Council of the District of Columbia
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY
MEMORANDUM
1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO:	Nyasha Smith, Secretary of the Council
FROM:	Charles Allen, Chairperson, Committee on the Judiciary and Public Safety CA
RE:	Closing Hearing Record
DATE:	March 22, 2021

Dear Ms. Smith,

Please find attached copies of the Hearing Notice, Agenda and Witness List, and testimony for the Committee on the Judiciary and Public Safety's March 11, 2021 Performance Oversight Hearing on the Deputy Mayor for Public Safety and Justice, the Office of the Chief Medical Examiner/Fatality Review Committees, and the Metropolitan Police Department.

The following witnesses testified at the hearing or submitted written testimony to the Committee:

1. **Deputy Mayor for Public Safety and Justice**
    i. Public Witnesses
        1. Misty Thomas, Executive Director, Council for Court Excellence
        2. Donte Massey, Public Witness
        3. Naima Jefferson, Public Witness
        4. Kathy Henderson, Coordinator, 5D Court Watch
        5. Natacia Knapper, Field Organizer, ACLU of the District of Columbia
    ii. Government Witness
        1. Christopher Geldart, Acting Deputy Mayor for Public Safety and Justice
2. **Office of the Chief Medical Examiner/Fatality Review Committees**
    i. Public Witness
        1. Stephanie McClellan, Deputy Director, D.C. KinCare Alliance
    ii. Government Witness
        1. Dr. Francisco J. Diaz, Acting Chief Medical Examiner
3. **Metropolitan Police Department**
    i. Public Witnesses

1. Austin Rose, Representative, ICE Out of D.C. Coalition
2. Ingrid Contreras, Public Witness
3. Sun Hwang, General Manager, Bibibop
4. Brenda Richardson, Public Witness
5. Danielle Robinette, Policy Attorney, Children's Law Center
6. Sean Blackmon, Organizer, Stop Police Terror Project D.C.
7. Valerie Wexler, Organizer, Stop Police Terror Project D.C.
8. Emily Tatro, Deputy Director, Council for Court Excellence
9. Charlie Whitman-Barr, Staff Attorney, Legal Aid Society of the District of Columbia
10. Makia Green, Organizer, D.C. Working Families
11. Afeni Evans, Representative, D.C. Working Families
12. Shannon Hodge, Executive Director, D.C. Charter School Alliance
13. Rev. Vincent DeRosa, Pastor, St. Mary Mother of God Catholic Church
14. Kenithia Alston, Public Witness
15. Olianka Wingate, Director of Student Services, Carlos Rosario IPCS, Harvard St. Campus
16. Brian Graber, Director of Operations & Human Resources, Sixth & I
17. Alan Shusterman, Executive Director, Hill Havurah
18. Alexis Harper, Public Witness
19. Patrick Burke, Executive Director, D.C. Police Foundation
20. Eduardo Ferrer, Policy Director, Juvenile Justice Initiative, Georgetown Law
21. Geoff Rankin, CEO, Congressional Aviation
22. Bryan Peterson, Regional Manager, STAT MedEvac
23. Andrew Gappy, Public Witness
24. Alexandra Bailey, Commissioner, ANC 2F08
25. Nassim Moshiree, Policy Director, ACLU of the District of Columbia
26. Olivia Blythe, Volunteer, D.C. Justice Lab
27. Kylie Hogan, Crisis Response Team Director, D.C. SAFE
28. Elizabeth Berg, Clinical and Education Manager, Children's National Hospital
29. Bobby Pittman, Chair, 1D Citizens Advisory Council
30. Miya Walker, Policy and Advocacy Manager, The Black Swan Academy

31. Charnal Chaney, Public Witness
32. Reginald Black, Advocacy Director, People for Fairness Coalition
33. Bishop Walton, Public Witness
34. Georgine Wallace, Community Facilitator, PSA 103/105
35. Fritz Mulhauser, Co-Chair, Legal Committee, D.C. Open Government Coalition
36. Gregg Pemberton, Chair, D.C. Police Union
37. Lauren Sarkesian, Senior Policy Counsel, New America's Open Technology Institute
38. Kathy Henderson, Coordinator, 5D Court Watch
39. Kristi Matthews, Coordinator, D.C. Girls' Coalition
40. Saunte Snowden, Public Witness
41. Anonymous, Public Witness
42. Sarah Bever, Chair, 2D Citizens Advisory Council
43. Tamika Spellman, Advocacy Specialist, HIPS
44. NeeNee Tay, Representative, Harriet's Wildest Dreams
45. Qiana Johnson, Representative, Life After Release
46. Katie Hodge, Public Witness
47. Crystal Marshall, Public Witness
48. Naima Jefferson, Public Witness
49. Paula Edwards, Public Witness
50. Cynthia Lee, Public Witness
51. Prashasti Bhatnagar, Public Witness
52. Jarrett Lewis, Public Witness
53. Lee Tremblay, Public Witness
54. Radiance Campbell, Public Witness
55. Janelle Taylor, Public Witness
56. Kalli Joslin, Public Witness
57. Megan Lipsky, Public Witness
58. Saba Rewald, Public Witness
59. Miriam Ginsberg, Public Witness
60. Eliza Wiant, Public Witness
61. Justin Sodoma, Public Witness

62. Elana Orbuch, Public Witness
63. Muyi Zhang, Public Witness
64. Mira Smith, Public Witness
65. Skye Webster, Public Witness
66. Kayla Moore, Public Witness
67. Eric Meade, Public Witness
68. Noa Schleifer, Public Witness
69. Jordan Abramowitz, Public Witness
70. Zora Pauk, Public Witness
71. Nick Younger, Public Witness
72. Alicia Gendell, Public Witness
73. Marla Telleria, Public Witness
74. Abbey Walsh, Public Witness
75. Kayla Moore, Public Witness
76. John Chritton, Public Witness
77. Shea Metzgar, Public Witness
78. Jagir Patel, Public Witness
79. Forrest Gray Yerman, Public Witness
80. Anthony David, Public Witness
81. Rafael Wirtschafter, Public Witness
82. Samantha Meacham, Public Witness
83. Michiko Rinaldo, Public Witness
84. Shana Laski, Public Witness
85. Nick Chantiles, Public Witness
86. Tyler Martin Benjamin, Public Witness
87. Ashley Ramos, Public Witness
88. Milcah Zewdie, Public Witness
89. Sarah Hart, Public Witness
90. Delina Mesfin, Public Witness
91. Rachel Okun-Kozlowicki, Public Witness
92. Belle Harris, Public Witness
93. Elissa Lowenthal, Public Witness
94. Justin Ledinh, Public Witness

95. Benjamin Douglas, Public Witness
96. Dionte Davis, Volunteer, D.C. Justice Lab
97. Gracy Obuchowicz, Public Witness
98. Irene Stevenson, Public Witness
99. Dawn Dalton, Executive Director, D.C. Coalition Against Domestic Violence
100. Carole Bernard, Executive Director, Amara Legal Center

ii. Government Witness

1. Acting Chief Robert J. Contee, III

COUNCIL OF THE DISTRICT OF COLUMBIA
ABBREVIATED NOTICE OF PUBLIC HEARINGS
AGENCY PERFORMANCE OVERSIGHT HEARINGS
FISCAL YEAR 2020-2021

3/16/2021

SUMMARY

February 8, 2021 to March 19, 2021	Agency Performance Oversight Hearings on Fiscal Year 2020-2021
February 3, 2021	Committee of the Whole Public Briefing on the Fiscal Year 2020 Comprehensive Annual Financial Report (CAFR) at 1:30 p.m.

The Council of the District of Columbia hereby gives notice of its intention to hold public oversight hearings on agency performances for FY 2020 and FY 2021. The hearings will begin Monday, February 8, 2021 and conclude on Friday, March 19, 2021.

On March 11, 2020, Mayor Muriel Bowser issued the Declaration of Public Emergency: Coronavirus (COVID-19) and the Declaration of Public Health Emergency: Coronavirus (COVID-19) due to the imminent threat to the health, safety, and welfare of District residents posed by the spread of the coronavirus. These orders require that the Council of the District of Columbia adapt the methods by which public hearings on agency performance and oversight will be held to comply with social distancing, large public gathering, and other public health and safety requirements. Therefore, the Council will be conducting it's work remotely, including the use of teleconferencing platforms to hold public hearings.

Please refer to the specific instructions, found at the end of this notice, on how each Committee will operate their hearings. Some hearings listed in this notice will broadcast live on DC Council Channel 13 and streamed live at www.dccouncil.us and entertainment.dc.gov, while others will be streamed live at the link provided.

Witnesses who anticipate needing language interpretation, or require sign language interpretation, are requested to inform the relevant Committee office of the need as soon as possible, but no later than five (5) business days before the proceeding. We will make every effort to fulfill timely requests, however requests received in less than five (5) business days may not be fulfilled and alternatives may be offered.

ADDENDUM OF CHANGES TO THE PUBLIC HEARING SCHEDULE

New Date	***Original Date***	***Date Change***	***Hearing Change***
N/A	2/12/2021	1/27/2021	Committee on Labor & Workforce Development; Time Change: 10:00 a.m. - 3:00 p.m.
N/A	2/23/2021	1/27/2021	Committee on Labor & Workforce Development; Time Change: 10:00 a.m. - 3:00 p.m.
N/A	2/24/2021	1/27/2021	Committee on Recreation, Libraries & Youth Affairs; Time Change: 9:00 a.m - 6:00 p.m.
3/1/2021	3/1/2021	1/27/2021	Committee on Recreation, Libraries & Youth Affairs (adding Public Access Commission); Time Change: Noon - 6:00 p.m.
N/A	3/3/2021	1/27/2021	Committee on Labor & Workforce Development - Public Witnesses Only; Time Change: 10:00 a.m. - 6:00 p.m.
3/8/2021	2/11/2021	2/10/2021	Committee on Government Operations and Facilities (adding Office of Community Affairs); Time: Noon - 6:00 p.m.
3/8/2021	2/22/2021	2/10/2021	Committee on Government Operations and Facilities (adding Contract Appeals Board); Time: Noon - 6:00 p.m.
3/9/2021	N/A	1/27/2021	Committee of the Whole (adding Office of the Student Advocate & Office for Ombudsman-Public Witnesses Only); Time: 9:00 a.m. - 6:00 p.m.
3/10/2021	N/A	2/23/2021	Committee of the Whole (adding DC State Athletic Association-Government Witnesses Only); Time: 9:00 a.m. - 6:00 p.m.
N/A	3/12/2021	1/27/2021	Committee on Labor & Workforce Development - Government Witnesses Only; Time Change: 10:00 a.m. - 3:00 p.m.
3/12/2021	N/A	1/27/2021	Committee of the Whole (adding Office of the Student Advocate & Office for Ombudsman-Govt Witnesses Only); Time: 9:00 a.m. - 6:00 p.m.
3/15/2021	2/10/2021	1/27/2021	Committee on Recreation, Libraries & Youth Affairs; Time: 9:00 a.m. - Noon
3/17/2021	2/17/2021	1/27/2021	Committee on Recreation, Libraries & Youth Affairs; Time: 9:00 a.m. - Noon
3/18/2021	3/15/2021	2/10/2021	Committee of the Whole (adding Metropolitan Washington Airports Authority); Time: Noon - 3:00 p.m.
3/19/2021	3/11/2021	3/15/2021	Committee on the Judiciary & Public Safety (Office of Victim Services & Justice Grants/Access to Justice Initiative-Government Witnesses Only); Time: 11:00 a.m. - 1:00 p.m.

PUBLIC HEARING SCHEDULE

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

MONDAY, FEBRUARY 8, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Events DC
	Destination DC

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Business & Economic Development at the end of this notice.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

TUESDAY, FEBRUARY 9, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 3:00 p.m.	Department of Motor Vehicles
	Deputy Mayor for Operations and Infrastructure

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Transportation and the Environment at the end of this notice.

COMMITTEE ON GOVERNMENT OPERATIONS & FACILITIES **Chairperson Robert C. White, Jr.**

TUESDAY, FEBRUARY 9, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
Noon - 6:00 p.m.	Commission on Fashion Arts and Events
	Emancipation Commemoration Commission
	Office of Advisory Neighborhood Commissions

This hearing can be viewed live at https://www.facebook.com/RobertWhiteAtLarge/Live. Please see detailed instructions from the Committee on Government Operations & Facilities at the end of this notice.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

WEDNESDAY, FEBRUARY 10, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Department of Small and Local Business Development
	Department of Insurance, Securities and Banking
	Department of For-Hire Vehicles

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Business & Economic Development at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, FEBRUARY 11, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Government Witnesses Only)**
Noon - 6:00 p.m.	Judicial Nomination Commission
	Commission on Judicial Disabilities and Tenure
	District of Columbia Sentencing Commission
	Corrections Information Council
	Criminal Code Reform Commission
	Criminal Justice Coordinating Council

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COMMITTEE ON GOVERNMENT OPERATIONS & FACILITIES **Chairperson Robert C. White, Jr.**

THURSDAY, FEBRUARY 11, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
Noon - 6:00 p.m.	Office of Partnerships and Grants Services
	Office of Religious Affairs
	Interfaith Council
	Office of Lesbian, Gay, Bisexual, Transgender, and Questioning Affairs
	Advisory Committee to the Office of Lesbian, Gay, Bisexual, Transgender, and Questioning Affairs
	Office on Women's Policy and Initiatives
	Commission for Women

This hearing can be viewed live at https://www.facebook.com/RobertWhiteAtLarge/Live. Please see detailed instructions from the Committee on Government Operations & Facilities at the end of this notice.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

FRIDAY, FEBRUARY 12, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Health Benefit Exchange Authority
	Department of Behavioral Health

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Health at the end of this notice.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

FRIDAY, FEBRUARY 12, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
10:00 a.m. - 3:00 p.m.	Office of Employee Appeals
	Public Employee Relations Board

This hearing can be viewed live at https://www.facebook.com/CMElissaSilverman. Please see detailed instructions from the Committee on Labor & Workforce Development at the end of this notice.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

WEDNESDAY, FEBRUARY 17, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Deputy Mayor for Planning and Economic Development

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Business & Economic Development at the end of this notice.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

WEDNESDAY, FEBRUARY 18, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	Department of Disability Services
	Office of Disability Rights

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Human Services at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, FEBRUARY 18, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
Noon - 6:00 p.m.	Department of Corrections
	Board of Elections
	Office of Campaign Finance

This hearing can be viewed live at https://www.facebook.com/CMcharlesallen/. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COMMITTEE ON GOVERNMENT OPERATIONS & FACILITIES **Chairperson Robert C. White, Jr.**

FRIDAY, FEBRUARY 19, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	Office of Veterans' Affairs
	Advisory Board on Veterans' Affairs for the District of Columbia
	Office on Returning Citizen Affairs
	Commission on Re-Entry and Returning Citizen Affairs

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Government Operations & Facilities at the end of this notice.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

MONDAY, FEBRUARY 22, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 3:00 p.m.	Department of Energy and Environment
	Commission on Climate Change and Resiliency
	Green Finance Authority

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Transportation and the Environment at the end of this notice.

COMMITTEE ON GOVERNMENT OPERATIONS & FACILITIES **Chairperson Robert C. White, Jr.**

TUESDAY, FEBRUARY 23, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	Office of Contracting and Procurement
	Office of the Chief Technology Officer

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Government Operations & Facilities at the end of this notice.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

TUESDAY, FEBRUARY 23, 2021; via Facebook (Room B)	
Time	**Agency**
10:00 a.m. - 3:00 p.m.	Department of Human Resources
	Office of Labor Relations & Collective Bargaining

This hearing can be viewed live at https://www.facebook.com/CMElissaSilverman. Please see detailed instructions from the Committee on Labor & Workforce Development at the end of this notice.

COMMITTEE ON RECREATION, LIBRARIES & YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

TUESDAY, FEBRUARY 23, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
3:00 p.m. - 6:00 p.m.	Department of Parks and Recreation

This hearing can be viewed live at https://www.facebook.com/Trayon.white. Please see detailed instructions from the Committee on Recreation, Libraries & Youth Affairs at the end of this notice.

COMMITTEE ON RECREATION, LIBRARIES & YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

WEDNESDAY, FEBRUARY 24, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Commission on Fathers, Men, and Boys
	Office on African Affairs
	Office on African American Affairs
	Office on Asian and Pacific Islander Affairs
	Office on Latino Affairs

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Recreation, Libraries & Youth Affairs at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, FEBRUARY 25, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Government Witnesses Only)**
9:00 a.m. - Noon	Homeland Security and Emergency Management Agency
	Homeland Security Commission
	District of Columbia National Guard

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COMMITTEE ON GOVERNMENT OPERATIONS & FACILITIES **Chairperson Robert C. White, Jr.**

THURSDAY, FEBRUARY 25, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	Office of Administrative Hearings
	Advisory Commission to the Office of Administrative Hearings
	Commission on Selection and Tenure of Administrative Law Judges
	Office of the Inspector General

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Government Operations & Facilities at the end of this notice.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

THURSDAY, FEBRUARY 25, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
Noon - 6:00 p.m.	Child and Family Services Agency

This hearing can be viewed live at https://www.brianneknadeau.com/committee. Please see detailed instructions from the Committee on Human Services at the end of this notice.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

FRIDAY, FEBRUARY 26, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - Noon	Board of Ethics and Government Accountability

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Human Services at the end of this notice.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

FRIDAY, FEBRUARY 26, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	District Department of Transportation
	District of Columbia Bicycle Advisory Council
	Pedestrian Advisory Council
	Multimodal Accessibility Advisory Council

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Transportation and the Environment at the end of this notice.

COMMITTEE ON HOUSING & EXECUTIVE ADMINISTRATION **Chairperson Anita Bonds**

FRIDAY, FEBRUARY 26, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
9:00 a.m. - 3:00 p.m.	Department of Aging and Community Living **(Public Witnesses Only)**
	Commission on Aging
	Age-Friendly DC Task Force
	Office of the City Administrator
	Secretary of the District of Columbia
	Commission on the Martin Luther King, Jr. Holiday

This hearing can be viewed live at https://www.youtube.com/channel/UCgy5EojaMYGtwicWSfg9NeA. Please see detailed instructions from the Committee on Housing & Executive Administration at the end of this notice.

COMMITTEE ON HUMAN SERVICES **Chairperson Brianne Nadeau**

MONDAY, MARCH 1, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Department of Human Services
	Interagency Council on Homelessness
	District of Columbia Housing Authority (Public Witnesses Only on matters concerning housing voucher and Department of Human Services Programs administered by the District of Columbia Housing Authority)

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Human Services at the end of this notice.

COMMITTEE ON RECREATION, LIBRARIES & YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

MONDAY, MARCH 1, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
Noon - 6:00 p.m.	Office of Cable Television, Film, Music and Entertainment
	Serve DC
	Public Access Commission

This hearing can be viewed live at https://www.facebook.com/Trayon.white. Please see detailed instructions from the Committee on Recreation, Libraries & Youth Affairs at the end of this notice.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

WEDNESDAY, MARCH 3, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Public Witnesses Only)**
10:00 a.m. - 6:00 p.m.	Department of Employment Services
	Workforce Investment Council

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Labor & Workforce Development at the end of this notice.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

WEDNESDAY, MARCH 3, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Public Service Commission
	Office of the People's Counsel
	Alcoholic Beverage Regulation Administration
	Office of Nightlife and Culture

This hearing can be viewed live at https://www.facebook.com/KenyanRMcDuffie. Please see detailed instructions from the Committee on Business & Economic Development at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, MARCH 4, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Office of Neighborhood and Safety Engagement
	Office of the Attorney General
	Office of Victim Services & Justice Grants/Access to Justice Initiative

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

THURSDAY, MARCH 4, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Not-for-Profit Hospital Corporation (United Medical Center)
	Deputy Mayor for Health and Human Services
	Department of Health Care Finance

This hearing can be viewed live at https://www.youtube.com/channel/UCrLxxgZo-j6S6K6DrxUZUpw/live. Please see detailed instructions from the Committee on Health at the end of this notice.

COMMITTEE ON HOUSING & EXECUTIVE ADMINISTRATION **Chairperson Anita Bonds**

FRIDAY, MARCH 5, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - Noon	Office of Tenant Advocate
	Financial Literacy Council
	Real Property Tax Appeals Commission
	District of Columbia Housing Authority **(Public Witnesses Only)**

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Housing and Executive Administration at the end of this notice.

COMMITTEE ON GOVERNMENT OPERATIONS & FACILITIES **Chairperson Robert C. White, Jr.**

FRIDAY, MARCH 5, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	Office of Risk Management
	Office of Human Rights
	Commission for Human Rights
	Advisory Committee on Street Harassment

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Government Operations & Facilities at the end of this notice.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

FRIDAY, MARCH 5, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency (Government Witnesses Only)**
9:00 a.m. - 6:00 p.m.	Department of Employment Services

This hearing can be viewed live at https://www.facebook.com/CMElissaSilverman. Please see detailed instructions from the Committee on Labor & Workforce Development at the end of this notice.

COMMITTEE ON GOVERNMENT OPERATIONS & FACILITIES **Chairperson Robert C. White, Jr.**

MONDAY, MARCH 8, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	Office of Community Affairs
	Contract Appeals Board
	Department of General Services

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Government Operations & Facilities at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

MONDAY, MARCH 8, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency (Government Witnesses Only)**
9:00 a.m. - Noon	Office of Police Complaints
	Department of Forensic Sciences/Science Advisory Board

This hearing can be viewed live at https://www.facebook.com/CMcharlesallen/. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

TUESDAY, MARCH 9, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Public Witnesses Only)**
9:00 a.m. - 6:00 p.m.	District of Columbia Public Schools
	Office of the State Superintendent of Education
	Office of the Deputy Mayor for Education
	D.C. Public Charter School Board
	State Board of Education
	Office of the Student Advocate
	Ombudsman for Education

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee of the Whole at the end of this notice.

COMMITTEE ON HOUSING & EXECUTIVE ADMINISTRATION **Chairperson Anita Bonds**

TUESDAY, MARCH 9, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
9:00 a.m. - 3:00 p.m.	Department of Housing and Community Development **(Public Witnesses Only)**
	Housing Production Trust Fund **(Public Witnesses Only)**
	Housing Finance Agency
	Rental Housing Commission

This hearing can be viewed live at https://www.youtube.com/channel/UCgy5EojaMYGtwicWSfg9NeA. Please see detailed instructions from the Committee on Housing & Executive Administration at the end of this notice.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

TUESDAY, MARCH 9, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
3:00 p.m. - 6:00 p.m.	Department of Public Works
	Food Policy Council

This hearing can be viewed at https://www.facebook.com/cmmarycheh/. Please see detailed instructions from the Committee on Transportation and the Environment at the end of this notice.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

WEDNESDAY, MARCH 10, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Government Witnesses Only)**
9:00 a.m. - 6:00 p.m.	District of Columbia Public Schools
	Office of the State Superintendent of Education
	Office of the Deputy Mayor for Education
	District of Columbia Public Charter School Board
	State Board of Education
	Office of the Student Advocate
	Ombudsman for Education
	DC State Athletic Association

This hearing will broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee of the Whole at the end of this notice.

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT **Chairperson Kenyan McDuffie**

WEDNESDAY, MARCH 10, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Office of the Chief Financial Officer
	DC Lottery and Charitable Games

This hearing can be viewed live at https://www.facebook.com/KenyanRMcDuffie. Please see detailed instructions from the Committee on Business & Economic Development at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, MARCH 11, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Deputy Mayor for Public Safety and Justice
	Office of the Chief Medical Examiner/Fatality Review Committees
	Metropolitan Police Department

This hearing will broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

THURSDAY, MARCH 11, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
3:00 p.m. - 6:00 p.m.	District of Columbia Auditor
	Office of Budget and Planning
	New Columbia Statehood Commission
	District of Columbia Retirement Board/Funds
	Other Post-Employment Benefits Fund Advisory Committee

This hearing can be viewed live at www.ChairmanMendelson.com/live. Please see detailed instructions from the Committee of the Whole at the end of this notice.

COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT **Chairperson Elissa Silverman**

FRIDAY, MARCH 12, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency (Government Witnesses Only)**
10:00 a.m. - 3:00 p.m.	Workforce Investment Council

This hearing can be viewed live at https://www.facebook.com/CMElissaSilverman. Please see detailed instructions from the Committee on Labor & Workforce Development at the end of this notice.

COMMITTEE ON RECREATION, LIBRARIES & YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

MONDAY, MARCH 15, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - Noon	Department of Youth & Rehabilitation Services

This hearing will broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Recreation, Libraries & Youth Affairs at the end of this notice.

COMMITTEE ON HOUSING & EXECUTIVE ADMINISTRATION **Chairperson Anita Bonds**

MONDAY, MARCH 15, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Government Witnesses Only)**
Noon - 6:00 p.m.	Department of Aging and Community Living
	Department of Housing & Community Development
	Housing Production Trust Fund

This hearing will broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Housing & Executive Administration at the end of this notice.

COMMITTEE ON TRANSPORTATION & THE ENVIRONMENT **Chairperson Mary Cheh**

MONDAY, MARCH 15, 2021; via Virtual Meeting - Room B	
Time	**Agency**
Noon - 3:00 p.m.	DC Water
	Washington Aqueduct

This hearing can be viewed at https://www.facebook.com/cmmarycheh/. Please see detailed instructions from the Committee on Transportation and the Environment at the end of this notice.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

MONDAY, MARCH 15, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
3:00 p.m. - 6:00 p.m.	Metropolitan Washington Council of Governments
	Washington Metropolitan Area Transportation Authority

This hearing can be viewed live at www.ChairmanMendelson.com/live. Please see detailed instructions from the Committee of the Whole at the end of this notice.

COMMITTEE ON RECREATION, LIBRARIES & YOUTH AFFAIRS **Chairperson Trayon White, Jr.**

WEDNESDAY, MARCH 17, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - Noon	District of Columbia Public Library

This hearing will broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Recreation, Libraries & Youth Affairs at the end of this notice.

COMMITTEE ON HOUSING & EXECUTIVE ADMINISTRATION **Chairperson Anita Bonds**

WEDNESDAY, MARCH 17, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Government Witnesses Only)**
Noon - 3:00 p.m.	District of Columbia Housing Authority

This hearing willbroad cast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Housing & Executive Administration at the end of this notice.

JOINT HEARING WITH COMMITTEE ON HUMAN SERVICES & **Chairperson Brianne Nadeau**
COMMITTEE ON HOUSING & EXECUTIVE ADMINISTRATION **Chairperson Anita Bonds**

WEDNESDAY, MARCH 17, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency (Government Witnesses Only)**
3:00 p.m. - 6:00 p.m.	District of Columbia Housing Authority

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Housing & Executive Administration at the end of this notice.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

WEDNESDAY, MARCH 17, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
Noon - 3:00 p.m.	Commission on the Arts and Humanities
	University of the District of Columbia

This hearing can be viewed live at www.ChairmanMendelson.com/live. Please see detailed instructions from the Committee of the Whole at the end of this notice.

COMMITTEE ON HOUSING & EXECUTIVE ADMINISTRATION **Chairperson Anita Bonds**

THURSDAY, MARCH 18, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - Noon	Executive Office of the Mayor
	Mayor's Office of Legal Counsel
	Office of the Senior Advisor
	Board of Real Estate Appraisers
	Real Estate Commission

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Housing & Executive Administration at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

THURSDAY, MARCH 18, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
Noon - 6:00 p.m.	Fire and Emergency Medical Services Department
	Office of Unified Communications

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COMMITTEE OF THE WHOLE **Chairman Phil Mendelson**

THURSDAY, MARCH 18, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency**
Noon - 3:00 p.m.	Metropolitan Washington Airports Authority
	Office of Zoning
	Office of Planning
	Department of Consumer and Regulatory Affairs

This hearing can be viewed live at www.ChairmanMendelson.com/live. Please see detailed instructions from the Committee of the Whole at the end of this notice.

COMMITTEE ON HEALTH **Chairperson Vincent Gray**

FRIDAY, MARCH 19, 2021; via Virtual Meeting Platform - Room A	
Time	**Agency**
9:00 a.m. - 6:00 p.m.	Department of Health (D.C. Health)

This hearing will be broadcast live on Channel 13 and streamed live at www.dccouncil.us and www.entertainment.dc.gov. Please see detailed instructions from the Committee on Health at the end of this notice.

COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY **Chairperson Charles Allen**

FRIDAY, MARCH 19, 2021; via Virtual Meeting Platform - Room B	
Time	**Agency (Government Witnesses Only)**
11:00 a.m. - 1:00 p.m.	Office of Victim Services and Justice Grants/Access to Justice Initiative

This hearing can be viewed live at https://www.facebook.com/CMcharlesallen/. Please see detailed instructions from the Committee on the Judiciary & Public Safety at the end of this notice.

COUNCILMEMBER CHARLES ALLEN, CHAIRPERSON
COMMITTEE ON THE JUDICIARY & PUBLIC SAFETY

ANNOUNCES A PERFORMANCE OVERSIGHT HEARING ON THE

DEPUTY MAYOR FOR PUBLIC SAFETY AND JUSTICE
OFFICE OF THE CHIEF MEDICAL EXAMINER/FATALITY REVIEW COMMITTEES
METROPOLITAN POLICE DEPARTMENT

Thursday, March 11, 2021, 9:30 a.m.
Virtual Meeting via Zoom
To Watch Live:
https://dccouncil.us/council-videos/
http://video.oct.dc.gov/DCC/jw.html
https://www.facebook.com/CMcharlesallen

AGENDA & WITNESS LIST

I. CALL TO ORDER

II. OPENING REMARKS

III. PERFORMANCE OVERSIGHT HEARING

1. **Deputy Mayor for Public Safety and Justice** (approx. 9:30 a.m.)

   i. Public Witnesses

      1. Misty Thomas, Executive Director, Council for Court Excellence
      2. Donte Massey, Public Witness
      3. Naima Jefferson, Public Witness
      4. Kathy Henderson, Coordinator, 5D Court Watch
      5. Natacia Knapper, Field Organizer, ACLU of the District of Columbia

   ii. Government Witness

1. Christopher Geldart, Acting Deputy Mayor for Public Safety and Justice

2. **Office of the Chief Medical Examiner** (approx. 11:30 a.m.)

   i. Public Witness

      1. Stephanie McClellan, Deputy Director, D.C. KinCare Alliance

   ii. Government Witness

      1. Dr. Francisco J. Diaz, Acting Chief Medical Examiner

3. **Metropolitan Police Department** (approx. 12:30 p.m.)

   i. Public Witnesses

      Panel 1

      1. Austin Rose, Representative, ICE Out of D.C. Coalition
      2. Ingrid Contreras, Public Witness
      3. Sun Hwang, General Manager, Bibibop
      4. Brenda Richardson, Public Witness
      5. Danielle Robinette, Policy Attorney, Children's Law Center
      6. Sean Blackmon, Organizer, Stop Police Terror Project D.C.
      7. Valerie Wexler, Organizer, Stop Police Terror Project D.C.
      8. Emily Tatro, Deputy Director, Council for Court Excellence
      9. Charlie Whitman-Barr, Staff Attorney, Legal Aid Society of the District of Columbia
      10. Makia Green, Organizer, D.C. Working Families
      11. Shannon Hodge, Executive Director, D.C. Charter School Alliance
      12. Salim Adofo, Commissioner, ANC 8C07
      13. Earline Budd, Non-Medical Case Manager, HIPS
      14. Rev. Vincent De Rosa, Pastor, St. Mary Mother of God Catholic Church
      15. Kenithia Alston, Public Witness

      Panel 2

      16. Olianka Wingate, Director of Student Services, Carlos Rosario IPCS, Harvard St. Campus
      17. Brian Graber, Director of Operations & Human Resources, Sixth & I

18. Alan Shusterman, Executive Director, Hill Havurah
19. Alexis Harper, Public Witness
20. Patrick Burke, Executive Director, D.C. Police Foundation
21. Eduardo Ferrer, Policy Director, Juvenile Justice Initiative, Georgetown Law
22. Geoff Rankin, CEO, Congressional Aviation
23. Bryan Peterson, Regional Manager, STAT MedEvac
24. Alexandra Bailey, Commissioner, ANC 2F08
25. Katherine Crowder, Public Witness
26. Nassim Moshiree, Policy Director, ACLU of the District of Columbia
27. Olivia Blythe, Volunteer, D.C. Justice Lab
28. Kylie Hogan, Crisis Response Team Director, D.C. SAFE
29. Elizabeth Berg, Clinical and Education Manager, Children's National Hospital
30. Bobby Pittman, Chair, 1D Citizens Advisory Council

Panel 3

31. Miya Walker, Policy and Advocacy Manager, The Black Swan Academy
32. Charnal Chaney, Public Witness
33. Nigel Stephens, Vice Commodore, Washington Yacht Club
34. Andrew Gappy, Public Witness
35. Reginald Black, Advocacy Director, People for Fairness Coalition
36. Bishop Walton, Public Witness
37. Georgine Wallace, Community Facilitator, PSA 103/105
38. Fritz Mulhauser, Co-Chair, Legal Committee, D.C. Open Government Coalition
39. Gregg Pemberton, Chair, D.C. Police Union
40. Lauren Sarkesian, Senior Policy Counsel, New America's Open Technology Institute
41. Kathy Henderson, Coordinator, 5D Court Watch
42. Kristi Matthews, Coordinator, D.C. Girls' Coalition
43. Sarah Bever, Chair, 2D Citizens Advisory Council
44. Tamika Spellman, Advocacy Specialist, HIPS
45. NeeNee Tay, Representative, Harriet’s Wildest Dreams

Panel 4

46. Qiana Johnson, Representative, Life After Release
47. Katie Hodge, Public Witness
48. Crystal Marshall, Public Witness
49. Naima Jefferson, Public Witness
50. Paula Edwards, Public Witness
51. Cynthia Lee, Public Witness
52. Tykirah Ellis, Public Witness
53. Saunte Snowden, Public Witness

ii. Government Witness

1. Acting Chief Robert J. Contee, III

IV. ADJOURNMENT

2020-2021

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Council for Court Excellence
Improving Justice for the Community

Statement of the Council for Court Excellence
Before the Committee on the Judiciary and Public Safety of the
Council of the District of Columbia

Performance Oversight Hearing for the
Deputy Mayor for Public Safety & Justice

March 11, 2021

Good morning, Chairman Allen and members of the committee. My name is Misty Thomas, and I am the Executive Director for the Council for Court Excellence (CCE). CCE is a nonpartisan, nonprofit organization with the mission to enhance justice in the District of Columbia. For nearly 40 years, CCE has worked to improve the administration of justice in the courts and related agencies in D.C. through research and policy analysis, facilitating collaboration and convening diverse stakeholders, and creating educational resources for the public. Please note that per our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of or endorsement by any judicial member of CCE.

On behalf of CCE, I congratulate and welcome Acting Deputy Mayor Geldart to this new role. Without a doubt, it is a challenging and multifaceted position, but it is one that offers opportunities for fruitful community collaboration and to lead transformative change in the District. CCE looks forward to meeting with the new Deputy Mayor in the coming weeks to share information about urgent justice system topics in the District, as well as resources that we believe will be valuable as he settles into this new position.

Today, I plan to discuss two things that are particularly urgent for the Office of the Deputy Mayor for Public Safety and Justice (DMPSJ). First, to engage actively with the District Task Force on Jails & Justice and get up to speed on the significant range of recommendations that the group, which included Mr. Geldart's two immediate predecessors, has just released. The second is the critical need for DMPSJ to serve as a singular and focused hub of District leadership on establishing the new, local paroling authority in the District.

First, it is vital that the new Deputy Mayor quickly become familiar with the 80-point implementation plans released by the District Task Force on Jails & Justice (Task Force) last month.[1] The development of those recommendations took more than two years, hundreds of hours of District leaders' deliberation, and reflects the feedback of more than 2,500 District residents who care deeply about the future of the criminal legal system and the use of incarceration in our community. The Task Force's recent report identifies areas for divestment from

[1] District Task Force on Jails & Justice. (2021). *Jails & Justice: Our Transformation Starts Today.* http://www.courtexcellence.org/uploads/publications/TransformationStartsToday.pdf

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Tel: (202) 785-5917 | Fax: (202) 785-5922
www.courtexcellence.org

traditional criminal justice systems and reinvestment in community safety, targets policies to cut D.C.'s incarcerated population in half by 2031, identifies crucial areas to regain local control of the system, and ends the District's reliance on the federal Bureau of Prisons within ten years upon opening a new non-traditional facility in D.C. to hold its reduced pre-trial and sentenced populations.

The Task Force was an interdisciplinary effort – bringing together D.C. and federal government leadership, community advocates, service providers, people with lived experience in the justice system, and academics. Some of its recommendations require legislative action and some require changes in agencies policies and practices, but many require leadership and buy-in from the Executive Branch to move forward and be successful. DMPSJ is a vital player, as a liaison to the Mayor and to the agencies under its purview. The Task Force is depending on the Deputy Mayor to be an active partner in raising these community priorities with the relevant Executive Branch leaders and doing everything in their power to see enactment of these consensus-based recommendations.

While I do not have time to detail all of the recommendations of the Task Force, one is worth focusing on for the purposes of this oversight hearing. Specifically, the urgent need for a new paroling authority in the District. As of now, the U.S. Parole Commission's authorization to decide D.C. supervised release and parole decisions expires on October 31, 2022. To that end, the Task Force recommends that a new paroling authority must legally established and capable of processing cases by November 1, 2022. As this committee knows well, a new paroling authority in the District will require both federal and local legislative changes.

But before there can be legislation, there has to be a clear path forward. The Executive Branch and the D.C. Council need to agree on where that authority should be housed, what resources are needed, and who will take the lead to ensure that D.C. is prepared to take on this critical element of our justice system. This is not actually an expensive proposition, budget-wise. Rather, the challenge truly has been getting District leaders to complete their evaluation of community feedback, weigh the options, make a decision, and start moving the process forward. The clock truly is ticking, as fall 2022 will be here before we know it.

During Phase II of the Task Force's work, its Committee on Local Control conducted research into best practices, read testimony from community members, and debated internally on the qualities needed in a new D.C. paroling authority.[2] They called for a paroling authority with a range of specific qualities and due process protections. The Task Force analyses and recommendations, as well as the work done by the Justice Policy Institute, will serve as critical tools for DMPSJ to evaluate where to house the new paroling authority and begin taking steps to see that become reality.

For example, the Task Force recommended that a new paroling authority should reduce incarceration while ensuring public safety and accountability. The Task Force recommends

[2] District Task Force on Jails & Justice. (2020, October 29). *Report on the Committee on Local Control.* http://www.courtexcellence.org/uploads/publications/Local_Control_Committee_Report_to_the_Task_Force.pdf

setting limits on probation and supervised release periods and establishing discharge credits that people can earn on probation, parole, or supervised release. Additionally, they specified that a new paroling authority should end incarcerations for only technical violations.

They also agreed that the new paroling authority should restore strong local control over the way paroling decisions are made in the District, with decisions reflecting the values of D.C. residents. As this committee knows, there is currently no local control over the parole grant decisions for individuals convicted of D.C. Code offenses in the federal Bureau of Prisons, nor for any release revocation decisions for people under community supervision in D.C. The new paroling authority should be directly accountable to the District through a variety of means, including but not limited to direct D.C. government control, MOUs, or other legally binding mechanisms or documents.

To achieve all of this in only a year and a half will require focused leadership. We hope this committee will work with DMPSJ to quickly craft a viable plan forward to establish a local paroling authority in D.C. There has to be active and immediate collaboration to make this come together in time. As stated earlier, we have to have a locally-established option before the U.S. Parole Commission sunsets in 2022. Fortunately, with the tools and recommendations provided by the District Task Force on Jails & Justice, DMPSJ does not have to start from scratch. Members of the Task Force, as well as the Council for Court Excellence, are available to support these efforts in the coming year.

Thank you for this opportunity to testify.

Good morning, Chairperson Allen and members of the Committee on the Judiciary and Public Safety. My name is Donte Massey. I am a resident of Ward 7, a relative caregiver to my 3 younger siblings who are 11, 15 and 16 years old, and a proud member of the DC KinCare Alliance Community Advisory Board. The mission of DC KinCare Alliance is to support relative caregivers who step up to raise children in their families in times of crisis when the children's parents are not able to care for them.

I am here today to testify about the gun violence in my community and how it impacts my family every day. My older sister was shot in the back of her neck right in front of my house on March 13, 2020. She had just brought my 2 younger brothers and younger sister home. As she was getting into her car, two groups of people starting shooting at each other and she was caught in the crossfire. My sister had to go to the hospital to have the bullet removed but they sent her right home afterward because they were worried about COVID-19. The doctor said it was a miracle that she survived.

A week or so later, my cousin was walking to my house. Right on my street, he was shot in his thigh. He ran to my house and knocked on my door but I wasn't home at the time to let him in. My neighbor came out and walked him to a police car parked nearby and then called me. The officer called an ambulance and my cousin was in the hospital for two days. They had trouble stopping the bleeding. I couldn't visit him because of COVID-19.

Groups are shooting at each other all the time right by my house. They don't care whether it's day or night or whether the police are right there or not. They have no fear of getting caught or remorse for their actions. I am afraid for my younger brothers and sister to go outside. I have trouble sleeping because I am afraid of a stray bullet and when I do sleep, I am often woken

up by gunshots. I would like to move but I have a Rapid Rehousing voucher and I am having trouble getting the people at DHS to pay for my rent at a new location.

MPD officers are always on my street but they don't get out of their cars until after the shooting stops. The shooters get away and they treat bystanders like they are suspects. There are two cameras on either end of my street but nothing in between.

We need more cameras on my street and we need MPD officers who walk the neighborhood and who get to know the people on my street and they need to treat us with respect. If they got to know us, then they would know who lives here and who doesn't and people would feel like they could tell the officers what's going on without being targeted themselves.

What I want from the Gun Violence Prevention Emergency Operations Center is a safer city and a safer neighborhood--safe enough for me to feel comfortable letting my younger brothers and sister go outside, safe enough for me to feel comfortable walking my dog, and safe enough for me to talk to MPD officers after a shooting without worrying that they are going to put me in handcuffs.

Thank you for the opportunity to testify today. I am happy to answer any questions.

Deputy Mayor for Public Safety and Justice Performance Oversight Hearing Testimony
March 11, 2021
Committee on the Judiciary and Public Safety
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004
judiciary@dccouncil.us

Dear Councilmember Charles Allen and members of the Committee on the Judiciary and Public Safety:

Good morning. The Office of the Deputy Mayor for Public Safety and Justice has the role of overseeing and coordinating the work of many of the District's public safety agencies. Between the pandemic, civil unrest and the insurrection, and increased gun violence, this past year brought on an onslaught and confluence of challenges for the Office that stressed its capabilities to effectively serve as a nexus to many federal, state, and local entities. However, I would like to commend Acting Director Geldhart, the leadership team, and Ms. Jasmin Benab, who have served as a much-needed resource for blocking and tackling both city-wide and community public safety and justice issues.

Over the past two years, Ms. Benab, Director of Community Outreach, has participated in community walkthroughs in my neighborhood with officers and staff from MPD 4D, our Ward 4 MOCRs, responded to neighbors public safety issues, and attended some of our community events. She has effortlessly made herself available at all times of the day or night to address urgent issues with businesses, residents, and my community. Ms. Benab is especially resourceful with very delicate and sensitive situations that have arisen within our community such as coordinating meetings with relevant District agencies, site inspections, or even ensure that some of the most vulnerable citizens in the District receive care and resources and information to address their most pressing needs. Thank you for your service to our city.

The infrastructure that our city has built to support the public health emergency by providing city-wide testing at fire stations, meal delivery, and expanding forensic lab capacity to name a few was instrumental in the District's response to the pandemic. In addition, the events that led up to the insurrection and domestic terrorism event on January 6th only highlighted the importance and need for more enhanced security measures and counterintelligence resources in our city. We must take a firm stand and allocate the necessary resources to ensure that we never allow our city and our democracy to be under siege by enemies both domestic and foreign. I would encourage the Office to lead the charge in ensuring that the relevant agencies the develop infrastructure or capacity at the neighborhood level for future events that could be precipitated by political unrest, adverse weather, lack of utilities, and/or damage to portions of our regional transportation or telecommunications network to reach residents and businesses most in need

This concludes my testimony and I welcome any questions that you may have.

