; or (b) requiring the warrant to authorize entry within 30 seconds after officers knock-and-announce based on a judicial finding that waiting 30 seconds would jeopardize officer, occupant, or bystander safety or compromise evidence; or (c) allowing immediate entry after officers knock-and-announce, based on exigent circumstances that arise after issuance of the warrant.

**12 (c) Recommendation:** The Council should repeal DC Code 23-524(g), and MPD should correspondingly amend General Order 702.03, specifically Section VII.F.8.b., e., f. & g., to make clear that it is not automatically lawful to pat down or search everyone at a location subject to a search warrant: officers still need reasonable suspicion that a person is armed and dangerous before patting down that person for weapons, and any full search of a person still must be justified either by the warrant itself or by a recognized exception to the warrant requirement (“probable cause” is not an exception).

MPD should provide all officers and recruits immediate training on this subject and should discipline officers for conducting unlawful pat-downs and searches during search warrant executions.

**12 (d) Recommendation:** The Council should amend General Order 702.03 to (1) prohibit gun-pointing and handcuffing during the execution of search warrants, unless there is an articulable immediate threat to the safety of officers or others; and (2) include special precautions to be taken during the execution of search warrants when older adults or children are present.

**12 (e) Recommendation:** MPD should amend General Order 702.03 to expressly (1) direct officers to minimize disruption and damage to property during the execution of a search warrant; and (2) prescribe discipline for officers who unnecessarily or unjustifiably damage property.

**12 (f) Recommendation:** The Council should authorize immediate compensation for property destroyed or damaged, or pets harmed or killed (unless harmed or killed in response to the pet attacking an officer), during the execution of a search warrant, regardless of whether contraband is found or an arrest is made during the search.

**13. Recommendation:** For occupied residences and businesses, the Council should prohibit search warrants that are either solely for drugs or based solely on allegations of drug activity.

**14. Recommendation:** The Council should require MPD to collect, report, and publish quarterly the following data on each search warrant application in aggregable format in a relational database:

**A. Race/ethnicity/gender identity of suspect.**

**B. Assignment of requesting officer (e.g., Patrol, CST, GRU).**

- C. Type of property requested to be searched (premises, vehicle, mobile or electronic device).
- D. Person to be searched, if any.
- E. Type of evidence sought (e.g., firearms, electronic files).
- F. District in which property to be searched is located.
- G. Offenses alleged in warrant application.
- H. Approval, rejection, or modification by USAO.
- I. Approval, rejection, or modification by the court.
- J. Whether approved application was executed.
- K. Whether contraband was seized and, if so, what type.
- L. Whether arrest resulted and, if so, offenses charged and whether individual(s) arrested were the target of the investigation.
- M. Whether force was used and, if so, what type.
- N. Whether convictions resulted and, if so, offenses of conviction.
- O. Whether a claim of property loss was made.
- P. Whether correct address/vehicle/device/person was searched.

### III. MAKING ARRESTS ONLY WHEN NECESSARY

15. **Recommendation**: The Council should replace the District’s presumption-of-arrest standard with a presumption-of-citation standard by amending DC Code 16-1031, 23-581 and 23-584 to require either verbal warnings or citations in lieu of arrest (“field arrests” in the DC Code) in all circumstances enumerated in MPD’s Executive Order 20-011, which addresses changes in MPD’s citation release order due to the COVID-19 pandemic.

Correspondingly, MPD should: (1) establish and enforce a “most effective, least intrusive response” policy that mandates compliance with the new law, defines and requires a problem-solving approach to criminal activity, and affirmatively promotes alternatives to arrest; and (2) fulfill its obligations under DC Code 5-107.02(b)(1), which requires training on “community policing,” by providing at least eight hours of Academy training to recruits, and at least four hours of annual refresher in-service training to officers on the new law, alternatives to arrest, and “most effective, least intrusive response” principles.

16. **Recommendation**: The Council should make permanent Section 114 of Act 23-336 repealing DC Code 5-115.03, which makes it a two-year misdemeanor for an officer not to make an arrest for an offense committed in their presence.
17. **Recommendation**: The Council should make permanent Section 108 of Act 23-336 repealing DC Code 22-3312.03, which prohibits wearing hoods or masks with intent to discriminate, intimidate, or break the law.

### IV. RESTRICTING AND MONITORING THE USE OF FORCE

18. **Recommendation:** The Council should revisit and amend Sections 101 and 102 of Act 23-336, which make the use of neck restraints a felony under DC Code 5-125, by: (1) expanding the prohibited uses of force beyond “neck restraints” to include other means of asphyxiation, such as applications of force causing positional asphyxia; (2) not making violation of these prohibitions a felony and eliminating the provision in DC Code 5-125.03 making violation a misdemeanor; and (3) including language in DC Code 5-125.03 making clear that alleged violations may be prosecuted under existing assault or homicide statutes and that execution of public duty is not a defense.
19. **Recommendation:** The Council should make permanent Section 119 Act 23-336, which restricts the use of deadly force in DC Code 5-337.01.
20. **Recommendation:** The Council should make permanent Section 120 of Act 23-336, which restricts purchase of various military weaponry.
21. **Recommendation:** To fulfill its obligations under DC Code 5-107.02(b)(3) & (4), which require training on use of force, MPD should reinforce the importance of critical decision-making, de-escalation, avoiding escalation, and using force only if necessary, reasonable, and proportional, by providing the Police Executive Research Forum’s full ICAT (“Integrating Communications, Assessment and Tactics”) training to all recruits in the Academy and at least eight hours of annual refresher in-service ICAT training to officers.
22. **Recommendation:** The Council should make permanent Section 107 of Act 23-336, which expands the membership of the Use of Force Review Board under DC Code 5-1140.

## V. PROTECTING FIRST AMENDMENT RIGHTS

23. **Recommendation:** The Council should make permanent Section 112 of Act 23-336, which amends the First Amendment Assemblies Act of 2004 to require the uniforms and helmets of MPD officers policing First Amendment assemblies to identify their affiliation with local law enforcement.
24. **Recommendation:** The Council should make permanent Section 121 of Act 23-336, which amends the First Amendment Assemblies Act of 2004 to restrict the use of chemical weapons, less-than-lethal projectiles, and riot gear during First Amendment assemblies.
25. **Recommendation:** MPD should reinforce how the legitimacy of democratic governance turns on respect for First Amendment rights—particularly in the District, the site of substantial First Amendment activity—by providing at least eight hours of Academy training to recruits, and at least four hours of annual refresher in-service training to officers, on responding to First Amendment-



protected activity, including protests and assemblies, speech and expression (including criticism of law enforcement), and the observation and recording of the actions of law enforcement officers.

## VII. ENSURING THE QUALITY, LAWFULNESS, AND ACCOUNTABILITY OF SPECIAL POLICE

26. **Recommendation**: The Council should disarm special police officers in public housing, including those employed by the District of Columbia Housing Authority (DCHA). This does not include sworn police officers employed by DCHA.

27. **Recommendation**: The Council should enact the Special Police Officer Oversight Amendment Act of 2019 and further require that any special police officer who has the authority to carry a weapon or make an arrest:

A. Comply with all MPD regulations.

B. Receive pre-service and in-service training comparable to MPD officers, including commensurate training on de-escalation, avoiding escalation, and use of force (including neck restraints, knees in back, and positional asphyxia); behavioral health awareness and crisis intervention; stops, searches, and arrests; cultural competency and racial equity; sexual harassment; drug overdose response; DC criminal law and procedure; and evacuation and first aid.

C. Subject to MPD internal affairs and civilian oversight.

28. **Recommendation**: The Council should strictly prohibit special police officers from pursuing subjects beyond their jurisdictional boundaries.

29. **Recommendation**: The Council should require regular, periodic public reporting on stops, searches, arrests, and uses of force by special police.

## VII. UTILIZING SURVEILLANCE TECHNOLOGY FAIRLY AND JUDICIOUSLY

30. **Recommendation**: The Council should pass legislation to ensure that decisions about whether District agencies should acquire, use, or share surveillance technologies<sup>26</sup> are made with thoughtful consideration and buy-in from the public

---

<sup>26</sup> "Surveillance Technology" means any electronic surveillance device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group; or any system, device, or vehicle that is equipped with an electronic surveillance device, hardware, or software.

**and elected lawmakers, and that the operation of approved technologies is governed by rules that safeguard residents' rights and provide transparency. This legislation should, among other provisions set out below, include the creation of a Surveillance Advisory Group and establish a private right of action for violation of Council-approved rules for the acquisition or use of any surveillance technology.**

## Section VI: Developmentally Appropriate: Taking Special Measures to Protect Young People from Over-Policing and Criminalization

### 1. **Recommendation: DC Council should amend DC Code §16-2301 to define a child as a person under 21 years of age. Specifically:**

**1 (a) Recommendation:** The DC Council should immediately amend DC Code § 16-2301(3) to read: “The term “child” means an individual who is under 18 years of age as well as a person under the age of twenty-one who is charged with a delinquent act committed before they attained the age of eighteen.”

**1 (b) Recommendation:** By FY 2025, the DC Council should raise the age of original jurisdiction in delinquency court to age 21.

### 2. **Recommendation: Adopt more robust protections and procedures when applying *Miranda* rights to children.**

**2(a) Recommendation:** MPD should amend the “Interacting with Juveniles” General Order and the Council should amend DC Code § 16–2304 to include an outline detailing police interrogation procedures for youth, including the requirement for an attorney to be present for the waiving of their *Miranda* rights. The amendment should also include a requirement that police use the following, developmentally appropriate language when reading youth their *Miranda* rights: “[Your] rights include but are not limited to: (a) the right to remain silent, (b) anything you say can be used against you, (c) the right to an attorney, (d) the right to have someone else pay for the attorney, (e) the right to talk to an attorney immediately before continuing to answer questions, (f) the refusal to give a statement cannot be used as evidence of guilt, (g) making a statement does not mean you will be released from custody or that you will not be charged, (h) you can be held in pretrial detention for the most minor offenses, and (i) you can be committed until age 21 for the most minor offenses.”<sup>27</sup>

**2(b) Recommendation:** The Council should amend DC Code § 16-2316 so that statements made by youth under the age of 21 in police interrogation will not be admissible unless the youth: (1) are read their *Miranda* rights by a law enforcement officer in a developmentally appropriate manner as defined in recommendation 1(a) and with counsel; (2) have the opportunity to consult with counsel before making a waiver; and (3) in the presence of their attorney, they make a knowing, intelligent, and voluntary waiver of their rights.

---

<sup>27</sup> Katrina Jackson and Alexis Mayer, *Demanding a More Mature Miranda for Kids*, (DC Justice Lab and Georgetown Juvenile Justice Initiative, October 2020), 7, <https://static1.squarespace.com/static/5edff6436067991288014c4c/t/5f7cb311f1089b28400d4ad5/1602007825403/More+Mature+Miranda.pdf> (accessed February 29, 2021).

**2(c) Recommendation:** The Council should work with the Public Defender Service for the District of Columbia and the MPD to institute legal counsel in police stations. Both youth and adults should be guaranteed legal counsel upon their arrest, prior to any questioning by the police. Public defenders or private counsel should be allowed access to police stations 24 hours a day to communicate with and otherwise represent their clients and to sit in on interviews between police and individuals suspected of a crime.

**3. Recommendation: MPD should institute policies and practices that would require police officers to prioritize referring youth to community resources.**

**3(a) Recommendation:** The District should provide annual trainings to the public on local community-based resources available and appropriate for serving young people, and the referral processes for those resources. MPD officers should be required to attend these trainings.

**3(b) Recommendation:** MPD should create performance evaluation structures or metrics that encourage police officers' use of referrals to community resources for youth and young adults as the first resort (with arrests as a last resort if an officer can demonstrate the inability to make a community referral).

**3(c) Recommendation:** Adequately fund community resources to ensure that they are able to provide youth, families, and caregivers across all wards with 24-7 access to culturally and linguistically competent opportunities.

**4. Recommendation: Decriminalize status offenses and specific offenses committed by youth (i.e., threats, disorderly conduct,<sup>28</sup> resisting,<sup>29</sup> failure to obey,<sup>30</sup> vending without a license,<sup>31</sup> offensive physical contact version of assault,<sup>32</sup> possession of child pornography of themselves or their partner, and unlawful entry onto public property<sup>33</sup>). Amend DC Code Chapter 23 Title 16<sup>34</sup> to reflect these changes.**

**4(a) Recommendation:** Respond to persons in need of supervision (PINS) using community-based resources rather than through the juvenile justice system. Adopt legislation to remove all mentions of "PINS offenses" as prosecutable offenses from Chapter 23 of Title 16 of the DC Code, and make conforming amendments, including to the Attendance Accountability Act.

**4(b) Recommendation:** When PINS behaviors do occur, ensure multiple access points to services outside of law enforcement or juvenile justice agencies, including schools and community-based resources.

---

<sup>28</sup> DC Code § 22-1321.

<sup>29</sup> DC Code § 22-405.01.

<sup>30</sup> 18 DCMR 2000.2.

<sup>31</sup> DC Code § 37-131.08(b).

<sup>32</sup> DC Code § 22-404.

<sup>33</sup> DC Code § 22-3302(b).

<sup>34</sup> DC Code § 16-2320.

**4(c) Recommendation:** Prohibit law enforcement from transporting youth in instances of truancy or curfew violation.

**4(d) Recommendation:** Amend legislation such that specific offenses (i.e., theft, trespassing, injury of property, distribution of substances, possession of firearms) when committed by youth are not chargeable as a felony.