Kindest Regards,

Naima Jefferson
Ward 4 resident and DC taxpayer

cc. Acting Deputy Mayor Christ Geldhart
Ms. Jasmin Benab

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Executive Office of Mayor Muriel Bowser

Performance Oversight Hearing on

The Office of the Deputy Mayor for Public Safety and Justice

Testimony of
Chris Geldart
Acting Deputy Mayor

Before the
Committee on the Judiciary and Public Safety
Charles Allen, Chairperson
Council of the District of Columbia

March 11, 2021
9:30 AM

Good morning Chairperson Allen, members, and staff of the Committee on the Judiciary and Public Safety. I am Chris Geldart, Acting Deputy Mayor for Public Safety and Justice. I appreciate the opportunity to discuss the work done by this office during Fiscal Year 2020 and thus far in Fiscal Year 2021.

The Office of the Deputy Mayor for Public Safety and Justice oversees and coordinates the work of the District's public safety agencies which include: Office of Neighborhood Safety and Engagement, Fire and Emergency Medical Services Department, Metropolitan Police Department, Homeland Security and Emergency Management Agency, Office of Unified Communications, Office of Victim Services and Justice Grants, Office of the Chief Medical Examiner, Department of Forensic Sciences, Department of Corrections, Department of Youth Rehabilitation Services, Office of Human Rights, and Mayor's Office of Returning Citizens Affairs. My office also interacts and coordinates regularly with independent agencies, federal entities, the court system, and our regional partners.

This year's performance oversight hearing is unique given the ongoing COVID-19 public health emergency. I want to give my deepest appreciation for the work being done every day by each member of our public safety cluster. We have mourned the deaths of several agency employees, supported a sizeable number of our first responders who contracted and recovered from coronavirus, and stayed the course in answering the call for help every day in every way. We owe them an incredible debt of gratitude for their dedication and service to the District.

While each of the agencies in my cluster made significant achievements in FY20, our work was dominated by three large-scale emergencies: responding to COVID-19 and its impacts on our residents and first responders; civil unrest and insurrection; and developing a new comprehensive strategy to reducing gun violence.

Ensuring Public Safety During the COVID-19 Public Health Emergency

The District's response to the COVID-19 pandemic required a tremendous leadership from our agencies and mayoral investment in agency infrastructure to rapidly expand our response capabilities and meet the needs of our residents and employees.

The Homeland Security and Emergency Management Agency led the coordinated actions and working with DC Health, the Office of Contracts and Procurement, the Department of Public Works, and the DC National Guard, operationalized the District Logistics Center to store, manage, and distribute supplies such as personal protective equipment, water, and surge mass care equipment. Having these resources on hand, with systems in place to manage and distribute them, was essential to protecting frontline workers as they interacted with residents. It also allowed the District to safely staff agencies, either in the field or virtually, and to continue to deliver services to meet the vital needs of our residents.

With minimal notice, HSEMA also led the relocation the District's Emergency Operations Center (EOC), and its Joint Information Center (JIC), to the Health Emergency Coordination Center, located at DC Health, to better coordinate our COVID-19 response. From the EOC and JIC, the District was able to establish critical response elements including: a citywide testing program at

both fixed sites and rotating locations, including a number of fire stations; expanded social services support through grocery pickup and meal delivery; expanded mortuary capacity; the creation of a 437-bed alternate care facility at the Convention Center; and the establishment of on-demand virtual family assistance for each family who lost a loved one to COVID.

Thanks to Mayor Bowser's continued investment in the Department of Forensic Sciences, the Public Health Lab (PHL) was designated by the Centers for Disease Control and Prevention (CDC) as a Tier 1 laboratory. This designation represents the PHL's readiness to respond to acts of bioterrorism or threats of emerging diseases and in March 2020, the PHL was activated for COVID-19 testing and quickly expanded to a daily, and sometimes 24/7, operation.

The PHL's initial capacity was 25 samples a day. That increased to 600 samples a day by the end of March 2020, and they can now process 1,200 samples a day, with an average turnaround time of two days for our frontline employees. This increased capacity allows DFS to process samples from testing at fire stations, the Police and Fire Clinic, and mobile testing units supplied to long-term care facilities, nursing homes, and homeless shelters. Accurate, accessible testing has been a valuable tool to help residents and District government agencies manage exposure, illness, and recovery outside of hospitals.

I want to thank our frontline workers across government who have kept our city running and provided critical assistance to our residents and businesses. I also want to take this moment to remember the residents and employees lost this past year. This has been a tough year – and we're not done yet. But I am confident we can build ourselves up stronger than before.

Responding to Civil Unrest and Insurrection

Our responsibility as the nation's capital requires us to host large groups who come here to express their First Amendment rights. Each year, the District hosts hundreds of peaceful demonstrations, ranging from a few people outside an embassy to hundreds of thousands marching down Pennsylvania Avenue. Over the past year, several demonstrations turned violent, resulting in the loss of life, property destruction, and the ongoing armed encampment around the US Capitol.

Over the course of the last year, we have seen several unprecedented and deeply disturbing incidents:

- A President using military and federal law enforcement personnel to violently clear peaceful demonstrators from a public park so he could stage a photo op outside a historic church.
- A large number of outside protestors who came to our city with the intent of violently confronting police officers, destroying property, and creating an "autonomous zone".
- Hundreds of commercial and retail storefronts across the city boarded up to prevent looting and property damage.
- A President inciting a crowd of supporters with conspiracy theories and encouraging violence against members of Congress fulfilling their constitutional duties to certify the election results.

- A sizeable portion of downtown being turned into an armed fortress, surrounded by razor wire fencing and patrolled by thousands of National Guard troops.

Mayor Bowser has repeatedly urged Congress and the federal government to deescalate the security posture around our federal buildings. The razor-wire topped fencing around the Capitol needs to come down. And while we greatly appreciate the assistance of National Guard troops from around the country, it is time for them to return home. I completely agree with Mayor Bowser's call for a national commission to investigate the intelligence and operational failures around the domestic terrorism attack on the US Capitol on January 6.

I want to echo the Council's recent ceremonial resolution recognizing and honoring the Metropolitan Police Department for its heroism on January 6. We had hundreds of MPD officers who rushed to protect the US Capitol by foot, bike, car, and even commandeered Metro buses. Dozens of officers were injured during the hours-long battle to regain control of the Capitol from violent insurrectionists. The January 6 domestic terrorism attack was the first time the US Capitol has been violently breached since the War of 1812. It was the men and women of the Metropolitan Police Department that immediately responded to protect the Capitol, the former Vice President, and the members of Congress, and the certification of the election. I am proud of their heroism and the entire nation owes them its gratitude.

Responding to a Second Public Health Emergency: Gun Violence

We have been facing two concurrent epidemics in the District: COVID-19 and gun violence. While COVID-19 is now trending in the right direction, last year gun violence and homicides reached a 12-year high with 198 homicides (86% of them committed with a firearm) and 922 people shot. Last month, Mayor Bowser announced the launch of our new comprehensive violence prevention strategy called, Building Blocks DC. As part of this strategy, the Mayor established a Gun Violence Prevention Emergency Operations Center led by Linda Harllee Harper, our new Director of Gun Violence Prevention.

The Gun Violence Prevention EOC will apply the same whole of government approach we have been using in our COVID-19 response. In partnership with impacted communities, the Gun Violence Prevention EOC is taking a public health approach to reduce gun violence by focusing on the small number of people and places that are most at risk of being involved in gun violence. As part of this effort, the Director and the EOC will work to connect District residents to trauma services, housing, jobs, education, and other critical supports. The Building Blocks DC initiative is a big, bold idea. It will require the active participation of staff from agencies throughout the District government, community-based organizations, and, above all, the residents of our focus neighborhoods.

Building Blocks DC has three goals: (1) Build up people; (2) Build up places; and (3) Build up sustainably. First, we will work to identify individuals most at risk of being impacted by gun violence. We will work with them to build individual and family success plans with wraparound supports from other government agencies. Second, research shows a small number of city blocks are where almost half of all gun violence is happening. We will focus on those blocks, building them up by linking communities and agencies to restore confidence, improve city services, and

identify investment needs. Third, we will develop neighborhood action plans and capacity building for community-based organizations. Partnering with residents is the only way to sustain these efforts and rebuild communities.

Because we need to regularly assess the impacts of our efforts, our EOC team will be tracking and analyzing data to gauge effectiveness. We need to be transparent in celebrating focus areas where our efforts are having a demonstrable, sustained impact in reducing gun violence – as well as acknowledging where it's not working so we can recalibrate our efforts.

Upcoming Challenges in FY21

During FY 2021, we will continue to coordinate the District's COVID-19 response and recovery. This will require adjusting District operations as needed to safely maintain core services and manage the vaccine roll-out. We will continue to coordinate and support the Building Blocks DC initiative. And we will continue to make sure our public safety agencies have all they need to continue to ensure the safety of our city, its residents, and its businesses.

* * *

Chairperson Allen, in the interest of time, I did not detail the work of all 12 agencies within the public safety cluster, but I am proud of their work, their dedication, and the impacts they are having on the lives of our residents.

We appreciate the opportunity to share our accomplishments and our plans for continuous improvement. I welcome your questions at this time.

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Testimony Before the Council of the District of Columbia

Committee on the Judiciary and Public Oversight

Public Hearing:
Performance Oversight Hearing
OCME/Fatality Review Committees
March 11, 2021

Stephanie McClellan

Deputy Director, DC KinCare Alliance

Good morning Chairperson Allen and members of the Committee on the Judiciary and Public Safety. My name is Stephanie McClellan and I am the Deputy Director of DC KinCare Alliance. I am pleased to testify today regarding the Child Fatality Review Committee. DC KinCare Alliance is a member of the Fair Budget Coalition and we support budget priorities and policies that alleviate poverty in the District of Columbia.

The mission of DC KinCare Alliance is to support the legal, financial, and related service needs of relative caregivers who step up to raise children in their extended families in times of crisis when the children's parents are not able to care for them due to mental health and substance use disorders, incarceration, death, abuse and neglect, and/or deportation. DC KinCare Alliance is the only organization in DC focused solely on serving relative caregivers raising DC's at-risk children. We rely on our Relative Caregiver Community Advisory Board, comprised of 18 relatives raising 23 at-risk DC children, to identify systemic issues with policies and practices affecting DC kinship families.

Through our work supporting relative caregivers, we come into contact with children and families involved with the DC Child and Family Services Agency (CFSA) and other government agencies serving DC children. We wanted to know how these agencies are doing their jobs to protect our most vulnerable children from the most extreme forms of abuse and neglect—child maltreatment fatalities and near fatalities. We have reviewed DC's Child Fatality Review Committee reports for the last several years and you may be surprised to know that there is no way to tell whether child maltreatment fatalities and near fatalities are going up or down each year. Actually, there is no way to tell how many children die each year in DC for any reason because there is no current reporting of that information—DC Health's most recent

vital records Mortality Report only provides information as of 2012,[1] and the DC OCME and CFRC only review a subset of deaths each year.

History of Establishment of the CFRC

In 1993, the Court in *LaShawn v. Dixon* ordered the creation of a Child Fatality Review Committee ("CFRC") that would

> [a]t the end of each District of Columbia Fiscal Year . . . issue a formal report reviewing all fatalities of members of the plaintiff class during the year and make recommendations concerning appropriate corrective action to be taken by the defendants to avert future fatalities[.] *LaShawn A. v. Dixon*, Modified Final Order, November 18, 1993, p. 6.

That order was later codified as Child Fatality Review Committee Establishment Act of 2001 (the "Act") at D.C. Code § 4-1371.01 *et. seq*. The Act states that the purpose of the CFRC is, in part, to

> [e]xamine past events and circumstances surrounding child deaths by reviewing the records and other pertinent documents of public and private agencies responsible for serving families and children, investigating deaths, or treating children **in an effort to reduce the number of preventable child fatalities and shall give special attention to child deaths that may have been caused by abuse, negligence, or other forms of maltreatment**[.]

D.C. Code § 4-1371.03(b)2 (emphasis added).

The CFRC reports, however, **do not** review all fatalities of children during a given year and **do not** give special attention to child deaths from maltreatment.

Failure to Review and Report on Child Deaths in a Given Year

The most obvious problem is that every year, the CFRC reviews child deaths that occurred over several preceding calendar years and does not break down its statistical analysis by year in which the deaths occurred, making it impossible to identify trends in the data. In its most recent report, which is the 2018 report issued in

[1] 2008-2012 Mortality Report, January 2016, p. 52, available at https://dchealth.dc.gov/page/death-reports.

December 2019,[2] the CFRC reviewed a subset of child deaths that occurred in 2018, 2017, 2016, 2015 and 2014.[3]

We wanted to know why CFRC was not reviewing all child deaths for the year the report addresses, and why there were so many deaths from prior years included in each year's reports. One way to find out would be to look at how quickly CFRC reviews child deaths after being notified of them. OCME's Annual Performance Reports represent that 100% of CFRC reviews are held within 6 months of notification of the death.[4] However, CFRC defines "being notified of the death," as "when all of the records have been received by the staff and the staff is ready to present the case to the Committee. In other words, the clock starts when the case is placed on the Committee's agenda."[5] That is a definition of the word "notification" that strains credulity and makes that performance measure meaningless. DC residents deserve better. This Committee should ask and demand the answers to these questions:

"What percentage of CFRC reviews are held within 6 months of when CFRC staff first learn of the death from any source?"

"What percentage of CFRC reviews are held within 6 months, 1 year, 2 years, or more than 2 years years from the date of death of a child?"

"What supports does the CFRC need to be able to review and report on all deaths within 6 months of when staff learn of the death?"

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[2] Based on the CFRC's normal practice, the 2019 report should have been issued in December 2020.
[3] District of Columbia Child Fatality Review Committee 2018 Annual Report, December 31, 2019, p.15, available at https://ocme.dc.gov/publication/2018-child-fatality-review-committee-cfrc-annual-report.
[4] Office of the Chief Medical Examiner FY 2020 Annual Performance Report, p.3, available at https://oca.dc.gov/sites/default/files/dc/sites/oca/publication/attachments/OCME_FY20PAR.pdf.
[5] Adams, Rodney K., General Counsel, Office of the Chief Medical Examiner, "Re: 2021-FOIA-01737" electronic message to Spindel, Marla , Executive Director, DC KinCare Alliance, December 22, 2020.

Failure to Give Special Attention to Child Maltreatment Fatalities

The CFRC is divided into two teams: the Infant Mortality Review Team ("IMRT"), which reviews the deaths of children under the age of one year, and the Child Fatality Review Team ("CFRT"), which reviews the deaths of children over the age of one year. *See* D.C. Code § 4-1371.05(d). The teams each have separate sections in the Report.

In the IMRT section of the 2018 CFRC Report, thirty-three infant deaths were reviewed, of which four (12%) were classified as homicide.[6] There is only one detail offered regarding these four homicides and that is that they were the result of fatal abuse.[7] Three infant deaths (9%) were classified as accidental and no details are offered regarding how they died or whether neglect was a factor.[8] Twenty-four infant deaths were classified as natural, where the infant has an underlying medical condition or was medically fragile but it is not disclosed whether medical neglect was a contributing factor. The CFRC Report also does not provide any of the following relevant information: (1) in what year the infants were killed;[9] (2) their cause of death, e.g. gunshot, sharp or blunt force trauma; starvation, asphyxiation; (3) whether there had been a CPS hotline call(s), including whether there had been a call to the hotline from hospital staff when the infant was born and, if so, the reason for the call; (4) to whom the infant was discharged from the hospital; (5) what type and how many contacts CFSA had with the family of each infant and what type of follow-up was done, if any; (6) whether CFSA had an ongoing investigation or open case; (7) if there was no ongoing

[6] This information is listed in a pie chart labeled "Cause of Death" although it is clear that what is meant is "Manner of Death." District of Columbia Child Fatality Review Committee 2018 Annual Report, December 31, 2019, p.38, available at https://ocme.dc.gov/publication/2018-child-fatality-review-committee-cfrc-annual-report.
[7] *Id.*
[8] *Id.*
[9] CFRC reviewed "a subset of fatalities that occurred in 2014, 2015, 2016, 2017 and 2018" in the Report. *Id.* at 15.

investigation or open case, what the last CFSA contact was and why CFSA involvement terminated; (8) whether the family had been referred to a Neighborhood Family Strengthening Collaborative or other community service provider and whether the family was engaging with that provider at the time of the death; (9) whether the infant had been placed in foster care, was in informal kinship care, or lived with one or more parents at the time of death; (10) whether the infant had siblings; (11) who the infant's primary caregiver was, and (12) who the perpetrator was and their relationship to the infant or family.

The IMRT section further states that ten infant deaths had unsafe sleep as a factor, although the report does not state to what extent unsafe sleep contributed to the death. Further, given that there were only three accidental deaths and eight where the manner of death could not be determined, there appear to be a significant number of infant deaths where it could not be determined whether the baby was purposefully smothered or suffocated accidentally.

In the CFRT section of the CFRC Report, thirty-eight child deaths were reviewed, eleven (29%) of which are classified as homicide and one (3%) of which is listed as accidental.[10] Unlike the IMRT section, the deaths are broken down by cause of death. Eight of the homicides involved gunshot or stabbing to youth aged sixteen to twenty years. The other three homicides involved children aged one to three years and were the result of multiple blunt force trauma, positional asphyxia combined with blunt force trauma, and gunshot. Two of the deaths are noted as being the result of fatal abuse but the report does not disclose which two.[11] It is most likely, but not certain, that the deaths due to fatal abuse were the children aged one and three years who died of blunt force trauma and asphyxia,

[10] *Id.* at p. 51.
[11] *Id.* at p. 56.

respectively, but the report does not include that information. The report briefly discusses a death due to children playing with a gun found in the home, presumably the three-year-old gunshot victim.[12] There is no discussion of the age of the shooter or of the child who died or whether child neglect played a role in the death. There is one accidental death of a six-year-old boy due to blunt force trauma from an automobile accident.[13] The inference is that a pedestrian child was hit by a car, although that is not made clear. There is no discussion of whether child neglect, such as lack of supervision of the child at the time of the accident, was involved. Finally, two deaths were classified at suicides, but there is no information on what factors may have led to the suicides, whether the children were involved with child welfare or anoother child serving agency at the time of death, such as the Department of Behavioral Health.

The report does not disclose information that would be relevant to the purpose of reducing the number of child fatalities, such as: (1) in which year the children were killed;[14] (2) whether there had been a CPS hotline call(s) within the last four years; (3) what type and how many contacts CFSA had with the family of each of deceased children and what type of follow-up was done, if any; (3) whether CFSA had an ongoing investigation or open case at the time of death; (4) if there was no ongoing investigation or open case, what the last CFSA contact was with the family and why CFSA involvement terminated; (5) whether the family had been referred to a Neighborhood Family Strengthening Collaborative or other community service provider and whether the family was engaging with that provider at the time of the death; (6) whether the child was in foster care, was in informal kinship care or lived with one or more parents at the time of death; (7) whether the child had siblings; (8) who the child's

[12] *Id.* at p. 57.
[13] *Id.*
[14] In 2018, the CFRT reviewed thirty-eight (38) cases involving children and youth whose deaths occurred in 2015, 2016, 2017 and 2018. *Id.* at 51.

primary caregiver was, and (8) who the perpetrator was and their relationship to the child or family.

Far from "special attention" being given to infant and child deaths due to child maltreatment, the report gives little to no attention to these deaths. Almost all the attention in the IMRT section is given to maternal health, premature birth, and safe sleeping practices. Almost all the attention in the CFRT section is given to youth gun violence. While these issues are important and should certainly be addressed, they should not be used as shields to hide deaths due to child maltreatment and the failures of those who had the opportunity and duty to prevent them. There is one section in the report entitled "Child Welfare and Juvenile Justice Deaths," which is only two paragraphs long and has no information on whether CFSA or other agencies were involved with the child or family at the time of death and whether or to what extent the death could have been prevented.[15] Notably, the IMRT delineates and quantifies maternal risks that tranversed a majority of the infant mortality cases reviewed, including substance use, history of abuse or neglect, history of mental health, history of domestic violence and history of homelessness.[16] It would be appropriate to identify these risk factors for the caregivers in all child deaths, not just infants.

Recommendations to Ensure Robust and Meaningful CFRC Reporting

In 2012, Congress amended the Child Abuse Prevention and Treatment Act (CAPTA) to require "that each state disclose the age and gender of each child killed or nearly killed by maltreatment, as well as the cause and circumstances that led to the harm and whether there had been any previous involvement by protective services relevant to the incident."[17] *See* 42 U.S.C. § 5106a (2017). Despite the requirement for public disclosure of fatalities and near

[15] *Id.* at 52.
[16] *Id.* at 39.
[17] Huseman J., Palmer E., and Schroering H. 'The Price of America's Inability to Track Child Deaths from Abuse and Neglect? Sometimes, More Lives.' *ProPublica* December 13, 2019 at p. 4.

fatalities by CAPTA, there is no law requiring any DC agency to track or report on near fatalities.[18] In 2016, ProPublica and the Boston Globe requested records on child fatality and near fatality reporting by state due to child maltreatment from 2011 to 2015; the authors explained that the article did not include DC data because DC "did not respond to multiple requests to identify the relevant records."[19]

In order for CFSA to fulfill its mission of "protecting child victims and those at risk of abuse or neglect"[20] and for the CFRC to fulfill its mission of reducing preventable child fatalities while giving special attention to deaths due to child maltreatment, significant changes must be made to the CFRC Reports.[21] It is impossible to implement data driven policies when so much of the relevant data is not in an accessible format or is missing altogether. The following are recommendations that would shed light on actual numbers of child fatalities and near fatalities due to abuse and neglect in the District:

1) When reports for the preceding calendar year are not issued until December 31st of the following year, as a general matter, the CFRC must be required to review and report on ALL deaths in the preceding calendar year.
2) To the extent deaths from multiple years are included in the reports, CFRC should be required to provide statistical data broken down by year in which the death occurred.
3) DC law should require that the CFRC review near fatalities as well as fatalities. In particular the CFRC should work with District pediatric healthcare providers,

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[18] Federal and DC law define "near fatality" almost identically as a child in "serious or critical" medical condition "as certified by a physician." 42 U.S.C. § 5106a(b)(4) (2017) and D.C. Code § 4-13-3.31(6).
[19] Fung, H., Huseman, J. and Schroering H., 'Nobody Knows How Many Kids Die From Maltreatment and Abuse in the U.S.' *ProPublica*, December 13, 2019 at *Notes, available at* https://projects.propublica.org/graphics/child-abuse.
[20] https://cfsa.dc.gov/page/about-cfsa accessed April 23, 2020.
[21] Huseman J., Palmer E., and Schroering H. 'The Price of America's Inability to Track Child Deaths from Abuse and Neglect? Sometimes, More Lives.' *ProPublica* December 13, 2019, *available at* https://www.propublica.org/article/the-price-of-americas-inability-to-track-child-deaths-from-abuse-and-neglect-sometimes-more-lives.

Children's National Medical Center ("CNMC") in particular,[22] to collect the data necessary to review and report on near fatalities.

4) CFRC annual reports must address whether each child fatality and near fatality reviewed was a result of child abuse or neglect and/or whether child abuse or nelect was a contributing factor. If the child or infant homicide was the result of abuse, the report must clearly state that. If the child or infant death was the result of neglect, the report must clearly state that. Neglect should include all child deaths when the caregiver's poor decisions or inattentiveness to caregiving is a causal factor, whether or not the caregiver is criminally charged. (*e.g.* infant drowning during unattended bathing or being asphyxiated by caregiver during unsafe co-sleeping.)

By accurately determining how many children die and experience a near death event due to infant and child maltreatment in DC each year, we give the DC Council the tools they need for oversight and holding agencies tasked to protect children accountable. Moreover, having accurate and complete information allows policy makers to make data driven decisions about what policies best serve DC children and at what level they need to be funded.

Thank you for the opportunity to testify today. I am happy to answer any questions.

[22] Notably, representatives of CNMC are members of the CFRC.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Medical Examiner

Fiscal Year 2020
Performance Oversight Public Hearing

Testimony of
Francisco J. Diaz, M.D., FCAP, FASCP
Chief Medical Examiner

Before the
Committee on the Judiciary & Public Safety
The Honorable Charles Allen, Chairperson

John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, D.C. 20004
February 6, 2019

Greetings, Chairman Allen and members of the Committee on the Judiciary and Public Safety. I am Dr. Francisco Diaz., Acting Chief Medical Examiner for the Office of the Chief Medical Examiner (OCME). I am joined today by my Executive Staff, including our Chief of Staff, Chief Toxicologist and General Counsel.

Mayor Bowser's Fiscal Year 2020 budget made investments that supported our efforts to deliver on the promise of our shared DC values. These efforts include creating economic opportunity, making our neighborhoods safer, and providing more effective and efficient government services. We continue that effort as we work each day to fulfill the mission of our agency, which is to perform accurate and timely medicolegal death investigations. We determine cause and manner of death with the priority of serving our families during a time when they are most at need -- the sudden and unexpected loss of their loved ones. We operate 24 hours a day, 7 days a week, and 365 days a year.

During FY2020, the OCME investigated approximately 8217, including 2471 accepted, 1967 declined and 3779 cremation cases. This is a 21 percent overall increase over the FY19 caseload of 6,819. The increase includes a 25% increase in natural cases due to the COVID-19 pandemic, as well as an increase in homicides and drug related cases.

Near the start of the pandemic, we made the intentional decision to take jurisdiction of the process of certification of death for COVID-19 cases to include provision of a physical storage place for these decedents. While this was not the practice in other jurisdictions, this centralized process of certification proved prudent, as it allowed for a consistent and standardized way to handle the death certification process.

It is significant to note that even with a significantly increased caseload, which impacted our resources and staffing, agency operations were successfully maintained.

During the height of pandemic deaths, the agency underwent an inspection toward accreditation by the International Organization for Standards (ISO) which provides an assessment of an agency's technical qualifications and competence in the services provided. I am pleased to announce that the agency received ISO accreditation with zero non-conformities. This accreditation is a direct result of the agency's strong quality program which includes adherence to accrediting body guidelines and best practices; implementation of continuous process improvement and quality control measures; and provision of academic and professional employee training. The quality program has resulted in success in the agency completing its initiatives and meeting key performance indicators, many of which are tied to accreditation.

For example, in FY20, the agency maintained accreditations by the National Association of Medical Examiners (NAME) and the American Board of Forensic Toxicologists. The agency's key performance measure targets were also met or exceeded, with 94 percent of all postmortem examination reports completed in 90 days; 99 percent and 99 percent of toxicology examinations completed within 90 to 60 calendar days, respectively; and 96 percent of Medical Examiner Transport Team scene response occurring with one hour of notification of accepted cases.

As part of our mandate to coordinate fatality management, not only did we implement the policy to take jurisdiction of COVID-19 deaths, but we secured and established the underlying resources to support this policy, such as an alternate field morgue site with refrigerated trucks, a communications command and space for decedent intake and release to funeral homes, additional body storage space at Georgetown University Hospital, and additional supplies and equipment. We also utilized District Medical Reserve Corps (MRC) volunteers to supplement staffing, specifically at the

alternate field morgue site and the mortuary suite. Employees worked at both the agency's main facility and the alternate field morgue site and, as the surge subsided, we placed the field morgue site in a dormant posture, in which it now stands.

Part of the agency's mission includes a focus on professional and academic development amongst employees and stakeholders. A strong foundation has been laid for training our current and the next generation of forensic pathologists, toxicologists, forensic investigators, anthropologist, technicians, and epidemiology staff. During FY20, employees were able to take advantage of virtual trainings and conferences. Also, in furtherance of its academic mission, the agency pursued and was awarded the 2020 BJA FY20 Strengthening the Medical Examiner-Coroner Systems Program Grant from the Department of Justice. The grant allows the agency to coordinate a quality forensic pathology fellowship and support the development of a pipeline of qualified forensic pathologists for possible "permanent" hire within the agency.

As an important component of the District's work toward improving the health and safety of specific resident populations, as well as reducing associated mortalities, the agency's "fatality reviews/boards" were resumed after a short postponement due to the COVID-19 pandemic. The fatality reviews/boards include: Child/Infant Fatality, Developmentally Disable, Maternal, Opioid and Violence. Annual reports have been published, as required.

Lastly, over the past few years, our Data Fusion Center (Center), which focuses on the collection, surveillance, and analysis of mortality data, has been critical to supporting prevention efforts in public safety and health within the District. In FY20, a major focus of the Center was the provision of a daily COVID-19 death report to the Administration detailing the number of COVID-19 deaths to on a daily basis and "to

date" to include the demographics of age, race or ethnicity, gender and ward for District residents. The Center also provided monthly reporting on opioid-related deaths, with similar demographics. Violent deaths occurring in the District were also reported to the Center for Disease Control's (CDC) National Violent Death Reporting System (NVDRS).

With regard to health and safety during the pandemic, the agency worked to ensure the health and safety of its employees and stakeholders with stringent safety requirements based on CDC and District protocols.

In closing, we continuously strive to be fully responsive to our families and improve the quality of our system. During COVID-19 pandemic, this has been consistently challenging and I would like to thank the entire OCME team for their commitment and hard work, in light of this situation. With that thought, I would like to thank all of our agency units: Forensic Pathology, Anthropology & Identification, Forensic Investigation, Mortuary, Histology, METT, IT, Records Management & Quality, Fatality Review, Data Fusion, Legal, Finance, and Administrative Units. Again, thank you for your dedication.

I would like to thank Mayor Bowser, City Administrator Kevin Donahue and Deputy Mayor for Public Safety & Justice Chris Geldart for their continued support and guidance. Lastly, thank you Chairman Allen for your leadership and support. We appreciate the opportunity to share our accomplishments and plans for continuous improvement and look forward to working with the Committee into the future. I am happy to answer any questions that you may have.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Medical Examiner

Fiscal Year 2020
Performance Oversight Public Hearing

Testimony Slides

Francisco J. Diaz, M.D., FCAP, FASCP
Chief Medical Examiner

Before the
Committee on the Judiciary & Public Safety
The Honorable Charles Allen, Chairperson
John A. Wilson Building

TOTAL CASELOAD
FY19, FY20 and FY21

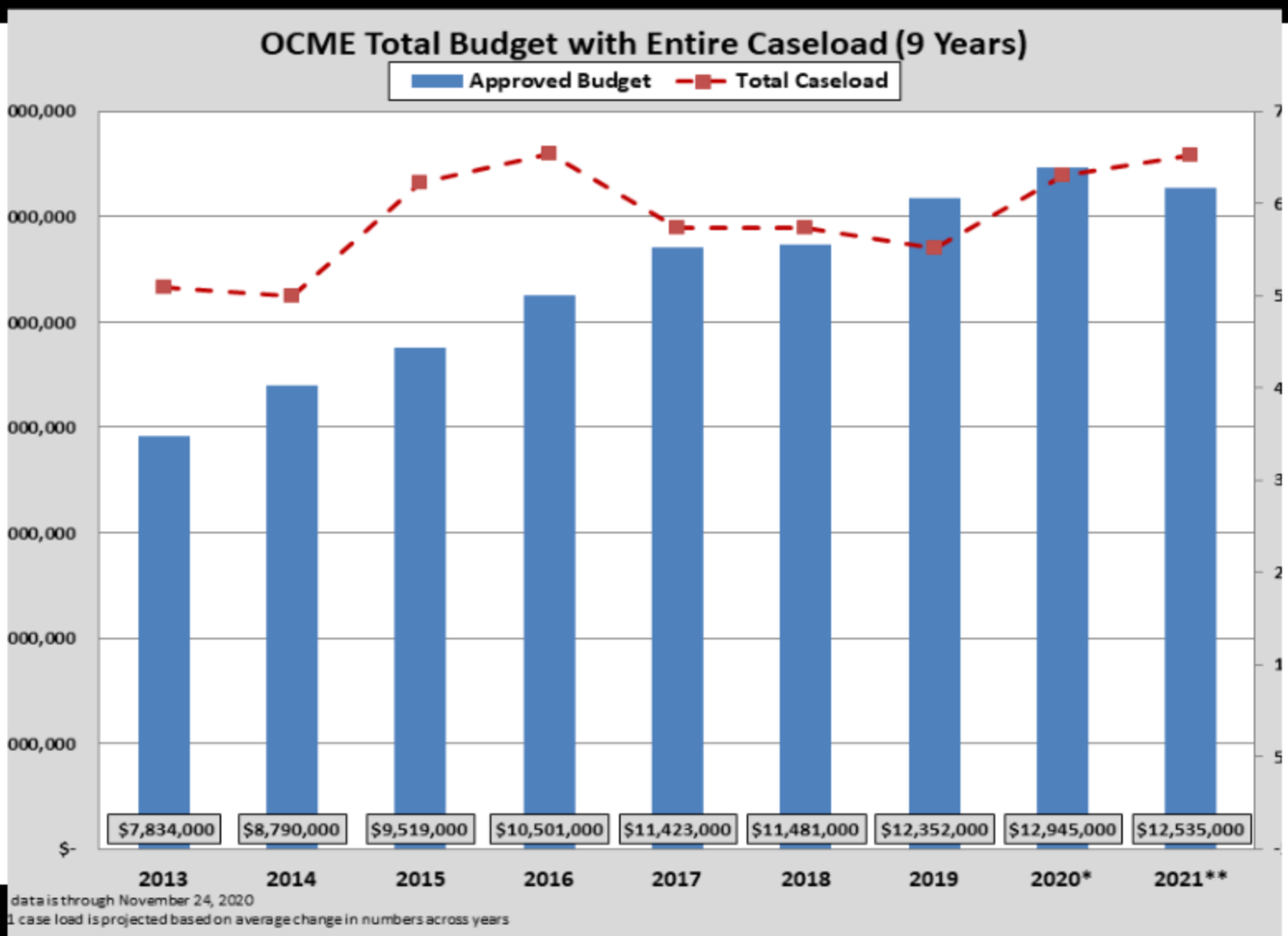
Fiscal Year	Total Reported (includes cremations)	Declined (Became Storage)	Accepted	Autopsied	Cremations	Scenes
FY19	6465	1842 (169)	1281	1281	3173	766
FY20	8217	1,967 (90)	2,471	2471	3,779	1,133
FY21 (as of 2/25/21)	3690	877 (38)	1,208	1208	1,605	505

POSTMORTEM CASELOAD TRENDS BY MANNER OF DEATH FY19, FY20, FY21

Manner	Exam Type	# of Cases in FY19	# of Cases in FY20	# of Cases in FY21 (as of
Accident	Autopsy	398	622	119
	Autopsy (at hospital)	0	0	0
	External Exam	78	87	44
	Review of Med. Rec	50	55	23
Homicide	Autopsy	168	195	89
	External Exam	0	0	0
Natural	Autopsy	222	315	60
	External Exam	258	320	153
	Review of Med. Rec	18	785	513
Suicide	Autopsy	64	54	18
	External Exam	0	4	2
Undetermined	Autopsy	18	30	0
	External Exam	2	1	0
Pending		4	1	183
TOTAL		1281	2470	1208

FORENSIC TOXICOLOGY
POSTMORTEM CASELOAD TRENDS
FY19, FY20, FY21

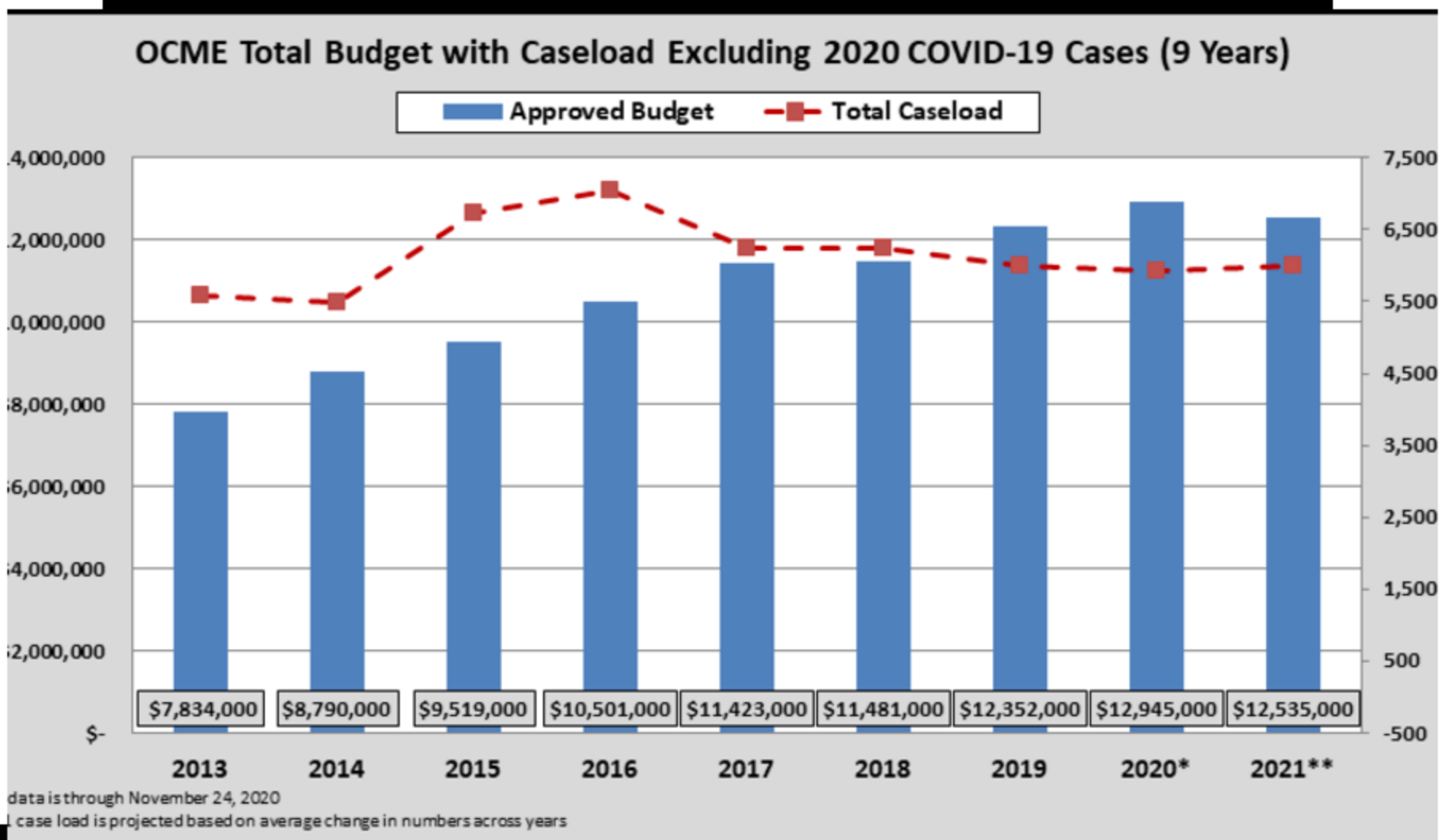
Toxicology Case Type	FY2019	FY2020	FY2021 (as of 2/18/21)
Postmortem	1168	1291	584


OCME Total Budget with Entire Caseload (9 Years)
Approved Budget
Total Caseload
$7,834,000
$8,790,000
$9,519,000
$10,501,000
$11,423,000
$11,481,000
$12,352,000
$12,945,000
$12,535,000
2013
2014
2015
2016
2017
2018
2019
2020*
2021**
data is through November 24, 2020
1 case load is projected based on average change in numbers across years

OCME Total Budget with Entire Caseload 8 Year Trend

Year	Budget	Case Load
2013	$7,834,000	5,589
2014	$8,790,000	5,495
2015	$9,519,000	6,731
2016	$10,501,000	7,036
2017	$11,423,000	6,238
2018	$11,481,000	6,238
2019	$12,352,000	6,009
2020*	$12,945,000	6,799
2021**	$12,535,000	7,016

*2020 caseload data is through November 24, 2020
**2021 caseload is projected based on average change in numbers across years


OCME Total Budget with Caseload Excluding 2020 COVID-19 Cases (9 Years)
Approved Budget
Total Caseload
.4,000,000
.2,000,000
.0,000,000
8,000,000
6,000,000
4,000,000
2,000,000
$-
7,500
6,500
5,500
4,500
3,500
2,500
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500
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$7,834,000
$8,790,000
$9,519,000
$10,501,000
$11,423,000
$11,481,000
$12,352,000
$12,945,000
$12,535,000
2013
2014
2015
2016
2017
2018
2019
2020*
2021**
data is through November 24, 2020
l case load is projected based on average change in numbers across years

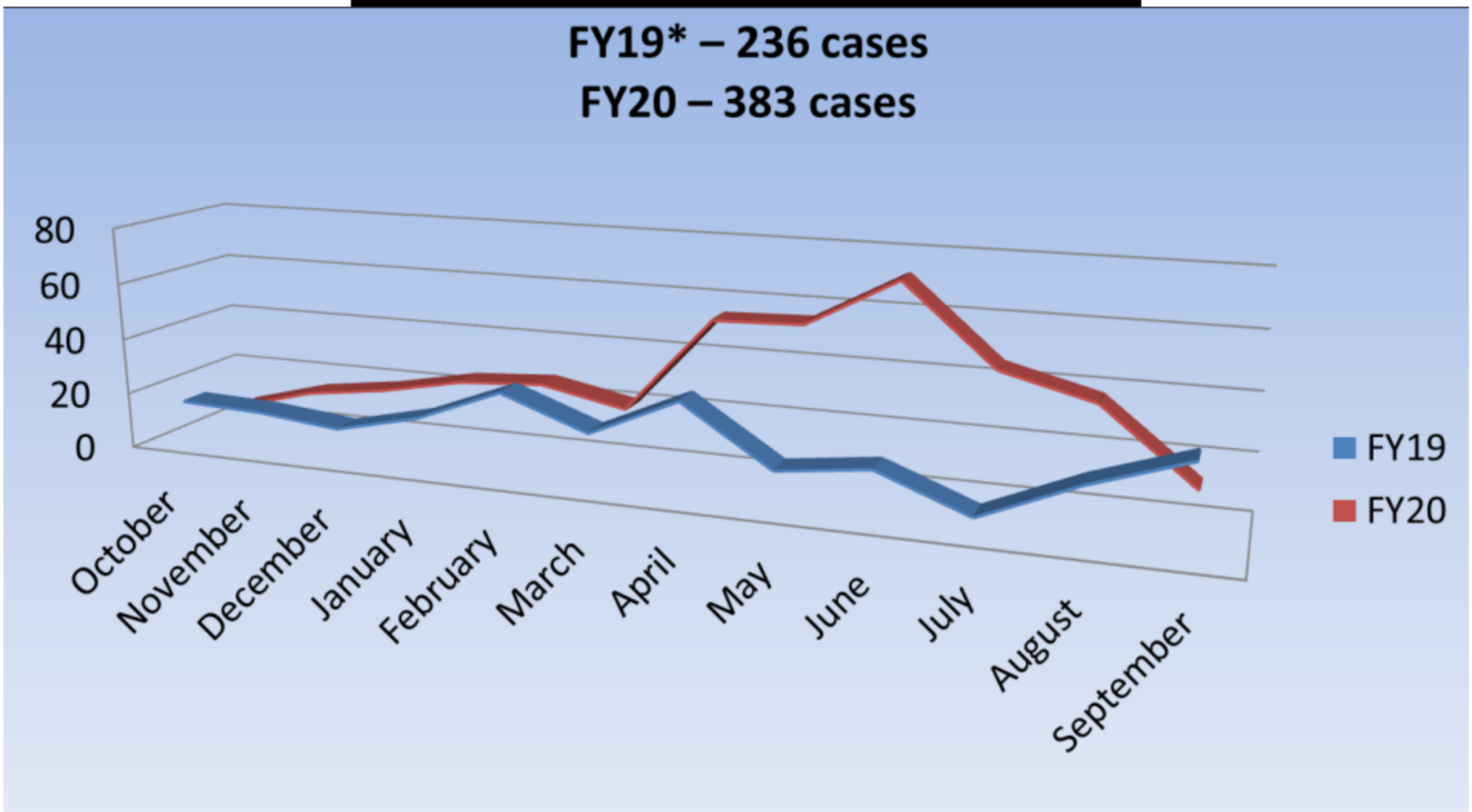
OCME Total Budget with Caseload Excluding COVID-19 Cases (9 Years)

2013	$7,834,000	5,589
2014	$8,790,000	5,495
2015	$9,519,000	6,731
2016	$10,501,000	7,036
2017	$11,423,000	6,238
2018	$11,481,000	6,238
2019	$12,352,000	6,009
2020*	$12,945,000	5,925
2021**	$12,535,000	5,997

*2020 data is through November 24, 2020

**2021 case load is projected based on percent change across years

PUBLIC DISPOSITIONS



Testimony at Performance Oversight Hearing for MPD
DC Council Judiciary Committee
Thursday, March 11, 2021
Austin Rose
ICE Out of DC Coalition

Chairman Allen, Councilmembers, and Staff of the Committee,

A few months ago, the DC Council unanimously passed the Sanctuary Values Amendment Act, which bans all forms of collaboration between DC government agencies and ICE. It is now time to comprehensively implement the SVA and ensure that all DC agencies fully comply with their obligations under the Act. Unfortunately, MPD currently does not have a publicly available policy reflecting the SVA's prohibitions on sharing information about DC residents with ICE. On behalf of the ICE Out of DC Coalition, I ask that Chief Contee promptly develop such a policy.