**4(e) Recommendation:** Disallow prosecution of children under 12 years of age.

**5. Recommendation: Strengthen current youth advisory board structure by creating an independent youth advisory board to MPD that has mechanisms for youth, families, and the community to lead reforms and to hold agencies and service providers accountable. The Youth Advisory Council should actively participate in the work outlined in Section 8: 2b and 2c of this report.**

**6. Recommendation: MPD should mandate and provide interactive Recruit and annual Professional Development training on adolescent development and best practices for adolescent-appropriate policing. The training should incorporate the elements discussed in the three points and discussion below:**

**6 (a) Recommendation:** Incorporate this in the required training for all those in the Police Academy before graduation beginning FY22.

**6 (b) Recommendation:** Require all current officers to receive training by FY 2024, and annually thereafter. From that point on any officer who has not had this training or any other annual training must not be placed in the community, until such training is complete.

**6 (c) Recommendation:** Specify that funding should be distributed through a grant process that will allow multiple recipients to conduct these trainings (using the same design) for MPD, judges, prosecutors, educators, and the public. A ‘train the trainers’ model should be incorporated. Again, MPD would be required to attend the training.

**7. Recommendation: The Council should amend DC Code 24-403.03(c) to require the court to consider the impact of individual and systemic racism on the defendant's prosecution and original sentencing.**

**7(a)** The Council should require all judges that review petitions filed pursuant to DC Code § 24-403.03 to receive regular training by community-based organizations led by Black and Indigenous people on the history and impact of individual and systemic racism in the criminal justice system.

**8. Recommendation: Increase transparency around youth arrest data.**

**8(a) Recommendation:** MPD should report crimes at “School-Based Events” in the published juvenile arrest data and disaggregate data by race, gender, age, and disability.

**8(b) Recommendation:** MPD should report school-related arrests (arrests at schools) in the published juvenile arrest data and disaggregate data by race, gender, age, and disability.

**8(c) Recommendation:** Require MPD and schools to track the kinds of weapons recovered (in reports on the count of weapons recovered at school) or the cause of a school's call to MPD.

## Section VII: Guardians First: Building a Trusted, Community-Centered Police Department

### I. DELIVERING EFFECTIVE, GUARDIAN-MODEL EDUCATION AND TRAINING

#### 1. **Recommendation:** MPD should redouble its commitment to remaking its Academy and revamping its approach to officer education and training.

**1(a) Recommendation:** Through scenarios, simulations, role-playing and facilitated discussions, MPD must fully incorporate—in practice, not simply on paper—a collegiate education and training model focused on teaching officers, recruits, and cadets the skills they need to think critically, problem-solve effectively, and exercise their discretion appropriately.<sup>35</sup>

**1(b) Recommendation:** MPD must deliver Academy education and training to all recruits in a uniform manner, following the same course sequence for each recruit class, and should discontinue the practice of modifying course sequence for each recruit class depending on instructor availability.

**1(c) Recommendation:** The Council should allocate the funding required to ensure sufficient numbers of non-sworn Academy instructors and other staff to provide and support education and training to MPD officers and employees.

**1(d) Recommendation:** For Academy and in-service courses that lend themselves to community member participation, including but not limited to courses on impartial policing, cultural competency, behavioral health awareness, and community policing, the Council should allocate the funding required for MPD to integrate community-based organizations and community members as curriculum developers and training instructors and participants.

#### 2. **Recommendation:** MPD should cultivate police legitimacy, foster community trust, and promote officer wellness by developing and delivering subject-specific education and training that teaches officers to be guardians serving the District's diverse communities.

**2(a) Recommendation:** The Council should make permanent Section 111(a) of Act 23-336, which refines the requirements for mandatory continuing education of MPD officers in DC Code 5-107.02.

---

<sup>35</sup> Norman Conti, "A Visigoth System: Shame, Honor, and Police Socialization," *Journal of Contemporary Ethnography* 38, no. 3 (March 2009): 409-432, <https://doi.org/10.1177/0891241608330092> ("[P]aramilitary stress academies produce defensive and depersonalized officers, while collegiate nonstress training models, a small minority in American policing, have no such consequences.").

**2(b) Recommendation:** MPD should provide all training recommended in other sections of this report, including training on behavioral health awareness, trauma recognition, and crisis intervention (Section II); the “most effective, least intrusive” policing principle and alternatives to arrest (Section V); de-escalation and use of force (Section V); First Amendment-protected activity (Section V); and interactions with youth (Section VI).

**2(c) Recommendation:** To fulfill its obligations under DC Code 5-107.02(b)(8), which requires training on the duty to report misconduct, MPD should reinforce every officer’s duty to intervene to prevent fellow officers from engaging in misconduct, by following through on its existing plans to provide at least 10 hours of Academy training to recruits, and annual refresher in-service training to officers, on “active bystandership” and peer intervention through ABLE (“Active Bystandership for Law Enforcement”). This training should include instruction on MPD’s policy proscribing retaliation against officers who report or intervene to prevent misconduct by their fellow officers.

**2(d) Recommendation:** To fulfill its obligations under DC Code 5-107.02(b)(2) & (6), which requires training on “linguistic and cultural competency” and the prevention of “biased-based policing, racism, and white supremacy,” and to build on its current National Museum of African American History and Culture program for recruits and officers, MPD—in collaboration with community partners—should provide officers a deeper, more nuanced and empathetic understanding of the District’s diverse communities. This should include at least four hours of additional annual in-service training on issues such as: structural racism, gentrification, urban renewal, and immigration in the District; the historical and current impact of policing and police practices on the District; the historical role of policing in advancing structural racism; and the role police can play in combating racism and white supremacy.

**3. Recommendation:** The Council should amend Section 111(b) of Act 23-336, which revives and reconstitutes the Police Officers Standards and Training (“POST”) Board, to redefine the duties of the Board, alter the appointments for new community members on the board, and ensure that the board has the resources it needs to meaningfully exercise its oversight responsibilities for MPD education and training programs.

**3(a) Recommendation:** The Council should expand the statutory duties of the POST Board to expressly include not only the development of minimum training standards and reporting on compliance with those standards, but also participation in the development of MPD training curricula and routine oversight of MPD training programs.

**3(b) Recommendation:** Of the five new community representatives on the board, the Council should appoint three and the Mayor two.

**3(c) Recommendation:** At least two of the new community representatives appointed by the Council and one of the community representatives appointed by the Mayor should be experts in education and training.



**3(d) Recommendation:** The Council should appropriate the funding necessary for the POST Board to have permanent staff to assist with administration, assessments, and reporting.

## II. ELIMINATING STATUTORY MINIMUM NUMBER OF SWORN OFFICERS

- 4. Recommendation:** The Council should repeal DC Code 5-105.05, which requires MPD to have a fixed minimum number of sworn personnel that is not based on any reasoned assessment of current public safety needs.

## III. RECRUITING, HIRING, AND PROMOTING QUALIFIED, DIVERSE, ETHICAL OFFICERS

- 5. Recommendation:** The Council should ensure that the POST Board consistently and actively exercises its oversight responsibilities for MPD recruitment, hiring, and retention.

**5(a) Recommendation:** The Council should make permanent Section 111(b) of Act 23-336, which, in reviving and reconstituting the POST Board, obligates the POST Board to assess whether MPD's recruitment efforts meet the needs of the District.

**5(b) Recommendation:** The Council should make permanent Section 111(c) of Act 23-336, which requires the POST Board to include in officer application criteria under DC Code 5-107.04(a) whether—if an applicant has prior service with another police agency—the applicant has a history of alleged or sustained misconduct.

**5(c) Recommendation:** The Council should amend DC Code 5-107.04 to (1) require the POST Board to establish and maintain a registry of current MPD and DCHA officers; (2) require the POST Board to establish a process and criteria for removing officers from the registry; and (3) empower the POST Board to remove officers from the registry, create a public database listing officers who are removed from the registry for cause or incompetence, and submit the names of officers removed from the registry to the International Association of Directors of Law Enforcement Standards and Training.

- 6. Recommendation:** The Council should make permanent Section 115 of Act 23-336, which prevents MPD from hiring officers who engaged in serious misconduct in another police department.
- 7. Recommendation:** MPD should fortify its ongoing efforts (1) to hire individuals who are from or have intimate familiarity with the District, including by expanding the Cadet Program, and who possess good interpersonal and communications skills; (2) to hire officers who would enhance MPD's diversity, including but not limited to women, racial and ethnic minorities, LGBTQ+ individuals, immigrants, individuals with disabilities, individuals who themselves have had experience with the police through the criminal legal system (including those convicted of minor

offenses), and individuals fluent in non-English languages used in District communities; and (3) to keep from hiring individuals who endorse violence, racism, bigotry, religious insensitivity or misogyny, or who disparage any group or person based on their membership in a protected class.

To advance the broader, more comprehensive approach to public safety advocated in this report, the District also should create programs similar to the Cadet Program to educate and hire District residents to work in public safety and community-building professions beyond policing.

8. **Recommendation:** The Council should establish a Public Advisory Board consisting of police organizational experts and community members, to assess, refine, and monitor MPD's performance evaluations, promotions, and specialty unit selection systems.

**8(a) Recommendation:** The Public Advisory Board should develop criteria for performance evaluations, promotions, and specialty unit selections that prioritize the skills and qualities reflected in MPD's mission and value statement, including the proven ability to communicate effectively, resolve conflicts, serve with integrity, and build relationships with the District's diverse communities.

**8(b) Recommendation:** The Public Advisory Board should develop model job qualifications for the Chief of Police that include, among other things, a commitment to harm reduction and the guardian model of policing.

#### IV. IMPROVING OFFICER WELLNESS

9. **Recommendation:** Policing often induces trauma which, particularly if left unaddressed, can adversely affect officers and their families, and influence how officers treat community members. MPD should enhance its existing officer wellness program by ensuring broad officer awareness of available wellness services and by providing resources sufficient to meet the demand for these services.

#### V. ESTABLISHING A STRONG INTERNAL AUDIT FUNCTION

10. **Recommendation:** MPD should expand its data quality division to establish a robust internal audit function that routinely assesses and publishes data regarding: MPD officer encounters with community members, including stops, pat-downs, warrantless searches, search warrant executions, warrantless arrests, arrest warrant executions, and uses of force. This work would encompass all of the data collection, analysis, and reporting recommendations in the other sections of this report.

## Section VIII: Holding Police Accountable

### 1. **Recommendation**: The DC Council and the Mayor should create a deputy auditor for public safety within the Office of the District of Columbia Auditor.

**1(a) Recommendation**: The law should specify that the deputy auditor for public safety's term be six years (DC auditor's term is six years), subject to reappointment; that the auditor shall appoint the deputy auditor for public safety, pursuant to a nationwide search; and that the auditor can only remove the deputy auditor for public safety for cause.

**1(b) Recommendation**: The law should specify that the deputy auditor for public safety possess subpoena authority, authority to compel District employees to provide statements and submit to interviews, direct access to all digital/electronic MPD, HAPD, District Department of Corrections (DOC), and Office of Police Complaints (OPC) records, access to all non-digital MPD, HAPD, DOC, and OPC records, and access to all records of other District agencies.<sup>36</sup> In addition, the law should require that the deputy auditor for public safety's budget be insulated from politics and sufficient for the deputy auditor for public safety to perform all its responsibilities.

**1(c) Recommendation**: The law should specify that the deputy auditor for public safety possess broad authority and jurisdiction, with respect to the MPD, HAPD, special police officers,<sup>37</sup> DOC, and the PCB-OPC,<sup>38</sup> including authority to review, analyze, and make findings regarding:

- System-wide patterns and practices.
- Any MPD, HAPD, and DOC policy, practice, or program, including constitutional policing, uses of force, use of canine, warrantless searches and seizures, use and execution of search warrants, hiring, training, promotions, internal investigations, and discipline.
- Any other policy, practice, or program that affects these law enforcement agencies' integrity, transparency, and relationship with District residents or of concern to the community.

**1(d) Recommendation**: The law should mandate that, at least bi-annually, the deputy auditor for public safety review, analyze, and make findings regarding:

- MPD's and OPC's handling of misconduct complaints and cases.

---

<sup>36</sup> The Office of the District of Columbia Auditor already possesses subpoena authority. See: Code of the District of Columbia § 1-301.171, <https://code.dccouncil.us/dc/council/code/sections/1-301.171.html> (accessed February 15, 2021).

<sup>37</sup> See District of Columbia Municipal Regulations, Chapter 6A §§ 1100.1 to 1110.1, <https://securityofficerhq.com/files/dc-title-6a.pdf> (accessed March 13, 2021).

<sup>38</sup> Depending on the District's acceptance and implementation of recommendations two and three, the Commission recommends renaming (not eliminating) the PCB and the OPC. To prevent confusion, the report will, unless otherwise noted, refer to the Police Complaints Board and the Office of Police Complaints by their current names.

- Timeliness and quality of all MPD and OPC administrative investigations, particularly serious uses of force and other incidents that result in death.
- Disciplinary process.
- Disciplinary appeal process (grievances, arbitration, and DC Office of Employee Appeals).
- Civil judgments and settlements and MPD use and handling (if any) of these judgments and settlements.
- MPD use and handling (if any) of adverse findings (the USAO's or a judge's) regarding MPD officer credibility, official false statements, perjury, and any prosecutor list of officers who cannot be relied on as witnesses due to credibility issues (known as Brady or Lewis list).<sup>39</sup>

**1(d)(i) Recommendation:** The law should require that the deputy auditor for public safety and MPD work with the U.S. Attorney's Office for the District of Columbia (USAO) to develop a system for the USAO to advise the deputy auditor for public safety and MPD of adverse findings (the USAO's or a factfinder's) regarding an MPD officer's credibility; or regarding determination that the officer made false official statements or committed perjury; and that the USAO provide to MPD and the deputy auditor for public safety its Brady or Lewis list, on a quarterly basis.