Under a 2011 Mayor's order and a 2007 policy on MPD's website — the only two existing documents of which we are aware that reference MPD's approach to immigration enforcement — MPD officers "shall not inquire about a person's immigration status," but are permitted to coordinate with ICE when there is a "nexus to a criminal investigation." M.O. 2011-174, Disclosure of Status of Individuals: Policies and Procedures of District of Columbia Agencies, 58 D.C. Reg. 9083, 9084 (Oct. 21, 2011). A broad range of activity, including the mere act of having entered the United States without authorization or a police investigatory stop, could be framed as a criminal nexus under federal immigration law or DC law, thereby allowing for ICE-MPD collaboration under this exception. Current MPD policy also allows officers to assist ICE with "crowd and traffic control services" during an ICE raid in the District. MPD Policy on Immigration Enforcement, https://mpdc.dc.gov/release/mpd-policy-immigration-enforcement (April 20, 2007). These provisions in existing MPD policy constitute significant loopholes allowing for and in fact encouraging collaboration between ICE and MPD. And these provisions are clearly inconsistent with the SVA, which bans *all* forms of collaboration with ICE absent a judicial warrant.

The lack of a clear MPD policy in compliance with the SVA is not merely an abstract problem; it creates a substantial risk that MPD will continue to turn DC residents over to ICE. In fact, there is evidence that such collaboration in violation of the SVA has already occurred. According to public court documents, MPD called ICE to report the arrest of DC residents on at least two occasions in December 2019 and January 2020, months after the passage of the temporary version of the SVA. Will Lennon, *Court Documents Describe MPD Sharing Information with ICE*, Washington City Paper (Sep. 3, 2020), https://washingtoncitypaper.com/article/308837/dc-sanctuary-city-mpd-ice/. These blatant violations of DC law are unacceptable.

In order to effectively implement the SVA and end collaboration with ICE, MPD must create a policy that clearly prohibits MPD officers, in the absence of a judicial warrant, from taking any action to assist ICE, such as transferring individuals into ICE's custody or sharing location information with ICE. The policy should also establish a procedure for providing to the DC Council an annual report detailing the number of ICE requests for information or assistance received by MPD and MPD's corresponding response, as required by subsection (d) of the SVA.

As the testimony of my colleague Ms. Contreras illustrates, this issue is personal for the countless DC residents who live in fear of ICE enforcement every day. As we confront the criminalization and over- policing of Black and Brown communities in our city, a clear MPD policy unequivocally banning collaboration with ICE is a basic but important step in the right direction.

Thank you,
Austin Rose
ICE Out of DC Coalition

Testimony at Performance Oversight Hearing for MPD
DC Council Judiciary Committee
Thursday, March 11, 2021
Ingrid Contreras

Good Afternoon Councilmembers,

Thank you for the opportunity to speak to you today regarding my experience as an immigrant living here in DC.

My name is Ingrid Contreras. I immigrated from El Salvador to DC 15 years ago. I have been lucky not to have been stopped by the police but I must tell you that the fear of being stopped is always with me. I know that racial profiling by the police has happened and I know that I fit that profile. I have been assured that I live in a Sanctuary city, which means I am protected. But I also know that ICE makes unannounced searches and arrests and I don't have full confidence that there is no collaboration between the police and ICE. I want to be assured about that.

I do want to share a story with you that doesn't leave my mind. It happened January 7th. You all know what happened on January 6th. Everyone was nervous, including me. On my way to work that day, a white man approached and spat on me and followed me shouting all kinds of bad names. I was terrified. As scared as I was about the police and how they might see me, I was more scared of this man following me. So I dialed the police. The man was arrested. That day was a good day for me with the police. But you know… I hesitated to call even with my life being threatened.

My wish is that there can be written guidelines or rules for police when dealing with all DC residents regardless of color, what country they come from, whether documented or undocumented, man or woman.

I want to trust the police.

Thank you very much.

Metropolitan Police Department Performance Oversight Hearing
Testimony of Brenda Lee Richardson, PSA 702 Outreach Committee
Thursday, March 11, 2021

Good Day, Chairman Allen and other distinguished Councilmembers. My name is Brenda Lee Richardson. I am a citizen of Ward 8 and a big supporter of the Metropolitan Police Department. MPD's performance in PSA 702 has been exemplary. For example, we recently walked through our PSA with 20 police cadets and Commander Ennis so they could hear about our experience living and working in the area. We were so grateful to share our stories with these new recruits so they will get a feel for what we are exposed to on a daily basis. They were all delightful young men and women of character and integrity who will have a better appreciation of who we are and how we live. We have two crews that are "beefing" with each other. The beef is historical from what I understand. However, the 7th District has been quite vigilant in their heightened presence to prevent the incidence of more crime and violence. My disfavored neighborhood has been riddled with wrongdoing and misconduct for quite some time. However, I applaud MPD for driving through the community regularly during the day. Sometimes a cruiser is posted on the corner. My neighbors and I find great comfort at night when they drive by with their flashing lights on.

I would invite you to walk in my shoes for just one day and experience the trauma and distress that exhausts our disinherited neighborhoods. We are constantly barraged with noise (loud music, loud cars, loud ATVs, loud fireworks, loud sirens and loud gunshots). On the other hand, the reality is there are criminals lurking in our areas engaged in illicit activity that impairs the quality of life for law abiding citizens. Moreover, communities with seniors and single moms who are heads of households have become havens for blatant urban terrorism at the hands of a few unsavory intruders who impose their unacceptable and illegal standards on the defenseless. Our neighborhoods become their fiefdoms. These violent and often drug dealing intruders rule with fear and weapons. Their expectation from the community is absolute silence. Subsequently, these encroachers run rampant in our disengaged communities.

We the people will not surrender to these disrespectful interlopers who hold our neighborhoods under siege. This matter can only be addressed with the assistance of the guardians of the people – the Metropolitan Police Department. We know Chief Robert Contee, Commander Andre Wright, Capt. Boetler, Capt. Dorsey, Lt. Archer, Capt. Heraud, Ben Haiman and many others at the 7th District and MPD. They protect us from the destructive element that sucks the very life

out of us. It is the police that holds them accountable for their illegal behavior that is often tolerated by our communities out of fear. MPD's presence is a deterrent to crime and violence. However, when a crime is committed, they have the authority to take matters to another level and rightly so.

In light of the insurrection, blatant racism and the collateral damage of the pandemic, we need the Metropolitan Police Department now more than ever. We appreciate the men and women on the police force. They have a tough job and we need more of them to protect us and serve us. As I re-imagine our future in the District of Columbia, I can see thoughtful police officers walking the beat as we reconnect with them and they with us in peaceful and thriving communities of character. Thank you.

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Testimony Before the District of Columbia Council
Committee on the Judiciary and Public Safety
March 11, 2021

Public Oversight Hearing for the
Metropolitan Police Department

Danielle Robinette
Policy Attorney
Children's Law Center

Introduction

Thank you, Chairperson Allen and members of the Committee for the opportunity to testify. My name is Danielle Robinette. I am a policy attorney at Children's Law Center and a resident of Ward 6. I am testifying today on behalf of the Children's Law Center which fights so every DC child can grow up with a loving family, good health and a quality education.[1] With almost 100 staff and hundreds of pro bono lawyers, Children's Law Center reaches 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year.

I appreciate this opportunity to testify regarding the performance of the Metropolitan Police Department (MPD) over the past year. Many of our youth clients – especially those in foster care, children at risk for commercial sexual exploitation, and students with special education needs – encounter MPD officers on a regular basis and rely on the Department to treat them sensitively and to keep them safe.

However, in addition to a global pandemic, Black and brown young people have seen time and time again that they cannot trust the police to keep them safe. Through social media and the news, they face constant reminders that they are likely to be treated worse by law enforcement than their white peers. These incidents of police brutality cause racial stress for all Black and brown people. My testimony today will focus on MPD's presence in DC's schools and how that presence negatively impacts students.

Specifically, we call for the removal of all MPD officers from DC's public schools and a complete reimagining of school security in the District.

A. Divesting from MPD's School Safety Division

We believe that schools should be a safe space where students can learn and grow in a trauma-informed environment that supports their educational and socio-emotional learning goals. According to MPD's annual school safety report, the goal of the School Safety Division is "to support a safe learning environment for all students."[2] Unfortunately, these goals are undercut when students experience negative, even traumatizing, interactions with MPD officers, School Resource Officers (SROs), and contracted security guards during the school day. These are just a few examples of the types of problematic interactions with police at school that our young Black and Brown clients have shared with us:

- An 11-year-old client who refused to get on the school bus and the response was for the DCPS school to call the police.
- A five-year-old client visited by a uniformed MPD officer, not a social worker, and taken away alone to be interviewed about abuse allegations.
- A fifth-grade student who left the school building but remained on campus. The elementary school called MPD who responded by escalating the situation to the point of putting the child into restraints.

Police are too often called when students are having behavioral difficulties. Children often have behavioral outbursts because of trauma they are experiencing outside of school and struggles that they face in school. Children who have become emotionally dysregulated should be helped – not arrested. The response from adults should be to

ask, "Why is this child acting out and how can we address the underlying concern?" – rather than to call the police.

Black and Brown children are disproportionately affected by this practice. Students with disabilities are also dramatically affected. National trends show that students with disabilities are nearly three times more likely to be to be arrested than their general education peers.[3] When disability and race intersect the impact is compounded. SRO interactions with students with disabilities can be especially problematic. Because SROs are not school employees, they do not have access to a student's Individualized Education Plan (IEP) and/or Behavior Intervention Plan (BIP). This leads to police officers responding to a behavioral health crisis with little or no information about the child's special needs, triggers, or preferred de-escalation strategies.

Our clients with disabilities have shared stories that illustrate the devastating consequences of what happens when police are called during an episode of emotional or behavioral dysregulation:

- A nine-year-old client who was experiencing a mental health emergency was handcuffed and accompanied by uniformed officers to the Emergency Department
- A 12-year-old client was threatened by staff at their group home that the police would be called when he was having a mental health crisis.
- An 11-year-old student was handcuffed at a DCPS school for running through the halls and then was transported by an SRO in handcuffs to Children's National Hospital for a psychiatric evaluation when a parent could not be reached.

In addition to these sorts of specific incidents with police in schools, many children in DC have negative reactions to police based on their experiences in the community. Many have witnessed friends and family being arrested or hassled by police. For some students, the mere presence of police officers at school can be enough to trigger fear and past trauma. For example, a Children's Law Center lawyer witnessed a child client withdraw and recoil into their sweatshirt after walking into a room at school with police present even though the police officers were not interacting directly with the client. For many students the regular presence of police in schools does not create a safe and secure learning environment. In fact, due to their negative and traumatic experiences in their communities, the presence of police in schools creates an environment of fear and hostility for many students.

The cumulative effect of these school and community interactions, repeatedly highlighted by videos of police violence circulated on social media, is a sort of race-based traumatic stress[4] that has no place in a public school. By redirecting local dollar allocations away from MPD's School Safety Division and shifting those funds to critical programs like school-based mental health, we have an opportunity to create an environment where students are supported and not criminalized.

B. Invest Local Dollars to Create Safe Schools

In order for the transition toward police-free schools to be successful, the divestment from MPD's School Safety Division must be paired with investments in

programming and supports that will improve school climates and create safe schools without a need for police. The below recommendations are based upon our experiences with and observations of programs that have been implemented to varying degrees in some schools across the District. Our recommendations include expansions of programs to support student behavioral health, alternative discipline practices, and professional development for teachers and other school staff. Additionally, we recommend that community-based programs with established and trusted relationships with young people be brought into the school setting.

Increase investments in our School-Based Behavioral Health (SBBH) Program

The District's SBBH program provides children, youth, and their families with access to high-quality services that promote mental wellness and generate a positive school culture. Local community-based mental health providers partner with schools based on the school's individualized needs. As the SBBH project is implemented at each campus, students are able to access three distinct service tiers: mental health promotion and prevention for all students (Tier 1), focused interventions for students at-risk of developing a mental health problem (Tier 2), and intensive treatment for individual students who already have a mental health problem (Tier 3). The multi-tiered approach is intended to facilitate the effective and efficient use of the District's resources in the service of providing appropriate and reliable school-based behavioral health services to

children and youth. This, in turn, makes it easier for students to access key mental health supports and also ensures that teachers and staff benefit from having clinicians available.

The SBBH program is currently in its expansion phase and will need additional local-dollar support in order for expansion to reach all schools in the District. There are several roles at each school to support the integration and expansion of the SBBH program, including the School Behavioral Health Coordinator, Community-Based Organization (CBO) clinician, Department of Behavioral Health (DBH) clinical specialist, and DBH Clinical Supervisor. With these resources in place, schools have been able to complete the School Strengthening Tool and Work Plan, which are used by each school's administrative or behavioral health team to identify the specific behavioral health needs of each school and create a comprehensive and integrated plan for meeting those needs. At the community level, the DC Community of Practice (CoP) was established to facilitate strategic collaboration between school personnel, community leaders, and CBO clinicians. These various infrastructure components, along with robust interagency communication and coordination, are critical to the continued efficacy and functionality of the District's SBBH program.

Additional investments to the SBBH program in FY21-22 would allow DBH to expand the program to include the 50+ DCPS and public charter schools that are still waiting on vital behavioral health resources. We recommend increasing investments in the SBBH program in order to expand its reach to all public schools in DC.

Provide teachers and staff with trauma-informed training, professional development, and supports

Nationally, roughly one in five children have experienced adverse childhood experiences and traumatic experiences.[5] These traumatic experiences can range from food insecurity, neglect and abuse, and even chronic toxic stress. Trauma may manifest itself in students as absenteeism, performing below grade level in reading and math, and behavior problems.[6] Students experiencing these forms of complex trauma can benefit from teachers and school staff who not only have been trained not only to recognize the signs of trauma in children and youth, but also who are also able to access trauma-informed training, professional development, and supports to assist these students.[7] We recommend that local dollars be allocated in the upcoming budget in order to provide these trainings and professional development opportunities for teachers and staff in our school community.

Expand restorative justice programming in schools and communities

The District has invested in the concept of restorative justice programming for children and youth and has supported its use within the community. Currently, SchoolTalk DC has provided restorative justice supports to both DCPS and DC public charter schools.[8] These supports range from individual training sessions for students and staff, facilitation of important restorative conversations, restorative justice conferencing, classroom circles, and dialogue circles.[9] We recommend that the District continue to

invest in restorative justice programming for children and youth in schools and communities.

Invest in school-based violence interrupter programming and training and expand community-based violence interrupters

We recommend that the District continue to invest in and expand violence interrupter programs. Currently, the District is supporting violence interrupter programs through the Office of the Attorney General and the Office of Neighborhood Safety and Engagement. The model takes a public health approach in addressing community violence by interrupting violence, identifying and treating those at highest risk for committing violent crimes, and changing community ideas around the normalization of violence.[10] In order to continue to build on a culture of school safety, we recommend that the District bring this model into the school community and provide students the opportunity to interact with violence interrupters and engage in training provided to violence interrupters.

Explore funding the expansion of credible messengers in communities and schools

We recommend that the District explore the expansion of credible messengers into communities and schools broadly. The Credible Messenger Initiative is a program for youth committed to the Department of Youth Rehabilitation Services (DYRS) that blends individual mentorship programming with restorative justice processes.[11] This program helps to connect young people with members of the community who share similar

experiences (like being court-involved), are skilled in mentorship and community building, and demonstrate integrity and transformation. Expansion of this program would ensure that all students, beyond those who are involved with DYRS, would be able to access the benefits of the program, which include:

- Promoting family and community engagement
- Connecting young people to caring adults in their communities
- Enhancing city-wide violence intervention services
- Improving services to youth in the community
- Connecting youth to resources and relationships

In addition, expansion of this program would create job opportunities for DC residents who already serve as community leaders and could serve as credible messengers in schools.

Ensure adequate investments in socio-emotional learning curriculum and implementation

We recommend that the District remain committed to adequately funding a socio-emotional learning curriculum for students across all grade levels. Socio-emotional learning is the process through which children and adults understand and manage emotions, set and achieve positive goals, feel and show empathy for others, maintain positive relationships, and make responsible decisions.[12] DCPS is already implementing and integrating a socio-emotional learning curriculum with supports from the Collaborative for Academic, Social and Emotional Learning. We recommend that the District continue to fund socio-emotional learning in FY21.

Ensure fidelity in Positive Behavioral Intervention and Supports (PBIS) programs at schools

PBIS programs are evidence-based strategies that help to improve individual student classroom behavior and create safe schools by focusing on preventing problem behaviors rather than punishing students.[13] Studies have shown that schools that implement school-wide PBIS programs show a decrease in the number of suspensions, improved perceptions of safety, and improvements in academic performance.[14] In order to implement PBIS programs with fidelity, schools will need additional financial resources to be sure that these programs are being properly implemented and evaluated. We recommend that local dollars be set aside for implementing PBIS programs in both DCPS and charter schools.

Adequately fund behavioral intervention support staff, administrative staff, and behavioral support technicians at each school

Many of the functions of security guards could be replicated by existing and newly hired school staff if the District were to adequately fund behavioral intervention support staff, administrative staff, and behavioral support technicians at each school. We envision administrative staff being available to assist with checking-in parents, reviewing paperwork, and helping the registrar with attendance issues. Behavioral intervention support staff and behavioral support technicians can be key partners in ensuring school safety by using their training to assist classroom teachers and administrators with any behavioral issues before they escalate.

C. Models from Other Jurisdictions

The moment we are in calls for transformative, bold investments in students' and educators' behavioral health. Black and brown youth and educators have been especially traumatized as they are grappling with two pandemics: the coronavirus and the systemic racism that has been dramatically highlighted this past year. DC is not the only jurisdiction working to address these dual crises. Across the country, we have seen states, cities, and school districts pursue alternatives to law enforcement in schools. We acknowledge that there are limitations in examining any plans that arose in response to the calls for racial justice following the murder of George Floyd in Summer 2020. Because so few students have returned to classrooms in-person, many of the newest police-free schools plans have not yet been implemented. However, a number of districts began removing SROs from schools before the activism we have seen over the last year. Below we examine those districts that removed police from schools prior to the COVID-19 pandemic. While no one model will work for every school district, we believe that there are lessons to be learned from those who have been doing this work in recent years. We encourage the Council to collaborate with all education stakeholders – especially parents and students – to decide which approach will be best for DC.

Minneapolis, MN

In 2017, Intermediate School District 287 (ISD 287) in Minneapolis, Minnesota replaced SROs with Student Safety Coaches. These Student Safety Coaches specialize in

mental health, de-escalation, restorative justice and safe physical interventions.[15] Their primary focus is to build trusting relationships with students to ward off and mitigate behavior issues. Early evaluations of this model are largely positive. In the period between program implementation in 2017 and the pandemic-related transition to distance learning, ISD 287 saw "positive culture and safety on the rise, stronger relationships, incidents with police involvement decreased by half over two years, significantly fewer arrests, and [limited] use of physical holds."[16]

Elsewhere in city, the school board Minneapolis Public School District unanimously voted to terminate its contract with police in June 2020. As an alternative, the district hired 11 "public safety support specialists" who are intended to act as a bridge between in-school intervention and law enforcement. The specialists will serve a security function but be trained to build relationships with students and de-escalate conflicts. Notably, this plan has faced criticism from activists stemming from reports that 14 of the 24 finalists for these positions have a background in law enforcement.[17] CLC strongly encourages the DC Council to be wary of proposed alternatives that simply create SROs by some other name.

Los Angeles, CA

The trustee of the Los Angeles Unified School District (LSUSD) recently approved a plan to cut 133 police positions from their schools. This reduction in force would remove 70 sworn officers with arrest powers, 62 nonsworn officers, and one support staff

member.[18] Notably, this leaves in place 211 officers who will continue to monitor school and be available for emergencies. This reduction in police presence is paired with the implementation of School Climate Coaches who are individuals drawn from the community who are responsible for mentoring students, using socio-emotional learning strategies to strengthen student engagement, applying effective de-escalation strategies to support conflict resolution, building positive relationships, eliminating racial disproportionality in school discipline practices, and understanding and addressing implicit bias.[19]

Furthermore, the reduction in school police officers frees up $25 million in the district's budget. This money has been redirected to fund, in part, a $36.5 million Black Student Achievement Program that aims to provide supplemental services to 53 high schools with a high proportion of Black students and high need indicators (below-average test scores and above-average suspension rates). The Black Student Achieve Program aims to:[20]

- Ensure that materials and instruction are culturally responsive to Black students and provide additional support and intervention to students to close literacy and numeracy skill gaps;
- Work with community groups that have demonstrated success with Black students and families; and
- Reduce the over-identification of Black students in suspensions, discipline and other measures through targeted intervention to address students' academic and social-emotional needs.

This model is the most similar to the two-prong divest-invest strategy that we outlined above. This removal of police reduces the harms that students suffer, and the investment in student supports will help repair the damage that has already been done.

Maryland

Beyond the district-level changes that have been described above, there are also two pieces of legislation under consideration by the Maryland General Assembly – the Police Free Schools Act (PFSA)[21] and the Counselors Not Cops Act (CNCA).[22] Combined, these bills are designed to remove police from schools and redirect funding for mental health services, wraparound supports, and restorative approaches.

Specifically, these bills:

- Prohibit school districts from contracting with police departments;
- Repeal the creation of the Baltimore City Public Schools standalone police force;
- Require reporting on the use of force by school security and on calls to City or County police for incidents in school;
- Include families impacted by school-based arrest and experts in student mental health and conflict resolution to the School Safety Subcabinet Advisory Board; and
- Redirect the $10 million/year SRO fund to schools to be used only to (i) hire mental and behavioral health specialists, (ii) hire restorative approaches coordinators and expand restorative approaches in schools, (iii) hire community school coordinators, develop community schools, and provide wraparound services, and (iv) develop trauma-informed schools.

Importantly, these bills do NOT:

- Prohibit school districts from calling City or County police in an emergency;
- Prohibit school districts from developing "adequate law enforcement coverage" plans with City or County police;

- Remove school security guards who are unarmed and do not have the power to arrest students; and
- Prevent schools from installing door locks or other non-personnel safety measures.

The legislators leading the charge on these bills have specifically sought to dispel the fears of parents and other stakeholders regarding the purported benefits of SROs – namely that schools without cops will not be safe. Specifically, they argued that "SROs have not deterred or stopped school shootings. Active shooters do not avoid schools with armed police, and it is extremely rare for police to successfully intervene when shootings occur. Police presence in schools hasn't reduced any other school-based violence. A study of approximately 3,000 schools nationwide found 'no evidence suggesting that SRO or other sworn law-enforcement contribute to school safety.'"[23]

D. Youth Policing Beyond the School Safety Division

Beyond our recommendations regarding the School Safety Division and SROs, we are also concerned by the ways in which MPD practices affect youth differently than adults and can contribute to school avoidance. To this end, we would like to uplift recommendations from the Every Student Every Day Coalition (ESED) regarding developmentally appropriate policing. In December 2020, CLC joined ESED and a number of other youth advocacy organizations in submitting recommendations to DC's Police Reform Commission. Among these recommendations were two ways in which MPD can establish developmentally appropriate policing practices – abolishing consent

searches for youth and requiring counsel before *Miranda*[24] waivers. These recommendations are consistent with neuroscience telling us that adolescents are more likely than adults to be impulsive and sensation-seeking, to make decisions based on "immediate" gains rather than "long-term consequences, and to be susceptible to peer pressure.[25]

Furthermore, we recommend that MPD discontinue the practice of serving warrants on school grounds. We have heard concerning accounts of students refusing to attend school because they know that they have an active warrant, and they are afraid that MPD will find them at school to arrest them. Consistent with our belief that schools should be a place where students feel safe and welcome, we believe that it is inappropriate and counterproductive to use a student's attendance at school as a convenient means of serving a warrant.

Moreover, we believe this position is consistent with the District's sanctuary values that have historically protected students from enforcement actions by Immigration and Customs Enforcement on school grounds.[26] DC schools must be a sanctuary for students. To that end, in addition to the elimination of the School Safety Division,[27] DC should: 1) prohibit the arrest of youth in schools for non-school based offenses or custody orders; 2) prohibit the interviewing or interrogation of youth in schools; 3) prohibit youth and adults from carrying firearms in schools;[28] and 4) implement non-law-enforcement-driven crisis response and safe passage systems.

Conclusion

Thank you for this opportunity to testify, and I welcome any questions.

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[1] Children's Law Center fights so every child in DC can grow up with a loving family, good health and a quality education. Judges, pediatricians and families turn to us to advocate for children who are abused or neglected, who aren't learning in school, or who have health problems that can't be solved by medicine alone. With almost 100 staff and hundreds of pro bono lawyers, we reach 1 out of every 9 children in DC's poorest neighborhoods – more than 5,000 children and families each year. And we multiply this impact by advocating for city-wide solutions that benefit all children.

[2] Metropolitan Police Department, *School Safety and Security in the District of Columbia: SY 2019-2020*, 1, *available at*: https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/MPD%20School%20Safety%20Annual%20Report_School%20Year%202019-2020%20Final.pdf.

[3] *See* ACLU, *Cops and No Counselors*, *How the Lack of School Mental Health Staff is Harming Students,* 5, *available at:* https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors.

[4] *See* Kristin N. Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 57 American Univ. L. Rev. 1513, 1561, n. 313 (2018). *Available at:* http://www.aulawreview.org/au_law_review/wp-content/uploads/2018/08/675-%E2%80%93-02-Henning.pdf.

[5] Sparks, S.D., *Some FAQs for Educators on Children's Trauma*. Education Week, (Aug. 9, 2019*), available at*: https://www.edweek.org/ew/articles/2019/08/21/some-faqs-for-educators-on-childrens-trauma.html.

[6] Blodgett, Christopher, and Jane D. Lanigan, *The association between adverse child experience (ACE) and school success in elementary school children,* Sch Psychol Q., doi: 10.1037/spq0000256, 37-146, (March 2018). *Available at:* https://pubmed.ncbi.nlm.nih.gov/29629790/.

[7] There are many robust reports and training materials available to support teachers and staff. For a non-exhaustive list, please visit: Trauma Sensitive Schools, *Helping Traumatize Children Learn, available at:* https://traumasensitiveschools.org/reports-and-resources/.

[8] *See* SchoolTalk, Restorative DC, *available at:* https://www.schooltalkdc.org/restorativedc1/.

[9] *See* RestorativeDC, Restorative Practices, *available at:* http://www.restorativedc.org/restorativepractices/.

[10] Office of the Attorney General for the District of Columbia, *Investing in OAG's Violence Interrupter Program* (Feb. 7, 2019), *available at*: https://oag.dc.gov/blog/investing-oags-violence-interruption-program.

[11] Department of Youth Rehabilitation Services, Credible Messenger Initiative, *available at:* https://dyrs.dc.gov/page/credible-messenger-initiative.

[12] The definition of socio-emotional learning can be found at https://casel.org/what-is-sel/.

[13] Lee, Andrew J., *PBIS: What You Need to Know*, Understood.org, *available at*: https://www.understood.org/en/learning-thinking-differences/treatments-approaches/educational-strategies/pbis-how-schools-support-positive-behavior.

[14] *See* Bradshaw, Catherine P., et. al., *Examining the Effects of Schoolwide Positive Behavioral interventions and Supports on Student Outcomes: Results From a Randomized Controlled Effectiveness Trial in Elementary School*, Journal of Positive Behavior Interventions, (April 2009). *Available at*: https://journals.sagepub.com/doi/10.1177/1098300709334798; Horner, Robert H., and George Sugai, *Defining and Describing Schoolwide Positive Behavioral Support*, Handbook of Positive Behavioral Support, (2009). *Available at*: https://link.springer.com/chapter/10.1007/978-0-387-09632-2_13; and Nelson, J. Ron, et. al., *Maximizing student learning: The effects of a comprehensive school-based program for preventing problem behaviors*. *Journal of Emotional and Behavioral Disorders*, Journal of Emotional and Behavioral Disorders, 136–148, (July 1, 2002). *Available at*: https://doi.org/10.1177/10634266020100030201.

[15] Hicks, Rachel, *287 Student Safety Coach Model,* Intermediate District 287,(July 10, 2020), *available at:* https://www.district287.org/287-student-safety-coach-model/.

[16] *Id*., at Wilder Research Report and Data.

[17] *See* Keierleber, Mark, *Here are the People Minneapolis Schools Hired to Replace Campus Police After George Floyd's Death – And Why Some Are Raising New Red Flags,* The74, (Nov. 9, 2020), *available:* https://www.the74million.org/article/here-are-the-people-minneapolis-schools-hired-to-replace-campus-police-after-george-floyds-death-and-why-some-are-raising-new-red-flags/.

[18] *See* Cowan, Jill, et. al., *Protestors Urged Defunding the Police. Schools in Big Cities Are Doing It.,* New York Times, (February 18, 2021), *available at:* https://www.nytimes.com/2021/02/17/us/los-angeles-school-police.html.
[19] *Id*.
[20] Board of Education of the City of Los Angeles, Minutes from Special Meeting Order of Business, (Feb. 16, 2021), *available at:* http://laschoolboard.org/sites/default/files/02-16-21SpclBdOBWithMaterialsColor.pdf.
[21] Police Free Schools bills in Maryland have not been formally introduced but on the way. *See* McCord, Joel, *Bills Aim to Get Cops Our of Schools,* WYPR, (Feb. 3, 2021), *available at:* https://www.wypr.org/post/bills-aim-get-cops-out-schools.
[22] *Primary and Secondary Education – Mental Health Services – Expansion (Counselors Not Cops Act)*, House Bill 496, (January 15, 2021), *available at:* http://mgaleg.maryland.gov/2021RS/bills/hb/hb0496f.pdf.
[23] Acevero, Gabriel, and Jheanelle Wilkins, *Reimagining school safety in Maryland*, Washington Post, (Jan. 29, 2021) *available at*: https://www.washingtonpost.com/opinions/local-opinions/reimagining-school-safety-in-maryland/2021/01/28/6de4299a-5b38-11eb-8bcf-3877871c819d_story.html (*quoting* Na, Chongmin, and Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 Justice Quarterly 619 (2013)). *Available at:* https://www.tandfonline.com/doi/full/10.1080/07418825.2011.615754).
[24] *See Miranda v. Arizona*, 384 U.S. 436 (1966).
[25] *See J.D.B. v. North Carolina*, 564 U.S. 261, 273 (2011); *see also* Steinberg, Laurence, et. al., *Are Adolescents Less Mature than Adults? Minors' Access to Abortion, the Juvenile Death Penalty, and the Alleged APA "Flip-Flop'*, 64 AM. PSYCHOL. 583, 592 (2009). *Available at:* https://pubmed.ncbi.nlm.nih.gov/19824745/#:~:text=Simmons%20(2005)%2C%20which%20abolished,are%20as%20mature%20as%20adults.
[26] See, e.g., Office of Attorney General, A Message from the Attorney General, (May 11, 2017), available at: https://oag.dc.gov/sites/default/files/2018-02/Guidance-for-Schools-Re-Immigration-Concerns-English.pdf.
[27] Currently, the District spends at least $14 million on MPD's School Security Division. This division should be eliminated, and the money saved should be reinvested directly in youth and family in a manner consistent with the recommendations proposed in Part D *infra*.
[28] Specifically, officers of all types should disarm prior to stepping foot on a school campus unless they are specifically responding to the *very rare* report of a shooting or armed individual on campus. *See* Ropeik, David, *School Shootings are Extraordinarily Rare. Why is Fear of Them Driving Policy?,* Washington Post, (March 8, 2018)*, available at*: https://www.washingtonpost.com/outlook/school-shootings-are-extraordinarily-rare-why-is-fear-of-them-driving-policy/2018/03/08/f4ead9f2-2247-11e8-94da-ebf9d112159c_story.html (finding that the statistical likelihood of any given public-school student being killed by a gun, in school, on any given day since 1999 was roughly 1 in 614,000,000).

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Improving Justice for the Community

Statement of the Council for Court Excellence
Before the Committee on the Judiciary and Public Safety
of the Council of the District of Columbia

Performance Oversight Hearing for the
Metropolitan Police Department

March 11, 2021

Good morning, Chairman Allen and members of the committee. My name Emily Tatro and I am the Deputy Director for the Council for Court Excellence (CCE). CCE is a nonpartisan, nonprofit organization that has worked to build a better justice system in D.C. for nearly 40 years. Please note that per our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of or endorsement by any judicial member of CCE.

Today I will testify about the findings and recommendations about pre-arrest diversion (PAD) from CCE's substance use disorder (SUD) audit report, *Everything is Scattered*, provide the updates we have learned since its release, and present recommendations made by the District Task Force on Jails & Justice (Task Force) in their new ten-year plan, *Jails & Justice: Our Transformation Starts Today*. The Task Force recommends increasing the Metropolitan Police Department's (MPD) use of PAD while also shifting toward a behavioral health crises first responder model.

Pre-Arrest Diversion

In August 2020, CCE published a report on the intersection of SUDs and justice involvement in the District for the D.C. Auditor. CCE found that if the District enhanced its PAD program, we could substantially improve outcomes for people with a SUD who are at risk of justice involvement. In short, PAD is a type of diversion program that occurs before an individual's arrest and is designed to break the cycle of justice involvement caused by underlying behavioral health problems. PAD can take different forms, but usually involves offering individuals connection to treatment programs in lieu of arrest or other criminal sanction.

In 2018, D.C. began a pilot PAD program that offered 180-day behavioral health treatment and case management and reached only a fraction of potentially eligible individuals. In October 2019, the District merged the PAD program into the Department of Behavioral Health's (DBH) Community Response Team (CRT). While PAD has expanded under CRT, many of the issues CCE identified with the pilot remain.

First, PAD suffers from low buy-in from MPD officers. Out of the 3,800 MPD officers in February 2018, only 69 officers were trained on PAD and less than 1%

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referred people into the program. One DBH administrator estimated that for PAD to function efficiently across the city, approximately 10%-20% of MPD officers would need to participate. CCE has learned that only a handful of MPD officers now make PAD referrals to CRT. However, these officers seem to be acting as hubs, making referrals on behalf of themselves and for other officers. As we recommended in our audit, the District should provide ongoing opportunities for feedback from officers on PAD so that it can adjust protocol in ways that make it easier for MPD to refer people into the program, like using a central referral officer. MPD should also commit to training at least 10% of its force on PAD next year.

CCE also continues to recommend that MPD revise General Order 502.04 so that officers can divert someone from arrest without handcuffing them or bringing them to a police station. As long as a diversion feels like an arrest, fewer people will agree to participate. CRT currently receives about four referrals per day from MPD, and almost all people referred have a serious and persistent mental illness. This is progress, but also suggests that training could improve referral rates for people with substance use disorders.

Finally, CCE continues to recommend that MPD and DBH work together to implement procedures to correct the PAD pilot's data collection and reporting shortcomings, including publishing information to evaluate CRT program efficacy and implementing data sharing procedures.

Behavioral Health Crisis Response

PAD is an important program for certain eligible people who are at imminent risk of arrest by MPD, but that program alone will never be enough to address the needs for alternatives to justice-involvement for people who are struggling with acute behavioral health crises. In 2019, D.C's 911 Call Center dispatched emergency response services to between 50,000 and 65,000 calls each month. None of those calls were responded to by behavioral health professionals. In D.C., the only emergency responders we have are either Fire and Emergency Medical Services (FEMS) or the police. However, we know that alternatives working well in other jurisdictions and that residents are calling for new, public-health oriented and trauma-informed approaches in the District.

Therefore, the District Task Force on Jails & Justice recommends D.C. begin using CRT to respond to certain emergency calls in which a person is likely to want or need a behavioral health intervention as the primary response. For example, if a person is experiencing suicidal CRT could be dispatched instead of police. Beginning in FY 2022, the District could transition towards a 911/311 triage system that dispatches emergency responders most appropriate to the situation – either CRT, FEMS, MPD, or a combination of the three, depending on the type of service needed and the context of the situation.

The Task Force found that enhancing the ability of CRT to respond to emergencies will reduce the number of interventions required of MPD, thereby reducing the number of people with behavioral health crisis who are engaged by the criminal legal system. Between 2015 and 2019, about 48% of people in Department of Corrections (DOC) custody had a documented SUD and 32% had a diagnosed mental illness. These detentions, even the short ones, harm people – they suffer the trauma of incarceration and often lose a job, housing, or family connection, not to mention the

collateral consequences of having arrest or conviction records. Detaining people is also costly in a fiscal sense – in FY 2018, the DOC spent an average of $241 per day to incarcerate one person in its custody. In its report, the Task Force identified a range of other community-based services that could be supported with those cost savings, most of which are designed to help people before crises occur and to ensure robust supports outside of the justice system.

In conclusion, a combination of enhancing PAD and establishing CRT as a behavioral health emergency response will be the District's next step toward decreasing the criminalization, arrest, and incarceration of individuals with behavioral health needs, and decreasing the workload of MPD.

Thank you for your time and consideration.

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Legal Aid Society
OF THE DISTRICT OF COLUMBIA
MAKING JUSTICE REAL

Testimony of Charlie Whitman-Barr
Staff Attorney, Family/Domestic Violence Law Unit
Legal Aid Society of the District of Columbia

Before the Committee on the Judiciary and Public Safety
Council of the District of Columbia

Performance Oversight Hearing Regarding the Metropolitan Police Department

March 11, 2021

The Legal Aid Society of the District of Columbia[1] submits the following testimony regarding the performance of the Metropolitan Police Department (MPD), with a focus on its response to domestic violence-related matters. Our testimony this year addresses four main areas of concern that have been exacerbated during the COVID-19 pandemic and the many police protests in the District over the past year:

- MPD's handling of domestic violence matters during the COVID-19 pandemic, with specific reference to service and enforcement of Civil Protection Orders and Temporary Protection Orders;
- MPD officers' assessment of who is the predominant aggressor in their first response to a domestic violence call;
- MPD's interpretation of the legal considerations and practices with regard to reports of parental kidnapping; and
- MPD's efforts to reduce community members' fear and anxiety of contact with officers following its response to police protests and growing racial tensions in the District.

This has been a difficult year for the country and the District. A global pandemic and national protests have swept the nation from coast to coast. District of Columbia residents have felt a unique burden as the city has been centerstage. During this time, Legal Aid's Domestic Violence (DV)/Family Law Unit attorneys have continued to work with domestic violence survivors. Supplementing our long-standing DV/family law practice, we now staff a new Petition

[1] The Legal Aid Society of the District of Columbia was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. Over the last 89 years, Legal Aid staff and volunteers have been making justice real – in individual and systemic ways – for tens of thousands of persons living in poverty in the District. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal justice system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, www.LegalAidDC.org, and our blog, www.MakingJusticeReal.org.

Assistance Project, in partnership with DC SAFE, assisting survivors file for Civil Protection Orders online and providing ongoing representation. Our attorneys also staff the new Family Law Assistance Network, which provides legal advice and representation to survivors seeking support in family court matters. Through our work, we bear witness to the added challenges that await survivors who are fleeing abusers and seeking protection in these unprecedented times. In light of this experience, we believe we can provide useful insight into the impact MPD's response to domestic violence and family issues has on domestic violence survivors amidst the turmoil of this past year.

We urge the Committee to use today's hearing to explore these issues with MPD representatives and to identify next steps that should be taken to improve how MPD officers work with survivors.

MPD's Outreach to Legal Aid Following Last Year's Oversight Hearing

Legal Aid testified at last year's MPD Oversight Hearing where we shared the ongoing concerns and experiences of our clients.[2] Following last year's testimony, we were encouraged when MPD reached out to address those concerns. Legal Aid attorneys worked with MPD to develop a roll call training for officers on responding to domestic violence calls. We also had the opportunity to speak with representatives from MPD to get clarification about police policies that affect domestic violence survivors. MPD's willingness to incorporate the survivor perspective into their trainings and policies was refreshing. Unfortunately, shortly after these conversations were initiated, the COVID-19 pandemic struck and progress on these issues stalled. We hope we can continue to work together to support survivors, including resuming conversations that were cut short by the initial COVID shutdowns.

Despite Significant Efforts, We Continue to See Our Clients Facing Issues with the Service of and Enforcement of Civil Protection Orders and Have Felt Survivors' Needs Being Lost Over This Past Year

Over the past year, we have unfortunately seen the needs of domestic violence survivors getting lost as MPD has strained to address other priorities. Specifically, we have seen regression in areas where MPD had made great strides such as service of process and enforcement of protection orders. We understand there will be necessary adjustments to operations and sacrifices that need to be made in unprecedented times like these, but we believe it is still the duty of MPD to ensure the needs of the city's most vulnerable residents are met.

Some changes in operation have resulted from the fact that D.C. Superior Court has been largely closed since March of 2020 due to the COVID-19 pandemic. Most Court operations, at this time,

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[2] Testimony of Charlie Whitman-Barr, Staff Attorney, Family/Domestic Violence Law Unit Legal Aid Society of the District of Columbia Before the Committee on the Judiciary and Public Safety Council of the District of Columbia Public Hearing Regarding: Performance Oversight for MPD (Jan. 16, 2020). Available at: https://www.legalaiddc.org/wp-content/uploads/2020/01/Legal-Aid-MPD-Oversight-Testimony-FY19-20YTD-FINAL.pdf

are being conducted remotely, including those of the Domestic Violence Division. While the Court has long provided for the option to file CPO petitions online, petitions are now exclusively being filed this way. Additionally, CPO cases that were previously set for a hearing two weeks after a survivor filed have been rescheduled numerous times and are now being set several months after the filing date.

One thing that has not changed is that the person filing for a CPO, known as the Petitioner, still bears the burden of having the Petition, Notice of Hearing and Order to Appear, and any Temporary Protection Order served on the opposing party, known as the Respondent. Domestic violence survivors often turn to friends and family members for help with service. This has always been dangerous for survivors and for anyone who agrees to assist, but the danger has increased with the risk of exposure to COVID-19. For these reasons, survivors are relying even more heavily on MPD to help serve these documents. The person who serves documents in a CPO case is expected to complete a Return of Service form which is filed with the Court as proof of service. MPD assists with service proactively by sending officers in the CPO Unit to known addresses for Respondents. With this type of service, the Petitioner is not present and MPD officers send the Return of Service directly to the Court. Petitioners can also call on MPD for help with service at any given time if they know a Respondent's location. MPD officers from the local District station will meet them at their location to assist with service, complete the Return of Service form at the scene, and give the paperwork to the Petitioner to file with the Court.

If the Respondent fails to appear at the court hearing in a CPO case, a Petitioner can only obtain a CPO by default if there is proper proof of service. Proper proof of service necessitates a complete and correctly filled out form. When that form is not completed or not completed correctly, judges may require survivors to re-serve their abusers – even though judges are often hesitant to ask MPD to re-serve. Considering the delays in court proceedings due to COVID-19, judges largely expect Petitioners to serve the Respondent before the first hearing given the amount of time available to serve. It takes the typical survivor an average of seven times to leave a domestic violence situation. Adding to the existing barriers and lengthy COVID-19 delays survivors are already facing by failing to support expeditious obtainment of CPOs only further compromises and delays that escape.

At our testimony last year, we remarked on the fact that the service of Civil Protections Orders had improved significantly as a result of the efforts and partnership between MPD and the Court. In the past year, unfortunately, numerous clients have seen their protection orders go unserved and unenforced. In an alarming number of cases, even after months of waiting for a hearing, our attorneys have checked case dockets and observed that MPD recorded no attempts to serve the Respondent.

Our clients have also had varied experiences with incomplete service and lack of enforcement. Two examples are included here:

1. In one case, our client was granted custody through her Temporary Protection Order and called MPD for assistance with service and enforcement of the Order since her children were with Respondent at the time. Instead of serving the Respondent with the required paperwork, the MPD officer read the Temporary Protection Order out loud to the

Respondent and then allowed him to go back into his home. The client did not have a printed copy of the paperwork at the time. Once the Respondent went back inside, he refused to come out. MPD told our client there was nothing they could do, even though the Respondent still had their daughter in the home and our client had a Court Order for the child to be returned. This client followed up with MPD repeatedly and was told there was nothing they could do to enforce the Order if the Respondent refused to open the door.