**1(e) Recommendation:** The law should require that the deputy auditor for public safety produce an annual report on its activities and operations, and reports following each investigation, review, study, or audit; and provide these reports to the Mayor, the Council, MPD, and the PCB-OPC; and publish the reports on the Office of the DC Auditor's website, with the respective agency's response.

The law should require that MPD and/or PCB-OPC be required to respond, in writing, to the deputy auditor for public safety reports' recommendations within 30 days, and that their responses must include: 1) a description of the corrective or other action the agency plans to take; 2) the basis for rejecting the recommendation, in whole or in part; or 3) a request for an extension to provide substantive written responses.

**1(e)(i) Recommendation:** With the creation of the deputy auditor for public safety, the Council and the Mayor should shift from the PCB-OPC to the deputy auditor for public safety the responsibility for (as detailed in Code of DC § 5-1104(d-2)(1):<sup>40</sup> reviewing and reporting annually on MPD resolution of citizen

---

<sup>39</sup> See *Brady v. Maryland*, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972); *Lewis v. United States*, 408 A.2d 303 (DC 1973). These cases generally require prosecutors to provide to defendants material that may be used to impeach prosecution witnesses, including prior convictions, pending investigations or criminal charges, cooperation agreements, and bad acts related to the witnesses' veracity and credibility. Some prosecutors keep a list of officers for whom they must turn over such material and/or whom prosecutors have determined are not reliable witnesses.

<sup>40</sup> Code of the District of Columbia § 5-1104(d-2)(1), <https://code.dccouncil.us/dc/council/code/sections/5-1104.html> (accessed February 15, 2021).

complaints, the demographics of those involved in these complaints, and the proposed and actual discipline as a result of sustained citizen complaints; all MPD use of force incidents, serious use of force incidents,<sup>41</sup> and serious physical injury incidents;<sup>42</sup> and in-custody deaths.

**1(f) Recommendations:** The law should require that the deputy auditor for public safety engage in regular and sustained public outreach to inform the community and relevant law enforcement agencies about its mission, policies, and operations.

**2. Recommendation: The Council and Mayor should expand the authority of and rename the Police Complaints Board, which will continue to oversee the Office of Police Complaints, as the District of Columbia Police Commission (“DCPC”).**

**2(a) Recommendation:** The law should require that DCPC review and approve, prior to issuance (except for emergency situations) MPD policies that are not purely administrative. For policies that broadly affect the community, the DCPC should engage the community and police during the development and drafting of new policies or policy revisions, including through use of formal forums and surveys.

**2(b) Recommendation:** The law should specify that DCPC have a role in setting, formulating, and/or approving MPD annual goals, and meeting quarterly with the MPD Chief to review MPD’s progress in meeting these goals. MPD’s achievement of these goals (emphasizing delivery of services rather than number of arrests or summonses) should be tied, at least in part, to the DCPC’s assessment of MPD’s success.

**2(c) Recommendation:** The law should specify that DCPC have a role in establishing the process for the Mayor’s selection of a new MPD Chief, e.g., by developing a job description, and weighing in on minimum qualifications, whether the Mayor should engage a national search firm, and the DCPC’s role in reviewing candidates.

**2(d) Recommendation:** The law should specify that, in making MPD more transparent, the DCPC must work with MPD to determine what information MPD should post to its website, subject to applicable laws (e.g., policies; detailed data on crime, arrests, citations, use of force, pedestrian and vehicle stops, and officer fatalities and injuries; layered budget information; and applicable union contracts), and that the DCPC may post such information on its website that MPD does not.

**2(e) Recommendation:** The law should specify that DCPC’s composition consist of an odd number of members who reflect the diversity of the District; that members be

---

<sup>41</sup> See Recommendation 3(a)(iii) and corresponding discussion for definition of “serious use of force,” which can be found in MPD GO-RAR-901.07 (Use of Force), § III.9, effective November 3, 2017, [https://go.mpdonline.com/GO/GO\\_901\\_07.pdf](https://go.mpdonline.com/GO/GO_901_07.pdf) (accessed February 14, 2021).

<sup>42</sup> Id., § III.8. See Recommendation 3(a)(iii) and corresponding discussion for definition of “serious physical injury.”

compensated (not 100% volunteer); and that individuals currently working for law enforcement agencies are ineligible.

**2(e)(i) Recommendation:** In the near-term, the Council and the Mayor should make permanent the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020's exclusion from the Police Complaints Board of individuals employed by law enforcement agencies. Specifically:

- The new law should make clear that "no current affiliation with any law enforcement agency" means that no PCB member shall be currently employed by a law enforcement agency or law enforcement union.
- The new law should make clear that individuals formerly employed by law enforcement agencies are not excluded from serving on the PCB.

**2(e)(ii) Recommendation:** In the near-term, the Council and the Mayor should reconsider the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020's expansion of the Police Complaints Board from five to nine members, based solely on appointment of one member from each of the eight DC wards and one at-large member.

- While increasing the PCB membership from five to nine makes it more likely that the board reflects the diversity of the District, geographic diversity alone will not necessarily result in a board that reflects the District's diversity.
- The board's membership should include individuals below the age of 24.
- The board's membership should include individuals who have been directly impacted by the District's policing and/or incarceration system.

**2(f) Recommendation:** The Council and Mayor should hold full and robust public hearings on expanding the authority of and renaming the Police Complaints Board, or appoint a single-issue task force devoted to fleshing out the District of Columbia Police Commission's mandate, authority, composition, and its process for selecting members.

**3. Recommendation: The Council and Mayor should expand the jurisdiction, authority, and resources of the Office of Police Complaints (OPC).**

**3(a) Recommendation:** The law should require that OPC conduct administrative investigations and make findings on all MPD "serious uses of force," (as currently defined in MPD General Order 901-07, Use of Force) and in-custody deaths, regardless of whether an individual filed a complaint regarding the incident. At a minimum, the law should require that OPC conduct an independent investigation and reach dispositions on all MPD serious uses of force when an individual with "personal knowledge" files a complaint regarding the incident or under circumstances delineated in Recommendation 3(b).

**3(a)(i) Recommendation:** In cases that OPC investigates involving serious uses of force, (as currently defined in MPD General Order 901-07, Use of Force)<sup>43</sup> and in-custody deaths, MPD policy should ensure that the MPD Use of Force Board continues to review and analyze these incidents, but refrain from making final findings on whether officers complied with MPD policies; the OPC will make the final findings on whether officers complied with MPD policies.

**3(a)(ii) Recommendation:** If the District expands the OPC's jurisdiction to include all MPD serious uses of force and in-custody deaths, regardless of whether an individual has filed a complaint regarding the incident, it should rename the Office of Police Complaints as the Office of Police Accountability.

**3(a)(iii) Recommendation:** The law should codify MPD "serious use of force" and "serious injury" (as currently defined in MPD General Order 901-07, Use of Force), to prevent a change in MPD policy from affecting OPC's jurisdiction.

**3(b) Recommendation:** The law should specify that the OPC must investigate anonymous complaints and complaints that a non-witness files relating to unnecessary force and biased-based policing. In addition, the law should specify that the OPC may investigate anonymous complaints and complaints a non-witness files that fall within the OPC's subject-matter jurisdiction, based upon the following factors: nature or severity of the alleged misconduct, the availability of evidence and/or witnesses, the ability to identify officers and civilians involved, and whether the OPC received other complaints regarding the incident from individuals with personal knowledge.

**3(c) Recommendation:** The Council and the Mayor should make permanent the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020's extension of OPC's jurisdiction to include "evidence of abuse" or "misuse of police powers," including those that the complainant did not allege in the complaint but that the OPC discovers during its investigation.

- The law should not limit, through the use of examples, the allegations of "evidence of abuse" or "misuse of police powers" that OPC discovers during its investigation and upon which it can make a finding. The legislative language should be broad enough to allow the OPC to investigate all the potential misconduct it discovers through its investigation, unbound by the complainant's specific allegations, such as the failure to turn on body-worn cameras, false reports, false statements, and destruction or concealment of evidence.
- The law should specify that when, during its investigation, the OPC discovers evidence of abuse or misuse of police powers that the complainant did not allege in the complaint, the OPC may include these allegations within the original case, rather than generating a new complaint or case, thereby increasing complaint or case numbers.

---

<sup>43</sup> MPD GO-RAR-901.07 (Use of Force), § III.8-9, effective November 3, 2017, [https://go.mpdonline.com/GO/GO\\_901\\_07.pdf](https://go.mpdonline.com/GO/GO_901_07.pdf) (accessed February 14, 2021).

**3(d) Recommendation:** The Council and the Mayor should give the OPC jurisdiction to investigate special police officers as well as campus and university special police officers.

**3(e) Recommendation:** The Council and the Mayor should give the OPC the authority and ability to make informed disciplinary recommendations for cases in which complaint examiners sustain one or more allegations.

- In order to make informed disciplinary recommendations, based upon MPD's Table of Offenses and Penalties Guide, OPC should have access to an officer's training history, history of complaints and internal investigations (open and closed), and entire disciplinary history.
- If the MPD or HAPD Chief disagrees with OPC's recommendation, the Chief must provide written explanation for the disagreement within 30 days.

**3(f) Recommendation:** For cases in which complaint examiners sustain one or more allegations and the MPD or HAPD Chief rejects the OPC's disciplinary recommendation, and where the MPD or HAPD and the OPC cannot subsequently agree upon a disciplinary penalty, the Council and the Mayor should give a review panel of three complaint examiners the authority to determine the disciplinary penalty.

**3(g) Recommendation:** The Council and the Mayor should require the MPD Chief to respond to OPC policy recommendations within 30 days. MPD's response must include: 1) a description of the corrective or other action MPD plans to take; 2) the basis for rejecting the recommendation, in whole or in part; or 3) a request for an extension to provide substantive written responses.

**3(h) Recommendation:** The Council and the Mayor should ensure that OPC has direct, electronic access to all MPD digital/electronic records, the authority to incorporate these records into its case files, and the authority to utilize these records—including BWC footage—in interviews with civilians and MPD employees, as OPC deems appropriate.

**3(i) Recommendation:** The Council and the Mayor should ensure that OPC's budget supports the staff required to handle OPC's increased responsibilities; provides for extensive and ongoing training with respect to investigating serious uses of force and in-custody deaths and recommending and reaching disciplinary determinations; and secures the OPC's independence. To ensure this, the District should consider establishing a multi-year budget from a dedicated funding stream or statutorily linking OPC's budget or headcount to MPD's budget or headcount.

**3(j) Recommendation:** The OPC should develop and enhance its case management system to track and produce (not by hand), data including:



- Cases OPC closed by disposition type, e.g., number of cases OPC closes each year as adjudicated, dismissed on the merits, dismissed due to complainant's failure to cooperate, mediation, policy training, rapid resolution, or withdrawal.
- Days it takes to close (from complaint date to closure date) cases by disposition type, and average and/or median number of days it takes to close cases by disposition type.
- Reasons why cases are closed as dismissed on the merits, by category, e.g., unfounded, exonerated, insufficient facts, etc.
- Track cases referred for criminal investigation, dates cases were referred, and dates of USAO decision/declination.

**4. Recommendation: The Council and the Mayor should make permanent the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020's revision of DC Municipal Regulation § 24-3900.09 ("Metropolitan Police Department Body-worn Cameras") that prohibits officers from reviewing their body-worn camera recordings or the body-worn camera recordings that have been shared with them to assist in initial report writing.**

**4(a) Recommendation:** The law should prohibit officers from viewing their body-worn camera footage, or the body-worn camera footage of other officers (except for the publicly available body-worn camera footage the Mayor releases) in all cases involving serious uses of force and in-custody deaths. MPD's internal investigative unit or the OPC shall determine the circumstances under which the officers can view their body-worn camera footage or other officers' body-worn camera footage in these cases. In cases involving potential criminal charges,<sup>44</sup> the MPD or the OPC shall make the determination to provide the subject officer with the opportunity to view their body-worn camera footage or other officers' body-worn camera footage as delineated in Recommendation 5.

**4(b) Recommendation:** In cases other than those involving serious uses of force and in-custody deaths, the law should not allow officers to freely view other officers' body-worn camera footage, except as prosecutors, OPC, and MPD internal investigators permit; and the law should require that MPD establish policies regarding when and under what circumstances officers may view their body-worn camera footage following completion of their initial report, and under what circumstances officers may write an addendum to their initial report.

**4(c) Recommendation:** The law should specify that MPD policies require, for any addendum reports officers write, that officers indicate whether they viewed body-worn camera footage prior to writing the addendum report, and specify what body-worn camera footage the officer viewed, including the officer's own.

---

<sup>44</sup> Prosecutors are free to show body-worn camera recordings to officers and other witnesses as they see fit.

5. **Recommendation:** In cases involving potential criminal charges against an officer, the Council and the Mayor should give OPC—and MPD should revise its rules to give itself—authority, as appropriate, to interview the subject officer(s) and/or complete administrative investigations, even if a prosecutorial decision is pending.