2. Another client filed for a Civil Protection Order, and MPD assisted with service but refused to enforce the provision of the Temporary Protection Order that vacated the Respondent from the residence. MPD officers served the Respondent with the necessary paperwork but told our client they would not vacate the Respondent because neither party was on the lease and they were both living with a third-party leaseholder. MPD refused to enforce the Court Order and left the client in the home with their abuser.

The time where a survivor is trying to leave an abusive relationship is the most dangerous time they will face. The Intrafamily Offenses Act, as a result, provides critical relief to Petitioners in Civil Protection Order cases, such as the ability to vacate an abuser from the home. Failure to enforce a vacate provision after having served a Respondent leaves a survivor dangerously vulnerable to further abuse or death.

One additional unique service issue that has arisen amidst virtual Court operations is that Petitioners do not receive physical copies of their paperwork. The responsibility of printing the paperwork for service now falls on survivors. It is difficult for individuals who do not have access to a home printer to print their paperwork to be able to call MPD and request help with service. Public libraries are closed or operating on limited hours, private printing services are costly, and going to print in any public place carries health and safety risks due to the pandemic. While we have been told that Petitioners can go to their local MPD district station for help with printing the paperwork and service, we have heard very mixed responses from our clients. Some clients have been assisted in this way but others have been told that is not something MPD does.

This Council passed new amendments to the Intrafamily Offenses Act this past year, which will go into effect in the near future. We encourage this Committee to follow-up with MPD about how it plans to ensure officers are trained on the changes to the law for proper enforcement. The recent amendments also mandate a six-person domestic violence unit within MPD. We also encourage this Committee to ask for specific information on what changes will be made to the Civil Protection Order Unit of MPD and how that will ensure more effective service of protection orders for Petitioners. We welcome the opportunity to work with MPD on the creation and maintenance of that unit and to help ensure they are best serving survivors.

We appreciate the public health emergency presents MPD with unique challenges to ensuring the safety of Washingtonians and hope to work productively with MPD to meet those challenges. We encourage the Committee to ask the following questions to advance that dialogue and ensure that the quality of service and protection is not diminished in difficult times:

1. What policies does MPD follow around enforcing Temporary Protection Orders during COVID-19?
2. What policies do officers follow on enforcing vacate provisions of Temporary Protection Orders?
3. What policies do officers follow on enforcing custody provisions of Temporary Protection Orders?
4. What is the official policy on providing printed copies of CPO paperwork to Petitioners in CPO cases who are seeking MPD assistance with service?

We Continue to be Concerned About How MPD Officers Are Assessing Who the Primary Aggressor is in Domestic Violence Situations

Over this past year, we have heard from survivors who have been arrested after they have called the police for help. We believe that there is more work to be done to train officers and supervisors on assessing the primary aggressor in domestic violence situations. We urge MPD to invest more resources to improve officers' understanding of the dynamics of domestic violence and how that impacts survivors during interviews and how officers can better respond to and support survivors. We share the following examples with this Committee to illustrate what we are hearing from our clients:

1. In one case, we heard from a survivor who was arrested after defending herself from the ongoing attack of an abuser who had hit and stomped her multiple times. MPD arrested the survivor but not the abuser despite being informed of his assault. MPD did not take any photographs of the survivor's injuries, and since she was arrested, she was unable to file a police report of her own for the violence she endured.

2. Another client shared that she and her children's father were arguing when he pushed her and she fell to the ground, scraping her knees. When she defended herself, her abuser called the police. She shouted in the background in hopes the dispatcher would hear that she had been assaulted first. Our client and her abuser were still arguing when the police arrived. She flagged the police down for help. Our client had two newborns waiting for her in the house and was afraid to tell MPD what happened. She told them she and her abuser had been arguing. Despite the fact that she had visibly bloody nails and knees, the police did not ask further questions. She was arrested and charged with simple assault. The police took photographs of the abuser but did not take any photographs of our client's injuries.

There are a number of significant and dangerous consequences to wrongfully determining the primary aggressor in a domestic violence situation. First and foremost, a wrongful arrest is traumatic for the survivor, further invalidates their experience, is likely to prevent the survivor from reaching out to the police for help in the future, and emboldens abusers going forward. Improper primary aggressor analyses are also concerning when, as in both client examples above, critical evidence that could explain self-defense or support a survivor's experience is not documented. It is our understanding of MPD policy that when one person in a domestic dispute or simple assault incident is arrested, the other is prohibited from filing their own report. When police incorrectly assess a survivor to be the primary aggressor and make an arrest based on that

error, under this policy, the survivor is forever prohibited from filing a police report based on that same incident. They may also be prevented from mounting an adequate defense, if necessary. This creates a barrier to justice for survivors that cannot be overcome.

We acknowledge that, for every bad example, there are examples of officers exercising good judgment in difficult situations in conducting primary aggressor assessments and subsequent arrests. However, MPD has a special responsibility as a government agency and first responder to constantly strive to close the gaps in making justice accessible and making freedom real for domestic violence survivors across the District. We encourage the Committee to ask the following questions to better understand MPD training and policies around responding to domestic violence situations, with specific regard to determining the primary aggressor:

1. Who decides which party is a primary aggressor? How are those decisions reviewed?
2. Do officers receive performance reviews of their responses to domestic violence-related calls? What do officer reviews look like? Do officer reviews include a review of the officer's decisions in the context of what is captured on body-worn camera?
3. Are domestic violence reports reviewed by someone with specialized training?
4. What is the reasoning behind MPD policy prohibiting someone from making a police report if they were arrested during the incident? Under what circumstances can someone file a report about an incident in which they were arrested but the charges were dropped?

We Continue to Hear from Our Clients About Experiences Where MPD Refuses to Take Reports for Parental Kidnapping

Following last year's testimony, we had the opportunity to briefly speak with MPD representatives about the Department's approach to parental kidnapping. We remain concerned that there is a disconnect between the law in the District of Columbia on parental kidnapping and the enforcement of this crime by MPD.

Our written testimony from last year included a discussion on parental kidnapping laws, specifically that parental kidnapping is a crime in the District of Columbia, and it can manifest in several different ways. In the absence of a custody order, one parent may cut off communication with the other, and essentially disappear with the child. Though parties legally have joint custody in the absence of an order, this type of concealment is illegal. D.C. Code § 16-1022(a) states that no parent, relative or other person acting on behalf of the parent, may *intentionally conceal* a child from the other parent. This provision does not require a custody order to be in place. Further, pursuant to D.C. Code § 16-1022(b), it is illegal for a parent to take a child with the intent to prevent a lawful custodian from exercising their custody rights. It is also illegal, pursuant to D.C. Code § 16-1022(b)(8), to "take or entice a child from the other joint custodian in violation of the custody order" after a temporary or final order has been issued; under this provision, when there is a custody order in place and a parent violates it, that parent is both in contempt of a Court Order **and** committing the crime of parental kidnapping.

Although parental kidnapping is a crime, we continue to hear reports from clients regularly of officers refusing to take a police report where there is no existing custody order. One of our clients reported this year that the father of her children, who had just been released from prison,

refused to tell her where he and the children were for days. This client attempted to get help from MPD but was told she had to have a custody order. The father was concealing the children from our client, which is prohibited under D.C. Code § 16-1022.

Another client reported to Legal Aid that her child's father's cousin had taken the children and the cousin refused to return her children. This client reached out to MPD for assistance with retrieving her children from the third party but MPD still refused to assist without a custody order. MPD refused to take a police report even though this third party had no legal rights to our client's children.

The consequence of MPD failing or refusing to respond to individuals with complaints of parental kidnapping, especially in cases involving domestic violence, has dangerous consequences. We believe the proper response is for the responding officer to take a police report and investigate the reporting witness's claims. These investigations can assist with locating a kidnapped minor child, which would allow the parent in need of assistance to check on the child's welfare, serve an emergency custody order, or make other plans for the child's safety. When parental kidnapping occurs, MPD must take it seriously. This is true now, more than ever, when access to D.C. Superior Court is somewhat limited, and emergency situations arise.

We urge the Committee to continue to gather further information about MPD training, policies, and practices in this area, including:

1. What training do MPD officers receive on parental kidnapping? What is the source of the information for that training and is it reviewed by attorneys with experience in domestic violence or family law?
2. What ongoing training or performance review is put in place to ensure training is effective and utilized in the field?
3. What role does Youth and Family Services Division play in reports of parental kidnapping? How can District residents access this service?

Domestic Violence Survivors Are Reporting Reluctance to Call the Police for Help After Witnessing MPD's Response to Police Protests in the District

Over the past year, the District of Columbia has had numerous protests against police brutality, with subsequent and varied responses by MPD. Black and brown residents of this community have seen MPD's response in their streets and on the news. As a result, we have observed a growing reluctance among our clients to call the police due to concerns about how officers are likely to respond. In our work with domestic violence survivors, specifically, we have seen how MPD's response to protests have affected our clients' willingness to call MPD for help.

Clients have shared with us that they are reluctant to call the police for help over concerns for their own personal safety or the safety of their family. Domestic violence involves such close relations as intimate partners and blood relations, making the decision to call the police an already-difficult hurdle to overcome. We have heard from clients that they are terrified for their own lives as well as the lives of their abusers due to the expectation of police brutality. One client, for example, a mother filing for a protection order against her son who had assaulted her

on numerous occasions, refused assistance from MPD with service out of a fear for her son's life. The client was terrified that the police would kill her son while trying to serve him.

It is disheartening to hear that some survivors, feel the need to choose between their own safety and the safety of their family or even their abuser when it comes to calling the police for help. On behalf of our clients, we urge the Committee to gather further information about MPD training, policies, and practices in this area, including:

1. What training do officers receive on racial bias, including implicit bias, in the context of domestic violence?
2. What ongoing training or performance review is put in place to ensure training is effective and utilized in the field?
3. What efforts does MPD make in its hiring practices to strive to have a more representative police force for the District of Columbia?
4. What efforts does MPD make in all of the District's wards to improve community relations and trust with MPD?

Conclusion

District residents, including those who work within MPD, have certainly felt the strain of the past year as District agencies and communities have had to adapt and respond to a range of ongoing events. MPD's response to domestic violence survivors remains a critical point in survivors' journeys to extricate themselves from abusive situations. Even in these challenging times, the decisions that MPD officers make carry long-term impacts for survivors. The questions that we suggest the Committee asks today are aimed at getting a better understanding of how MPD is adapting to providing protection to the community during a global pandemic and protests, and ensuring appropriate decision-making when responding to situations involving domestic violence. More broadly, our testimony shares the barriers our clients continue to face as they seek justice in a time of Court shutdowns and limited resources. We believe it is critical to keep an open dialogue with stakeholders, service providers and domestic violence survivors in order to continuously improve the services we provide to the community. We appreciate that our previous progress was derailed by the unprecedented outbreak of COVID-19 but are open and eager to continue those conversations.

Good afternoon, Councilmember Allen and the rest of the judiciary committee. My name is Afeni Evans and I am a **representative** of the Defund MPD Coalition and the **DC Working Families,** I am here to talk to you about my experiences with MPD and their lack-luster, oppressive performance. In May, I began protesting during the George Floyd Uprising, during that time I witnessed MPD harass, abuse and blatantly assault peaceful activists. Rubber bullets are supposed to ricoshade off the ground, not shot directly at people. Yet, I have been shot with rubber bullets at point blank range, **and felt that burning pain** going into the back of my one-hundred and eighteen (118) pound body. **I have seen** them tear down mutual aid tables full of food and water for the unhoused at BLM plaza, they have tear gassed us even though the Mayor allegedly had signed an order to ban chemical agents in DC. They pepper-sprayed us at jail support, when we were standing outside the jail with food, water, supplies, to stand in solidarity with the people coming out. They have targeted and arrested protesters like me. My comrades and I have been attacked by the white surprimacists that were roaming around the city and gotten arrested while our attackers went free, because being Black is the only crime you have to commit in DC to be arrested, when 87% of all arrests in DC are Black people we have a serious problem.

WORKING FAMILIES PARTY

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Testimony Before the Council of the District of Columbia
Committee on the Judiciary and Public Safety

at the
Fiscal Year 2020 Performance Oversight Hearing on the Metropolitan Police Department

By Shannon T. Hodge
Founding Executive Director, DC Charter School Alliance
March 11, 2021

Good afternoon, Chairperson Allen and members of the Council. My name is Shannon Hodge and I am the Founding Executive Director of the DC Charter School Alliance, the local non-profit that advocates on behalf of public charter schools to ensure that all students in the District receive the great public education they deserve. I am here to testify about the Metropolitan Police Department (MPD) and to encourage MPD and the Council to engage with schools, students, and families before making significant changes to the MPD School Security and Safety Program.

Background

Approaches to school safety and security vary widely across charter school communities. In an exploratory survey of about thirty percent of charter LEAs, we learned that 52% contract with private security firms, 33% use employee security officers, 14% use staff to manage school safety and security, 10% contract with MPD, and 24% do not have security personnel in their buildings.[1] School leaders make decisions about how to approach school safety and security through deep reflection about the work and mission of their schools and through meaningful engagement with their school communities about how to best handle safety and security concerns.

Police meaningfully involved in schools can help administrators stay current on what's happening in communities that may affect or spill over into school buildings. They can provide a sense of security that many students need to learn. And they can resolve issues that may be beyond the scope of school administrators, like guns in buildings.

Yet, we know that any type of police presence in schools is complicated. As one leader shared, "The angst in the community is real." What schools need and want are nuanced approaches to safety and security that balance the need to maintain safe spaces for learning with the fact that many students and staff have had negative experiences with police.

Recommendations

Based on what we've heard from school leaders and students, we do not believe the way to address the angst of community is to remove police or security from schools. Instead, the Council and this Committee should take three specific steps.

First, **the Council should fully fund the at-risk weight** to ensure that SROs and security officers are not taking on responsibilities left unaddressed due to the absence of needed professionals or the lack of needed training. As Miya Walker of the Black Swan Academy testified earlier this week, "No school should have an SRO and not also have a school nurse, counselor and social worker."

Our school leaders recognize that many safety issues arise from our students' experiences with trauma and unmet mental health needs, so they have invested heavily in social and emotional supports, crisis management coordinators, and de-escalation training for staff. But there are still

[1] Several LEAs use more than one type of personnel for their school safety and security needs.

gaps that adequate funding can help schools fill. As a school leader shared, "We have asked SROs to fill in the gap for roles that they should have never had." Full funding of the at-risk weight will help close those gaps where the help is most needed.

Second, **the Council and MPD should engage with school leaders, students, and parents to improve the SRO program**. In our preliminary survey, school leaders rated their interactions with their SROs as a 3.0 on a scale of 1 (poor) to 4 (excellent). When asked what changes they would like to see with the SRO program, only 6% of leaders indicated they would like SROs removed from their buildings. The vast majority wanted improvements to the program, including 56% who wanted better procedures. Some potential areas for improvement include the following:

- Greater alignment between schools' safety needs and SROs' duties;
- Greater clarity about the expectations for SRO presence in school buildings, as some school leaders report never seeing SROs on their campuses;
- Mandatory SRO training in child development, trauma response, de-escalation strategies, discipline regulations, and laws that affect how schools may handle safety and security issues;
- Greater clarity between MPD and schools on what schools are required to produce (e.g., documents, rooms to interview students, students as witnesses) or provide (e.g., office space, dedicated computers) for MPD officers.

Finally, to address these and other areas of improvement identified from engagement with school communities, **MPD and charter schools should enter into a memorandum of understanding** (MOU) for the SRO program and other MPD involvement in schools.[2] An MOU is crucial to creating a shared system of accountability, support, and expectations that enhances rather than detracts from learning environments.

Thank you for your time and attention to this matter, and I welcome your questions.

[2] Charter schools interact with the MPD in a variety of ways. For example, charter schools appreciate the support provided by MPD during large events and protests and when there are incidents near schools that place students and staff in harm's way.

Testimony of Eduardo R. Ferrer
Policy Director, Georgetown Juvenile Justice Initiative*
Visiting Professor, Georgetown Juvenile Justice Clinic*
***Titles and organizational affiliation for identification purposes only.**

Metropolitan Police Department Performance Oversight Hearing
Thursday, March 11, 2021

Good morning, Chairman Allen and members of the Committee on the Judiciary and Public Safety. My name is Eduardo Ferrer. I am a Ward 5 resident and, for identification purposes, the Policy Director at the Georgetown Juvenile Justice Initiative and a Visiting Professor in the Georgetown Juvenile Justice Clinic. The views expressed are based on my research and experience and not given on behalf of Georgetown University. Thank you for the opportunity to testify today.

We need to reimagine the way that we police youth in the District of Columbia. More specifically, we need to stop policing youth and instead invest directly in them – early, often, and wisely. In essence, we need a concerted, intentional public health approach to positive youth development.[1] While our recommendations for how to accomplish this cross a number of agencies, my testimony will focus on our concerns relating to the policing of youth by the Metropolitan Police Department (MPD) and will offer recommendations for addressing these issues. These recommendations fall into three broad categories: (1) reducing the footprint of police in the lives of DC youth, (2) ensuring developmentally appropriate policing for DC youth, and 3) undoing the false and harmful narrative that our youth need to be policed in the first place.

I. <u>Reducing the Footprint of Police in DC Youth's Lives</u>

First and foremost, the District must take smart, bold steps to reduce the footprint of that MPD has on the lives of DC youth, particularly in the lives of DC's Black youth. Reducing the negative impact that policing has on our District youth involves, among other things, reimagining school safety to create police-free schools and decriminalizing normative adolescent behavior.

[1] I recognize that this term "public health approach" is used often in the District of Columbia these days and we need to be careful to not overuse the term and to continue to use it with fidelity. However, it is the framework or approach that we should continuing adopting on a host of issues in the District. For too long, our government has been designed around reaction. You see this in the oversized amounts spent on agencies whose mission it is to respond to harm once it has happened. We need to shift our focus and our tax dollars into more intentional and strategic approaches that prioritize prevention and intervention. For our youth, such a public health approach would encompass the twin goals of not only reducing the incidence of trauma in the lives of our youth, but also bolstering their resilience by building on their strengths and strengthening their support systems and communities.

A. Schools as Sanctuaries: Creating Police Free Schools

The Harms Caused from Over-Policing Youth

According to a U.S. Department of Education analysis, D.C. had the highest percentage of students reporting police in schools in the entire country as of the 2015-2016 school year.[2] This statistic is particularly troubling when one considers the well-documented harms to students posed by police officers in schools, including police intervention for minor misconduct,[3] increased loss of instruction,[4] and lower rates of graduation and college enrollment.[5]

For example, multiple state Chief Judges have expressed concern that the presence of law enforcement in schools is leading to a troubling criminalization of typical adolescent behavior.[6] Even those involved in the school security industry have expressed concerns that SROs could be used inappropriately by school staff to address routine discipline matters.[7] And these concerns are not without basis: studies have confirmed that the presence of SROs in schools "create[s] a climate in which teachers and staff increasingly call on SPOs for minor disciplinary issues and classroom management in general."[8] Worryingly, 76% of principals in a recent study have reported using SROs to address student discipline issues.[9] In fact, multiple studies have found that the number one reason School Resource Officers put handcuffs on students is to calm them down.[10]

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[2] AMIR WHITAKER, SYLVIA TORRES-GUILLÉN, MICHELLE MORTON, HAROLD JORDAN, STEFANIE COYLE, ANGELA MANN & WEI-LING SUN, COPS AND NO COUNSELORS: HOW THE LACK OF SCHOOL MENTAL HEALTH STAFF IS HARMING STUDENTS 16, https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors.

[3] DANIEL J. LOSEN & PAUL MARTINEZ, LOST OPPORTUNITIES: HOW DISPARATE SCHOOL DISCIPLINE CONTINUES TO DRIVE DIFFERENCES IN THE OPPORTUNITY TO LEARN 33 (2020), https://www.civilrightsproject.ucla.edu/research/k-12-education/school-discipline/lost-opportunities-how-disparate-school-discipline-continues-to-drive-differences-in-the-opportunity-to-learn/Lost-Opportunities-REPORT-v12.pdf.

[4] *Id*. at 33.

[5] Denise C. Gottredson, Erin L. Bauer, Scott Crosse, Angela D. Greene, Carole A. Hagen, Michele A. Harmon & Zhiqun Tang, *Effects of School Resource Officers on School Crime and Responses to School Crime*, 19 CRIMINOLOGY & PUB. POL'Y 905, 930 (2020).

[6] Losen, *supra* note 2 at 36.

[7] *Id*. at 35.

[8] Shabnam Javdani, *Policing Education: An Empirical Review of the Challenges and Impact of the Work of School Police Officers*, 63 AM. J. OF CMTY. PSYCH. 253, 260 (2019), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6597313/.

[9] Jennifer Counts, Kristina N. Randall, Joseph B. Ryan & Antonis Katsiyannis, *School Resource Officers in Public Schools: A National Review*, 41 EDUC. AND TREATMENT OF CHILD. 405, 408 (2018).

[10] Javadani, *supra* note 7 at 261.

Researchers have also found that schools that increased the number of SROs on campus were also more likely to report non-violent crimes[11] and more likely to have students arrested.[12] Some student behaviors that have resulted in school arrests include, cursing, fake burping, documenting bullying, throwing a paper airplane, and being in possession of a children's knife.[13] Unsurprisingly, schools that employed SROs have been found more likely to have a greater number of students enter the criminal justice system than those schools that do not employ SROs.[14] The criminalization of school environments with SROs appears to emanate from the SROs themselves, and not an overall philosophy of the school administration. For example, a recent study showed that 83% of school administrators demonstrated more prevention-based philosophies, focusing on bettering school climate, than the SROs in their schools, who were more punishment oriented.[15]

This overuse of the criminal justice system to address common adolescent behavior is not only disturbing as a matter of justice but also as a matter of a child's educational future, as each interaction with this system significantly increases the chances that child will drop out of school[16] and correlates with increased school exclusion.[17] In fact, a 2018 study of 238 middle and high schools found that schools that employ SROs show greater instances of exclusionary discipline than those that do not.[18] These schools demonstrate increased exclusionary discipline immediately after each addition of SROs and still show this effect 11 months afterwards.[19] Exclusionary discipline, in turn, is correlated with a greater likelihood that the student will experience contacts with the criminal justice system both in the short-term and the long-term.[20] Moreover, schools that accepted a federal grant to employ SROs tend to see a decrease in graduation rates and rates of students enrolling in college.[21]

While these harms are significant, they are felt even more acutely by students of color. In fact, "higher security [i]s associated with having more Black students."[22] And, while schools with greater police presence are generally likely to experience higher suspension rates, Black and Latine students face even higher risk of such school exclusion.[23] For example, according the U.S.

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[11] Nathan James & Gail McCallion, CONG. RSCH. SERV., R43126, SCHOOL RESOURCE OFFICERS: LAW ENFORCEMENT OFFICERS IN SCHOOLS 22 (2013), https://fas.org/sgp/crs/misc/R43126.pdf.

[12] Gottredson, *supra* note 4 at 908.

[13] Whitaker, *supra* note 1 at 23, 56.

[14] Javadani, *supra* note 7 at 262.

[15] Gottredson, *supra* note 4 at 921.

[16] Whitaker, *supra* note 1 at 24.

[17] James, *supra* note 10 at 26.

[18] Javadani, *supra* note 7 at 263.

[19] Gottredson, *supra* note 4 at 927.

[20] *Id*. at 909.

[21] *Id*. at 930.

[22] Losen, *supra* note 2 at 35.

[23] *Id.*

Department of Education, Black students are 2.6 more times likely to be suspended than White students.[24] As a result, these students are facing a disproportionate risk of losing time to learn in the classroom. In fact, research has specifically found that a higher security staff-to-student ratio is correlated with Black students' increased lost instruction.[25] This is, unfortunately, not surprising when we consider all of the stories and data that suggest law enforcement officers tend to engage in racial profiling.[26]

And, for students of color, this does not just mean a decreased opportunity to learn in the classroom, though that in itself should be enough. It also means an increased chance of violence against them, as we have seen from videos around the country that show law enforcement officers in schools body-slamming and handcuffing children of color for minor misconduct.[27] In fact, SROs in schools that have a majority of students of color are more likely than SROs in predominately White schools to be focused on school discipline.[28]

These factors together have led to the reality that "[s]tudents of color are more likely to go to a school with a law enforcement officer, more likely to be referred to law enforcement, and more likely to be arrested at school."[29] For example, Black students are three times more likely to be arrested than White students. Black girls, specifically, were five times more likely to be arrested than White girls. Native American and Pacific Island/Native Hawaiian students are two times more likely to be arrested than White students. Latine students are 1.3 times more likely to be arrested than White students.[30] This disproportionate effect is even greater for Black and Latino boys with disabilities who make up only 3% of the national student population but account for 12% of nationwide student arrests.[31]

Finally, policing our schools as we currently do likely traumatizes youth of color and makes it more likely that they will engage in delinquent behavior. A study on the effects of police interactions on adolescents found that youth with more exposure to law enforcement officials report more emotional distress after each interaction.[32] For Black and Latine youth, this trauma is particularly aggravated if the encounter took place in public due to feelings of "embarrassment" and "stigmatization."[33] Similarly, African American youth who live in

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[24] Javadani, *supra* note 7 at 254.

[25] Losen, *supra* note 2 at 33.

[26] *Id*. at 35.

[27] *Id*.

[28] Whitaker, *supra* note 1 at 7.

[29] *Id*.

[30] *Id*. at 24.

[31] *Id*. at 30.

[32] *See* Dylan B. Jackson et. al, *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 Journal of Adolescent Health 627, 629,

[33] *Id.*; Dylan B. Jackson et. al, *Low self-control and the adolescent police stop: Intrusiveness, emotional response, and psychological well-being*, 66 Journal of Criminal Justice, 2020, at 1, 8.

neighborhoods with a greater police presence report more trauma and anxiety symptoms.[34] The severity of these symptoms is associated with the number and intrusiveness of their interactions with police.[35] Young Black males living in highly-policed areas who have watched friends, family members, or even complete strangers get searched by police officers report symptoms consistent with secondary trauma.[36] Further studies have found that these feelings of fear, embarrassment, and helplessness affect how young people develop into young adulthood; injuring their self-concept and permanently damaging their trust in law enforcement.[37] This trauma from over-policing appears to have criminogenic effects and is associated with higher rates of delinquency after encounters with police.[38] We cannot knowingly continue to create an environment that produces such harms and sets them so significantly on the shoulders of students of color.

The Policing of District Youth

During the 2018-19 school year, 338 students were arrested in DC schools.[39] This accounted for approximately 15% of all arrests of youth in the District during that time period.[40] Of the 338 arrests, 312 arrests were of Black students and 26 were Hispanic/Latino.[41] Zero were white.[42] Unfortunately, while I do not have the exact data, my understanding is that a substantial percentage of the arrests in schools were for simple assault and custody order/release violations.[43]

Our youth in the District are policed in school on three levels. First and foremost, youth are policed in schools by traditional law enforcement officers, including MPD's patrol bureau officers, MPD detectives, and Metropolitan Transit Police Officers. Indeed, MPD's patrol

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[34] Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 Am. Journal of Pub. Health 2321, 2324 (2014).

[35] *Id.*

[36] Nikki Jones, "The Regular Routine": Proactive Policing and Adolescent Development Among Young, Poor Black Men, *in* Pathways to Adulthood for disconnected young men in low-income communities. New Directions in Child and Adolescent Development, 33, 45 (K. Roy & N. Jones 2014).

[37] Jones, *supra* at 52.

[38] *See* Juan Del Toro et al., *The Criminogenic and Psychological Effects of Police Stops on Adolescent black and Latino Boys*, 116 PNAS, 8261 (2019) (finding that adolescent black and Latino boys who were stopped by police reported more frequent engagement in delinquent behavior six, twelve, and eighteen months later than boys who were not stopped by the police independent of prior delinquency).

[39] *2019 DC School Report Card and Star Framework Cross-Tabulated Data File*, DC SCHOOL REPORT CARD, at https://osse.dc.gov/page/dc-school-report-card-resource-library (last visited Oct. 18, 2020).

[40] *See Biannual Reports on Juvenile Arrests*, Metropolitan Police Department, at https://mpdc.dc.gov/page/biannual-reports-juvenile-arrests (reporting 2226 juvenile arrests between September 2018 and June 2019).

[41] *2019 DC School Report Card and Star Framework Cross-Tabulated Data File*, DC SCHOOL REPORT CARD, at https://osse.dc.gov/page/dc-school-report-card-resource-library (last visited Oct. 18, 2020).

[42] *Id.*

[43] A breakdown of the reasons for the arrests should be requested from MPD and/or the Office of the State Superintendent for Education.

bureau "takes the lead in safeguarding students outside the schools, and provide support in combating truancy and ensuring the safe travel of students to and from school."[44] In addition, detectives and officers from both MPD and MTPD regularly arrest students in school for custody orders or offenses that allegedly happened off-campus.

Second, our students are policed by MPD's Schools Safety Division. According to MPD, "[t]he School Safety Division (SSD) [] coordinates MPD resources related to school safety. These resources include the deployment of contract security guards at DCPS, and School Resource Officers [(SROs)] working with DCPS and DC Public Charter Schools. The SSD coordinates with the Patrol Services Bureau in the Department along with government agencies and community interests in the city."[45] During the 2019-2020 school year, SROs were deployed to a combination of "short beats and clusters." Short beats consisted of "no more than four schools with a deployment of up to four SROs" and "[t]he remaining schools in each district will be in a cluster with SROs who will check in daily with these schools and provide safety support."[46]

Third, our students are policed by security guards within DCPS buildings themselves. "Security Officers (SOs) work for DCPS and MPD through a contract. These Contract officers (also known as contracted security guards) are school-based and support the school principal and staff to ensure the safety of all students."[47] Security officer responsibilities include: welcoming individuals to DCPS facilities; conducting entrance screenings for individuals and guests; conducting security patrols within the building; provide security coverage at school-based events; prepare incident reports; and some have the ability to detain youth as well.[48]

Policing our schools using contract security and MPD SROs come with a significant price tag. The MPD School Safety Division requested $36.7 million for Fiscal Year 2021. The $23.4 million requested to spend on contract guards could instead hire 212 social workers or psychologists; the $13.2 million requested to pay for SROs could pay for 119 social workers or psychologists.[49] While the DC Council ultimately shifted the control, management, and full budget of the security contract back to DCPS,[50] the Council still approved a budget of nearly $14

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[44] METRO. POLICE DEP'T., SCHOOL SAFETY AND SECURITY IN THE DISTRICT OF COLUMBIA 2 (2020) https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/MPD%20School%20Safety%20Annual%20Report_School%20Year%202019-2020%20Final.pdf [hereinafter 2019-2020 MPD SCHOOL SAFETY REPORT].

[45] *Id.* at 1.

[46] *Id*. at 2.

[47] D.C. PUBLIC SCHOOLS, RESPONSES TO FY2019 PERFORMANCE OVERSIGHT QUESTIONS, Q11, *available at* https://dccouncil.us/wp-content/uploads/2020/02/dcps_Part1.pdf.

[48] *Id*.

[49] Assuming a psychologist and social worker salary of $110,891/year. D.C. PUBLIC SCHOOLS, RESPONSES TO FY2019 BUDGET OVERSIGHT QUESTIONS, Q12.

[50] Council of the District of Columbia Press Release, Lengthy but Productive Meeting Leads to Unanimous Progress on Budget, Police Reform, Hospital, Local Business Aid, July 8, 2020, *available at* https://dccouncil.us/lengthy-but-productive-meeting-leads-to-unanimous-progress-on-budget-police-reform-hospital-local-business-aid/.

million dollars for the School Safety Division.[51] This budget is meant to support 127 FTEs in the Division for FY2021, which represents an increase from 24.7 in FY2019 and 110 in FY2020.[52] Further, this increase comes despite the fact that MPD is no longer responsible for managing the security contract for DCPS and the absence of evidence that a floating patrol of school resource officers makes youth or schools safer.

The Need for Sanctuary

Youth in the District experience high rates of trauma without even factoring in the trauma they experience from being over-policed. In 2016, 25.3% of youth ages 0–17 in the District had experienced at least one traumatic event in their lifetimes, and 21.8% had experienced two or more traumatic events in their lifetimes.[53] For example, 9.4% of youth in the District had witnessed or been a victim of neighborhood violence,[54] 9.2% had a parent that was either currently or formerly incarcerated,[55] and 5.6% had witnessed domestic violence.[56]

Moreover, school can often be a site of trauma and fear for many students. In 2019, 9.4% of DCPS and public charter high school students[57] and 15% of middle school students reported they had skipped one or more days of school because they felt unsafe.[58] In 2016, 25.3% of youth

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[51] Metropolitan Police Department, FY2021 Approved Budget, at https://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/fa_mpd_chapter_2021a.pdf.

[52] *Id*.

[53] *Indicator 6.13: Has this child experienced one or more adverse childhood experiences from the list of 9 ACEs?*, DATA RESOURCE CTR. FOR CHILD & ADOLESCENT HEALTH, https://www.childhealthdata.org/browse/survey/results?q=5150&r=10 (last visited Oct. 16, 2020).

A "traumatic event" is fully defined as one of the nine following Adverse Childhood Experiences: 1) Experiencing economic hardship; 2) experiencing a parental divorce or separation; 3) living with someone who had an alcohol or drug problem; 4) being a victim of neighborhood violence or witnessing neighborhood violence; 5) living with someone who was mentally ill, suicidal, or severely depressed; 6) witnessing domestic violence; 7) having a parent who was currently or formerly incarcerated; 8) being treated or judged unfairly due to one's race or ethnicity; and 9) experiencing the death of a parent.

[54] *To the best of your knowledge, has this child ever experienced the following: was a victim of violence or witnessed violence in neighborhood?*, DATA RESOURCE CTR. FOR CHILD & ADOLESCENT HEALTH, https://www.childhealthdata.org/browse/survey/results?q=5155&r=10 (last visited Oct. 16, 2020).

[55] *To the best of your knowledge, has this child ever experienced the following: parent or guardian served time in jail?*, DATA RESOURCE CTR. FOR CHILD & ADOLESCENT HEALTH, https://www.childhealthdata.org/browse/survey/results?q=5153&r=10 (last visited Oct. 16, 2020).

[56] *To the best of your knowledge, has this child ever experienced the following: saw or heard parents or adults slap, hit, kick, punch one another in the home?*, DATA RESOURCE CTR. FOR CHILD & ADOLESCENT HEALTH, https://www.childhealthdata.org/browse/survey/results?q=5154&r=10 (last visited Oct. 16, 2020).

[57] D.C. OFFICE OF THE STATE SUPERINTENDENT OF EDUC., 2019 YOUTH RISK BEHAVIOR SURVEY RESULTS: HIGH SCHOOL SURVEY 5 (2020) https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2019DCBH%20Summary%20Tables.pdf (last visited October 16, 2020) [hereinafter YRBS HIGH SCHOOL RESULTS].

[58] D.C. OFFICE OF THE STATE SUPERINTENDENT OF EDUC., 2019 YOUTH RISK BEHAVIOR SURVEY RESULTS: MIDDLE SCHOOL 44 (2020)

under 18 years old in DC had experienced at least one traumatic event in their lifetime.[59] Given that schools have contact with most students every day, schools have the potential to transform and play an impactful and positive role in creating real safety in school and supporting students who have experienced trauma.

Research has shown that experiencing trauma can change the structure and function of a person's brain.[60] Experiencing trauma can also cause the overproduction of the hormones adrenalin and cortisol.[61] These hormones can inhibit typical youth cognition, memory, learning, and overall development. They can also make it more difficult for students to get along with their peers. All of this can negatively impact a student's ability to learn and succeed at school, both in the classroom and in the larger social environment.

However, schools have the potential to play an impactful and positive role in supporting students who have experienced trauma and alleviating some of trauma's negative effects. Given that schools have contact with most students every day, providing resources at schools to combat the negative effects of trauma can be more convenient and effective than connecting students to clinics or other community-based services.[62] Maintaining a positive school climate that fosters caring, compassionate, and trusting relationships between staff and students is crucial to supporting students who have experienced trauma.[63] Unfortunately, in 2019 28.8% of high school students[64] and 31% of middle school students[65] in the District reported that they did not feel they could talk to a single teacher or other adult in their school about their problems.

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https://osse.dc.gov/sites/default/files/dc/sites/osse/page_content/attachments/2019DCBM%20Summary%20Tables.pdf (last visited October 16, 2020) [hereinafter YRBS MIDDLE SCHOOL RESULTS].

[59] *Indicator 6.13: Has this child experienced one or more adverse childhood experiences from the list of 9 ACEs?*, DATA RESOURCE CTR. FOR CHILD & ADOLESCENT HEALTH, https://www.childhealthdata.org/browse/survey/results?q=5150&r=10 (last visited Oct. 16, 2020).

A "traumatic event" is fully defined as one of the nine following Adverse Childhood Experiences: 1) Experiencing economic hardship; 2) experiencing a parental divorce or separation; 3) living with someone who had an alcohol or drug problem; 4) being a victim of neighborhood violence or witnessing neighborhood violence; 5) living with someone who was mentally ill, suicidal, or severely depressed; 6) witnessing domestic violence; 7) having a parent who was currently or formerly incarcerated; 8) being treated or judged unfairly due to one's race or ethnicity; and 9) experiencing the death of a parent.

[60] *See* Sarah Peterson, *Effects*, THE NAT'L CHILD TRAUMATIC STRESS NETWORK, https://www.nctsn.org/what-is-child-trauma/trauma-types/complex-trauma/effects (last visited Oct 16, 2020).

[61] Eric Rossen & Katherine Cowan, *The Role of Schools in Supporting Traumatized Students*, PRINCIPAL'S RESEARCH REVIEW Nov. 2013, at 4–5, https://cqrcengage.com/naspweb/file/YEfwxfQ75YH/prr_nov13_trauma_sensitive_schools.pdf.

[62] Yunsoo Park, *When Students Don't Feel Safe In The Neighborhood: How Can Schools Help?*, D.C. Policy Center (March 3, 2020), https://www.dcpolicycenter.org/publications/mental-health-supports/.

[63] Rossen & Cowan, *supra* note 11, at 7.

[64] YRBS HIGH SCHOOL RESULTS at 104.

[65] YRBS MIDDLE SCHOOL RESULTS at 58.

Recommendations

As a result, DC schools must be a sanctuary for students. To that end, DC should: 1) prohibit the arrest of youth in schools for non-school based offenses or custody orders; 2) prohibit the interviewing or interrogation of youth in schools; 3) eliminate the MPD School Safety Division;[66] 4) prohibit youth and adults from carrying firearms in schools;[67] and 5) implement non-law-enforcement-driven crisis response and safe passage systems.

B. Treat Kids as Kids: Decriminalizing Youth Behavior

In order to reduce the oversized footprint that police have in the lives of DC youth, the District of Columbia also should revisit the manner in which it has criminalized adolescent behavior.[68] For example, youth can be charged in DC with being a person in need of supervision for status offenses – behaviors such as truancy or running away from home that are only unlawful because of the age of the person engaged in such behavior.[69] These offenses bring children into the juvenile legal system as a result of issues that do not have a direct connection to public safety and are more productively and effectively addressed within schools, families, and communities.

In addition, certain offenses – for example, threats, disorderly conduct, loitering, etc. – too often criminalize hallmark characteristics of normative adolescent development, such as emotional speech, impulsivity, high energy, and the seeking of social groups. Indeed, too often youth are stopped or arrested by police for such behaviors despite the lack of any criminal intent behind the behavior.[70] As a result, decriminalizing certain offenses for youth should reduce unnecessary (and often unjust) contact with the police and juvenile legal system.

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[66] Currently, the District spends at least $14 million on MPD's School Security Division. This division should be eliminated and the money saved should be reinvested directly in youth and families.

[67] Specifically, officers of all types should disarm prior to stepping foot on a school campus unless they are specifically responding to the *very rare* report of a shooting or armed individual on campus. See David Ropeik. *School Shootings are Extraordinarily Rare. Why is Fear of Them Driving Policy?* Washington Post. (March 8, 2018). *Available at*: https://www.washingtonpost.com/outlook/school-shootings-are-extraordinarily-rare-why-is-fear-of-them-driving-policy/2018/03/08/f4ead9f2-2247-11e8-94da-ebf9d112159c_story.html (finding that the statistical likelihood of any given public school student being killed by a gun, in school, on any given day since 1999 was roughly 1 in 614,000,000).

[68] *See* District of Columbia Juvenile Justice Advisory Group Recommendation to Mayor Bowser: *Create New Opportunities for "Persons in Need of Supervision" (PINS) to Succeed without Legal Intervention*, February 21, 2020, https://ovsjg.dc.gov/sites/default/files/dc/sites/ovsjg/service_content/attachments/JJAG%20PINS%20Alternatives%20Report%20February%202020.pdf.

[69] *Id*.

[70] Analysis of the most recent stop-and-frisk data released by the Metropolitan Police Department (MPD) revealed that of the people under 18 who were stopped by police in the District, Black youths made up 89 percent and were stopped at 10 times the rate of their white peers. *See* ACLU-DC, RACIAL DISPARITIES IN STOPS BY THE D.C. METROPOLITAN POLICE DEPARTMENT: REVIEW OF FIVE MONTHS OF DATA, *at* https://www.acludc.org/sites/default/files/2020_06_15_aclu_stops_report_final.pdf.

II. Ensuring Developmentally Appropriate Policing

Second, in addition to reducing the footprint of policing in the lives of our children in the District, our laws must also reflect the reality that kids are different from adults in ways that must guide the manner in which youth are policed. This is especially true when police officers are asking youth to waive their constitutional rights. As such, we must reform our laws to provide youth more than just the bare minimum constitutional protections, particularly when it comes to youth waiving their rights under the Fourth and Fifth Amendments.

A. Abolishing Consent Searches for Youth

DC's approach to "consent" searches of youth is not developmentally appropriate. It fails youth by treating them as if they are the same as adults, which they are not. Adolescents are more impulsive, sensation-seeking, likely to make decisions based on "immediate" gains rather than "long-term" consequences, and susceptible to peer pressure than adults.[71] Youth are also less aware of their legal rights.[72]

Additionally, DC's current policy does not account for the personal and cultural context for DC youth, especially Black youth. Black youth – who are grossly overrepresented in DC's juvenile legal system[73] – living in over-policed areas often feel compelled to consent to searches based on their own personal, often traumatic, experiences with law enforcement and the historical experiences of police violence against Black people in DC.[74] They have essentially been conditioned to "consent" without even being asked; when they see an officer, youth lift up their shirts and to display their waistbands unprompted to avoid harassment by the police.[75]

The current legal framework for "consent" is a constitutional floor. DC can and should

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[71] *See J.D.B.*, 564 U.S. at 273; Laurence Steinberg et al., *Are Adolescents Less Mature than Adults? Minors' Access to Abortion, the Juvenile Death Penalty, and the Alleged APA "Flip-Flop'*, 64 AM. PSYCHOL. 583, 592 (2009).

[72] Kristin Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 67 Am. U. L. Rev. 1513, 1536-1537 (2018).

[73] Rights4Girls & Georgetown Juvenile Justice Initiative, *Beyond the Walls: A Look at Girls in DC's Juvenile Justice System*, 30 (March 2018), https://rights4girls.org/wp/wp-content/uploads/r4g/2018/03/BeyondTheWalls-Final.pdf.

[74] *See* Dylan B. Jackson et. al, *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 Journal of Adolescent Health 627, 629; Dylan B. Jackson et. al, *Low self-control and the adolescent police stop: Intrusiveness, emotional response, and psychological well-being*, 66 Journal of Criminal Justice, 2020, at 1, 8; Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 Am. Journal of Pub. Health 2321, 2324 (2014); Nikki Jones, "The Regular Routine": Proactive Policing and Adolescent Development Among Young, Poor Black Men, *in* Pathways to Adulthood for disconnected young men in low-income communities. New Directions in Child and Adolescent Development, 33, 45 (K. Roy & N. Jones 2014); B.M. Tynes et al., Race-Related Traumatic Events Online and Mental Health Among Adolescents of Color, 65 Journal of Adolescent Health 371, 376 (2019).