**5(a) Recommendation:** In cases involving potential criminal charges against an officer, MPD should require its investigators to complete all possible investigative steps while potential criminal charges are being considered; once the prosecutor has issued a declination letter, MPD should then promptly interview subject officers.

**5(b) Recommendation:** In cases involving conduct that may be criminal in nature that the OPC is obligated to refer to the United States Attorney’s office, the Council and Mayor should revise DC Code § 5-1109<sup>45</sup> and require that the OPC process the complaint and complete all possible investigative steps while potential criminal charges are being considered; once the prosecutor has issued a delineation letter, the OPC should then promptly interview subject officers.

**5(c) Recommendation:** In cases involving potential criminal charges against an officer but where the prosecutor has not yet issued a written declination decision, MPD should in certain circumstances permit its investigators, with approval from the Chief and after consultation with the prosecutor, to complete its administrative investigation. The Council and the Mayor should revise DC Code § 5-1109 and permit OPC, in certain circumstances, with approval from the PCB and after consultation with the prosecutor, to complete the administrative investigation before the prosecutor issues a written declination. The relevant factors include the passage of time since the incident occurred, the seriousness of the allegations, and the public interest in prompt completion of the administrative investigation. In some cases, the administrative investigation may be completed without interviewing the subject officer(s) if evidence from other sources, including but not limited to body-worn camera footage, is sufficient for the investigator to make complete and accurate findings without such interviews. Where subject officer interviews are necessary, MPD and OPC should seek a voluntary interview with the officer. If the officer does not voluntarily agree to be interviewed, MPD and the DC Code § 5-1109 should permit OPC administrative investigators—pursuant to Chief of Police approval or PCB approval, and after consultation with the relevant prosecutor—to compel the subject officer(s) to submit to an interview.

6. **Recommendation:** The Council and the Mayor should modify the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020’s revision of the Code of the DC § 5-1031, and extend the time frame for MPD’s commencement of a corrective or adverse action from 90 business days to one year, from notice of the act or occurrence, for all cases.

---

<sup>45</sup> Code of the District of Columbia § 5-1109, <https://code.dccouncil.us/dc/council/code/sections/5-1109.html> (accessed February 15, 2021).

7. **Recommendation:** The Council and the Mayor should make permanent the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020's revision of the Code of the DC § 1-617.08, which states that “[a]ll matters pertaining to the discipline of sworn law enforcement personnel shall be retained by management and not be negotiable.”

**7(a) Recommendation:** The Council and the Mayor should limit the authority of arbitrators to reverse MPD decisions to terminate or demote officers.

8. **Recommendation:** MPD should revise its policies and stop purging disciplinary actions automatically from officers' personnel files after a set number of years. Specifically:

**8(a) Recommendation:** MPD should stop purging adverse actions, the most serious level of discipline, from officers' personnel records automatically after three years. Adverse actions should remain permanently in the officers' official personnel file, element/unit folder, disciplinary record, and any other electronic or non-electronic record MPD maintains regarding the officers' employment. When imposing new discipline, MPD should consider (or be able to consider) adverse actions that MPD previously imposed against an officer throughout the course of the officer's employment.

**8(b) Recommendation:** MPD should stop purging corrective actions from officers' personnel records automatically after one, two, or three years. Purging, or removal of corrective actions from officers' official personnel file, element/unit folder, disciplinary record, and any other electronic or non-electronic record that MPD maintains regarding the officers' employment should be conditioned on the officers' staying out of trouble as follows:

- Dereliction report: remove from officer's official personnel file after one year provided the officer has no subsequent disciplinary violations.
- Letter of prejudice: remove from officer's official personnel file after two years provided the officer has no subsequent disciplinary violations, excluding dereliction reports.
- Official reprimands: remove from officer's official personnel file after three years provided the officer has no subsequent disciplinary violations, excluding dereliction reports and letters of prejudice.

**8(c) Recommendation:** MPD should clarify and make its policies consistent (General Order 201.19, Employee Personnel Records and General Order 120.21, Disciplinary Procedures and Processes) regarding “removal,” or “purging,” of corrective actions from an official personnel file, element/unit folder, disciplinary record, and any other electronic or non-electronic record MPD maintains regarding the officer's employment.

**8(d) Recommendation:** MPD should clarify its policy (General Order 120.21, Disciplinary Procedures and Processes) to make clear which previous disciplinary actions (corrective actions and adverse actions), based upon the date of issuance, the department considers when assessing the imposition of a new disciplinary action.

**9. Recommendation: The Council and the Mayor should revise the Freedom of Information Act (FOIA) law and explicitly provide the public with access to officers' personnel records pertaining to misconduct allegations and complaints. Specifically:**

**9(a) Recommendation:** The public should have access to records including, but not limited to: the officer's name, the existence and status of open allegations and complaints; closed allegations and complaints; administrative investigation outcomes (including not sustained outcomes); investigative closing reports and the information and evidence upon which the closing reports are based; charges and specifications; transcripts or recordings of any disciplinary hearings and/or appeals, including exhibits; the dispositions of any disciplinary proceedings and/or appeals, final agency and/or appeal dispositions; final agency disciplinary or non-disciplinary (e.g., training) determinations; and the final written opinions or memoranda supporting these dispositions and disciplinary determinations.

**9(b) Recommendation:** The agency responding to the FOIA request for complaint and misconduct records may redact from its response records pertaining to technical infractions involving an officer's minor rule violations solely related to the enforcement of administrative departmental rules that do not involve interactions with members of the public, that are not of public concern, and that are not otherwise connected to such officers' investigative, enforcement, training, supervision, or reporting responsibilities.

**9(c) Recommendation:** The agency responding to the FOIA request for complaint and misconduct records must redact from its response information involving any civilian witness' (including the complainant) and officer's medical histories (not including records obtained during the course of an agency's investigation of the officer's misconduct that are relevant to the investigation's disposition); the officer's and any civilian witness' home addresses, personal telephone numbers, personal cell phone numbers, personal email addresses, and social security number; and the officer's use of an employee assistance program, mental health, or substance abuse service.

**9(d) Recommendation:** The Council and the Mayor should require MPD and the OPC to create searchable public databases, available on MPD's and OPC's websites, regarding the administrative misconduct cases that each agency has processed, including the officer's first and last name; badge or unique department identification number; district or assignment at time of incident; each misconduct complaint and/or investigation; allegations linked to each complaint and/or investigation; investigative outcome for each allegation; disciplinary or non-disciplinary action taken; and the status and outcome of any disciplinary appeal.