[75] *See, e.g.* Sam Sanders & Kenya Young, A Black Mother Reflects On Giving Her 3 Sons 'The Talk' ... Again And Again, NATIONAL PUBLIC RADIO (June 28, 2020), https://www.npr.org/2020/06/28/882383372/a-black-mother-reflects-on-giving-her-3-sons-the-talk-again-and-again; *United States v. Gibson*, 366 F. Supp. 3d 14, 21 n.4 (D.D.C. 2018) "the MPD's rolling roadblock practice is so prevalent in the District of Columbia that individuals living in high-crime neighborhoods sometimes show MPD officers their waistbands 'without [MPD officers] even saying anything." (citation and internal quotation marks omitted).

implement a consent search policy which is developmentally appropriate and adequately protects youth from police coercion. The law in DC should be changed so that the fruits of a search are *inadmissible* in any criminal or delinquency proceedings if seized when: (1) the subject of the search is a youth under 18 years old; (2) the justification for the search by sworn members of a DC law enforcement agency is consent; and (3) the search is not executed pursuant to a warrant or another exception to the warrant requirement. This new exclusionary rule would apply even when law enforcement officers did not know the age of the individual when they were searched. Significantly disincentivizing consent searches by making their fruits inadmissible in court will hopefully reduce the harassment youth face on the streets and the trauma they experience as a result of that harassment.

B. Requiring Counsel Before *Miranda* Waivers

Similarly, the *Miranda* doctrine represents the minimum of what is required under the Constitution to advise a child of their rights, but that does not make it sound policy. For instance, due to their psychosocial immaturity, among other things, young people as a class are far less equipped than adults to waive their *Miranda* rights.[76] Additionally, some adolescents who are questioned by DC police lack the cognitive ability to even understand *Miranda* warnings.[77] Finally, just as the backdrop of police violence against Black people in DC undermines the ability of youth to give meaningful consent for searches, it also creates a powerful force undermining the voluntariness of any waiver Black youths may make.[78] They may waive their *Miranda* rights just to get out of the interrogation room. In this respect, for Black youth *Miranda* warnings do not serve as an effective deterrent against the coerciveness of police interrogation.

As such, DC's policy of police interrogations of youth must also be reformed. The law in DC should be changed so that statements made by youth under 18 during custodial interrogation are inadmissible *unless*: (1) they are read their *Miranda* rights by a law enforcement officer in a developmentally appropriate way; (2) they 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.[79] A more mature *Miranda* doctrine for youths in DC that includes the right to counsel before they make a waiver decision preserves the rights of children, cuts down on coerced confessions, and protects the purpose that animated *Miranda* in the first place.[80]

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[76] Thomas Grisso, *Adolescents' Decision Making: A Developmental Perspective on Constitutional Provisions in Delinquency Cases*, 32 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 3, 10 (2006).

[77] *See* Kerstin Konrad, et al., *Brain Development During Adolescence*, 110(25) DEUTSCHES ARZTEBLATT INT'L 425, 426–27.

[78] Kristin Henning & Rebba Omer, *Vulnerable and Valued: Protecting Youth from the Perils of Custodial Interrogation*, 52 ARIZ. STATE L. J. ___ (forthcoming December 2020).

[79] Katrina Jackson & Alexis Mayer, Demanding a More Mature Miranda for Kids, D.C. Justice Lab & Georgetown Juvenile Justice Initiative, at bit.ly/mature-miranda.

[80] Jodi L. Viljoen & Ronald Roesch, *Competence to Waive Interrogation Rights and Adjudicative Competence in Adolescent Defendants: Cognitive Development, Attorney Contact, and Psychological Symptoms*, 29(6) LAW AND HUMAN BEHAVIOR 723, 737 (2005).

III. We need to build up our youth not perpetuate a false narrative about them

Third, we need to stop perpetuating the dangerous, false, and too-often-racialized narrative that our youth need to be policed. Most recently, this narrative has taken the form of reporting on the increase in car-related offenses during the pandemic both in DC and nationally and the speculation that youth are the driving force behind this trend. The District generally, and particularly MPD, should be doing more to not only undermine this narrative but support the narrative that our young people need us to "love them, not harm them" as the young people from Black Swan Academy so powerfully remind us.

Car-related offenses do appear to be up over the last 12 months and both adult and youth arrests related to car-related offenses appear to be up as well over the 12 months. However, there does not appear to be sufficient data at this point, at least not data that is publicly reported, to make any conclusions with respect to whether this is more than a short-term pandemic related trend or a longer-term trend, or whether youth are actually driving the increase, and if so, to what extent, as has been reported in the press. A number of unsupported assumptions have to be made in order to make such conclusions at this point.[81] For instance, clearance rates for these types of offenses are relatively low. In FY18, MPD reported clearance rates of 36% for robbery (the category of offense that should include carjackings) and 5.3% for motor vehicle theft.[82] Without a more robust closure rate, it is very difficult to conclude that youth are driving the increase in incidents as opposed to just being more likely to than adults to be arrested for the alleged offense.

More importantly though, focusing on a one-year increase in youth arrests for a few particular categories of offenses ignores the larger context, which shows that youth arrests overall have fallen dramatically over the last 10 years, in favor of reinforcing the harmful narrative that our youth are dangerous. Between 2009 and 2019, youth arrests in the District decreased 32%, from 4086 arrests to 2759 arrest.[83] During 2020 alone, youth arrests in the District decreased an additional 44%, from 2759 to 1534 arrests.[84] This one-year decline was primarily driven by the fact that youth arrests dropped in almost category not related to cars. For instance, youth arrests for robbery dropped from 398 to 188, simple assault from 429 to 147, and shoplifting from 27 to 2 YoY.[85] Additionally, youth arrests in 2020 for Unauthorized Use of a Vehicle (UUV) are still far below previous levels of UUV arrests (506 youth arrests for UUV in 2007 – the recent peak in reviewed data). We have to be more complete, more nuanced, and more honest about how we discuss crime trends related to youth and we need to be

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[81] John Roman, formerly of the Urban Institute and now with the University of Chicago, provides a powerful critique of the coverage. https://twitter.com/JohnKRoman/status/1365252896477110272.

[82] METROPOLITAN POLICE DEPARTMENT, RESPONSES TO FY2019 PERFORMANCE OVERSIGHT QUESTIONS, Q24, Attachment 1, 389-90.

[83] Data retrieved from MPD's Annual Reports, available at https://mpdc.dc.gov/page/mpd-annual-reports.

[84] Data retrieved from MPD's Biannual Reports on Juvenile Arrests, *available at* https://mpdc.dc.gov/page/biannual-reports-juvenile-arrests.

[85] *Id*.

particularly careful about reinforcing false and harmful narratives about our youth. MPD can and should be a leader in this space.

We also need to be better about highlighting how strong, how powerful, and how resilient our youth are. Last year, CJCC published a thoughtful analysis of the root causes and symptoms of delinquency in the District of Columbia. One of the most powerful and important findings of the report is how incredibly resilient our young people are. For instance, based on a review of data regarding system-involved and non-system involved youth, the report identified the characteristics of young people most at-risk of system involvement based on their experiences. Nearly 90% of the youth in this risk quartile were on Medicaid; 21.5% used TANF; 47% reported neglect; 17.6% reported abuse; over 10% experienced homelessness; and nearly 10% had been removed from their homes, among other challenges including educational disabilities, school pushout, and behavioral health needs. Yet the vast majority of the young people in this risk quartile – nearly 86% – were not system-involved despite these formidable challenges. Let me be clear – our youth should not have to be heroes to survive childhood in the District – but there is so much strength, potential, and power in our youth that we have yet to tap into as a District. Our narrative should shift to that and our policies and practices must follow. I implore the Council to adopt the recommendations that I and others have made with respect to MPD to shift our focus away from policing our youth to building upon their resilience, strength, and power.

TESTIMONY OF GEOFF RANKIN, CEO
CONGRESSIONAL AVIATION

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

Fiscal Year 2021 Performance Oversight Hearing
on the Metropolitan Police Department

March 11, 2021
9 am

Good morning Chair Allen, members of the Committee on the Judiciary and Public Safety, and staff. Thank you for the opportunity to testify at this Fiscal Year 2021 performance oversight hearing for the Metropolitan Police Department ("MPD"). My name is Geoff Rankin, and I am CEO of Congressional Aviation and managing partner of South Capitol Street Heliport. I am also a Ward 7 resident.

Congressional Aviation operates the South Capitol Street Heliport, which for more than 20 years has been the District's only public use airfield that supports critical emergency services, including MPD and several District hospitals, such as Children's National Hospital. I am testifying today to update the Committee on the urgent need for the District to secure the relocation of the heliport to an appropriate site within the coming months to ensure that there is no interruption for MPD or other District emergency services.

The South Capitol Street Heliport is located near the foot of the Frederick Douglass Memorial Bridge on the west side of the Anacostia River. The facility serves the District's emergency, rapid response, and life support systems. It is the home of MPD's Falcon Air Support Unit, which provides vital support to MPD's operations and supports MPD's Special Operations Division. The heliport also serves Children's National Hospital's SkyBear emergency transport

service so that it can quickly respond to as many calls as possible and save children's lives, in the District and beyond. Our facility has decades of experience operating emergency infrastructure within the District's highly restricted airspace. From the terrorist attacks of September 11, 2001 to the insurrection at the Capitol on January 6, 2021, we have been a critical element of the District's emergency preparedness.

While the heliport serves an important function for MPD and the public, it is located on privately-owned land. We operate the heliport through a lease with the private landowner. However, this lease will expire in February 2022, and the site is expected to be redeveloped for another use. As a result, it is urgent that the District take firm steps now toward relocating the heliport to prevent any lapse in the District's emergency infrastructure.

To prepare for this transition, since 2018, we have been working diligently with District agencies on securing a new location for Congressional Aviation to construct a heliport on District-owned land. Given requirements, there are limited viable sites for the facility. It must be located on the District's primary helicopter route along the Anacostia River. It also must be centrally located and have direct access to the west side of the Anacostia, either by being on the west side of the river or on the eastern bank.

Working with the Department of General Services ("DGS"), Congressional Aviation has identified several sites that meet these requirements. In early 2020, we submitted a proposal to DGS. The COVID-19 public health emergency began soon afterward, and progress stalled. However, I am pleased to say that this month, DGS has become reengaged, and Congressional Aviation is committed to working with the agency on securing a new location as quickly as possible so that the District does not go without this critical emergency infrastructure.

With MPD's current heliport in its final 12 months, we are asking for the Committee's

assistance in helping us work with MPD, DGS, and other key agencies on relocating the facility in a way that works for the entire city. We are a Ward 7-resident-, minority-owned business with a shovel-ready essential infrastructure project to support MPD, Children's National Hospital, and other emergency services. We stand ready to work with you, MPD, and the rest of the District government to identify a path forward for this necessary project for economic development, public safety, and emergency response.

I greatly appreciate the opportunity to testify and am happy to answer any questions you may have.

TESTIMONY OF BRYAN PETERSON, REGIONAL MANAGER
STAT MedEvac

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

Fiscal Year 2021 Performance Oversight Hearing on the Metropolitan Police Department

March 11, 2021
9 am

Good morning Chair Allen, members of the Committee on the Judiciary and Public Safety, and staff. Thank you for the opportunity to testify at this Fiscal Year 2021 performance oversight hearing for the Metropolitan Police Department ("MPD"). My name is Bryan Peterson, and I am a Regional Manager for STATMedEvac. STAT MedEvac is one of the largest single operated and dispatched air-medical transports systems in the United States, with 18 helicopter bases in Ohio, New York, and Pennsylvania, and in the District of Columbia. Here we are proud to base STAT MedEvac 18, commonly known as SkyBear, at Children's National Hospital ("Children's") in Ward 5. Since our arrival in the District, we have relied on a key component of MPD's infrastructure to help provide the SkyBear ambulance service: the South Capitol Street Heliport. This facility is the base for MPD's Falcon Air Support Unit. I am testifying today about the importance of having a heliport in the District for us to serve Children's, and to urge the District government to do everything that it can to relocate the facility so that there is no interruption to vital lifesaving operations when the current heliport's lease ends next year.

For more than a decade, STAT MedEvac has partnered with Children's to arrange and coordinate the operation of the SkyBear ambulance service. Our Children's base averages more

than 600 patient transports per year, primarily for immediate care at Children's, and some as part of our partnership with the George Washington University Hospital. Children's is the only hospital in the entire D.C. area with a rapid air transport system exclusively for children, from newborns to adolescents. SkyBear flight teams are trained and equipped specifically to provide critical pediatric care during transport and strive for the fastest response times to emergencies at any time of day. In short, we work with Children's to provide a critical lifesaving emergency service that is the only one of its kind, not just in the District, but in the entire metropolitan areas.

A major reason we are able to serve D.C. hospitals so effectively is our partnership with the South Capitol Street Heliport. It provides 24-hour fuel service within the District, which minimizes our time out of service and maximizes our ability to respond rapidly to multiple requests. It also enables D.C. hospitals to accommodate multiple patient flights in a short period of time by providing a location for helicopters to reposition after dropping off a patient, freeing up a hospital helipad for the next patient. And, since the heliport is centrally located directly on the Anacostia River, we can easily access the hangar from our base at Children's by ground for maintenance or transporting the helicopter in the event of severe weather or the bridges being required to close.

We understand that the South Capitol Street Heliport's current lease is going to expire in a year, and that the site is going to be redeveloped. Without another adequate facility to replace it, our ability to effectively serve D.C. hospitals will be undermined. We are pleased that Congressional Aviation has recognized the urgency and has been working with the District government on a solution for several years. With the groundwork that Congressional Aviation has done to study and identify viable new sites and develop a proposal, we strongly support the District government working with them to finalize the relocation of this important lifesaving

facility, not only for MPD, but also so that we can continue to effectively serve D.C. hospitals and respond to emergencies rapidly.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.

TESTIMONY OF ANDREW GAPPY

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY

Fiscal Year 2021 Performance Oversight Hearing
on the Metropolitan Police Department

March 11, 2021
9 am

Good afternoon Chair Allen, members of the Committee on the Judiciary and Public Safety, and staff. Thank you for the opportunity to testify at this Fiscal Year 2021 performance oversight hearing for the Metropolitan Police Department ("MPD"). My name is Andrew Gappy, and I am testifying today about the need for the District to work quickly to relocate the home of MPD's Falcon Air Support Unit—the South Capitol Street Heliport managed and operated by Congressional Aviation—so that there is no interruption to this vital part of the District's safety and emergency response infrastructure when the current lease expires next year.

I am testifying in my individual capacity as an aviation professional with 30 years of experience, including almost 20 years as a helicopter pilot with the United States Marines, in which I served as a Command Pilot for HMX-1 from 1999 to 2003. HMX-1 is responsible for safe helicopter transportation for the president and vice president of the United States of America, and visiting heads of state. More importantly, I was directly involved in the significant changes to Airspace Security implemented in the National Capital Region post-September 11th as an operator at HMX-1, then as a Senior Program Manager at the White House Military Office from 2003-2010. I was a part of the aviation planning for 3 Inaugurations, 8 Joint Session Addresses, and more than 15 National Special Security Events, which we are all very familiar with now after the January 6 Capitol riot. I have been living in the National Capital Region for

24 years and have unfortunately witnessed several other tragic events in the area, such as the Washington Navy Yard mass shooting.

As someone who spent many years planning for almost every flavor of contingency, there are a few consistencies in all these events, whether it's planning or a response:

1. Evacuating the District, specifically the Prohibited Airspace area, is very challenging due to the number of bridges on major roadways.
2. In planning for a contingency, the immediate action, whether it's protect and evacuate or a mass casualty response, you need to get away from the calamity before you can use aviation assets like helicopters.
3. Having a dedicated public use heliport just outside the Prohibited Airspace but on the north and east side of the Potomac River is a huge strategic and tactical advantage, whether it's for medevac support, law enforcement, or government use.
4. Having operated and overseen planning for helicopter operations, Life Flight (medevac) and Law Enforcement are cornerstones to public safety. Any change that makes them less supported and less responsive has a corresponding impact on public safety.

We saw each of these themes play out in response to September 11th, the Navy Yard shooting, and the January 6 Capitol riot.

From this experience, I can say that the South Capitol Street Heliport serves as a one-of-a-kind public safety and emergency function. It is directly on the National Capital Region's primary helicopter routes, established over the rivers to help minimize the air traffic impact. It is also centrally located so that helicopters can access all corners of the city relatively easily and

quickly. For a future heliport to perform this vital response function, it should also be centrally located, directly on the Anacostia River.

As a 24-year resident of the D.C. area, and someone whose family frequently visits the downtown area restaurants, the new Wharf, and of course Nationals Park and Audi Field, I am pleased that Congressional Aviation has been preparing for the need to find a suitable new location to enhance public safety and be available to support the city in times of critical need. At this point, the need is urgent for the District government to take concrete steps toward selecting an appropriate location so that Congressional Aviation can develop the new D.C. heliport. It serves an important citywide function, and we cannot afford any lapse in this critical infrastructure for MPD and other first responders, or worse, degradation of public safety as a result.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.

Statement on behalf of the
American Civil Liberties Union of the District of Columbia
before the
DC Council Committee on Judiciary and Public Safety
Performance Oversight Hearing on the Metropolitan Police Department
Thursday, March 11, 2021
by
Nassim Moshiree, Policy Director

Good afternoon, Councilmember Allen and members of the Committee. My name is Nassim Moshiree, and I am the Policy Director of the American Civil Liberties Union of the District of Columbia (ACLU-DC). I present the following testimony on behalf of our more than 13,500 members who live and vote in the District.

The ACLU-DC is a non-partisan nonprofit committed to working to reverse the tide of overincarceration, safeguard fundamental liberties, eliminate racial disparities, and advocate for sensible, evidence-based criminal justice reforms.

I will focus my testimony today on key takeaways and recommendations from our analysis of MPD's recently released NEAR Act "stop and frisk" data[1], and our report "Protest During Pandemic: D.C. Police Kettling of Racial Justice Demonstrators on Swann Street" ("Swann Street Report")[2] which we released on March 8, 2020 in collaboration with the Washington Lawyers' Committee for Civil Rights and Urban Affairs, and Sidley Austin LLP. What these reports have in common is that they provide insight not only into the practices of MPD, but how the public experiences policing in the District. We offer these reports to inform the government's oversight and police reform efforts.

I. ACLU-DC Analysis of 2020 Near Act Stop Data Reveals Persistent and Stark Racial Disparities in MPD Stops

In June of last year, the ACLU-DC published a report[3] analyzing five months of stop data collected by MPD between July 22, 2019 and December 31, 2019 pursuant to the Neighborhood Engagement Achieves Results Act (NEAR Act). [4] In that analysis we found stark racial disparities

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[1] ACLU Analytics & ACLU of the District of Columbia. "Racial Disparities in Stops by the Metropolitan Police Department: 2020 Data Update. Available at https://www.acludc.org/en/racial-disparities-stops-metropolitan-police-department-2020-data-update.

[2] ACLU of the District of Columbia, Sidley Austin LLP, and Washington Lawyers' Committee for Civil Rights and Urban Affairs. "Protest During Pandemic: D.C. Police Kettling of Racial Justice Demonstrators on Swann Street." March 8, 2021. Available at https://www.acludc.org/sites/default/files/swannstreet-report-final.pdf

[3] ACLU of the District of Columbia and ACLU Analytics. "Racial Disparities in Stops by the D.C. Metropolitan Police Department: Review of Five Months of Data." June 16, 2020. Available at https://www.acludc.org/sites/default/files/2020_06_15_aclu_stops_report_final.pdf.

[4] The D.C. Council passed the Neighborhood Engagement Achieves Results Act in March of 2016, recognizing the importance of a public health approach to crime and violence intervention/prevention. A key provision of the NEAR Act required MPD to collect comprehensive demographic data of its stops. It took over three years for the Department to comply with the NEAR Act requirements and only after being compelled into compliance by court order following a lawsuit by the ACLU-DC, Stop Police Terror Project D.C., and Black Lives Matter D.C. See

in stops and searches conducted by MPD that supported community members' repeated calls greater police accountability and limits on racist, harmful, and ineffective stop practices. Following the ACLU-DC Freedom of Information Act lawsuit for 2020 stop data,[5] MPD finally published data for stops conducted from January 1, 2020 to December 31, 2020.[6]

Our analysis of this data indicates that essentially nothing has changed since 2019—MPD's stop practices continue to be highly ineffective, ultimately amount to racial profiling, and potentially violate the constitutional rights of Black people in the District on a daily basis. [7] In 2020, Black people continued to be the target of the vast majority (74.6%) of all stops conducted by MPD. Black people also continued to endure more intrusive stops, making up over 90.5% of those who experienced a search or pat-down of their person or property, and were the subjects of the majority of stops and searches that resulted in no warning, ticket, or arrest.[8]

The disparities in youth stops also followed 2019 trends. The 2019 data revealed the vast majority (nearly 89%) of youth under 18 who were stopped were Black.[9] The same held true in 2020, during which nearly 89.1% of youth stopped, or 8 out of 9 individuals, were Black. Black youth under 18 in 2020 were stopped at approximately 11.9 times the rate of their white peers and continued to experience significantly more searches. This matches what we regularly hear from Black community members -- their experiences of being treated in their own communities as criminals by police even when they haven't done anything starts at a very young age.

Finally, while we agree that getting illegal guns off the streets is important, MPD's approach of using stops to tackle gun violence has been largely ineffective. The data continue to show that percentage of stops leading to the seizure of a weapon of any kind remains extremely low, and with respect to guns, the numbers are even lower: only 1.0% of all stops and 2.2% of all non-traffic stops led to the recovery of a firearm in 2020.

The ACLU-DC has long supported a public health approach to this epidemic, and of course this was also the intent behind the Council's passage of the NEAR Act. Recently, the Mayor announced the launch of Building Blocks DC and the Gun Violence Prevention Emergency Operations Center (EOC)[10], a new comprehensive program that takes a public health and "whole government" approach to tackling the epidemic of gun violence in the District, recognizing that policing, arrests,

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Black Lives Matter-DC V. Bowser https://www.acludc.org/en/cases/black-lives-matter-dc-v-bowser-enforcing-dc-laws-stop-and-frisk-data-collection-requirement-dc and https://www.acludc.org/en/news/judge-rules-dc-police-violation-near-act-stop-and-frisk-data-collection-requirements.

[5] See "*ACLU-DC v. District Of Columbia* – Challenging D.C. Police's Failure to Release Stop-And-Frisk Data." Available at https://www.acludc.org/en/cases/aclu-dc-v-district-columbia-challenging-dc-polices-failure-release-stop-and-frisk-data.

[6] All MPD NEAR Act stops data released thus far are available at https://mpdc.dc.gov/stopdata.

[7] ACLU Analytics & ACLU of the District of Columbia. "Racial Disparities in Stops by the Metropolitan Police Department: 2020 Data Update. Available at https://www.acludc.org/en/racial-disparities-stops-metropolitan-police-department-2020-data-update

[8] Id.

[9] Id at 3, page 8.

[10] Duggan, P. "D.C. mayor declares gun violence a 'public health crisis,' proposes new solutions." Washington Post, February 17, 2021. Available at https://www.washingtonpost.com/local/public-safety/washington-gun-violence-prevention/2021/02/17/ad5793dc-714a-11eb-85fa-e0ccb3660358_story.html.

and prosecutions have been unsuccessful at solving a problem that requires addressing the root causes of community violence. We're hopeful that the District is on the right path with this program, but as with the NEAR Act before it, it will require significant resources in mental health and trauma services, affordable housing, education, as well as violence interruption efforts, to be successful. As we head into budget season, we hope that this is reflected in the Mayor's and Council's funding priorities.

We urge the Council to adopt policies that not only reduce over-policing of the District's Black and Brown residents, but also increase accountability for officers who abuse their powers. We also have the following recommendations for improving the quality, transparency, and impact of NEAR Act data:

1. **To improve the quality of the data collected, MPD should update its data collection systems**. MPD asks officers to explain the justification for stops and searches by selecting options from a dropdown menu and completing more detailed narratives. The public only sees the options selected from the dropdown menu, which is unfortunate—not only because the fields on that menu are confusing and imprecise, but also because the public can only assess whether stops are justified if they know the facts the officers relied on to make the stops. MPD should either release their internal narratives for each stop after redacting confidential information, or ask officers to put the facts that led to the stop in a separate text box, and save confidential details (e.g. the suspect's name or the name of any informants) for other parts of their internal reports.

2. **To facilitate comprehensive analysis of the criminal justice system in D.C., the District should synchronize its databases.** Police stops are troubling not only because they can be degrading but also because they can lead to excessive force or unnecessary arrests, which in turn can lead to other collateral consequences. Creating a database that links all relevant information about police encounters will allow the community and District leaders to track the story of each stop and understand the big picture of policing in the District. Specifically, for a given incident, the public should be able to view the details about any call for service, the stop, whether force was used, what charges (if any) were filed, and the disposition of any criminal case.

3. **To increase data transparency, the Council should legislate changes to access and reporting requirements of the NEAR Act data.** To increase data transparency and given MPD's consistent failure to comply with the NEAR Act over the past several years, we recommend that an independent oversight body, such as the Office of Police Complaints, have access to MPD's data systems, such that it can access the NEAR Act data as officers enter it. We also recommend that the Council amend the NEAR Act to mandate regular release of this data twice annually on specified dates.

4. **To increase impact of the data on police practices, there should be random audits of MPD's compliance and stop practices.** The ACLU-DC recommends that an independent body, such as the Office of Police Complaints, be tasked with conducting periodic random assessments of the NEAR Act data and corresponding body-worn

camera footage and document and publicize patterns of misconduct, including failure to record information.

II. Protest During Pandemic: the Swann Street Report

Our Swann Street report details the events of June 1, 2020, in which MPD officers used an incredible show of force to kettle and ultimately arrested about 200 individuals who had been protesting police brutality in the wake of the murder of George Floyd. This report is based on interviews with more than 50 individual eyewitnesses, including both protesters and Swann Street residents who viewed the police action from their homes.

As brief background, Mayor Bowser had issued a curfew order for that day that went into effect at 7pm. Earlier in the evening, peaceful demonstrators had been teargassed and forcibly removed by law enforcement from Lafayette Square before President Trump's photo op in front of St. John's Church. Different groups of protesters who continued to march after curfew in the Dupont area were funneled by MPD onto Swann Street between 14th and 15th Streets NW where they were then kettled, detained for hours, pepper-sprayed, handcuffed with zip-ties, and eventually arrested and charged with violating curfew. The following are key questions and recommendations from this report:

1. Why did MPD not issue dispersal orders in its enforcement of curfew instead of responding to peaceful protest with a massive and excessive show of force? The harms inflicted on protesters that night – including lengthy detention in a confined space, being pepper-sprayed in the eyes, and arrests that increased their vulnerability to COVID-19 – arose from MPD's decision to kettle the protesters and arrest them instead of issuing an order for everyone to go home. Protestors reported that they never heard the police give a dispersal order during the time they were marching along city streets; many asked the police for permission to go home once they were kettled on Swann Street, and instead of granting that permission and deescalating the situation, MPD chose to close ranks with riot shields, press the protestors closer together, and arrest them, at times deploying pepper spray to pursue that aim. MPD made that choice, even though, after arresting hundreds of people, they charged each of them with only a simple curfew violation.[11] **The Council should direct MPD to develop guidance that would restrain officers' discretion to arrest individuals for curfew violations, especially in situations when doing so may itself be dangerous. The Council should also amend the First Amendment Assemblies Act to require that police attempt to disperse an unlawful but non-violent assembly before engaging in kettling tactics or arrests.[12]**

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[11] It appears that under MPD's General Order EO-20-011, pertaining to citation release criteria, the protestors were eligible for citation release. See https://go.mpdconline.com/GO/EO_20_011.pdf.

[12] The District's First Amendment Assemblies Act expresses a preference for issuing dispersal orders rather than engaging in mass arrests, embodying the public policy of the District. See D.C. Code § 5-331.07, available at https://code.dccouncil.us/dc/council/code/sections/5-331.07.html#:~:text=%C2%A7%205%E2%80%93331.07.-,Police%20handling%20and%20response%20to%20First%20Amendment%20assemblies.,established%20in%20%C2%A7%205%2D331.03.

2. What efforts did MPD take to verify their evident suspicions that the protests in and around 14th Street could turn violent to before kettling and arresting protesters? Former Police Chief Peter Newsham stated in a press conference on June 3, 2020 that the decision to kettle hundreds of protesters on Swann Street was based in part on a belief that the protesters had lit a police cruiser on fire. No witness interviewed reported observing any burning car, let alone seeing a protester start the fire. Moreover, it is not clear how MPD's assessment that it was necessary to kettle hundreds of protestors can be squared with eyewitness reports that those marching were orderly, non-violent, and (apart from a handful of protestors who threw water bottles) non-disruptive. If police had evidence of demonstrators engaging in violence or property destruction, they would have charged them with such, but the only charge that any of the protesters was cited for was curfew violation. **We urge the Council to inquire into the factual basis of MPD's threat assessment, and into the steps MPD took to confirm its suspicions before kettling and arresting hundreds of individuals. These facts are critical to determining whether changes of law or procedure are warranted to ensure that any decision to conduct mass arrests rests on a firm factual foundation and sound policing judgment.**

3. What precautions should MPD have taken to protect its officers and civilians from COVID-19 when conducting a mass arrest? Many protesters reported that only a handful of MPD officers were wearing masks the night of June 1. Likewise, many protestors reported that MPD officers removed protesters' masks when processing their arrests and that the officers declined to assist the protesters (whose hands were zip-tied) in re-applying their masks or to loosen the zip-ties so that protesters could reposition the masks themselves. Compounding the lack of adequate masks, the vans and buses that MPD used to transport protestors from Swann Street across the District to the Police Academy did not allow for social distancing. And once the protesters arrived at the Police Academy, many were detained in crowded rooms where social distancing was impossible. **Given the enormously serious risks that COVID-19 posed to public health and continues to pose now, it is imperative that when MPD conducts arrests, it does so in a manner that limits the risk of exposure to COVID-19. The Council therefore should examine any existing MPD guidelines for mass arrests, and, as appropriate, should consider requiring MPD to adopt new best practices.**

4. When MPD conducts a mass arrest, what protocols are in place to ensure fair treatment of arrested individuals? Protesters reported being bruised from the zipties, having scrapes and other injuries from being pushed by riot gear, and continuing to have irritated eyes from the pepper spray. Zip-ties or similar disposable restraints are regularly used during mass arrests and their use is governed by the The First Amendment Assemblies Act and other regulations.[13] MPD and the District government more broadly have a responsibility to provide basic provisions to individuals in their care. From the accounts of the protesters, MPD efforts to meet these responsibilities varied wildly amongst the protesters in their custody. Some protesters were held for many hours while zip-tied and without access to a bathroom or water. **The Council should direct that MPD have**

[13] See, e.g., D.C. Code § 5-331.11(b), available at https://code.dccouncil.us/dc/council/code/sections/5-331.11.html#:~:text=(b)%20With%20regard%20to%20any,the%20safety%20of%20officers%20and.

clear protocols in place to ensure that restraints are not abused or tightened to the point where individuals' wrists are bruised and cut, as some protesters reported, including trainings and accountability mechanisms when MPD officers violate their duty to treat arrestees fairly and provide basic provisions.

Finally, a greater number of the protestors we interviewed focused on the emotional effects of the evening. Many described their experience as traumatic, frightening, or humiliating. Protestors also reported that their experiences caused them to further distrust the police. These sentiments are similar to those expressed by D.C. residents who are subject to unjustified police stops, searches, and harassment. We hope that the findings of both our NEAR Act analysis and the Swann Street report can serve as an opportunity for MPD to take a deep look at its policies and practices and make necessary changes.

Conclusion:

The racial justice movement for police reform and divestment from the carceral state has created much-needed momentum in the District, and real, tangible change is now within sight. The Police Reform Commission, the D.C. Jails & Justice Taskforce reports, the renewed commitment to racial equity with passage of the REACH Act, and the soon to be released report by the Criminal Code Reform Commission have all created an opportunity for the District to make bold, necessary steps in its pursuit of shrinking the criminal legal system through both policy and budget decisions. The ACLU-DC stand ready to work with you toward that goal. Thank you.

Racial Disparities in Stops by the Metropolitan Police Department: 2020 Data Update

ACLU Analytics & ACLU of the District of Columbia

This is an update to the June 16, 2020 report published by the ACLU-DC and ACLU Analytics, *Racial Disparities in Stops by the D.C. Metropolitan Police Department*. The original report[1] analyzed five months of data collected pursuant to the Neighborhood Engagement Achieves Results (NEAR) Act on stops conducted by the Metropolitan Police Department (MPD) from July 22, 2019 to December 31, 2019. This update analyzes the stops conducted by MPD between January 1, 2020 and December 31, 2020.

The 2020 stops data show that MPD continues to disproportionately stop and search Black people in the District. The stark racial disparities present in the 2019 stops data **have not changed.** The 2020 data, like the 2019 data, support community members' repeated assertions that MPD's stop practices unfairly overpolice the Black community and require serious scrutiny and structural change.

Background

Under the NEAR Act, MPD is required to keep extensive records on every stop its officers conduct. For over three years, MPD refused to implement this statute until a court ordered compliance as a result of a lawsuit by the ACLU-DC, Stop Police Terror Project D.C., and Black Lives Matter D.C. MPD then published data covering stops conducted from July 22, 2019 to December 31, 2019. In our June 16, 2020 report, ACLU-DC and ACLU Analytics analyzed the data from this five-month period and concluded that MPD disproportionately stopped and searched Black people.

In March 2021, following another lawsuit by the ACLU-DC over MPD's refusal to disclose any stop data for 2020, MPD finally published data collected pursuant to the NEAR Act for stops conducted from January 1, 2020 to December 31, 2020. This update analyzes these records—80,698 total stops made in 12 months.[2] By way of comparison, our analysis of the

[1] Available at https://www.acludc.org/sites/default/files/2020_06_15_aclu_stops_report_final.pdf.

[2] At the outset, we note that MPD reported a total of 81,020 total stops. We removed all 322 "harbor" stops from this analysis and analyzed the remaining 80,698 stops. Harbor stops, which refer to stops made in D.C. waterways, composed less than half of a percent of the total stops and were not directly comparable with other stops. All harbor stops had as their justification "boating violation" or "safety inspection," categories not cited as the reasons for any other category of stop. Moreover, harbor stops did not generate any tickets, warnings, or arrests. Nor did they lead to any searches of individual's persons or property or to seizures of any items. The unique nature of these stops led us to exclude them. We also removed harbor stops from our analysis of the 2019 data.

five-month period in 2019 covered 62,611 total stops. It should be noted that during the COVID-19 public health emergency, the average number of stops per week decreased.

What the 2020 Data Show: More of the Same

I. MPD continues to disproportionately stop and search Black people.

The findings in this update are clear: MPD continues to disproportionately stop and search Black people in the District. In 2020, Black people made up roughly 46% of the D.C. population, but 74.6% of the people stopped. This is a slight increase from our original report, which found that between July 22, 2019 and December 31, 2019, Black people composed 46.5% of the D.C. population but 72% of the people stopped.

Meanwhile, in 2020, non-Hispanic white people made up only 12.5% of stops despite composing roughly 36.6% of D.C.'s population. This is on par with the 2019 data, which showed that non-Hispanic white people made up only 14.1% of stops despite composing roughly 37.1% of the population.

Table 1: Black People Are Still Disproportionately Stopped and Searched by MPD.

Category	*2019 Data*	*2020 Data*	*Difference*
Stops Overall	72% Black	74.6% Black	+2.6%
Stops that led to no warning, ticket, or arrest	86.1% Black	86.5% Black	+0.4%
Searches that led to no warning, ticket, or arrest	91.1% Black	90.7% Black	-0.4%

The data further suggest that the link between stops and race is more than correlational. 86.5% of the stops, and 90.7% of the searches, that resulted in no warning, ticket, or arrest, were of Black people. These figures are virtually identical to the 2019 figures—86.1% and 91.1%, respectively. These stops and searches are the ones mostly likely to arise from innocent conduct, and it is therefore deeply disturbing that Black people, once again, almost certainly make up the vast majority of individuals subjected to stops or searches despite not violating the law.

The following tables break down these stops by ethnicity.

Table 2: Black People Experienced the Majority of Stops that Led to No Ticket, Warning, or Arrest.

Race/Ethnicity	*2019 Data*	*2020 Data*	*Difference*
	% of Stops	% of Stops	
Black	86.1%	86.5%	+0.4%
Hispanic	5.7%	5.3%	-0.4%
White	5.5%	5.6%	+0.1%
Asian	0.5%	0.4%	-0.1%
Multiple	0.2%	0.1%	-0.1%
Other/Unknown	2.0%	2.1%	+0.1%

Table 3: Black People Experienced the Majority of Stops that Led to No Ticket, Warning, or Arrest in Which the Individual Was Searched.

Race/Ethnicity	*2019 Data*	*2020 Data*	*Difference*
	% of Stops	% of Stops	
Black	91.1%	90.7%	-0.4%
Hispanic	4.5%	4.4%	-0.1%
White	2.4%	2.8%	+0.4%
Asian	0.3%	0.2%	-0.1%
Multiple	0.2%	0.1%	-0.1%
Other/Unknown	1.5%	1.8%	+0.3%

Furthermore, the 2020 data continue to show that Black people are disproportionately likely to be stopped in almost every police district in D.C. The only exception is the Sixth District, where Black people were roughly 93% of the people stopped, but also roughly 93% of the population. Everywhere else, Black people were stopped at a significantly higher rate than their share of population. MPD's report on the 2020 data noted that many traffic stops were of individuals who reside outside of the District, but we could not confirm that conclusion

because the state in which a stopped driver's vehicle was registered was not included in the publicly available NEAR Act data.

Table 4: Black People Were Disproportionately Likely to Be Stopped in Almost Every Police District in 2020.

District	*% of Population Who Are Black*	*% of Stops That Were of Black People*
1D	27.38%	75.6%
2D	7.53%	43.5%
3D	27.68%	61.2%
4D	51.93%	68.2%
5D	63.66%	81.8%
6D	92.79%	93.3%
7D	89.35%	95.3%

These results demonstrate that the disparities in stops do not simply arise from the greater police presence east of the Anacostia River (a reality that is troubling in and of itself).

Racial disparities in "non-traffic stops"[3] in 2020 were similar to the disparities that arose in that context in 2019. In 2019, 86% of people stopped outside of the traffic context were Black, while only 5.6% were white. In 2020, these numbers remained virtually identical: 86.7% of non-traffic stops were of Black people while only 5.5% were of white people.

Furthermore, in 2020, Black people continued not only to be stopped more frequently than white people, but also endured more intrusive stops. Overall, Black people made up over 90.5% of those who experienced a search or pat-down of their person or property. As compared to white people who were stopped, Black people who were stopped were 5.06

[3] The dataset that we received from MPD did not stipulate which stops were traffic-related and which stops were not. To make this distinction, our team made some assumptions based on the available data. The dataset bracketed stops into four distinct types: "Harbor" (which we omitted), "Ticket Only," "Non-Ticket," and "Ticket and Non-Ticket." Given that nearly all of the stop reasons associated with "Ticket Only" stops in the dataset were related to traffic violations or infractions, we labeled all such stops as "traffic stops." We also labeled as "traffic stops" all "Non-Ticket" stops where the "stop reason" made reference to the word "traffic" and did not lead to a search or arrest. If a traffic stop led to a search, seizure, or arrest, we labeled this stop a "traffic stop that escalated," since the original stop was at least in part made ostensibly for traffic-related infractions. Additionally, all "Ticket and Non-Ticket" stops were labeled as traffic stops that escalated. All "Non-Ticket" stops where traffic was not mentioned were labeled as "non-traffic."

times as likely to undergo a pat-down or search of their person and 3.67 times as likely to undergo a pat-down or search of their property. Despite these disparities, the difference between weapons recovered after searches of Black people, as compared to white people, was negligible and not statistically significant— 6.7% of white people searched had weapons seized, compared with only 8.5% of Black people who were searched.

Virtually the same was true for the 2019 data. Our original report found that Black people made up over 90% of those who experienced a search or pat-down of their person or property, and that the difference in weapon recovery was insignificant: 4.6% of white people searched had weapons seized, compared with only 6.4% of Black people who were searched.

II. Black Youth Continue to Face a Vastly Greater Risk of Experiencing Police Stops than White Youth.

The 2019 data revealed the vast majority of people under 18 who were stopped were Black. The same held true in 2020. For the five-month period in 2019, nearly 89% of youth under 18 stopped were Black. In 2020, nearly 89.1% of youth stopped, or 8 out of 9 individuals, were Black. Black youth were stopped at approximately 11.9 times the rate of their white peers, based on their respective percentages in the D.C. population. The numbers are even more jarring for Black boys, who were stopped at 13.4 times the rate of white boys.

Similar to what the 2019 data showed, Black youth under 18 also experienced more searches as compared to white youth in 2020. For example, whereas only 7 white youth underwent a search of their person in 2020, 1,021 Black youth endured such an experience. Like searches of adults, only a small share of searches of Black youth (8.5%) uncovered weapons. This is similar to the rate in the 2019 data.

III. MPD's Stop and Frisk Tactics Continue to Be Ineffective in Removing Weapons from the Streets.

Finally, the data continue to show that stopping individuals is not an effective method of removing weapons from the streets. Despite claims by MPD that stops are crucial to removing guns from the streets, the percentage of stops leading to the seizure of a weapon of any kind remain low—1.22% of all stops in 2020 as compared to 0.8% of all stops in the five-month 2019 period. With respect to guns, the numbers are even lower: only 1.0% of all stops and 2.2% of all non-traffic stops led to the recovery of a firearm in 2020. These numbers are akin to the findings from the 2019 data, which showed that 0.6% of all stops and 1.6% of non-traffic stops led to the recovery for a firearm.

Some stops didn't lead to a search, or the officer neglected to a record a search, but even among stops that led to a search, only 6.7% led to the seizure of a gun and 8.4% led to the seizure of a weapon. These numbers are not significantly different from the seizure figures from 2019. During the five-month period in 2019, only 5% of stops that led to a search led to the seizure of a gun and 6.4% of these stops led to the seizure of a weapon.

MPD asserted that its stops resulted in the recovery of 1,605 guns. When we reviewed the data, we found that officers only reported recovering 1,071 weapons of any type. Even if MPD's assertion was correct, it would not alter the fact that, **in the vast majority of stops, no weapon was found.**

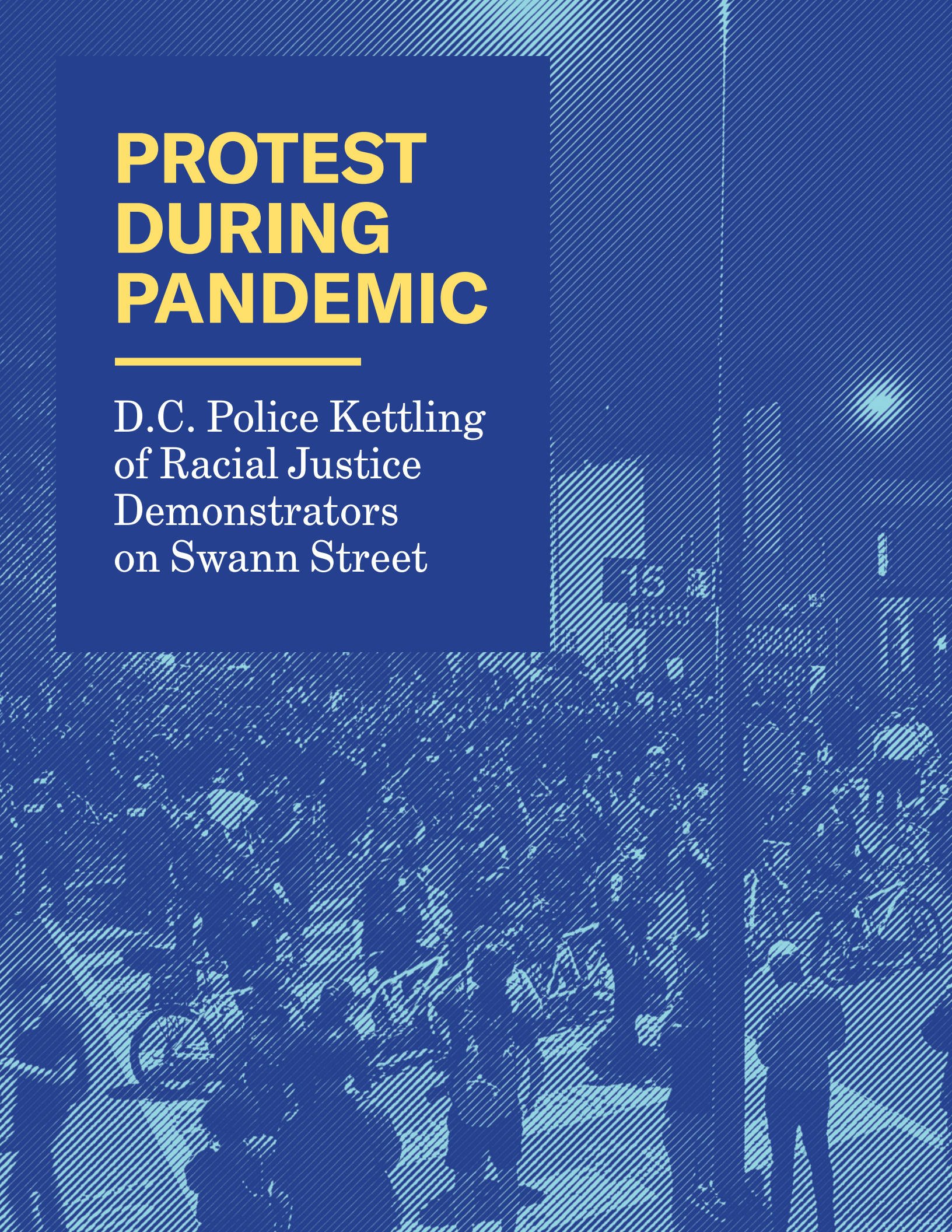
Meanwhile, based on MPD's data on the length of stops, detentions that failed to result in a warning, ticket, or arrest cost taxpayers a collective 5,504 hours of officer time between January 1, 2020 and December 30, 2020.

Conclusion

This update confirms the conclusions from our original report continued to hold true in 2020. In 2020, as in 2019, almost three-quarters of the stops in the District were of Black individuals—a glaring racial disparity. The overpolicing of Black communities is a critical and urgent issue, as has been made clear by the ACLU-DC and grassroots communities for years. The ACLU-DC calls on the District to act now to address these disparities.

PROTEST DURING PANDEMIC

D.C. Police Kettling of Racial Justice Demonstrators on Swann Street



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ACLU District of Columbia

SIDLEY

Washington Lawyers' Committee for Civil Rights and Urban Affairs

Introduction

On the evening of June 1, 2020, the Metropolitan Police Department (MPD) deployed significant force in and around Swann Street, a narrow residential street in Northwest D.C. The police ultimately arrested about 200 people who had been protesting police brutality and excessive force in the wake of George Floyd's murder. These protesters were arrested on a single, common charge—violation of the Mayor's 7:00 p.m. curfew. Protesters started their evenings in different parts of the city, including in Lafayette Park where law enforcement had utilized chemical irritants, pepper balls, and batons a few hours earlier against peaceful demonstrators. Few of the protestors had known each other until they were forced together by MPD officers, who used flashbangs and barricades to steer disparate protestors onto that single residential block.

After funneling the protesters from nearby streets onto Swann Street between 14th and 15th Streets, the police barricaded both ends of the block, "kettling" the crowd. The police on one end of the street advanced and arrested protesters for violating the curfew. They handcuffed the protesters with zip-ties and transported them across the District to the grounds of the MPD Academy in the District's Southwest quadrant. There, many were crammed into holding cells, notwithstanding contrary federal and D.C. government COVID-19 recommendations; they were not released for hours. On the other end of Swann Street, the police closed in on the crowd, using shields and pepper spray, and a number of protestors fled. Approximately 80 of them took refuge in nearby townhouses, avoiding arrest only because Swann Street residents were willing to shield protestors from the tactics being used by local police.

As the Council continues its oversight of MPD and MPD conducts its own internal review, we offer this report of MPD's actions on Swann Street in June and their effects on D.C. residents and workers.

The report is based on interviews with more than 50 individual eyewitnesses. Some of these witnesses were protestors who were kettled on Swann Street. Others were residents of Swann Street who viewed the events from their homes. In addition, we reviewed photos and video footage taken during the June 1 events, as well as other evidence available from the existing public record. Based on this review, we have identified multiple serious questions raised by MPD's actions that night and the potential need for improved guidance from the people's representatives on the proper means for responding to peaceful First Amendment assemblies.

MPD had another option on the night of June 1: they could have sent protesters home. According to the protestors we spoke to, MPD never attempted to do so. The protestors uniformly reported that they never heard the police give a dispersal order directing them to go home during the time the protestors were marching along city streets; many also testified that once kettled on Swann Street, they asked the police for permission to go home. Rather than grant that permission, MPD chose to close ranks with riot shields, press the protestors closer together on the narrow street, and arrest them, at times deploying pepper spray in pursuit of that aim. MPD made that choice even though, after arresting hundreds of people, they charged each of them with only a simple curfew violation, and despite pandemic conditions that rendered the necessary close confinement of large groups after arrest a serious risk to the health of the demonstrators and the public at large.

Given the absence of support for more serious charges, MPD could and should have acted with greater restraint on Swann Street. The Council should consider whether D.C. law or policy should be changed to promote a more restrained police response to peaceful protests in the District.

Background

On May 25, 2020—Memorial Day—the Minneapolis police arrested George Floyd, a Black man in his forties, on suspicion of purchasing cigarettes using a counterfeit $20 bill. The police handcuffed him, placed him face down on the ground, and then one officer kneeled on Mr. Floyd's neck for more than eight minutes. Mr. Floyd cried out that he could not breathe and pleaded for his deceased mother. The officer did not remove his knee.[11] Bystanders recorded the scene on their phones and begged the police to stop. The officer did not remove his knee, and Mr. Floyd was pronounced dead a little over an hour after the police arrived on the scene. The next day, the Minneapolis Police Department released a statement claiming "Man Dies After Medical Incident During Police Interaction."[12] But cell phone videos demonstrated in searing fashion the nature of Mr. Floyd's death. By that afternoon, demonstrators filled the streets of Minneapolis, and more returned over the next few nights.

The protests quickly spread to cities across the country. People of all races and all walks of life gathered peacefully and in massive numbers to march and demand change to the unnecessary and deadly use of force employed by police against Black people. Unfortunately, these peaceful protests were also accompanied in some instances by vandalism, or even outbreaks of violence.

Events took a similar course in the District. Thousands gathered to peacefully protest throughout the city. But on May 30, there was some vandalism downtown; vehicles and stores were set on fire. Arrests were made.[13]

On May 31, Mayor Muriel Bowser declared a public emergency and imposed an 11:00 p.m. curfew.[14] While significant numbers of people peacefully protested throughout the day, there was destruction of property and looting that night. [15]

Mayor Bowser declared another public emergency on June 1 and imposed a 7:00 p.m. curfew

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11 Victor J. Blue, What We Know About the Death of George Floyd in Minneapolis, N.Y. Times (Feb. 11, 2021), https://www.nytimes.com/article/george-floyd.html?action=click&module=RelatedLinks&pgtype=Article.

12 Andy Mannix, Minneapolis Police Cite 'Fluid' Situation for Troubling Misinformation Released After George Floyd Death, Star Tribune (June 3, 2020), https://www.startribune.com/mpls-police-still-haven-t-explained-misinformation-after-floyd-s-death/570970152/.

13 David Smith, George Floyd: Protestors Clash with Secret Service As Unrest Comes to the White House, The Guardian (May 30, 2020), https://www.theguardian.com/us-news/2020/may/30/protest-washington-dc-george-floyd-white-house-trump

14 D.C. Mayor's Order 2020-068 (May 31, 2020), https://thedcline.org/wp-content/uploads/2020/05/Mayors-Order-2020-068.pdf.

15 Rebecca Tan et al., Night of Destruction Across D.C. After Protesters Clash With Police Outside White House, Wash. Post (June 1, 2020), https://www.washingtonpost.com/local/dc-braces-for-third-day-of-protests-and-clashes-over-death-of-george-floyd/2020/05/31/589471a4-a33b-11ea-b473-04905b1af82b_story.html.

Law enforcement used tear gas to clear protestors away for President Trump's photo in front of St. John's Episcopal Church. Photo: Derek Baker

for that night and the next.[16] She ordered that "[d]uring the hours of the curfew, no person, other than persons designated by the Mayor, shall walk, bike, run, loiter, stand, or motor by car or other mode of transport upon any street, alley, park, or other public place within the District." *Id.* The order carved out exemptions for essential workers, persons engaged in activities related to the June 2 D.C. primary election, and travel to and from hospitals. *Id.*

Peaceful protesters again took to the District's streets on June 1 to express their outrage at the murder of George Floyd and police brutality. Lafayette Park was a primary gathering point for the protests until approximately 6:30 p.m., when law enforcement officials violently cleared peaceful protestors from the area prior to the staging of a photo opportunity for President Trump in front of St. John's Church. [17]

16 D.C. Mayor's Order 2020-069 (June 1, 2020), https://thedcline.org/wp-content/uploads/2020/06/Mayors-Order-2020-069.pdf.

17 See Tom Jackman et al., Police in D.C. Make Arrests After Sweeping Peaceful Protesters from Park with Gas, Shoving, Wash. Post (June 2, 2020), https://www.washingtonpost.com/dc-md-va/2020/06/01/dc-protest-george-floyd-white-house/.

MPD Kettled Civil Rights Protesters

After Lafayette Park was cleared and President Trump had his photograph taken, some demonstrators continued protesting in other locations throughout the city after 7:00 p.m., when the curfew went into effect.

The protesters who were ultimately kettled on Swann Street traveled to that location from several different directions.

Some of them were first in Lafayette Park and, after being forced out, marched north on 14th Street toward Columbia Heights. Other people, including restaurant workers ending their shifts and law students outraged by the events in Lafayette Park, ventured outside and joined others whom they saw marching. Still others marched from Dupont Circle, where they were participating in a vigil for Tony McDade, a transgender man killed by police in Tallahassee, Florida. Some from this Dupont Circle group marched east towards 14th Street, eventually joining some of the people marching north on 14th Street and others approaching Swann Street from the south. Overall, the individuals we interviewed described disparate and loose groups of people marching around the area. They described an organic situation with no single agenda, organizer, or marching plan for the evening. Most wore masks to protect themselves from COVID-19 exposure.

As they marched through the District, numerous demonstrators interviewed noticed an increased police presence. For instance, protestors marching north on 14th Street reported that they observed police officers gathering at intersections and blocking them from turning onto side streets. Witnesses also reported that police cruisers periodically zoomed by them; the protestors viewed this as an effort to intimidate the larger groups and noted that it had the effect of splintering the groups into smaller contingents. Seeking to stay away from the streets or areas blocked off by the police, most protestors interviewed described turning away from side streets whenever police were observed to be blocking the path. Protestors interviewed expressed that they sought to avoid clashes with the police and that they wished to keep marching. As a result, many of these protesters then made their way north on 14th Street toward Columbia Heights; it initially appeared that 14th Street, unlike the side streets, was being left open by MPD. Shortly after crossing Florida Avenue, however, the protesters described meeting a line of police and police cars and being turned back by flashbangs. These protesters then turned onto Florida Avenue, heading west in the direction of 15th Street. They described police cruisers again blocking their path along Florida Avenue, and so they turned south onto 15th Street—along the one path apparently left open to them by police.

As the protesters made their way south on 15th Street, in the area of the Swann Street intersection, they reported being met by MPD officers with helmets and riot gear blocking their way. To avoid the police, the protestors turned onto Swann Street. Other protesters described being similarly funneled toward Swann Street, having marched north on 15th Street and met police along side streets blocking their paths away.

After the protestors turned onto Swann Street, they noticed the police line close behind them and saw that their exit was cut off on both ends of the street. No dispersal orders were heard by the protesters interviewed, and they were given no opportunity to stop demonstrating and go home. Both the protestors and residents of Swann Street interviewed observed that the police formed ranks and used bicycles to block the exits and side streets.

MPD has sought to justify the force employed on Swann Street based on violence committed by *different* individuals in *different* places the previous night, a fear that violence would be repeated, reports of a burning police cruiser (which no interviewee witnessed), and a few thrown water bottles. For example, then MPD Chief Newsham sought to explain the decision to kettle by stating that "[t]here were projectiles thrown" by the group of protesters moving north on 14th Street, that "[an] MPD police car was set on fire," and that "there was indication that [the] group[s] could be involved in similar behavior" to that which occurred on previous nights.[11] However, the protesters who were interviewed provided a very different version of events. None reported seeing an MPD police car on fire. None reported seeing any acts of vandalism or looting. None reported seeing acts of violence towards non-protesting individuals, police, or other protestors. A few interviewees reported seeing a handful of protestors throw water bottles as they were marching earlier in the evening—but they also emphasized that other protestors immediately interceded to prevent recurrence. In sum, no person interviewed reported witnessing violent conduct in or around the protest. Nonetheless, MPD chose to kettle the protestors.

For the first 30 minutes after the protesters were kettled on Swann Street, the situation remained largely static—increasing numbers of police blocked the exits, remaining largely silent, and the protesters were penned in on the block. Some protestors reported that they asked to leave and go home, but the police remained silent and did not let them through. At one point, there were reportedly chants of "let us leave!" One man reportedly asked to return to his home a few blocks away, and he was told "no, get the hell back there."

Some spectators stood outside the kettle on the 15th Street side of the block watching events unfold. Protestors reported seeing these spectators but that, to their knowledge, the spectators were not detained or arrested or put into the kettle.

At this point in the evening, MPD faced a choice. Having now trapped the protestors on Swann Street, it could have ordered them to disperse—allowing them to leave the block one-by-one or in small groups. Instead, MPD decided to arrest all of the protestors, to deploy force, and to charge the protestors with having violated the 7:00 p.m. curfew order.

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8 Rough transcript, D.C. Council Committee on the Judiciary and Public Safety, Budget Oversight Hearing (June 9, 2020), available at http://dc.granicus.com/TranscriptViewer.php?view_id=2&clip_id=5475.

MPD Kettles More than 200 Protestors

Swann Street resident Rahul Dubey (second from left) with some of the more than 50 protestors he sheltered the night of June 1. That night D.C. Police tried to access the home and even sprayed tear gas through the windows.
Photo: Joe Flood

At about 9:30 p.m., the police began shouting "move back" and advancing in lines from both ends of Swann Street, using transparent riot shields to force protesters back. After about 30 minutes, the two groups were compressed into the middle of the block. Residents of Swann Street we interviewed reported that they also heard the police chant "move back" and saw from their windows the police line walking forward and compressing the protestors towards the center of the block. Protesters reported that very few officers were wearing face masks.

On the 14th Street end of Swann Street, arrests started soon after the police advanced. MPD began arresting groups of men first. Witnesses reported that a number of women then moved to the front of the crowd in an effort to shield others; they too were arrested and placed in zip-ties. Thereafter, witnesses stated, the protesters on this end of the block sat down, and the police sought volunteers for arrest, alternately taking groups of men and women six to ten at a time for the next several hours.

On the 15th Street end of Swann Street, the scene unfolded differently. When the police advanced, some protesters stood their ground and were pushed back and pepper sprayed. Protesters fell or were shoved to the ground; some tried to flee. The protestors described a mash of bodies and bumping into each other as they tried to move back to avoid the line of police and to help falling protesters up. Some were unable to see or open their eyes because of the pepper spray. One protestor, after being pushed back by riot shields and getting pepper spray in his eyes, fell backwards and was pinned between the police and a parked car.

Several residents of Swann Street invited protesters into their homes to flee the pepper spray, which hung heavy in the air and filled the first level of at least one house. The protestors described coughing, crying, and an intense burning sensation. Some described pouring milk on the protestors most directly hit by the pepper spray in an effort to soothe the burning sensation. About 80 protesters

found shelter in these homes. The police reportedly "[b]eliev[ed] that there were burglaries occurring and residences were being entered" and that was, according to MPD, part of the reason "police deployed pepper spray."[11] But we did not find support for that assertion, and Chief Newsham later conceded that this belief was "mistaken."[12] Witnesses interviewed reported that the protesters were invited in and given aid and shelter, and protestors posted to that effect on social media while they were inside the houses.

Witnesses stated that, throughout the night, MPD officers used what appeared to be ruses to enter the Swann Street homes, evidently so they could arrest protesters for curfew violations. At first, police came to the front door of the house holding the largest number of protesters, seeking entry supposedly to provide medical assistance. The resident denied the police entry, however. The protesters performed first aid and attempted to alleviate the effects of the pepper spray as best they could. Later, numerous officers moved into the backyard of a home and were told by the home's occupant to leave because they lacked a warrant. In another instance, the police sought entry into a home, claiming that someone inside a house had reportedly called 911—but multiple witnesses affirmatively rejected this assertion in our interviews. In addition, other witnesses reported that two persons appearing to be protesters were able to walk past approximately a dozen officers and tried to enter a residence, only to be turned away because those inside the house suspected that they were undercover police.

Photo credit: Arjun Sethi

The protestors who sheltered inside the townhouses described watching the police arrest the individuals in the street in an "assembly line" for much of the night. MPD officers continued to surround the townhouses where protesters were sheltering, even after all of the protesters in the street had been arrested. The protesters believed that, if any of them left the houses, they would be arrested too. Protesters reached out to attorneys and the media, who arrived on the scene during the night. Around 4:00 in the morning, MPD officers left Swann Street. At about 6:00 am, when the curfew lifted, the protesters who had sheltered in Swann Street townhouses departed. We are not aware of any report that any of these protestors caused any disturbance upon leaving Swann Street.

11 Sophia Barnes, DC Police Chief Defends Officers After Protesters Hid in Swann Street Home, NBC Washington (June 3, 2020), https://www.nbcwashington.com/news/local/dc-police-chief-defends-officers-after-protesters-hid-in-swann-street-homenorthwest/2321624/.

12 Id.

The Arrested Protesters Were Detained and Booked

For those protestors who were arrested, the rest of the evening unfolded in other parts of the city, as they were transported across the District, processed, charged, and eventually released.

When protesters were arrested, MPD zip-tied their hands. Witnesses reported that these zip-ties were often very tight, to the point of causing bruising and pain for some protesters. Despite requesting to have the ties loosened, one protester reported that the officer said, "They're tight, huh?," and then tightened the restraints further. Numerous protesters reported that they were zip-tied all night and did not have the zip-ties removed until 5:00 or 6:00 a.m.

MPD photographed the protesters upon arrest and pulled their facemasks down to do so. The protesters reported varying degrees of success in reapplying their masks. With their hands tied, many protesters were unable to reposition their masks to again cover their noses and mouths and said that MPD officers did not assist their efforts to do so. Other protestors reported, in contrast, that the officers who photographed them did reposition their masks after the photograph. The protesters (some masked, and some now unmasked) were then loaded into vans and many were transported to the Washington Convention Center.

At the Convention Center, the protesters were reportedly held for an hour or longer and then moved to buses that accommodated more people. Witnesses stated that they were not permitted to use the restroom or obtain water while they sat in the buses and vans. Some were held in buses or vans the entire evening. There was somewhat more room for social distancing on the buses, but many protesters' masks were still not covering their noses and mouths. MPD ultimately transferred the arrested protesters to the Police Academy in Southwest DC.

Once the protesters arrived at the Police Academy, they were detained in one of three settings. Some were held outside. They were placed on the curb, zip-ties in place, and remained there—some for several hours. Some of the protesters eventually had access to portable toilets, but not running water to wash their hands.

A second group of protesters was moved from the buses into cinder-block rooms about the size of a high-school classroom. While some protesters had their zip-ties removed once they reached these rooms, many others reported they had their zip-ties on the entire night and only had them removed when they were released. The protesters held in classrooms reported that they were packed densely in the rooms and there was not sufficient space for social distancing. Consistent with those reports, one protester estimated that between 50 to 80 men were held in one of these rooms at one time. The police also collected the women's jewelry. Protesters observed that most police were not wearing gloves as they removed the jewelry and did not clean their hands in between. Although protesters who had their zip-ties removed were able to reposition their facemasks, social distancing in these rooms was impossible. MPD at some point brought some of the protesters a

handful of peanut butter sandwiches and bottles of water to share.

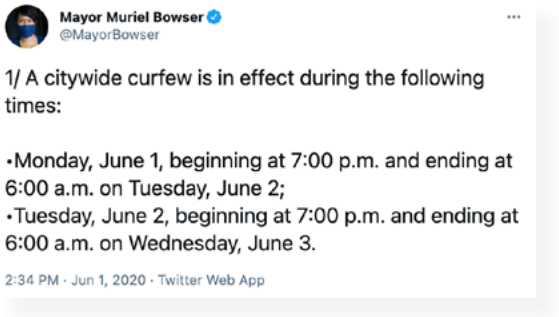
A third group of protesters remained on the buses the entire evening until processed.

When the protesters were processed, their fingerprints and mugshots were taken, and they were charged with violating curfew and given court dates. They were then released into the Academy's parking lot, where they were left to find rides home as late as 7:15 a.m. Protesters reported that there were volunteers at this drop off point who gave the protesters water and helped to arrange for rides home.

Timeline of Events | June 1 - June 2, 2021

~6:30 PM — Protesters are tear-gassed at Lafayette Square prior to President Trump's photo op in front of St. John's Episcopal Church.

7:00 PM — Mayor Bowser's curfew goes into effect.


Mayor Muriel Bowser
@MayorBowser

1/ A citywide curfew is in effect during the following times:

•Monday, June 1, beginning at 7:00 p.m. and ending at 6:00 a.m. on Tuesday, June 2;
•Tuesday, June 2, beginning at 7:00 p.m. and ending at 6:00 a.m. on Wednesday, June 3.

2:34 PM · Jun 1, 2020 · Twitter Web App

~8:30 - 9:00 PM — D.C. Police begin kettling protestors on Swann Street.

~9:30 PM — D.C. Police begin pepper spraying protestors.

~9:30 PM and onward — Protestors retreat and shelter in Swann Street homes, including the home of Rahul Dubey.

~10:00 PM and onward — D.C. Police begin arresting and transporting protestors to the Washington Convention Center, then to the Police Academy in Southwest.

~4:00 AM — MPD officers depart Swann St. after trying all night to access homes where protestors are sheltered.

~6:00 AM — Mayor Bowser's curfew is lifted.

~7:15 AM — The last of the detainees are released from MPD custody.

The Events of June 1 Raise Serious Questions About MPD's Conduct & Decision-Making

Many protesters we interviewed reported that the night of June 1 left a searing impression on them. Some reported being bruised from the zip-ties, having scrapes and other injuries from being pushed by riot gear, and continuing to have irritated eyes from the pepper spray. A greater number of the protestors we interviewed focused on the emotional effects of the evening. Many described their experience as traumatic, frightening, or humiliating. Protestors likewise reported that their experiences caused them to further distrust the police's discretion and use of force, and led them to worry about COVID-19 exposure.

Looking back on the events of June 1, many protestors questioned why their decision to continue a peaceful protest on a matter of critical public importance—even past a curfew deadline—was met with a massive show of force, chemical irritants, detention, and treatment that affirmatively increased their vulnerability to contracting COVID-19. Many have difficulty understanding why they were never given an order to disperse and an opportunity to go home, and why the police seemed so determined to arrest and zip-tie them for a minor infraction.[11] The authors of this report urge the Council to examine the following fundamental points, which flow from the protestors' questions and experiences.

1. Why did MPD decide to kettle and arrest hundreds of peaceful protesters without giving them an opportunity to disperse?

The harms inflicted on the June 1 protesters stemmed from MPD's decision to kettle and arrest them. These harms are the entirely foreseeable results of detaining and arresting over 200 people in a confined space during a pandemic. Yet it is unclear what event or factors justified this decision.

In the end, the protesters were charged with violating curfew and given citations and court dates for their civil disobedience. Although in later statements the police stated that a car had been set on fire elsewhere and expressed concerns about break-ins at businesses, none of the protesters who were arrested were charged with such offenses. Numerous protesters told the police before the lines started to close in that they were prepared to return home. They were not given that opportunity.

Would not letting them return home de-escalate the situation and accomplish the goals of the curfew? Why was it necessary to arrest and detain individuals for a curfew violation, particularly at a time when the process of conducting a mass arrest necessarily exacerbated the risks to police and the protestors of contracting and spreading COVID-19?[12] For the future, what standards should be in place when deciding whether to arrest individuals for curfew

11 The penalty provision of the curfew order is the District of Columbia's Municipal Regulations: 24 DCMR § 2203.4.

12 It appears that under MPD's General Order EO-20-011, Attach. A, https://cjcc.dc.gov/sites/default/files/dc/sites/cjcc/page_content/attachments/Executive%20Order%20on%20COVID-19%20Modified%20Citation%20Release.pdf, pertaining to citation release criteria, the protestors were eligible for citation release.

violations? Permitting MPD total discretion to arrest and cite any individual outside after curfew creates a significant risk of viewpoint or other discrimination.

The Council should direct MPD to develop guidance that would cabin MPD's discretion to arrest individuals for curfew violations, especially in situations where doing so may itself be dangerous. The District's First Amendment Assemblies Act expresses a preference for issuing dispersal orders rather than engaging in mass arrests, embodying the public policy of the District. See D.C. Code § 5-331.07. The Council should consider amending the Act to *require* that police attempt to disperse an unlawful but non-violent assembly in accordance with the requirements of the Act before engaging in kettling tactics or arrests.

We further urge the Council to review the decision-making process of MPD with respect to kettling and to require the police to consider and issue guidance on the appropriate situations in which this escalatory tactic can be used based on curfew violations. The First Amendment Assemblies Act currently permits kettling or mass arrest of protesters only "where there is probable cause to believe that a significant number or percentage of the persons located in the area or zone have committed unlawful acts." D.C. Code § 5-331.08. When protests proceed past a curfew, however, that "significant number" trigger may in many circumstances be satisfied by the mere fact that many people are engaging in precisely the expressive protest conduct that the First Amendment Assemblies Act was designed to protect. Put more bluntly: under current District law, curfew orders expose non-violent protestors to mass arrest. The Council should consider modifying the Act to more closely regulate how mass arrest and kettling tactics may be used when curfew orders are in effect.

2. What efforts did MPD make to verify their evident suspicions that the protests in and around 14th Street could turn violent before kettling and arresting protesters?

Former Chief Newsham stated that the decision to kettle hundreds of protesters on Swann Street was based in part on a belief that the protesters had lit a police cruiser on fire. No witness interviewed reported observing a burning cruiser, let alone seeing a protester start the fire. To our knowledge, MPD has not identified the location of the burning cruiser, but social media posts from the evening of June 1 indicate that a police cruiser was in flames at around 9:00 p.m. at 14th and Clifton Streets, a point north of where the police barricades turned back protestors who were subsequently kettled on Swann Street.[13] These circumstances call into doubt MPD's apparent assessment that the protestors who were kettled were associated with the arson incident, because the witnesses reported that the police did not allow that group of protestors to reach the spot where the cruiser burned. Moreover, it is not clear how MPD's assessment that it was necessary to kettle hundreds of protestors can be squared with the protestors' reports that those marching were orderly, non-violent, and (apart from a handful of protestors who threw water bottles) non-disruptive.

Given this tension in reported facts, we urge the Council to inquire into the factual basis of MPD's threat assessment, and into the steps MPD took to confirm its initial assessment before kettling and arresting hundreds of individuals. These facts are critical not only to assessing MPD's conduct on June 1, but to addressing whether changes of law or procedure are warranted to ensure that any decision to conduct mass arrests rests on a firm factual foundation and sound policing judgment.

13 Car Fire at 14th and Clifton St., NW, Popville (June 1, 2020), https://www.popville.com/2020/06/car-fire-at-14th-and-euclid-st-nw/.

Photo credit: Joe Flood

3. What precautions should MPD have taken to protect its officers and citizens from COVID-19 when conducting a mass arrest?

Many protesters reported that only a handful of MPD officers were wearing masks the night of June 1. Likewise, many protestors reported that MPD officers removed protesters' masks when processing their arrests and that the officers declined to assist the protesters (whose hands were zip-tied) in re-applying their masks or to loosen the zip-ties so that protesters could reposition the masks themselves. Compounding the lack of adequate masks, the vans and buses that MPD used to transport protestors from Swann Street across the District to the Police Academy did not allow for social distancing. And once the protesters arrived at the Police Academy, many were detained in crowded rooms where social distancing was impossible.

Given the enormously serious risks that COVID-19 posed to the public health and that it continues to pose now, it is imperative that when MPD conducts arrests, it does so in a manner that limits the risk of exposure to COVID-19. The Council therefore should examine any existing MPD guidelines for mass arrests, and, as appropriate, should consider requiring MPD to adopt new best practices.

4. When MPD conducts a mass arrest, what protocols are in place to ensure fair treatment of arrested individuals?

Zip-ties or similar disposable restraints are regularly used during mass arrests. The First Amendment Assemblies Act and other regulations govern their use. *See, e.g.,* D.C. Code § 5-331.11(b). But what protocols are in place to ensure that restraints are not abused to the point where individuals' wrists are bruised and cut? What training is provided to ensure proper application and responses when they have been applied too tightly?

Likewise, what procedures has MPD adopted to ensure that arrestees are provided necessary restroom and sanitation facilities and basic necessities like shelter, food, and water? MPD and the District government more broadly have a responsibility to provide basic provisions to individuals in their care. It is predictable that MPD will find itself in mass-arrest situations involving peaceful protests in the future. From the accounts of the protesters, MPD efforts to meet these responsibilities varied wildly amongst the protesters in their custody. Some protesters were held for many hours while zip-tied and without access to a bathroom or water. What steps are going to be taken to ensure that if MPD undertakes mass arrests in the future, all detainees will be provided basic necessities?

Conclusion

On June 1, 2020, peaceful protesters took to the streets of the District to protest police overreach and abuse against Black people, but wound up encountering escalatory tactics that seemed clearly excessive in relation to the peaceful protest activity they were engaged in and the minor legal infraction with which they were charged. The authors of this report believe there is work for the Council to do to ensure MPD has appropriate legal and policy guidance and always responds with appropriate restraint to peaceful assemblies, and we urge the Council to take up that task with urgency as it continues to oversee MPD's work.

Children's National

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Testimony of Elizabeth Berg, BSN, RN
On Behalf of Children's National Hospital
Before the Committee on the Judiciary and Public Safety
Fiscal Year 2021 Performance Oversight Hearing:
Metropolitan Police Department

March 11, 2021

Good morning Chair Allen, members of the Committee on the Judiciary and Public Safety, and staff. Thank you for the opportunity to testify at this Fiscal Year 2021 performance oversight hearing for the Metropolitan Police Department ("MPD"). My name is Elizabeth Berg, and I am the Clinical and Education Manager for the Division of Transport Medicine at Children's National Hospital ("Children's National"). Children's National, located in Ward 5, is the top-ranked pediatric hospital in the Washington region, last year seeing more than 219,000 children from the metropolitan area, as well as across the country and around the world. I am testifying today about the importance of the South Capitol Street Heliport. In addition to being the base of MPD's Falcon Air Support Unit, it is used by Children's National to facilitate the rapid transport for critically ill neonates and children. It is vital that the city maintain a centrally located public access heliport in the District directly on the Anacostia River as part of our rapid emergency response system.

Children's National is the only hospital in the Washington metropolitan area with a rapid air and ground transport system dedicated exclusively for neonates, infants, children, and adolescents. Our Division of Transport Medicine stands ready to dispatch our resources at a moment's notice either by ground via ambulance or by air via helicopter. In fact, we are the only

hospital in the region with neonatal and pediatric specialty trained flight teams. Through our partnership with STAT MedEvac, our SkyBear helicopter provides critical treatment at the referring facility and in the air on the way back to Children's Hospital. This team is ready to respond 24 hours a day, seven days a week and coordinates all aspects of the transport and admissions process as well as providing updates to the referring physician. The team has used SkyBear to transport critically ill neonates and children from hospitals within the District, including George Washington University Hospital, MedStar Georgetown University Hospital, Sibley Memorial Hospital, and United Medical Center.

While SkyBear is based out of Children's National in Ward 5, we rely on the South Capitol Street Heliport to be able to respond quickly to multiple calls so that we can serve as many children as possible. The facility enables our helicopters to obtain fuel and service within the District, so that they can efficiently move from dropping off a patient at Children's National, freeing up our onsite helipad for the next patient, to refueling so that they can respond to the next emergency call. Because the facility is centrally located directly on the Anacostia River, our team can access the heliport by ground from Children's National relatively quickly, even in the event of bridge closures for inclement weather or special events.

We are pleased that Congressional Aviation and the District have been working together on plans for relocating the South Capitol Street Heliport, since the lease for the current site will expire next year. When it comes to critical care, emergency care, and trauma services, timing is everything. Continuing to have a centrally located public use heliport in the District directly on the Anacostia is vital not only for MPD, but also for Children's National to be able to rapidly respond to emergencies and provide lifesaving care to children in the District and beyond.

Thank you for the opportunity to testify. I am happy to answer any questions you may have.

Testimony

of

Robert Pittman

Chairman

First District Police Citizens' Advisory Council, Inc.

Before

The Committee on the Judiciary and Public Safety

Charles Allen, Esq.

Chairman

Anita Bonds, At-Large Member

Mary Cheh, Esq. Ward 3 Member

Vincent Gray, Ward 7 Member

Brooke Pinto, Esq. Ward 2 Member

Phil Mendelson, Esq. Council Chairman

Kenyan McDuffie, Esq. Chairman Pro Tempore

Robert White, Jr., Esq. At-Large Member

Elissa Silverman, At-Large Member

Christina Henderson, At-Large Member

Brianne K. Nadeau ,Ward 1 Member

Janeese Lewis George, Ward 4 Member

Trayon White, Ward 8 Member

Performance Oversight Hearing on the Metropolitan Police Department

Thursday 11 March, 2021

12:30 PM

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Greetings Chairman Allen, Members of the Judiciary and Public Safety Committee, fellow council members, staff, members of the Metropolitan Police Department and the viewing public.

I am Bobby Pittman and I appear here today on behalf of the First District Citizens' Advisory Council, Inc. and the communities we advocate for which includes businesses, tenants, residents and our visitors to the nation's capital.

We are in the middle of a Pandemic which is a virus, a financial, political, social and health crisis. The trauma from what has happened is only beginning and the real impact will not be known for years to come.

I appear here today in hope that we can find some middle ground when it comes to monies being removed from the budget of the Metropolitan Police Department. I know that the Council of the District of Columbia is well meaning in your actions. However, these actions as expected has made the city less safe.

- We must have cadets in the police academy.
- We must have enough officers to patrol the communities.
- We must (as you can now see) have a strong enough police force to respond to the civil disturbances of last year and this year.
- The city continues to grow, and we need a police force of 5000 strong given the population, the eventual resurgence of tourists, businesses and hotel occupancy. Now is the time to increase our police do not allow personnel to dwindle.
- School Safety Division is needed, and it is important that school social workers are able to share with SROs the
- I want to briefly touch on a point made by a local TV Station. According to the story Our Police stop a majority of Black people even though the majority of people are no longer Black in the District of Columbia. Stories like this are disingenuous and hurt the community. The facts support the majority of people stopped are Black, however the tags

TRUST starts on both sides not from the Police not from the residents but from both police and residents. It doesn't help with people who are elected fan the flames of the tension that builds when some member of the police force does something wrong. We need elected members to grow too. You want police to grow and evolve.

Community Engagement Academy – We support the idea of having a community engagement academy that trains people in the respective communities to assist in individual crisis that fellow community members may be experiencing.

OUC – While there is discussions now about Emergency Operations Centers and how they can be used to have Unified Command and Critical Incident Command, I wish to bring the Committee back to testimony I provided last Fall regarding OUC. Your current discussions seem to center around the ability of the Call Taker and Dispatcher to assess the call and determine the right services that should be dispatched. That leaves someone sitting in a building mile away to make decisions based on what someone they don't know and may never meet to trust that all of the details being provided are the right data sets and the rolling out of social services teams to an unknown situation is the Right Call. Once again, I caution you on this approach. I believe we should experiment with such approaches in certain instance but not all. I also believe you open us up to lawsuits if this is not done carefully.

I wish to use OUC in a different way. After someone has called 911, I want a reverse 911 call to that phone. I want to know what they thought of the response from 911. I also want the ability of the First Responders to be able to detail their experience from the call.

Parole Commission should not be in DC Superior Courts. It should be a District of Columbia Agency

The Council's legislation threatens to increase insurance costs on taxpayers, raise the price of medical coverage, car insurance and miscellaneous expenses that the Council's Budget Office has not computed. These are all increased cost for doing business in the District of Columbia at a time when we are threatened by a pandemic which is not going away soon.

To truly understand policing is to know that policing is both science and art. Police as a working profession include management that is properly trained in how to manage field operations, community interactions, statistics, performance, forecasting of events, arrests and diversions, juveniles, senior citizens, mental illness contact, discipline versus punishment of employees, trusts from the external and internal customer and so much more.

Your heart must be in policing, not just your mind.

Thank you for allowing us to share. We look forward to working with you on behalf of all people who are serves by the District of Columbia.

THE BLACK SWAN ACADEMY

Making the exception...the Rule

Testimony of Miya Walker, Policy and Advocacy Manager
MPD Performance Oversight Hearing, Public Witnesses

March 11th, 2021

My name is Miya Walker and I'm testifying as a representative of Black Swan Academy. In my role as Policy and Advocacy Manager, I work directly with young people to advance policies and practices that support their visions and needs. I stand with these young people in their calls for #PoliceFreeSchools.

Metro stations, neighborhoods, and schools are just a few of the places that I've seen young people be racially profiled and brutally attacked. Communities need care and resources, not cops.

I am in full support of removing police from our school for the following three key reasons:

1. School police disproportionately harm Black & Latinx students, and students with disabilities.
2. School police are both expensive and an inefficient use of limited resources.
3. School police don't create real school safety.

MPD continues to be a source of violence and harm for young people here in DC. The adultification and anti- Blackness that youth in D.C. experience is absolutely absurd. Our young people deserve to be kids and every interaction they have with the police chips away at their confidence, creativity, and sense of safety. One young person describes this best in saying "Students deserve comfort, happiness, education, freedom, love, peace and community. The cops don't allow us to feel those ways."- Ifetayo, Age 9.

We need to remove police and SRO's from schools and homes. Police should no longer be asked to deal with truant youth or to do home visits and should *certainly* not be carrying weapons around schools or at school events. Failure to act on these demands is showing your complicity in the school to prison pipeline. Furthermore, it shows that you are willingly ignoring reports that detail the impacts police have on students.

Nationally, schools with SROs have 5X the number of arrests as schools without. In DCPS 71 percent of students are Black, yet 93 percent of school-based arrests are of Black youth. No young person should ever know what it's like to be arrested, but in D.C. people as young as 9 years old are having that experience. A young person at Black Swan Academy says "School is for coming to get an education not to feel like an inmate"- Tykirah, 11th grade.

Council I ask, what does it mean for you to support youth? What are your obligations to them and their safety while in schools?

Schools are consistently underfunded and many of them lack mental health support services. Despite this, money, time, and resources continue to be funneled into the police. Nationally, 90% of schools do not meet the nationally recommended standards for having enough health support staff. , DCPS students are more likely to have a police officer in their school than a counselor or social worker. No DC school should have an SRO and not have a nurse, a counselor, and a social worker. As we continue to navigate a pandemic and the aftermath of a summer of hypervisible violence, the need for mental health support for our communities is even larger.

Mental health services are just one of the things we can reimagine for D.C.s young people. The possibilities are endless, but first I need you to commit to divesting from all forms of police in D.C. schools- including DC police officers and security officers contracted through the Metropolitan Police Department. Instead, invest in resources that will create a safer, healthier, more equitable school environment.

Thank you,
Miya

Good morning councilmember allen members of the committee

My name is reginald black and i am a voting member with lived experience for the interagency council on homeless a street sense vendor as well a s native washingtonian. I am here to give testimony to actions the metropolitan police department can use to help combat homelessness and also to inquire about an item that involves homeless peers.

The metropolitan police department is a curcil partner to the ich interagency council on homelessness. They help with activities related to persons living on the streets some of these include assisting with f d 12's and are essential to saving lives in inclement weather. We are concerned with their lack of participation in our street outreach work group. This is concerning because those who are unhoused encounter officers constantly for a myriad of issues and situations. Mpd officers are often called to regulate spaces where an establishment wants to remove a person. While not against having mpd as a safety protocol there is a lot of work we need to do to improve the relationship between mpd and the unhoused. When conduction encampment engagements the deputy mayor for health and human services uses them to arrest and unhoused folks who do not vacate their encampment and help to control crowds of volunteers who come to assist fortunately there haven't been any unarmed deaths from mpd amongst the unhoused this does not mean that there isn't any ti just means that those instances may not have been reported

I am also here to suggest some ideas how the mpd can be a better partner and look at non enforcement solutions to situations like issuance of bar notices and removal from establishments. We are hoping that the Michael A stoops antidiscrimination act will be reintroduced and Mpd can help the office of human rights investigate violations to human rights.. When homeless people are removed from an establishment the mpd are called to mediate the situation. At that time a potential consumer of homeless services cannot make a complaint if they wish to make one. Corporations are often reluctant to give a person who appears not to be in good standing a complaint line. mpd could dedicate officers to be a connection to the office and the public; human rights duty will help get more cops on the beat and in communities on foot to help with community policing. I could not make a complaint when I got a five year bar notice for nothing and the office of human rights could not be contacted right away nor could I file a complaint properly. I think trained officers whose sole job is to help enforce our human rights charter is the way to go. We have the fair criminal records screening act and these officers can help look for violations of that particular law taking some of the pressure off of the office of human rights. This also will create more law enforcement jobs and help to hire more police. I look forward to working with everyone to make this a reality.

Finally in the later months of 2020 the ICH conducted a racial equity audit. The Government Tier of the council has not yet fully embraced racial equity. Many agencies like the MPD, The Office of the City Administrator and DCHA were not engaged in this process as The Child and Family Services Agency, The Department of Housing and Community Development, and The Department of Human Services. We do recognize that there are some changes in MPD's leadership but MPD should have participated in the survey provided by ich. Please the chief why MPD did not engage with an internal racial equity audit initiated by the ich. How can we say that we are committed to racial equity if our public entities refuse to participate? MPD are first responders who are called in situations involving the unhoused. if MPD cannot ask itself where it can improve in terms of racial equity then it's no wonder why MPD should not be called for every situation. We support the asks of our colleges here to produce more non enforcement solutions and response, we want to ensure that MPD addresses the inequities produced within and outside of the department. We should not allow these kinds of actions and policies to continue within crucial agencies like this. I would be pleased to work with your office and others to help The Metropolitan Police Department to bring equity to services and housing the unhoused will need.

Thank you for the opportunity to testify and i am happy to answer any questions you may have

PROCESS OVERVIEW: MEMBER AGENCY

15 of the 32 Member Agencies completed the Organizational Assessment Survey.

Advocate
- ***DC Coalition Against Domestic Violence***
- DC Fiscal Policy Institute
- ***Miriam's Kitchen***
- ***Sasha Bruce Youthworks***

Continuum of Care
- ***The Community Partnership***

Government
- ***Child and Family Services Agency***
- DC Housing Authority
- DC Metropolitan Police
- ***Department of Behavioral Health***
- Department of Corrections
- Department of Employment Services
- Department of General Services
- Department of Health
- ***Department of Housing and Community Development***
- ***Department of Human Services***
- Deputy Mayor for Health and Human Services
- Homeland Security and Emergency Management Agency
- Office of LGBTQ Affairs
- Office of the City Administrator
- Office of the State Superintendent of Education

Private Sector
- ***Jaydot LLC***
- ***National Community Church***
- National Health Care for the Homeless
- The Community Foundation

Provider
- ***Coalition for the Homeless***
- ***Community Connections***
- ***Community of Hope***
- District Alliance for Safe Housing
- ***Friendship Place***
- ***N Street Village***
- ***Pathways to Housing***
- Supporting and Mentoring Youth Advocates and Leaders

Metropolitan Police Department March 11, 2021 Performance Oversight Hearing

Testimony - Georgine Wallace – PSA 103 and 105 Community Facilitator

Good Afternoon Mr. Chairman and Committee members. My name is Georgine Wallace. I am a 2016 graduate of the Community Engagement Academy and I currently serve as the PSA 103 and 105 Community Facilitator. I help Captains Jon Dorrough and Mike Pulliam organize and run our monthly joint PSA meeting for the residents of Southwest in Ward 6.

By late June 2020, not only had the pandemic sidelined officers but several of our best were injured in the demonstrations. Officers not on CDU patrolled as much as possible but the reduced coverage was noticed by local businessmen who supplemented their growing gun sale business with fireworks. They also lit the fireworks and threw them at the homes of those who dare challenge them. My home was attacked four times in the first two weeks of July. My left eye was injured in the second explosion. The operation was disclosed when the businessmen exchanged gun fire.

I tried to report the fireworks but nothing changed. Residents received a lot of bad information about who was doing what regarding fireworks. MPD was caught in the middle. I experienced five attempts on my safety in two weeks. We need to make sure that agencies taking over functions once handled, even in part, by MPD perform better than this.