10. **Recommendation:** MPD should post on its website a monthly calendar, to be updated weekly, of scheduled adverse hearings, trial board, and/or department hearing tribunal proceedings, detailing the subject officer's name, charges (specific regulations alleged to have been violated), specifications (date and location of the alleged act, or omission and a statement of the alleged act or omission), and the proposed disciplinary action. In addition, MPD should livestream these public hearings and post and maintain the recordings on its website for three years.
11. **Recommendation:** The Office of Police Complaints should include on its website, in association with the complaint examiner decisions it makes public, the disciplinary determination for each officer against whom the complaint examiner sustained one or more allegations, and the status of any disciplinary appeal.
12. **Recommendation:** Each year that MPD fails to provide, on an annual basis as required by the Code of the District of Columbia §5-1032, a report on misconduct and grievances filed by or against members of MPD, the Council should conduct an oversight hearing regarding MPD's internal investigative, grievance, and disciplinary systems, and require MPD's Chief to testify.
13. **Recommendation:** MPD should install technology<sup>46</sup> to automatically activate body-worn cameras when an officer draws a firearm.
14. **Recommendation:** The Council and the Mayor should modify and make permanent provisions in the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020 regarding public release of body-worn camera footage, as follows:

**14(a) Recommendation:** The Mayor, notwithstanding any other law and the exceptions noted below in (14)(b)(i) and 14(b)(ii), shall within five business days after an officer-involved death or serious use of force,<sup>47</sup> release the names of all subject officers (the officers who committed the acts at issue) and BWC recordings of all officers (not just subject officers) that capture any part of the events leading up to the incident, during the officer-involved death or serious use of force, and after the incident; and should endeavor to release unredacted recordings, both audio and visual.

**14(b) Recommendation:** The Council and the Mayor should make explicit in the law that, prior to the Mayor releasing a BWC recording of a serious use of force, MPD shall make

---

<sup>46</sup> See: Axon Enterprise Inc., "Axon Signal Sidearm," <https://www.axon.com/products/axon-signal-sidearm> (accessed March 15, 2021).

<sup>47</sup> See: Recommendation 3(a)(iii) and corresponding discussion for definition of "serious use of force," which can be found in MPD GO-RAR-901.07 (Use of Force), § III.9, effective November 3, 2017, [https://go.mpdconline.com/GO/GO\\_901\\_07.pdf](https://go.mpdconline.com/GO/GO_901_07.pdf) (accessed February 14, 2021).

reasonable efforts to notify the individual against whom the officer(s) used force, or if the individual is a minor or unable to do so, the individual's next of kin.

**14(b)(i) Recommendation:** The Council and the Mayor should make permanent the emergency legislation's provision prohibiting the Mayor from releasing these body-worn camera recordings unless the following persons provide oral or written consent: 1) for a body-worn camera recording of an officer-involved death, the decedent's next of kin; 2) for a body-worn camera recording of a serious use of force, the individual against whom the officer(s) used force, or if the individual is a minor or unable to consent, the individual's next of kin. In the event of disagreement between multiple persons who must consent to the release of a BWC recording, the Mayor shall seek a resolution in the Superior Court for the District of Columbia, which shall order the release of the body-worn camera recording if it finds that the release is in the interests of justice.

**14(b)(ii) Recommendation:** The Council and the Mayor should require that MPD consult with an organization that possesses expertise in trauma and grief, adopt these best practices, and rely on a specialized unit, e.g., Victim Services Branch, Major Case Victims Unit, to liaise with the decedent's next of kin.

As specified in the emergency legislation, prior to the Mayor releasing BWC recordings of an officer-involved death, MPD's Victim Services Branch should: 1) notify the decedent's next of kin of the recording's pending release, including the date when it will be released; 2) offer the decedent's next of kin the opportunity to view the body-worn camera recording privately, in a non-law enforcement setting, in advance of its release; and 3) facilitate its viewing if the next of kin wishes to view the body-worn camera recording.

15. **Recommendation:** The Council and the Mayor should make permanent the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020's requirement that MPD provide, within five days, unredacted (both audio and visual) copies of all body-worn camera recordings that the chairperson of the Council committee, with jurisdiction over MPD, requests, and which the chairperson shall not publicly disclose.

**15(a) Recommendation:** If the chairperson of the Council committee with jurisdiction over MPD, who has access to unredacted body-worn camera recordings, determines that the Mayor has released BWC recordings of an officer-involved death, a serious use of force, or a matter of significant public interest,<sup>48</sup> and that the redactions the Mayor has made

---

<sup>48</sup> District law currently stipulates that the Mayor may, on a case-by-case basis, in matters of significant public interest and after consultation with the Chief of Police, the USAO, and the OAG, publicly release any other body-worn camera recordings that may not otherwise be releasable pursuant to a FOIA request. District of Columbia Municipal Regulations, § 24-3900.10, <http://dcrules.elaws.us/dcmr/24-3900> (accessed February 23, 2021).

undermine the public interest in understanding what occurred, the chairperson may seek a resolution in the Superior Court for the District of Columbia, ordering the release of unredacted BWC recordings, or BWC recordings with fewer redactions, if it finds that such release is in the interests of justice.

**15(b) Recommendation:** If the chairperson of the Council committee with jurisdiction over MPD, who has access to unredacted body-worn camera recordings, determines that in matters of significant public interest the Mayor should release BWC recordings and the Mayor decides against releasing them, the chairperson may seek a resolution in the Superior Court for the District of Columbia, which shall order the release of BWC recordings if it finds that such release is in the interests of justice.

**16. Recommendation: The Council and the Mayor should improve public access to body-worn camera (BWC) footage through the Freedom of Information Act.**

**16(a) Recommendation:** The Council and the Mayor should narrow the personal privacy exception to FOIA, with respect to body-worn camera recordings that depict officers, storefronts, outward facing residences, and third parties; MPD invokes this exception to redact body-worn camera recordings, including images of officers' faces and identifying information, though the officers have no expectation of privacy while performing their duties in public spaces.

**16(b) Recommendation:** The Council and the Mayor should require that MPD publish the redaction fees it charges members of the public who request (unredacted) BWC recordings under FOIA; the fee schedule should include redaction costs per hour and per individual or per object. At a minimum, MPD should be required to use the least costly commercially available method of redacting body-worn camera recordings, and to utilize in-house resources, to the extent possible, to effectuate any redactions the law mandates.

**17. Recommendation: The Council should make permanent Section 113 of Act 23-336, which provides a right to a jury trial when a person is accused of assault on a police officer, and restore the right to a jury trial in all criminal cases.**

**18. Recommendation: Expand the exclusionary rule to apply to all violations of rights protected by DC Law and under the First Amendment, Fourteenth Amendment, and District of Columbia Human Rights Act.**

- 19. Recommendation: The Council should ensure that citizens are able to redress concerns about police misconduct through civil litigation, including:**
- Ensuring a private right of action for violations of statutes regulating police conduct.
  - Tolling the 6-month notice requirement in DC Code § 12-309 for claimants who are imprisoned or facing criminal charges related to the arrest.
  - Ending qualified immunity.

20. **Recommendation:** Establish a 24/7 pre-arrest charging decision hotline.