The horror of January 6th brought back memories of DC during 9-11…the fences, the armored personnel carriers, and the troops. I heard officials state that January 6th will never happen again giving license to reduce the roughly 10% of the city budget MPD receives. Note that 9-11 had a part I, the February 1993 bombing in the World Trade Center garage. Seven people died and over 1000 injured. Four years later, they revised their approach, the towers were gone as were over 2000 people. Similar intent was stated in January.

We also cannot forget the need to provide for the national component of the role our officers play every day. On January 6th, my First District officers handled a homicide in Northwest as 120 of their colleagues spent over 5 hours in brutal hand to hand combat at the Capitol Building. This is not a police department with typical duties.

I wanted to conclude by telling you about a literacy project I helped create in 1D that is intended to build common ground between officers and children. The program involves officers reading aloud to children, building and stocking little free libraries, and spending time reading to kids at a free book fair. My co-creator is now doing Outreach for 6D and the program will hopefully be rolled out across Patrol South. I look forward to working with 1D and other areas of the city to build bridges in a time when we need it more than ever. Thank you and thank you to Kate and the rest of your Committee staff for their hard work on handling the complex nature of these hearings.

D.C. Open Government Coalition

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Testimony of the
D.C. Open Government Coalition

by

Fritz Mulhauser
Co-chair, Legal Committee

before the
D.C. Council -- Committee on the Judiciary and Public Safety

Performance Oversight Hearings on the Metropolitan Police Department (MPD)

March 11, 2021

Chairman Allen and members of the Committee, I am Fritz Mulhauser. Co-chair of the Legal Committee of the D.C. Open Government Coalition and a resident of Ward 6. I appreciate the opportunity to testify today on behalf of the Coalition. We offer our observations on MPD transparency in the past year – how well the public can know what law enforcement is doing, and changes the Council should make to improve it.

The rationale should be clear: good information is one essential in the project to rebuild the badly frayed legitimacy of policing in the eyes of the public.

We address three main topics:

- barriers to public access to body-worn camera (BWC) video must come down;
- complaints about police conduct must also be open, together with the results of investigation and discipline; and
- timely treatment of public reporting requirements must improve.

Wide attention to MPD transparency issues this year has been welcome, as the public demanded to know more about all types of police practices—rules, rationales, and results, following multiple shooting deaths and the death of George Floyd on May 25, 2020, in police custody in Minneapolis.

The Police Reform Commission report due in April will reflect community input asking for better information – and, according to early discussions of draft recommendations, more opportunities for analysis and action on that information, for example by a new deputy D.C. auditor for police and a broadened oversight entity. Also this year, community members litigated MPD failure to release records and data. And the Office of Open Government reviewed MPD redaction policy and issued an opinion, as discussed below.

I. The Council should legislate to improve access to BWC video

Our Coalition played an active role in discussions leading to the Council's public access requirements in the first BWC legislation and rules in 2015-16; members of our Board have reported back to the Council repeatedly since then. The District policy of opening BWC video to access as any other public record under the Freedom of Information Act (FOIA) seemed a welcome step compared to the mayor's initial restrictive proposal and similar laws elsewhere. But in practice the results have not been encouraging.

Permanent legislation is needed to replace the short-term measure in the last Council period (Act 23-4376). It included several very important improvements including mandatory prompt release of the name and BWC recordings of all officers who commit an officer-involved death or serious use of force and also prompt release of unredacted BWC video to the Council Committee on the Judiciary and Public Safety.

DCOGC supports the mandatory 5-day release requirement. The immediate discussion of the September 2, 2020, shooting of Deon Kay was only possible because it happened just a few weeks after the Council required prompt video release. We recommend it be expanded to include video footage from *all officers on the scene*. Reduced redaction discussed just below should also apply.

FOIA provides a time-tested legal framework of standards and procedures for handling release of all kinds of public requests for records. But the experience of requesters from both the media and the community with MPD application of the law has been difficult. We thus propose that permanent legislation include language that addresses several remaining issues. Details are in an appendix.

- First, narrow the personal privacy exemption as applied in the special context of BWC. MPD needs guidance to correct over-redaction of officer details and also those of most third parties and locations when a video is released. The Office of Open Government has made clear how the agency approach misinterprets the law of privacy exemptions in FOIA.[1]
- Second, end sky-high fees by requiring the lowest cost redaction technology.
- Third, narrow the "investigation" exemption to set a time limit, require justification and extension only upon explicit re-approval.

II. Complaints about police misconduct must be open, and facts about their outcome

DCOGC recommends that MPD complaint and other discipline investigation records, at all stages, should be publicly available. Access has been limited here not by statute or union agreement as in some states but by interpretations of privacy exemptions in the FOIA. But public expectations change, and demands are clear for better evidence that officers are required to obey the rules and that appropriate action is taken when they don't—with all facts considered and without bias influencing the result. Legitimacy is undercut if the public believes official review is not faithful to community values.

In a press interview, the director of the Office of Police Complaints (OPC) "agreed that the interpretation of FOIA law in the District is too restrictive for police records. He says he supports tipping the scales more in favor of the public's interest when it comes to disciplinary records specifically." The reporter quoted him directly saying "It would add a lot to community trust if the

[1] See D.C. Office of Open Government, *FOIA Body Worn Cameras Advisory Opinion*. (Nov. 20, 2020.) Available at: https://tinyurl.com/vvt6rpvw.

community was aware what kind of discipline was being handed out to MPD officers. Right now I don't think we strike a very good balance between those things."[2]

The Council should by statute clarify that the public interest in accountability justifies access to files on complaints and all other discipline investigation/resolution (the vast majority of misconduct cases are investigated within MPD, not via complaints to the OPC, according to MPD officials' testimony to the Police Reform Commission).

This step was taken by California and New York legislatures, and by over a dozen other states; it is close to passage in Maryland as part of our neighbor's package of police reform legislation.[3] The District should do the same.

The Coalition has completed in recent months a review of details of access practice and problems in sixteen large police forces in comparable jurisdictions. We would be happy to share further findings with you. From our review, we recommend:

- access legislation should be specific and comprehensive, as reliance on FOIA alone can leave ambiguities that can take years of litigation to clarify;
- release should be required (not just a discretionary database), allowed redactions spelled out, and deadlines and enforcement methods detailed;
- coverage of the release requirement should include all complaint records, regardless of the substance, final disposition, or date (past and future);
- preemption of any contrary provision of law regarding personnel records and of any collective bargaining agreements;
- record retention requirements unique to police complaints and discipline should be in the law, together with audit requirements to deter manipulation of record-handling norms;
- support for related costs such as developing accessible web access tools and training for officials who may be needed to help with public access.

Important evidence is coming to light as open complaint policies are reviewed and enacted elsewhere. For example, as the *Post* reported in its national review as part of the Maryland story (see note 3, above), the importance of including all complaints, since it turns out very few are formally sustained (under two dozen a year, out of 400-500 a year at OPC); and the complete absence of evidence of any harms to officers or hindrance to recruiting. The *Post* story cited a federal court of appeals in New York that reviewed union predictions in a lawsuit, a Maryland police chief asked for evidence of harm at a legislative hearing, and even Florida state police union officials – none produced evidence of harm from opening complaint files.

The OPC director has also called discipline "opaque" – not surprisingly since results of OPC factfinding are handed off to the MPD chief who has discretion on discipline imposed, if any, and the results are unpublished. Transparency would be further strengthened by structural change. The Council should assign OPC the job of recommending discipline (within agreed-on guidelines reflecting seriousness of the offense), with the MPD chief required to explain publicly any deviation.

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[2] Mitch Ryals, "D.C. Office of Police Complaints' Records Leave Much to Be Desired." *Washington City Paper*, Sept. 20, 2020. Available at: https://tinyurl.com/jrjx5a7s.

[3] Steve Thompson, "After decades of secrecy, Maryland might make police disciplinary records public." *The Washington Post*, March 5, 2021. Available at: https://tinyurl.com/4kzmy3ef./

III. The Council should stress the importance of required deadlines

All parts of life, public and private, have been stressed in the year of the corona virus. Key aspects of open government such as FOIA response deadlines were put aside by emergency laws.[4] Even so, it is disappointing to note that:

- MPD failed for years -- until sued a second time -- to release stop and frisk data that was mandated and paid for by the Council;
- overdue MPD reports on BWC (July 2019 to June 2020) appeared just hours before this hearing;
- the Police Reform Commission heard this week from a Council staffer that the report of police and fire chiefs due January 15 each year on "the number of individuals, of all rank and services, investigated and disciplined for misconduct, categorized by the nature of the misconduct allegations, the nature of those misconduct allegations that are substantiated, and the discipline given for substantiated allegations" -- mandated in D.C. Code § 5-1032, hasn't been submitted, ever;
- the annual report on a controversial police procedure called "post and forfeit," mandated in D.C. Code § 5-335.03, has never been issued (or at least it's not to be found online or at the Council LIMS).

Conclusion

Thank you for considering our views and recommendations. In a busy legislative year we are ready to help any way we may be useful.

* * * *

The Open Government Coalition is a citizens' group established in 2009 to enhance public access to government information and ensure the transparency of government operations of the District of Columbia. Transparency promotes civic engagement and is critical to responsive and accountable government. We strive to improve the processes by which the public gains access to government records (including data) and proceedings, and to educate the public and government officials about the principles and benefits of open government in a democratic society.

[4] Deadlines were restored effective January 15, 2021. Tracking agency 2020 FOIA processing under the unusual conditions is of interest but delayed. MPD gets the most requests and has (historically) the largest backlog, which may have grown during the pandemic as deadline discipline relaxed. The agency data is in the Mayor's citywide FOIA report not yet available more than a month after its statutory February 1 due date.

APPENDIX

BWC Video Release – Legislation Needed

We recommend permanently enacting last year's short-term legislation, especially the mandatory releases by the Mayor and upon Council request, with the addition that they should include BWC video from *all officers involved.* In addition we recommend:

I. Legislation should narrow the items to be redacted as BWC video is released

Privacy protection should not be so expansive that it defeats access to intelligible video and requires so much blurring that raises costs and adds delay. Coalition analysis of redaction problems led to our 2019 complaint to the Office of Open Government about over-redaction that MPD had not been able to explain, let alone justify. It resulted in a 13-month investigation and a November 2020 report recommending changes in redaction to correct unlawful redactions of officers and many third parties and locations. None have protected interests, according to the opinion. The MPD has not responded to the opinion. The Council should specify the allowable redaction in order to make the BWC FOIA program lawful.[5]

II. Legislation should mandate the most cost-effective redaction

Less redaction will make FOIA requests less expensive, but the Office of Open Government also recommended explicit statutory direction that MPD use the most cost-efficient methods.

The Office noted language from Spokane, Wash., that could be a start. That city requires "[a]n agency that charges redacting costs must use redaction technology that provides the less costly commercially available method of redacting body camera recordings, to the extent possible and reasonable."

III. Legislation should set limits on the investigation exemption

The FOIA exemption for "investigatory records compiled for law-enforcement purposes" delays access, since in D.C. serious misconduct is investigated first for possible criminal charges by federal prosecutors, then again in MPD for policy violations.[6] Legislators elsewhere have addressed investigative delays thoughtfully, requiring time-limited secrecy be justified in public writings, renewable only upon further explanation of the need and the harm from release. California's open discipline records bill, SB 1421, at Sec. 2 (b)(7), is an example of how to handle this.[7]

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[5] The two most recent MPD BWC reports (covering July 2019 through June 2020) show no requests granted in full and 159 requests redacted, thus potentially many in error. Available at: https://mpdc.dc.gov/node/1116387. Whether any were appealed is unknown as the figures are in the 2020 FOIA processing report not yet submitted.

[6] Median USAO time, a year. Office of the D.C. Auditor, *The Durability of Police Reform: The Metropolitan Police Department and Use of Force: 2008-2015* (January 2016), pp. 60-61. Available at: https://tinyurl.com/ya8pp7e9. MPD officials said that "despite having raised the issue repeatedly with senior executives at the USAO, the problem had persisted."

[7] Available at: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1421.

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March 11, 2021

Testimony of DC Police Union for
Metropolitan Police Department Oversight Hearing

Good morning, Members of the Committee, thank you for this opportunity to testify. As the Chairman of the D.C. Police Union, I speak on behalf of approximately 3,500 sworn police officers, detectives and sergeants who serve this community as members of the Metropolitan Police Department (MPD). I have been a DC resident and a DC police officer for sixteen years and I take great pride in serving this city.

I would like to focus my time today on an imminent crisis facing the Metropolitan Police Department, attrition and manpower.

To quantify how the attrition rate is becoming dangerous for this city, I point to the calendar year of 2020, in which the MPD lost 163 employees to resignations alone. To put that in perspective, over the past ten years (2011-2020), the MPD averaged 108 resignations per year. 2020 amounted to a 50% increase in resignations over the average. 163 resignations in one calendar year is the most the Union has seen in the 15 plus years it has been keeping these records. Additionally, the MPD lost another 156 members to retirement, which means MPD lost 319 employees to resignations or retirement in 2020. The Committee should also be aware that there are 398 members who are currently eligible for retirement.

During the same calendar year of 2020, the MPD graduated 230 recruit officers from the Police Academy, giving MPD a net loss of 89 employees. This might not seem like a significant loss; however, the MPD has not been hiring new recruits since late in the summer and does not have a current projected date to begin rehiring. Even when MPD begins the hiring process, there will be at least a 4 to 6 month delay for candidate selection and background checks, and another 6 to 8 months of Academy training before new officers are graduated to patrol.

The full sworn strength of MPD appears to be just over 3,600 officers, one of the lowest total numbers we have seen in years. As this attrition rate undoubtedly continues without hiring replacements, we could see this number drop below 3,300 in less than a year, and below 3,000 in less than two years. This would be catastrophic for the city.

There are two major aspects that I want to impress on the Committee regarding the effects of a rising attrition rate.

The first is the compounding result of how the workload increases on individual officers when there are less employees to shoulder the load. Having just one or two less officers in a roll call to respond to calls for service could cause the remaining officers to handle 10 or even 20 more assignments in a shift. This causes extreme burnout and fatigue. Recently, some of our members

have been forced to work three weeks straight of 12-hour shifts, with no days off. Many members who have retired or resigned have reported to the Union that these grueling schedules were a major contributing factor to their decision to leave MPD.

The second is the dramatic effect attrition has on overtime. The MPD responds to nearly 700,000 calls for service annually, which is about 2000 per day, or 80 an hour. Regardless of what proposals may exist to reduce police response to these calls, there are still citizens on the other end of these calls needing emergency assistance, which is currently provided by MPD. I am sure the Committee is aware of the amount of manpower that had to be allocated to address the unprecedented number of First Amendment Assemblies and unrest this past year. This demand for personnel drains the resources in our most vulnerable neighborhoods and leaves communities less protected. In order to staff these demands, the MPD relies on overtime when manpower is insufficient to provide appropriate coverage. This is not cost effective for the taxpayer and works to compound the issues surrounding attrition.

Tragically, the homicide rate is again increasing, even over last year's exponential increase, and robberies and vehicle theft is also on the rise. Many citizens complain to our members that they live in fear of criminal activity and want more police and more police presence. It is paramount that the Committee and the Council take appropriate action to ensure our Department is well staffed with the best possible personnel in order for us to remain one of the best Police Departments in the Country.

The Union asks for the Council to give deep consideration when making decisions that affect the ability to hire and retain our best employees, specifically, legislation affecting employee rights, along with budgetary restraints that would impact hiring and retention, as these issues are at the heart of the MPD performance, and its ability to provide exceptional service to its residents and visitors.

Again, I thank you for the opportunity to testify and I welcome any questions the Committee may have.

Greggory Pemberton
Chairman
D.C. Police Union

Kristi Matthews Testimony
On behalf of the DC Girls' Coalition
Councilmember Charles Allen
Committee on the Judiciary & Public Safety
Metropolitan & Public Safety
Thursday, March 11, 2021, 9:30 a.m.

Good Afternoon, my name is Kristi Matthews and I am the Coordinator for DC Girls' Coalition. The DC Girls' Coalition works to elevate and amplify the voices of young women, girls, femmes, gender non-conforming and transgender girls/women of color in the District of Columbia. DCGC, comprised of youth-serving and advocacy organizations, adopts and fights for the implementation of policy recommendations that centers youth leadership and addresses their needs. We are currently managed by our Youth Advisory Board made up of young girls of color and gender nonconforming people of color ages 11- 22 years old.

Today, I will be speaking in support of Black Swan Academy's Police Free Schools demands. Which is asking for divestment from all forms of police in D.C. schools including DC police officers and security officers contracted through the Metropolitan Police Department and an investment in resources that will create a safer, healthier, more equitable school environment.

We are are demanding with Black Swan Academy for the following Changes:

- Eliminate/abolish the MPD School Safety Division.
- Prohibit all MPD from carrying weapons on & around school grounds (including school events).
- Prohibit all MPD from doing wellness checks or home visits
- Prohibit all MPD from picking up truant youth.
- Defund the cadet training program and invest into pipelines to careers that actually keep us safe.
- End school security contract and higher diverse safety squads that are preventative, trauma informed and ani-oppressive. Safety squads should be inclusive of mental health professionals, community members responsible for safe passage, de-escalators, outreach persons and mutual aid coordinator.
- Expand school-based mental health
- Reinvest violence interruption model that is school based, ensure gender equity lens

Police officers do not keep youth safe in school and can lead to more incidents of trauma and violence. Within black and brown communities police often criminalize youth more than work to protect them. For these reasons we are in support of removing police from schools. We would first like the abolishment of the MPD School Safety Division. Oftentimes the interactions with this division to youth of color leads to arrest, conflict, and trauma instead of support and resolution of conflict. We support the prohibition of all MPD from doing wellness checks or home visits or picking up truant youth. Instead having funding to increase the connection to social emotional support and community based support for youth who need it.

There is a lack of true investment into social and emotional support for children and youth. Oftentimes young people who are having an emotional and mental breakdown are forced into interactions with SROs and security officers. When youth "act out" or break a school rule oftentimes they are punished instead of having conversations with them to see if there are other things that may be going on that need to be address. As someone who studied Clinical Mental Health Counseling, I think it is important to understand anger and frustration are often the emotions that are shown when there are underlying emotions such as sadness, depression, loneliness, greif, or powerlessness. The lack of coping skills or mentorship can lead to these emotions manifesting as anger or frustration. This is why we support the ending of the school security contract and hiring a diverse safety squads that are focused and trained on preventative, trauma informed and ani-oppressive solutions for conflict within schools.

We also demand there be an expansion of school-based mental health services at every school and a reinvest violence interruption model that is school based with a gender equity lens. Allowing youth to interact with people from their communities not only helps them make a connection with those who are helping guide them, it also helps youth see that they themselves

are powerful and can one day be a support system for others in their community. We as a collective need to start the process of breaking the school to prison pipeline for black and brown youth. The first step in this process is ending the criminalization of children and youth and instead identifying support systems to address the issues that arise. It is time we make concrete steps to reverse the trauma caused by systematic racism and oppression and hundreds of years of treating people of color as either property or second class citizens. We need to show black and brown youth that their education, mental and physical well-being matters and that they are not disposable or a burden. Making investments into counselors, psychologists, violence interrupters, and community based healers is the first step in reversing trauma caused by the racial violence black and brown youth have witnessed and been victims of for the last 100s of years. Thank you for your time and I welcome any questions.

Anonymous Testimony
Committee on the Judiciary & Public Safety
Chairperson Charles Allen
March 4, 2021

I live in Ward 8, and I'm here to talk about safety. I'm concerned about the shooting that's going around and all these robberies. About people that's out here doing stuff to innocent people. Because I'm concerned about safety for the kids. For me, I'm going on 50. It's these innocent kids that keep getting kidnapped and shot is what I'm concerned about.

Police need to do their job more. They could circle around the city more and be around the schoolyard more often. A lot of crimes happening at school. Really what I think the police need to do is put the guns down. Something needs to be done for the kids, and it's to put the guns down.

Judiciary and Public Safety Testimony

Good morning and thank you for giving me the opportunity to testify, I am Tamika Spellman the Policy and Advocacy Director for HIPS and a member of the LGBTQ budget advocacy coalition. I am here to detail needs within our community.

MPD should be defunded to bring them in line with other major cities this size, that goes without saying because we are no safer or have less crime with nearly 4500 officers than we were with 2700. Reducing the force can save a quarter of a billion dollars from their budget that can be reallocated to critical programming to replace MPD. But in doing so we need to replace them with mobile crisis intervention teams of which I have submitted a concept for 24 hour harm reduction services to replace 1800 officers over 3 years as MPD draws down over the same time period. As the scope of their work is redefined and fine tuned to be more inline with demands from city dwellers, our march towards decarceration and decriminalization must be coupled with reforming them at the same time. I have attached what I foundly refer to as the MPD budget gutting guide as an addendum to my testimony. Apart from that other needs persist along the way and I will now detail those.

As much as I would like to do away with the DC city jail, until that happens we need a liaison directly within the jail to facilitate better communication with Transgender and gender non bianary individuals. This has been a long standing issue that has left many within my community traumatized by the experience. There should be someone from the community employed to bridge the gap in communications with community members to lessen the impact and to liaison for needs/issues/concerns during and after incarceration as Black and Brown people withiin the LGBTQ community are often impovished, have health concerns and mental health issues that suffer setbacks because of being jailed which often leads to recidivism. This is a step towards corrective measures that go beyond the typical carceral response to social/behavioral issues that arrest and jail could never address. Although HIPS now employs a reentry coordinator, the need still exists within the system to make the initial connection for those outside to

carry on the work. Someone with lived experience from the community should be in this position as their ability to empathize with the community and understand the circumstances and nuances of our situations is paramount to making this relationship a success.

Safe housing for victims of domestic violence specif to LGBTQ-particularly Transgender indvidauls is paramount. Violent attacks are up, and options for safe spaces are little. It is time to look to alternative housing models like those with No Justice No Pride who houses Black and Brown sex workers, transgender, Femme's and Gender non Bianay folks of all ages (18-54) and Casa Ruby who also provides housing options primarily for youth (18-24) but also provides safe spaces many other LGBTQ folks as possible. Both are alternatives often used by victims who slipped through the cracks, with little to no money. Certainly none from the local or federal government without ridiculous restrictions that creates barriers many in need still can't attain, even as a victim. LGBTQ folks experiencing violence, in situations and circumstances that are hard to escape and explain often go on way longer than those among our CIS counterparts because it isn't viewed the same which causes longer term harm which often leads to substance use and death. There needs to be significant shifts in funding towards housing models that work without government demands for deliverables. After all, safe housing is a human right.

And lastly: Oversight of community surveillance. Black and Brown LGBTQ folks, especially transgender women are already negatively over policed and suffer from excessively unproductive surveillance. No Justice No Pride was targeted by MPD with spotlights directed at their first safehouse location. Police stationed nearby watched their comings and goings nearly 24 hours a day. No question about the eminse waste of tax dollars as this exercise did nothing to make the community safer, but did put a wedge between safe spaces for transgender and gender non bianary people and the neighbors. Nothing but harm came from that and unchecked surveillance goes on citywide as new technologies are gifted to policing agencies and it's not reported that they are being employed as a part of their policing stratagies. That is a violation of not

only trust but our rights to privacy. Especially because there are no regulations on what is collected and how any of it can be used, stored or who can access them. That's unacceptable on multiple levels and needs to be addressed as well as the many other issues and concerns Covid-19 has made worse. Adding and implementing more surveillance in the absence of or instead of police/policing isn't the answer. Decararation, defunding the police, reform and decriminalization are codependent on each other for success, as well as implementing harm reduction services and funding for programs and initiatives that are investments in people's survival and ability to thrive. We've supported hindering them through the system long enough, it's time to support their survival instead. Thank You.

MPD Performance Oversight Hearing Testimony
March 11, 2021
Committee on the Judiciary and Public Safety
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004
judiciary@dccouncil.us

Councilmember Charles Allen and members of the Committee:

MPD 4D Officials and Staff

I would like to commend the officials and staff at 4D. I would like to express my sincere thanks for the leadership, professionalism, responsiveness, collaboration, and frank and honest dialogue of the leadership and staff at the 4D Station. Specially, I would like to commend Commander Randy Griffin, Captain Franklin Porter, Lieutenants Francis Jenkins and Matthew Fitzgerald of PSA Sector 1, Officers Randall Butler and Tandreia Green, and the 4D community liaison Mr. Derek Staten.

Over the years, the staff at 4D have been a valued community partner. They have met with me, neighbors in their homes, or attended the SPCA's community meetings to discuss crime prevention techniques, participated in public safety walks, provided educational information about the law enforcement process or crime statistics, and are a frequent and visible presence in the neighborhood. As I have mentioned to Commander Griffin, not a week goes by that I don't see one someone from 4D in our community. I would also be remiss without mentioning the heroic actions and bravery displayed by the MPD during the January 6th insurrection on the Capitol. Our democracy and city are indebted to each and every officer that served on that frightening day.

MPD 4D Facilities

I would be remiss by not mentioning some overall concerns that I have with this Committee. The 4D station is in extreme disrepair and protests regarding the events that led to the death of Karon Hylton-Brown only exasperated the condition of the building. Letters and testimony about the condition of the 4D station have been sent to this Committee during Performance Oversight and Budget Hearings by members of our community and the Shepherd Park Citizens Association since 2018 and nothing has changed. Some of the improvements include but are not limited to:

- Adequate office and desk space for all officers, officials and staff assigned to 4D.

- Adequate parking for:
    - MPD vehicles
    - Additional vans and vehicles brought in to support large events.
    - Vehicles being stored as evidence.
    - MPD officers' private vehicles.

- A studio in the station to provide a space for mindfulness, which would reduce the officers' willingness to use aggressive physical restraint tactics and draw his/her pistol in contentious situations that you have seen that have resulted in racial injustices around the country.

- A locker room with a locker for each officer to store their personal effects and adequate male and female bathrooms and showers.

- Modern holding cells and prisoner processing facilities.
- Adequate property room to store evidence.
- ADA accessible.
- High quality community meeting room – large, well-lit, high-end AV, built-in podiums. Facility should have additional, smaller community rooms.
- Commercial grade kitchen.
- Daycare facility or subsidies.

What is also alarming is that the number of households in my community is growing with the ongoing development of the former Walter Reed campus, which is expected to swell to 5,000 new residents, a daycare center, and employees and visitors to both the Children's Hospital and Foreign Service sites. Our Ward needs improved MPD facilities and additional staff to reduce the strain on our public servants.

Reimbursable Detail Officer (RDO)

RDO can provide a value service to ABRA licensees and community's alike. However, I live in close proximity to an ABRA licensee and have concerns regarding the program execution of RDO. Better execution of the program is warranted beyond the physical presence of an RDO in order to justify taxpayer dollars supplementing the poor business management and crowd control of ABRA licensees.

Thank you for your time.

Sincerely,

Naima Jefferson

Memorandum

TO: Councilmember Charles Allen, Chair, Committee on Judiciary and Public Safety, and Members of the D.C. Council

FROM: Cynthia Lee, Edward F. Howrey Professor of Law, The George Washington University Law School

RE: Written Testimony in Support of Funding for DC MPD

DATE: March 10, 2021

Chairman Allen, Chairman Mendelson, and members of the D.C. Council, I have been a professor at the George Washington University Law School where I have taught Criminal Law, Criminal Procedure, Adjudicatory Criminal Procedure, and Professional Responsibility for the past 20 years. I am also an 18-year resident of Ward 4 in the District of Columbia. I am writing in my personal capacity as a resident of the District of Columbia.

I write to urge you not to cut any further and to restore any funding that was cut in last year's budget hearings to DC's Metropolitan Police Department. I am as much a critic of bad policing as anyone, which is why I have urged you to make permanent the use of deadly force provisions in the Comprehensive Policing and Justice Reform Amendment Act of 2020. I strongly believe police officers need to be held accountable when they use excessive force and that we need to encourage our police officers to de-escalate before using deadly force whenever possible but diverting funds away from MPD is not the way to achieve the goal of a better police force.

If we want police officers who are trained to de-escalate in volatile situations, if we want police officers who are not stretched thin from the stress of long hours and insufficient pay, we need to adequately fund our Metropolitan Police Department. Currently, many residents in my neighborhood are concerned about the uptick in auto theft and crime. I for one am grateful when I see officers from 4D on patrol in my neighborhood because we live very close to what used to be (and may still) an open air drug corridor. There are still a fair number of armed robberies and shootings not far from where we live. We would be less safe if MPD had less officers who could investigate criminal activity.

I support putting more resources into gun violence reduction efforts, mental health services, our public schools, housing and job opportunities, but taking away funds from MPD to fund these important efforts at getting to the root of crime would not be wise. If MPD is not adequately funded, they will not be able to attract good people to serve as MPD officers. They will not be able to serve our communities the way we want them to serve our communities.

Please try to find another way to fund the important work that needs to be done to address gun violence, mental health, education, housing and jobs without stripping DC MPD of the resources it needs to protect and serve our communities.

My name is Prashasti Bhatnagar. I am a Ward 6 DC resident and Georgetown Law student. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors, and Black, Indigenous, and residents of color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

MPD protects property not people and it is Black bodies that maintain its monopoly on violence. Every time MPD murders one of our own, MPD demonstrates it is not interested in protecting the lives of Black residents and their families, but destroying them by perpetuating racist policing practices. MPD is quick to claim each shooting as justified, but the real victims are our residents, leaving young Black people living with the threat of being approached by a mob of police officers in their own neighborhoods and not knowing whether they will survive the encounter. These acts of violence extend beyond the plain eye, taking the form of unconstitutional daily surveillance of Black residents living in Southeast DC. Even the 2020 Black Lives Matter protests were no exception. As residents were protesting to mourn the losses of George Floyd and Breonna Taylor, Black life, Black forms of expression and Black solidarity were deemed as threats and met with unnecessary trauma and force. To be Black in DC is not to be safe in DC.

I demand that DC fulfill the goal of the District Human Rights Act Sec. § 2-1401.01, which requires that residents be protected from lawlessness and racism by implementing the following:

1. Cutting MPD's budget and reinvesting that money in communities;
2. Investigating and removing the officers accountable who were involved in the murder of any DC resident including but not limited to: Marqueese Alston, Karon Hylton and Deon Kay;
3. Terminating any surveillance assignments and discontinuing the harassment of Black organizers, particularly those connected to Black Lives Matter DC; and
4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violates every resident's right to be free from seizure without probable cause.

MPD does not and has never protected residents like me; Black and Brown community members care for each other and protect each other. Accordingly, it is time to defund MPD and invest back meaningfully into the communities.

My name is Jarrett Lewis. I am a Ward 6 DC resident and third-year law student at Georgetown University Law Center. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender-nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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--
Jarrett Lewis
JD Candidate 2021
Georgetown University Law Center

My name is Emma Tremblay. I am a Ward 6 DC resident and law student at Georgetown University. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, and other residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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PROPOSED TESTIMONY

My name is Radiance Campbell. I am a Ward 2 DC resident and student at Georgetown Law. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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My name is Janelle I am a Ward 5 DC resident and first-year law student at Georgetown University Law Center. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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--

Best,
Janelle A. Taylor
J.D. Candidate, 2023
Blume Public Interest Scholar
Georgetown University Law Center
pronouns: she, her, hers

Hello,

My name is Kalli Joslin. I am a Ward 5 DC resident and Georgetown Law student. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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Sincerely,
Kalli Joslin (she/her/hers)
Editor-in-Chief, *Georgetown Journal of Gender and the Law*, Volume XXIII
Candidate for Juris Doctor, 2022
Georgetown University Law Center

My name is Megan Lipsky. I am a Ward 6 DC resident and a student at Georgetown University Law Center. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

MPD protects property not people and it is Black bodies that maintain MPD's monopoly on violence. Every time MPD murders one of our own, MPD demonstrates it is not interested in protecting the lives of Black residents and their families. MPD is quick to claim each shooting as justified, but the real victims are our residents, leaving young Black people living with the threat of being approached by a mob of police officers in their own neighborhoods and not knowing whether they will survive the encounter. These acts of violence extend beyond the plain eye, taking the form of unconstitutional daily surveillance of Black residents living in Southeast DC. Even the 2020 Black Lives Matter protests were no exception. As residents were protesting to mourn the losses of George Floyd and Breonna Taylor, Black life, Black forms of expression and Black solidarity were deemed as threats and met with unnecessary trauma and force. To be Black in DC is not to be safe in DC.

I demand that DC fulfill the goal of the District Human Rights Act Sec. § 2-1401.01, which requires that residents be protected from lawlessness and racism by implementing the following:

1. Cutting MPD's budget and reinvesting that money in communities;
2. Investigating and removing the officers accountable who were involved in the murder of any DC resident including but not limited to: Marqueese Alston, Karon Hylton and Deon Kay;
3. Terminating any surveillance assignments and discontinuing the harassment of Black organizers, particularly those connected to Black Lives Matter DC; and
4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violates every resident's right to be free from seizure without probable cause.

My name is Saba Rewald. I am a Ward 5 DC resident and student at Georgetown University Law Center. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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I demand that DC fulfill the goal of the District Human Rights Act Sec. § 2-1401.01, which requires that residents be protected from lawlessness and racism by implementing the following:

1. Cutting MPD's budget by 50% and reinvesting that money in communities;
2. Investigating and removing the officers accountable who were involved in the murder of any DC resident including but not limited to: Marqueese Alston, Karon Hylton and Deon Kay.
3. Terminating any surveillance assignments and discontinuing the harassment of Black organizers, particularly those connected to Black Lives Matter DC; and
4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violates every resident's right to be free from seizure without probable cause.

Dear Councilmembers,

My name is Miriam Ginsberg, and I am a Ward 1 DC resident. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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I demand that DC fulfill the goal of the District Human Rights Act Sec. § 2-1401.01, which requires that residents be protected from lawlessness and racism by implementing the following:

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4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violate every resident's right to be free from seizure without probable cause.

Thank you for taking these crucial steps to ensure more safety and justice for all DC residents.

Sincerely,
Miriam Ginsberg

--
Miriam Ginsberg
Pronouns: she/her/hers

My name is Eliza Wiant. I am a Ward 5 DC resident. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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Thanks,
Eliza
--
Eliza Wiant
she/her/hers

To whom it may concern,

My name is Justin Sodoma. I am a Ward 6 DC resident, GW alumnus, and Department of Veterans Affairs contractor. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender, and gender-nonconforming individuals, sex workers, unhoused neighbors, and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price, and all the other residents who were murdered at the hands of MPD in recent years.

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4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violate every resident's right to be free from seizure without probable cause.

Thank you,
Justin Sodoma

My name is Elana Orbuch. I am a Ward 4 DC resident. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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--
Elana Orbuch (she/her)

To Whom It May Concern:

My name is Muyi Zhang. I am a Georgetown University Law Center student and I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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Muyi Zhang
J.D. Candidate 2022
Managing Editor - Articles | Georgetown Immigration Law Journal *vol. 36*

Hello.

My name is Mira Smith. I am a Ward 4 DC resident. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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--
Mira Smith

Greetings DC MPD Committee,

To whom it may concern, I am a citizen within DC who is concerned with the state of policing. I am sending this email because I will not be able to testify today but I would like to express grievances as it pertains to this topic. At this time DC is facing a public safety crisis that disproportionately impacts natives and communities of color. Despite increases in MPD's budget, policing has not translated to increased safety outcomes. To that end, I recommend defunding the police to fund solutions that would help build out DC's wraparound social services infrastructure. Some of my other suggestions are as follows:

-Immediate elimination of qualified immunity for MPD officers.
-Termination of all officers found violating any policy created to promote public safety, regardless of actual harm incurred.
-Criminal liability where the harm that resulted was of the kind anticipated when the policy was enacted.
-Joint liability for officers who watch a violation of rules without reasonably intervening or reporting said behavior to the appropriate parties.
-Camera surveillance with audio in cruisers at all times officers are on duty.
-A citywide ban of "jump-out" officers.

These all represent actions that can be taken immediately to restore public faith that accountability exists for all members of our society. I stand in solidarity with Concerned Citizens Demanding Change and their fight for Karon's Law. I call on the leadership of this city to move urgently on these matters.
Regards,
A concerned individual

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Regards,
Noa Schleifer

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Regards,
A concerned individual
Jordan Abramowitz

Greetings DC MPD Committee,

To whom it may concern, I am a citizen within DC who is concerned with the state of policing. I am sending this email because I will not be able to testify today but I would like to express grievances as it pertains to this topic. At this time DC is facing a public safety crisis that disproportionately impacts natives and communities of color. Despite increases in MPD's budget, policing has not translated to increased safety outcomes. To that end, I recommend defunding the police to fund solutions that would help build out DC's wraparound social services infrastructure. Some of my other suggestions are as follows:

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Regards,
A concerned individual, Zora Pauk

Greetings DC MPD Committee,

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Thank you,

Nick Younger

Greetings DC MPD Committee,

To whom it may concern, I am a citizen within the DC area who is concerned with the state of policing. I am writing to you today because I will not be able to testify today but I would like to express grievances as it pertains to this topic. Currently DC is facing a public safety crisis that disproportionately impacts natives and communities of color. Despite increases in MPD's budget, policing has not translated to increased safety outcomes. To that end, I recommend defunding the police to fund solutions that would help build out DC's wraparound social services infrastructure. Some of my other suggestions are as follows:

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Regards,
A concerned individual,
Alicia Gendell

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Regards,
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Marla Telleria

Dear DC MPD Committee,

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Regards,
Abbey Walsh
(Ward 5)

Greetings DC MPD Committee,

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Sincerely,
John Chritton
Ward 6 resident

Greetings DC MPD Committee,

To whom it may concern, I am a citizen within DC Ward 1 who is concerned with the state of policing. I am sending this email because I will not be able to testify today but I would like to express grievances as it pertains to this topic. At this time DC is facing a public safety crisis that disproportionately impacts natives and communities of color. Despite increases in MPD's budget, policing has not translated to increased safety outcomes. To that end, I recommend defunding the police to fund solutions that would help build out DC's wraparound social services infrastructure. Some of my other suggestions are as follows:

-Immediate elimination of qualified immunity for MPD officers.
-Termination of all officers found violating any policy created to promote public safety, regardless of actual harm incurred.
-Criminal liability where the harm that resulted was of the kind anticipated when the policy was enacted.
-Joint liability for officers who watch a violation of rules without reasonably intervening or reporting said behavior to the appropriate parties.
-Camera surveillance with audio in cruisers at all times officers are on duty.
-A citywide ban of "jump-out" officers.

These all represent actions that can be taken immediately to restore public faith that accountability exists for all members of our society. I stand in solidarity with Concerned Citizens Demanding Change and their fight for Karon's Law. I call on the leadership of this city to move urgently on these matters.

Regards,
Shea Metzgar
--
Shea Mackenzie Metzgar
B.S. Electrical Engineering
The George Washington University Class of 2018
School of Engineering and Applied Science

My name is Jagir Patel. I am a Ward 6 DC resident and work on education policy. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

MPD protects property not people and it is Black bodies that maintain its monopoly on violence. Every time MPD murders one of our own, MPD demonstrates it is not interested in protecting the lives of Black residents and their families, but destroying them by perpetuating racist policing practices. MPD is quick to claim each shooting as justified, but the real victims are our residents, leaving young Black people living with the threat of being approached by a mob of police officers in their own neighborhoods and not knowing whether they will survive the encounter. These acts of violence extend beyond the plain eye, taking the form of unconstitutional daily surveillance of Black residents living in Southeast DC. Even the 2020 Black Lives Matter protests were no exception. As residents were protesting to mourn the losses of George Floyd and Breonna Taylor, Black life, Black forms of expression and Black solidarity were deemed as threats and met with unnecessary trauma and force. To be Black in DC is not to be safe in DC.

I demand that DC fulfill the goal of the District Human Rights Act Sec. § 2-1401.01, which requires that residents be protected from lawlessness and racism by implementing the following:

1. Cutting MPD's budget and reinvesting that money in communities;
2. Investigating and removing the officers accountable who were involved in the murder of any DC resident including but not limited to: Marqueese Alston, Karon Hylton and Deon Kay;
3. Terminating any surveillance assignments and discontinuing the harassment of Black organizers, particularly those connected to Black Lives Matter DC; and
4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violates every resident's right to be free from seizure without probable cause.

Dear DC City Council,

Hello. I am a citizen of Washington, D.C., who has been negatively impacted by MPD, particularly in 2020, and who has witnessed MPD violate the civil and human rights of people, particularly black people, both in person and through media coverage. Hopefully, many people will testify to the police's FAILURE on January 6th. I would rather testify to MPD's violence over the summer of 2020. As a citizen of the city, I went to Lafayette Park often. I don't remember the night, but it was in early June, I think, and I was there, not as a part of any group or protest, simply as an observer. I was shot at least twice by pepper bullets, inhaled teargas, and was witness to the fear tactics police use against people who they view as a threat, or opponent. The MPD are a partisan gang who fear and thus brutalize BLM, which is an idea more than an organization anyway, and support and protect trump supporters because MPD thinks those supporters believe the thin blue line rhetoric/propaganda. We saw how that turned out. Before Jan 6, particularly starting in November, the MPD all but seemed to be hand in hand with the proud boys and other violent trump supporting groups who were flooding our city with hate, fear, and, of course, corona virus. MPD hardly, if ever, issued any citations for mask violations or large groups. I asked them why and was told they didn't have the resources to enforce the mask mandate, which is a load of garbage. They just wanted to let who they thought were their allies (again, MPD are a partisan gang) have free reign to fight who they think are their opponents (BLM and especially black people in the city, regardless of their affiliation with BLM). I'm tired and have work to do, but I wanted to send my experience. This certainly isn't the full experience I have had, but it is worth more than my silence. I will also say that Bagshaw is a violent man who should not have command over anybody, nor should he have a job where he wields power whether through ideological systems or actual weapons. He's a bad man. He doesn't have to be, but if he won't change, he CANNOT be a police officer. Also, the officers involved in the murders of Deon Kay and Karon Hylton, and the many others, need to be charged as such and fired. We know they violated their own policies, which resulted in the deaths of these young men. If these were the only names, perhaps we could conclude that these were isolated incidents, accidents, but we can't because there are so many more. And they maced Karon's mother! Come on...in closing, defund the police (they have a heat ray and electrified bolas and million dollar contracts with BMW Motorcycles and all the toys that boys dream of who aren't raised in healthy households where love is prioritized over fear), fund the people. Thank you for reading. Black Lives Matter.

Forrest Gray Yerman

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-Criminal liability where the harm that resulted was of the kind anticipated when the policy was enacted.
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-Camera surveillance with audio in cruisers at all times officers are on duty.
-A citywide ban of "jump-out" officers.

These all represent actions that can be taken immediately to restore public faith that accountability exists for all members of our society. I stand in solidarity with Concerned Citizens Demanding Change and their fight for Karon's Law. I call on the leadership of this city to move urgently on these matters.
Regards,
A concerned individual

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Shana Laski

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Regards,
Nick Chantiles, DC Resident

Good afternoon,

My name is Tyler. I am a Ward 1 DC resident and a white, Jewish, anti-racist, abolitionist organizer. I submit this written testimony in direct opposition to other Jewish community members from Sixth & I Synagogue and Hill Havurah who testified yesterday in support of increased policing around Jewish community spaces, those who would throw in their lot with the threat of state violence toward any perceived danger instead of working for the safety of *all* people (which includes Jewish communities) through solidarity with others who are marginalized and oppressed.

I also submit this testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

MPD exists to protect property and serve those who own it, not to protect and serve all people. And it is the destruction of Black bodies that maintains MPD's monopoly on violence. Every time MPD murders a resident, MPD demonstrates it is not interested in protecting the lives of Black residents and their families, but destroying them by perpetuating racist policing practices.

MPD is quick to claim each shooting as justified, but why are the police allowed to justify murder when civilians are not? This literal double standard is among the most obvious irreconcilable facets of policing.

In any case, the real victims in this moment are our residents. Young Black people are living with the threat of being approached by a mob of police officers in their own neighborhoods and not knowing whether they will survive the encounter. These acts of violence extend beyond the plain eye, taking the form of unconstitutional daily surveillance of Black residents living in Southeast DC. Even the 2020 Black Lives Matter protests were no exception. As residents were protesting to mourn the losses of George Floyd and Breonna Taylor, Black life, Black forms of expression and Black solidarity were deemed as threats and met with unnecessary trauma-inducing force. To be Black in DC is not to be safe in DC.

I add my voice to the thousands demanding that DC fulfill the goal of the District Human Rights Act Sec. § 2-1401.01, which requires that residents be protected from lawlessness and racism by implementing the following:

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4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violate every resident's right to be free from seizure without probable cause.

Thank you for your time, and I look forward to a day when we can all keep each other safe without the threat of unaccountable harm, including death, by someone allowed to carry a gun.

Tyler Martin Benjamin

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Regards,
A concerned individual

March 14, 2021

Committee on the Judiciary and Public Safety
Sent via email to judiciary@dccouncil.us

Dear Committee Members:

My name is Milcah Zewdie. I am a Ward 5 DC resident and student at Georgetown University Law Center. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

MPD protects property not people, and it is Black bodies that maintain its monopoly on violence. Every time MPD murders one of our own, MPD demonstrates it is not interested in protecting the lives of Black residents and their families, but destroying them by perpetuating racist policing practices. MPD is quick to claim each shooting is justified, but the real victims are our residents, leaving young Black people living with the threat of being approached by a mob of police officers in their own neighborhoods and not knowing whether they will survive the encounter. These acts of violence extend beyond the plain eye, taking the form of unconstitutional daily surveillance of Black residents living in Southeast DC. Even the 2020 Black Lives Matter protests were no exception. As residents were protesting to mourn the losses of George Floyd and Breonna Taylor, Black life, Black forms of expression and Black solidarity were deemed as threats and met with unnecessary trauma and force. To be Black in DC is not to be safe in DC.

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4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violates every resident's right to be free from seizure without probable cause.

Sincerely,

Milcah Zewdie

My name is Sarah Hart. I am a Ward 1 DC resident and Georgetown Law student. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

MPD protects property not people and it is Black bodies that maintain its monopoly on violence. MPD continues to demonstrate it is not interested in protecting the lives of Black residents and their families, instead destroying them by perpetuating racist policing practices. MPD is quick to claim each shooting as justified, but the real victims are our residents, leaving young Black people living with the threat of being approached by a mob of police officers in their own neighborhoods and not knowing whether they will survive the encounter. These acts of violence extend beyond the plain eye, taking the form of unconstitutional daily surveillance of Black residents living in Southeast DC. Even the 2020 Black Lives Matter protests were no exception. As residents were protesting to mourn the losses of George Floyd and Breonna Taylor, Black life, Black forms of expression and Black solidarity were deemed as threats and met with unnecessary trauma and force. To be Black in DC is not to be safe in DC.

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My name is Delina Mesfin. I am a Ward 2 DC resident and student at Georgetown University Law Center. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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Thank you for your time,
Delina

My name is Rachel Okun-Kozlowicki. I am a Ward 4 DC resident. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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Thank you for reading and considering this Testimony.

Sincerely,

Rachel Okun-Kozlowicki

Dear Committee on the Judiciary and Public Safety:

My name is Belle Harris. I am a Ward 6 DC resident and a student at Georgetown University Law Center. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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Sincerely,
Belle Harris

--
Belle A. E. Harris
Juris Doctor Candidate | Class of 2023
Georgetown University Law Center

My name is Elissa Lowenthal. I am a Ward 3 DC resident and a student at Georgetown Law. I submit this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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Sincerely,

Elissa

--
Elissa Lowenthal
Senior Administrative Editor | *Georgetown Law Journal*
J.D. Candidate, Class of 2022 | Georgetown University Law Center

My name is Justin Ledinh. I am a DC resident and I am submitting this written testimony in solidarity with those who are disproportionately impacted by the Metropolitan Police Department's (MPD) violence, including local organizers, transgender and gender nonconforming individuals, sex workers, unhoused neighbors and Black, Indigenous, residents of Color. I also submit this testimony in memory of Marqueese Alston, Karon Hylton, Deon Kay, Terrence Sterling, D'Quan Young, Raphael Briscoe, Jeffrey Price and all the other residents who were murdered at the hands of MPD in recent years.

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2. Investigating and removing the officers accountable who were involved in the murder of any DC resident including but not limited to: Marqueese Alston, Karon Hylton and Deon Kay.
3. Terminating any surveillance assignments and discontinuing the harassment of Black organizers, particularly those connected to Black Lives Matter DC; and
4. Ending DC's practice of illegal terror tactics including Stop & Frisk and Jump Outs which systematically target people of color and violates every resident's right to be free from seizure without probable cause.

Benjamin Douglas, MPD testimony

I extend my greetings to the Committee. My name is Benjamin Douglas. I am an organizer with Jewish Voice for Peace-DC Metro. I am writing to express dissatisfaction with the Metropolitan Police Department and with the Council's failure to hold the Metropolitan Police Department accountable.

MPD's track record indicates longstanding and ongoing practices of racial profiling, stop-and-frisk, and repression. 2020 was no exception.

Despite the departure of Newsham and the dramatic events of the past year, there is no sign of real substantive change.

Despite some (welcome) sympathy for last year's protests from DC politicians, there is little in place to challenge MPD's power. MPD's budget remains consistently in the neighborhood of $560-580 million. MPD has autonomy in its organizational decisions, including who, where, and with whom it trains.

MPD has a long-standing practice of training with Israeli police, military, intelligence, and security forces, who maintain a brutal system of military occupation and legalized segregation.

Legalized segregation is not a hyperbolic description. As the Association for Civil Rights in Israel notes:

Two residents of the Hebron area have an altercation within the territory of the West Bank and both are arrested. One of them, a Jewish resident of Kiryat Arba, is taken to a nearby police station, is immediately interrogated by a police officer and is brought within 24 hours to a hearing before the Jerusalem Magistrates Court. In this hearing, the judge decides to order his release on condition of bail; this is not a very severe case, and the defendant pleads self-defense.

The second person, a Palestinian resident of Hebron, is arrested for 96 hours before being brought before a military judge. He is de facto interrogated only once during this period of time, under suspicion of committing an assault based on nationalistic motivations, which is deemed as a security offense, and he is tried before a military court, where he faces a penalty of extended incarceration.

Despite the change in leadership at MPD, there is no reason to anticipate that these trainings will cease. There is already a regulation prohibiting training in such facilities,

6B DCMR 1308.3, but since MPD itself is tasked with implementing the regulation, it goes unenforced.

In 2018, Commander Guillermo Rivera attended a training in Israel sponsored by the Advanced Security Training Institute. The trip included studying "surveillance tactics and techniques" at a "West Bank Border Checkpoint," hearing a lecture about "extremist Islam in the United States," meeting with then-Defense Minister Avigdor Lieberman, who routinely expresses anti-Arab and anti-Palestinian views, and attending an Israeli military court which legally discriminates based on ethnic and religious background.

What good does an MPD Commander's studying segregated courts or listening to lectures about "extremist Islam" do for the people of D.C.? Acting Chief Contee has made numerous statements about opposing extremism; insofar as this involves ensuring that Proud Boys or 3 Percenters are not on the District's payroll, that is welcome and long overdue. But there is no sign that MPD leadership will challenge the elements of the status quo that many of us would also characterize as extreme, like stop and frisk, or training with an occupying military force.

Councilmember Grosso proposed legislation last year to restrict militarized police training, but Council did not pass it. If the members of this Committee and the Council serious about change, you cannot continue to trust the police to police themselves.

March 11, 2021

WRITTEN TESTIMONY
before the DC Council Committee on the Judiciary and Public Safety

Performance Oversight Hearing
Department of Corrections
by Diontre Davis
Volunteer, DC Justice Lab

To the Committee on the Judiciary and Public Safety,

My name is Diontre Davis, and I am a volunteer for DC Justice Lab, a Washington, D.C. based non-profit organization of law and policy experts researching, organizing, and advocating for large-scale changes to the District's criminal legal system. First, I would like to thank the DC Council for allowing me to provide a written testimony regarding the lack of oversight of the MPD.

For years, the Metropolitan Police Department **ignored** a statutory mandate to collect data until a federal court ordered them to do so. MPD produced its first stop data **report** last year. Unsurprisingly, it revealed that 87% of non-traffic stops were of Black residents, even though they make up only 46% of the population. This is data that the MPD knowingly refused to share and it has resulted in the continued harm and predominantly Black residents.

Wards 7 and 8 have been the most impacted by a lack of overseeing the illegal behaviors of the MPD and the excessive amount of force they use on and off duty. Specifically, the MPD have been using the illegal and excessive stop-and-frisks procedure known as jump-outs for many decades. Specialized paramilitary units such as the Gun Recovery Unit ("GRU") in the Narcotics and Special Investigations Division ("NSID") conduct jump-out tactics under the guise of "reducing crime and tracking contraband" when in reality many of the people who are frisked are do not have such things on their person and are lawfully going about their day. What makes matters worse is that these units in unmarked cars, without their uniforms, and "jump out" on African American citizens, telling them to show their waistbands. If a person doesn't show their waist, officers will often accost them by rifling through their pockets and touching their body, looking for contraband.

MPD leadership denies that these jump-outs are happening. However, community members confirm that the practice continues and officers in the GRU have bragged about it. Officers wore shirts with an insignia glorifying police violence with the slogan "vest up one in the chamber" and an image of a human skull with a bullet hole in the center. A victim of these many stops explained, **"It's become so normalized that when they do jump out, guys are already starting to pull their shirts up."** **It's clear that there has been a complete lack of oversight to ensure that**

Black residents are not being racially profiled or subjected to degrading stop-and-frisks tactics.

To further support that this is the case, on January 16, 2020 Sergeant Charlotte Djoussou revealed in a DC Council hearing that the MPD are still conducting the jump-outs, targeting minority communities, and violating Fourth Amendment rights. She specifically stated, and I quote, "Officers were targeting groups of minority males and violating 4th amendment rights, jumping out." This along with MPD's data stop report and **an analysis by ACLU**-DC reveal stops are happening too often and are not effective, they disproportionately target Black residents, they are not reducing contraband, and there is a lack of police oversight to protect the constitutional rights of Black residents.

I implore the Council to pass new legislation that makes it unlawful to organize specialized parliamentary units. There needs to be more oversight of stop the searches than simply stating that they are illegal. Officers need to be in uniform unless they are conducting a specific, targeted investigation. Officers who have multiple reports of misconduct should be removed from Black neighborhoods and disciplined for several continued acts of racial profiling. These are legislative actions I believe that must be taken to provide stronger MPD oversight measures for the safety of Black Washingtonians.

Further details are provided in the attached report, which is also available at bit,ly/end-jump-outs.

Thank you and the rest of the DC Council for your time and consideration.

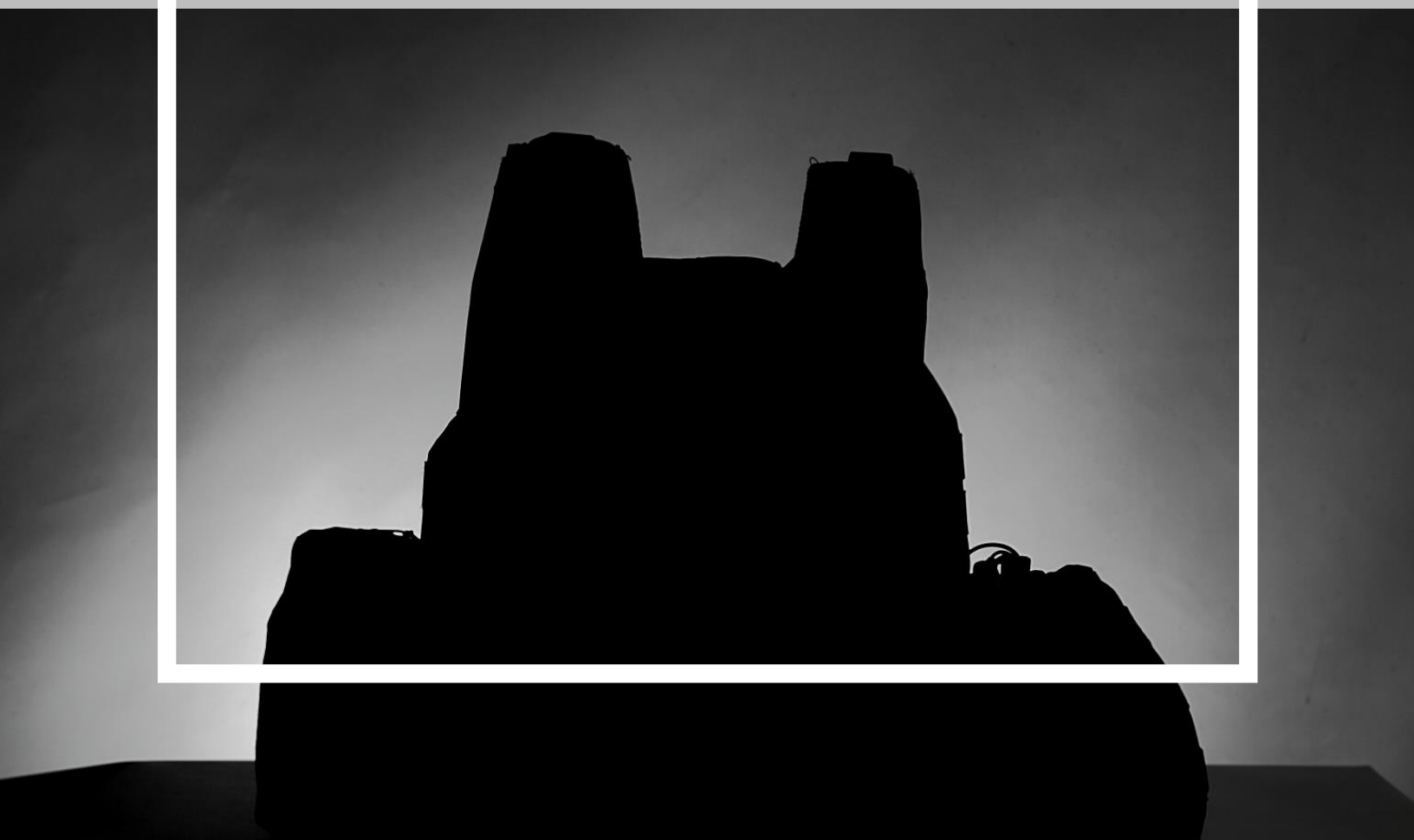
MORE THAN A PLAZA

DC JUSTICE LAB

END JUMP-OUTS

September 2020

Jordan Crunkleton • Diontre Davis • Emily Friedman • Patrice Sulton



End Jump-outs

The most callous example of stop-and-frisk[1] in the District of Columbia is the Metropolitan Police Department's jump-out squads. Specialized paramilitary units such as the Gun Recovery Unit ("GRU") in the Narcotics and Special Investigations Division ("NSID") use tactics often referred to as "jump-outs" by community members because of how they operate in D.C.'s predominantly-Black neighborhoods: Officers jump out of unmarked cars to surround, stop, and search individuals without basis. These routine patrols drive around demanding[2] that people who are doing nothing wrong stop, lift up their shirts, and display their waistbands to prove that they are not carrying firearms.

"It's become so normalized that when they do jump out, guys are already starting to pull their shirts up."[3]

Jump-outs often work in plainclothes with tactical vests, however, a similar tactic has also been observed from marked cars.[4] This unlawful and discriminatory treatment undermines community trust in law enforcement and does not improve public safety. This tactic must be ended immediately to ensure the safety of our community members and to preserve the constitutionality of policing in D.C.

MPD's paramilitary units jump-out tactics are in line with a larger culture of celebrating police violence and the idea that D.C. residents from certain neighborhoods should be treated as inherently dangerous. Although D.C. leadership denies[5] that jump-outs are still a pervasive aspect of Department culture, these units brag about the often-violent practice.

Members of the Powershift unit were seen wearing t-shirts that bore the slogan "Let me see that waistband jo" and included white supremacist logo.[6]

Members of GRU sported insignia glorifying police violence with the slogan "vest up one in the chamber" and an image of a human skull with a bullet hole in the center.[7]

This imagery endorses a dangerous culture between officers and community members: where officers are portrayed as ready to shoot and kill, rather than protect and serve.

Jump-out tactics have been employed in other cities by police units under various names such as the Anti-Crime Unit, Time Out, and Jump-out Boys.[8] Although New York City has taken measures to disband jump-out units[9] and crack down on "stop and frisk" practices, these dehumanizing tactics are alive and well in the District of Columbia.[10]

As recently as January 2020, Sergeant Charlotte Djoussou confirmed that officers are still conducting jump-outs and targeting Black communities when doing so. **"Officers were targeting groups of minority males and violating 4th Amendment rights, jumping out…During roll call, NSID officers were being instructed to target large groups in poverty-stricken areas without probable cause."** [11] The plaintiffs in the pending case of *Crudep et Al v. District of Columbia,* allege that as recently as April of this year, MPD was still actively performing jump-outs, still discriminating, and still violating citizens' constitutional rights.[12]

"You just get over it. You don't bother trying to find out who the police officers were and stuff like that because it happens to almost everyone that you know…I really can't name one of my friends who hasn't had a jump-out happen to them."[13]

One D.C. Resident, Ryan Morgan, submitted a video of an MPD officer demanding to see his waistband without probable cause. In the video, Morgan states he does not consent to any search, yet he is still harassed and intimidated into showing his waistband to prove he is not carrying a gun.[14]

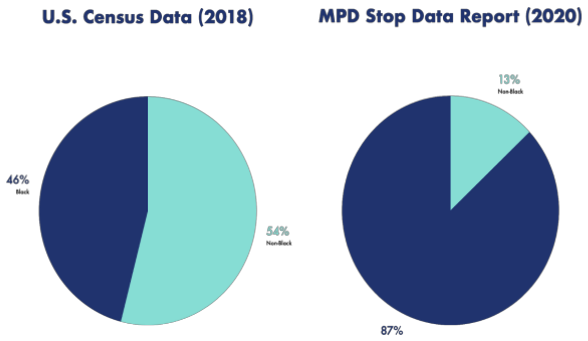
Similar tactics garnered national attention in recent months when plainclothes paramilitary units in Portland, Oregon, jumped out to stop, frisk, and even detain protestors.[15] The terror felt by those in Portland parallels the terror routinely experienced by District residents when Black youths in D.C. are subjected to the same practice.[16]

The city must take immediate action to prevent MPD from further terrorizing its citizens and put a stop to the use of jump-outs in D.C.

Legal framework:

It took more than 10 years[17] of organizing and litigation before a federal court in New York held that NYPD's practice of systematically targeting people of color to stop and frisk violated the Fourth Amendment's prohibition against unlawful searches and seizures and the Fourteenth Amendment's guarantee of equal protection under law.[18] MPD's jump-out practices violate the same constitutionally-protected rights.

After ignoring[19] a statutory mandate to collect data until a federal court ordered them to do so, the Metropolitan Police Department produced its first stop data report[20] earlier this year. Unsurprisingly, it revealed that 87% of non-traffic stops were of Black residents, even though they make up only 46% of the District's population.[21]



This MPD report[22] and the ACLU-DC's Analysis[23] illustrate three things:

1. **Stops are happening too often.** MPD reports that between July 22 and December 31, 2019, it collected data on approximately 63,000 police stops. Officers made 11,045 stops that did not result in a warning, ticket, or arrest. This category of citizen stops almost certainly includes stops of people who were engaged in innocent conduct.
2. **Stops are targeting Black people.** Black people make up 87% of non-traffic stops and 91% of the searches, that resulted in no warning, ticket, or arrest. Black youths made up 89% of the children who were stopped and were stopped 10 times more often than their white peers.
3. **Stops are not keeping us safe**. Less than one percent of all stops and less than two percent of non-traffic stops led to the seizure of guns. According to a report from the Mayor's office,[24] violent crime increased 4% during the five-month period of data collection.

The Fourth Amendment

The United States Constitution requires reasonable articulable suspicion before a person can be lawfully stopped by police, even momentarily.[25] The D.C. Court of Appeals defines a stop as "when liberty is restrained by means of physical force or show of authority."[26] The Supreme Court of the United States has held that the test for a non-consensual stop is "whether, taking into account all of the circumstances surrounding the encounter, the police conduct would have communicated to a reasonable person that he was not at liberty to ignore the police presence and go about his business."[27]

Jump-outs demanding that a person show their waistband typically amount to a "stop" and, therefore, require that an officer have a reasonable articulable suspicion that criminal activity is afoot.[28] Reasonable articulable suspicion consists of, "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion."[29] Judicial charity has expanded the definition over time, to accommodate the fast-moving and challenging realities of policework.[30] However, District residents describe jump-outs as acting without any suspicion at all.

The Fourteenth Amendment

Although the Fourteenth Amendment to the United States Constitution provides for equal protection under the law, the Supreme Court of the United States and the District of Columbia Court of Appeals have yet to expressly address whether the exclusionary rule applies when police engage in racial profiling.[31]

Whether the federal constitution requires it or not, the District of Columbia must demand more. The District's Human Rights Act[32] requires that residents be protected from lawlessness and racism. The District's First Amendment Assemblies Act codifies a definition of reasonable suspicion that specifies, "A suspicion that is based upon the race, ethnicity, religion, national origin, lawful political affiliation or activity, or lawful news-gathering activity of an individual or group is not a reasonable suspicion."[33]

DC Justice Lab calls on the District of Columbia to take immediate action to end jump-outs. The District must:

- **Disband existing paramilitary units and reassign those officers.[34]**
- **Require officers to work in full uniform and marked police cars, unless they are conducting a justified and targeted undercover operation.[35]**
- **Prohibit officers from demanding to see a person's waistband without probable cause**.
- **Disallow the following common pre-textual bases for reasonable articulable suspicion or probable cause:**
    - **Presence in a high-crime neighborhood;**
    - **Apparent nervousness around police officers;**
    - **So-called furtive gestures or movements or running;**
    - **A generic bulge in a person's clothing; and**
    - **Time of day.[36]**
- **Suppress all evidence seized as a result of "jump outs" and other discriminatory stop and frisk tactics.**

References

[1] Stop Police Terror Project DC, *No More Stop and Frisk*, available at https://www.sptdc.com/nomorestopandfrisk (last visited Sept. 5, 2020).

[2] @breakingtheset, *Insane Police "Jump Outs" In DC | Interview with Eugene Puryear*, YOUTUBE (Feb. 11, 2015), https://www.youtube.com/watch?v=JJJIoAuKKeo.

[3] Robert McCartney, *Washington Region Has Problems With Police Shootings and Racist Practices, Too*, WASHINGTON POST (Jun. 29, 2020).

[4] @Soup Visions, *White Washington Dc Police Harassing Me Again*, YOUTUBE (Nov. 15, 2017), available at https://www.youtube.com/watch?feature=youtu.be&v=cghtBX19cjA.

[5] The Kojo Nnamdi Show, *Chief Lanier on "Jump-Outs": "You're Only Seeing One Half Of the Picture*, WAMU (Apr. 3, 2015).

[6] Peter Hermann & Keith L. Alexander, *D.C. Police Suspend Officer Seen Wearing Shirt With Symbol Used by Racist Group*, WASHINGTON POST (July 28, 2017).

[7] Justin Jouvenal, *Photo Shows D.C. Officers Displaying Flag That Advocates Violence, Complaint Says*, WASHINGTON POST (Aug. 12, 2017).

[8] Kamilah Newtown, *'We call them jump-out boys': Videos of protesters getting picked up by unmarked police cars spark outrage, but many say it's not new*, YAHOO (Jul. 31, 2020).

[9] *Id.*

[10] Stop Police Terror Project DC, *No More Stop and Frisk*, available at https://www.sptdc.com/nomorestopandfrisk (last visited Sept. 5, 2020).

[11] Nathan Baca, *2 employees allege DC Police faking numbers, targeting minorities*, WUSA9 (Jan. 16, 2020).

[12] *Crudep et Al v. District of Columbia*, No. 1:2020cv01135 (D.C. filed Jun. 9, 2020).

[13] Max Kutner, *'Jump-Outs': D.C.'s Scarier Version of 'Stop-and-Frisk'*, NEWSWEEK (Jan. 16, 2015).

[14] @Soup Visions, *White Washington Dc Police Harassing Me Again*, YOUTUBE (Nov. 15, 2017), available at https://www.youtube.com/watch?feature=youtu.be&v=cghtBX19cjA.

[15] Emily Czachor, *Alexandria Ocasio-Cortez to Push Bill Making Feds Identify Themselves Following Portland Arrests*, NEWSWEEK (Jul. 20, 2020).

[16] *See* Max Kutner, 'Jump-Outs': D.C.'s Scarier Version of Stop and Frisk, NEWSWEEK (Jan 16, 2015) (recounting this narrative: "I didn't know who it was…I was scared. I thought it was somebody trying to grab me, throw me in the trunk or something.")

[17] *Floyd et al v. City of New York*, CENTER FOR CONSTITUTIONAL RIGHTS (July 9, 2020), available at https://ccrjustice.org/home/what-we-do/our-cases/floyd-et-al-v-city-new-york-et-al.

[18] *Floyd v. City of New York*, 959 F.Supp.2d 540 (S.D.N.Y. 2013).

[19] Martin Austermuhle, *D.C. Police Release Long-Delayed Stop-And-Frisk Data, Showing Racial Disparities in Stops*, WAMU (Sep. 10, 2019).

[20] Metropolitan Police Department Washington D.C., Stop Data Report (Feb., 2020), available at https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/Stop%20Data%20Report.pdf.

[21] *See Id*., at 19 - 21 (showing racial demographic data of ticket stops, wherein black residents comprised 66% of stops in the First District, 35% of stops in the Second District, 54% of stops in the Third District, 60% of stops in the Fourth District, 70% of stops in the Fifth District, 90% of stops in the Sixth District, and 91% of stops in the Seventh District, as well as non-ticket stops, wherein black residents comprised 86% of stops in the First District, 64% of stops in the Second District, 78% of stops in the Third District, 73% of stops in the Fourth District, 90% of stops in the Fifth District, 97% of stops in the Sixth District, and 96% of stops in the Seventh District).

[22] *Id*.

[23] ACLU D.C., *ACLU Analysis of D.C. Stop-and-Frisk Data Reveals Ineffective Policing, Troubling Racial Disparities*, ACLU (Jun. 16, 2020), available at https://www.acludc.org/en/news/aclu-analysis-dc-stop-and-frisk-data-reveals-ineffective-policing-troubling-racial-disparities.

[24] Mayor Bowser, 2017 Accountability Report (2017), available at https://mayor.dc.gov/accountability.

[25] *Terry v. Ohio*, 392 U.S. 1, 21 (1968).

[26] *Matter of J.G.J.*, 388 A.2d 472 (D.C. 1978).

[27] *Florida v. Bostick*, 501 U.S. 429, 437 (1991); *see also Terry v. Ohio*, 392 U.S. 1, 21 (1968); *Jones v. United States*, 154 A.3d 591, 593, (D.C. 2017).

[28] *See generally Hawkins v. United States.*, 663 A.2d 1221, 1226 (D.C. 1995) (holding that questioning about criminal activity amounted to an officer flaunting his authority and constituted a stop requiring reasonable articulable suspicion).

[29] *Terry v. Ohio*, 392 U.S. 1, 21 (1968); *see also Michigan v. Long*, 463 U.S. 1032, 1050 (1983); *Pinkney*, 851 A.2d at 493; *Pridgen v. United States*, 134 A.3d 297, 301 (D.C.A. 2016); *Morgan v. United States*, 121 A.3d 1235, 1238 (D.C. 2015).

[30] Policing the Open Road, 99% Invisible (Aug. 11, 2020), available at https://99percentinvisible.org/episode/policing-the-open-road/.

[31] *See Whren v. United States*, 517 U.S. 806, 813 (1996) (declining to decide the issue).

[32] D.C. Code § 2-1401.01 et seq.

[33] D.C. Code § 5-333.02(11).

[34] *See, e.g.,* Ali Watkins, *N.Y.P.D. Disbands Plainclothes Units Involved in Many Shootings*, NEW YORK TIMES (June 15, 2020).

[35] *See, e.g.,* Emily Czachor, *Alexandria Ocasio-Cortez to Push Bill Making Feds Identify Themselves Following Portland Arrests*, NEWSWEEK (Jul. 20, 2020).

[36] *See, e.g., West v. United States*, 100 A.3d 1076, 1072 (finding officer testimony that the accused was fidgety and in a nervous state as a contributing factor to justify probable cause); *Singleton v. United States*, 998 A.2d 295, 299 (D.C. 2010).

Testimony to the Council of the District of Columbia Committee on the Judiciary and Public Safety

For its 11 March 2021 Performance Oversight Hearing

Submitted by Gracy Obuchowicz
3109 17th Street NE
Washington, DC 20018

19 March 2021

Last October, around 2pm on a beautiful Saturday afternoon, we heard a series of gunshots in our neighborhood. When we heard the shots, some of us were relaxing on our porches, some of us were finishing up lunch and some of us were putting our children down for their afternoon naps. We soon came to understand that these gunshots resulted in the murder of two members of our community. We were unprepared and completely shocked by the brutality of this violence in broad daylight in the immediate vicinity of our homes.

Many of us in the neighborhood were already aware and cautious of the house where the murders occured. For years, we'd watched as MPD interacted with this residence, sometimes arresting people who lived there. Some of us had even called the police ourselves as a way to help ensure the safety of its residence and our neighborhood. A couple of weeks before the murders, there was a drive-by shooting at this residence which seemed to go unaddressed in a meaningful way by law enforcement.

Many of us saw the warning indicators for years leading up to these murders, but despite some of us reaching out to city programs, our ANC, and our councilmember, our concerns were never meaningfully addressed. We know that this isn't because the people we contacted don't care, but rather that they are overworked and underfunded.

As a group of neighbors committed to public safety, we aren't interested in placing blame on any members of the household where the shootings occured or on MPD's inability to prevent this violent crime despite their repeated interventions with this residence. Rather, we're asking the Judiciary and Public Safety Committee and Council as a whole to prioritize a prevention-based, holistic approach to handling neighborhood violence before conditions escalate to such a dramatic and dangerous degree.

Specifically we urge you to increase funding for non-law enforcement neighborhood inventions including: neighborhood violence interrupter programs, job creation and training programs for city residents at the highest risk for criminalized activities, creation of affordable housing for all city residents, and a nation-leading effort to provide mental health support to District residents. This should include mental health promotion, prevention of and early intervention in trauma and emerging mental problems, a mental health helpline (e.g., 9-8-8) disconnected from police dispatch to access these resources, and more.

While we understand the impossibility of preventing all neighborhood violence, we refuse to believe there aren't tangible actions we can take as a neighborhood and city to create more positive conditions for all of our citizens and that will result in continued declines in crime and violence. Rather than simply reacting to the latest shooting with promises to fix the problems, we want the fiscal year 2022 budget to reflect the concern you have for the ongoing safety of our neighborhood and of all neighbors in our city.

Sincerely,
Gracy Obuchowicz
*Micah Haskell-Hoehl
*Sarah Kliff
*Daniel Fried
*Pyrrha Hallums
*Donya Rahimi
*Amina Popowich
*Jenna North
*Jennifer Jopling
*Arthur Tomelden
*Earl Wynn
*Verda Koonce

* Neighbors who live near the intersection of 17th and Irving St NE

AMERICAN
THIRD PILLAR
CHARITIES

1525 12th St. NW, #303
Washington DC, 20005
www.thirdpillar.org

03/19/2021

Chair Person Charles Allen
Committee on the Judiciary & Public Safety

Dear Mr. Allen,

I am writing in regard to our organization's collaboration with MPD 6D. Due to its incredibly strong community outreach, we have steadily increased the degree to which we work with 6D.

We hold a multitude of events every year with 6D and other community organizations that 6D brings into the fold. The wonderful team headed by Jason Medina and Frantz Fulcher is plugged into grass root organizations throughout Ward 7. Due to their leadership, we have worked with the National Center for Children and Families, the East River Family Strengthening Collaborative, Benning Stoddard Recreation Center, the Boys and Girls Club, the Covid-19 Task Force, and a large number of public schools and churches in Ward 7.

Last year alone, in tandem with 6D, we provided and distributed:

- Laptop computers to 106 children facing online school without the technical means to participate;
- Backpacks filled with school supplies to 600 children, 100 of whom were living and studying in family shelters;
- New winter coats to 157 children, 120 of whom were in family shelters
- Fun, grade-specific math books for 47 children living in family shelters
- Baskets of turkeys and the fixings to 1000 Ward 7 families.

6 D is not simply in the community – it is of the community. Not a day goes by without 6D participation in PTA meetings or attending an event in a residential community. 6D is in the schools, enabling the officers to establish a stress-free relationship with the children early on.

As we all know, even "happy" events can have contentious moments. I witnessed such a moment at one of our Thanksgiving events. An older woman caused quite a fuss because she was unwell and had been waiting for a while to be served. She became the focus of about 60 other elderly people who also did not want to wait. One of the officers quietly led the woman to the side, talked with her in a respectful manner and de-escalated the situation.

6D Community Outreach should be a model for the country. The officers are not only there in times of trouble; they share their strength, their training and their compassion to residents everyday.

Sincerely,

Irene Stevenson
Secretary/Treasurer
American Third Pillar Charities
1525 12th St. NW, #303

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DCCoalition
Against Domestic Violence

Council of the District of Columbia

Committee on Judiciary and Public Safety

Councilmember Charles Allen, Chairperson

Metropolitan Police Department Performance Oversight Testimony

March 19, 2020

Submitted written testimony of:

DC Coalition Against Domestic Violence

5 Thomas Circle, NW

Washington, DC 20005

Tel. 202-299-1181

www.dccadv.org

DCCoalition
Against Domestic Violence

DCCADV is the federally-recognized statewide coalition of domestic violence service providers in the District. DCCADV's members include crisis and transitional housing providers, counseling and case management services, legal services, and culturally specific organizations serving: African-American; Latino; Asian and Pacific Islander; Immigrant; and LGBTQ survivors of domestic violence. Our members also serve teens and youth and survivors who are Deaf and Hard of Hearing. Our members are on the front lines each day providing life-saving services to more than 30,000 District residents each year. Additionally, DCCADV is a member of the Fair Budget Coalition and we strongly support their FY22 budget priorities and recommendations that work to meaningfully address poverty and racial inequality in the District.

Domestic violence continues to be a leading public safety concern for Washington, D.C. with 39 percent of women living in D.C. having experienced sexual violence, physical violence, and/or stalking perpetrated by an intimate partner.[1] Since the pandemic, domestic violence has increased astronomically in various countries. In France, domestic violence increased by 30 percent in the first weeks of the pandemic.[2] Additionally, in Nigeria, there was a 64 percent increase in calls to a hotline in March, and in Japan, the percentage of women who reported abuse rose by 30 percent in April 2020 compared to April 2019.[3] Nationally, according to the National Domestic Violence Hotline, between March 16, 2020 and May 16, 2020, contacts increased by 9 percent compared to the same time last year.[4]

Locally, the reality for survivors in the District was similar. The DC Victim Hotline reported a 20 percent increase in calls, in May of 2020, related to Intimate Partner Violence, compared to May 2019. Furthermore,

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[1] *Source: S.G. Smith, et al., The National Intimate Partner and Sexual Violence Survey: 2010-2012 State Report (2017)*

[2] https://www.washingtonpost.com/world/the_americas/coronavirus-domestic-violence/2020/09/06/78c134de-ec7f-11ea-b4bc-3a2098fc73d4_story.html

[3] https://www.cnn.com/interactive/2020/10/world/coronavirus-impact-domestic-abuse-global/

[4] https://www.thehotline.org/wp-content/uploads/media/2020/09/The-Hotline-COVID-19-60-Day-Report.pdf

one of our culturally specific service providers saw an 80 percent increase in calls from survivors asking for help in 2020. Additionally, in its annual, one day domestic violence census, the National Network to End Domestic Violence (NNEDV) reported that **933 survivors** received some form of assistance for housing, legal, counseling, or children support groups on September 10, 2020. That is a **64 percent increase** from the same time in September 2019. There was also an **81 percent increase** in calls to all of the victim service provider hotlines in DC on September 10, 2020 versus September in 2019.

What's alarming about this data is that it doesn't tell the whole story. It only shows survivors who were able to access help or make a phone call for assistance. What about the survivors who could not flee their abusers during a pandemic because of fear, stay-at-home orders, loss of employment, little to no resources, or the inability to travel? During a press conference, with Mayor Bowser on May 26, 2020, former Police Chief Peter Newsham stated that MPD had "seen a slight decrease in both calls for service, incidents of domestic violence, and arrests which are the three measures that we can measure at the police department."[5] Former Chief Newsham provided no context as to why calls may have declined and offered no further assistance to survivors who may have been watching that press conference. The former chief's lack of awareness to discuss the many reasons why domestic violence was still continuing, despite an alleged decrease in calls - three months into a pandemic - speaks to the long-standing issues the domestic violence community and survivors have had with MPD understanding the realities that survivors face and the dynamics of domestic violence that can keep survivors from reaching out for help.

[5] https://www.youtube.com/watch?v=3BpqaC_bxys&t=475s at 13:52-14:08

Survivors of domestic violence are often times put in the position of fearing their partners **and** law enforcement in the District. Even before the heinous murder of George Floyd in May of 2020 and the protests against racial injustice last summer, DCCADV and our member programs have routinely testified and discussed the many issues survivors have expressed about MPD. From denying language access to survivors to not enforcing court orders, survivors have been vocal to their advocates about this behavior. And while the recommendation has been put forth that survivors have the ability to file complaints against officers who don't follow the General Order, filing paperwork and re-living the trauma caused by these officers are not priorities for many survivors trying to find safety for themselves and their children. The burden should not be put on survivors to routinely inform Office of Police Complaints (OPC) or commanders about their officers. MPD needs to implement improved oversight of their officers' domestic violence response, as well as each District Commander developing relationships with the domestic violence organizations in their Districts.

In response to racial injustice and years of sounding the alarm regarding MPD's behavior, DCCADV held four listening sessions, in the summer of 2020, with survivors of domestic violence. The groups were comprised of mostly survivors of color and represented all ages. Survivors who participated had an overall lack of trust of law enforcement, due to negative experiences and abusive behavior from officers. Survivors expressed that they feared deportation if they wanted to complain about an officer or experienced further victimization by MPD after filing a complaint. Additionally, many survivors felt that although they were already going through a traumatic situation, law enforcement only made the situation worse by blaming them, not showing empathy, or making sexist jokes.

Some of our member programs and DCCADV have either worked with MPD on trainings for police officers or programs meant to help survivors. Throughout the years, we have talked to MPD commanders and

tried to engage law enforcement on ways to better support survivors and we acknowledge that some survivors rely on law enforcement and the criminal/legal system to obtain life-saving safety and enforce court orders. However, the ongoing disrespect and willful disregard of the General Order and court orders cannot continue.

The District has an opportunity to really listen and protect survivors by finally addressing the community's concerns and making sustainable changes to MPD. In response to years of frustration and concern for the survivors that we serve, our 16 member programs voted on the following commitments as it relates to law enforcement's response and needs of domestic violence survivors in the District:

- We believe that the city should fund the development of a multi-pronged plan that includes both short and long-term strategies to address systemic racism.
    - We will work in partnership with allied organizations to implement the REACH Act.
- We believe all people deserve safe and affordable housing that includes meaningful funding support for domestic violence-specific short and long-term housing.
    - We will work to implement the recommendations identified in the Domestic Violence Housing Strategic Plan.
- We believe that to gain access to financial, housing, and other supportive resources that survivors of domestic violence should not have to report and/or certify their victimization with law enforcement and/or other governmental systems.

    - We are working with partner organizations to change domestic violence certification requirements currently in place in the District.
    - We will advocate for federal funding of victim services that do not require engagement with law enforcement or the criminal/legal system.

- We believe that services that are intended for a culturally-specific community should be developed and provided by the same culturally-specific community.
- We believe that children in DC schools should have access to supportive services to address their challenges not law enforcement officers in schools.
    - We support the removal of MPD officers from DC Public Schools and directing this funding to support mental health, substance abuse, and domestic and sexual violence prevention and services to help youth and families.
    - We will advocate for the District to invest its funds to support DC schools in bringing in local domestic violence and sexual assault prevention experts to lead domestic violence and sexual assault prevention programming.
- We believe that survivors should have more options, than law enforcement exclusively, when domestic violence occurs.
    - We support the implementation and/or expansion of community intervention and violence prevention programming – which includes anti-domestic violence, sexual assault, and trafficking programs – as alternatives to policing.

- We commit to researching and understanding the impact on survivors of domestic violence if the District no longer were to operate under a mandatory arrest policy for domestic violence crimes.
- We support law enforcement understanding their direct or implicit racial and gender biases and how it has created greater harm for some survivors of domestic violence, along with creating the tools to improve officer actions when and if they are called to respond to a domestic violence crime.[6]

Our Coalition members assist thousands of survivors in all 8 wards. Many survivors are mothers who are afraid for their children or have watched other family members be harassed by officers. We hope that in the midst of some of the changes that the domestic violence community is considering in how survivors define safety, the District and MPD will be supportive and listen to survivors and advocates.

Thank you, Chairperson Allen and staff, for receiving this written testimony.

[6] DCCADV position statement on police response and DV: https://dccadv.org/2021/01/position-statement/

AMARA LEGAL CENTER

TITLE: Performance Oversight Hearing for Metropolitan Police Department
COMMITTEE: DC Council's Committee on the Judiciary & Public Safety
HEARING DATE: March 19, 2021

The Amara Legal Center ("Amara") is a nonprofit organization that provides free trauma-informed legal representation, access to support services, and advocacy for a more equitable legal system for individuals impacted by sex trafficking or involved in sex work in the DC-metro area. Our clients are sex workers and sex trafficking survivors. The majority of our D.C. clients are residents from wards 6, 7, and 8, and are U.S. citizens born and raised in the D.C. metro area. Since our founding in 2013, Amara has provided free legal services to almost 500 clients in the D.C. metropolitan area.

Due to its location on the I-95 corridor and proximity to casinos and sports stadiums, D.C. has an acute need for legal services for individuals harmed through involvement in commercial sex. Amara estimates that every year roughly 500 individuals seek services due to their victimization through sex trafficking in D.C.[1] The FBI identified D.C. as one of 14 cities in the U.S. with the highest incidence of commercial sexual exploitation of children.[2] The National Human Trafficking Resource Center (NHTRC) notes that because of D.C.'s location near major highways and Baltimore's proximity, D.C. is a "significant part of East Coast sex trafficking circuits."[3] Despite the population of D.C. being far lower than the average U.S. state, NHTRC

[1] Figure comes from a survey Amara conducted with local anti-trafficking organizations in D.C. in 2013.
[2] Chris Swecker, "June 7, 2005 Testimony: Exploiting Americans on American Soil: Domestic Trafficking Exposed," Federal Bureau of Investigation.
[3] https://www.civilandhumanrights.org/documents/UCSE_FINAL_VERSION_(2_28_14).pdf

states that phone calls placed for help were made at a rate that was the 16th highest in the nation. The actual number of survivors in D.C. is likely much higher than statistics show, as the majority of survivors remain hidden from the public and do not seek legal or social services.[4] In 2019, the Human Trafficking Hotline received 75 cases and 179 contacts.[5]

In addition to providing legal services to victims of human trafficking, Amara is committed to providing legal services to those involved in commercial sex by choice or circumstance. The number of people who trade sex is difficult to estimate and more resources should be allocated to research and obtain data for this population of DC residents. People who trade sex are often victims of crime due to the vulnerability of working outside the boundaries of current laws. As a result, studies have shown that 80% of street-based sex workers have experienced an act of violence.[6] Trans, Black, and Latina women are the most affected. In DC, the majority of trans women are Black or Latina, and trans women of color are more likely to engage in sex work.[7] Of those surveyed in the DC's Trans Coalition Need Assessment, more than half of trans women of color had engaged in sex work in comparison to 12% of their White counterparts.[8] Due to the racial and gendered implication of violence against sex workers, Amara seeks to provide services specifically targeting this population and continues to be the only legal service provider doing so.

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[4] See Heather Clawson, PhD, et. al., "Human Trafficking Into and Within the United States: A Review of the Literature," Department of Health and Human Services.a

[5] Ibid.

[6] Raphael, J. and Shapiro, D. (2002, August). Sisters speak out: The lives and needs of prostituted women in Chicago. Center for Impact Research, 1-35 "80% of women in street prostitution had been threatened with a weapon at least once"// https://www.decrimnow.org/why-decriminalize-sex-work: "**80%** of street-based sex workers have experienced physical/sexual assault on the job."

[7] DC's Trans Coalition Need Assessment (Assessment)

[8] https://dctranscoalition.files.wordpress.com/2015/11/dctc-access-denied-final.pdf

The specific legal needs of this population are great. Amara provides legal advice, brief services, full representation, and referrals. Amara assists with civil legal issues: civil protection orders, divorce, child custody and support, and name changes. In addition to civil legal services, Amara also provides victim-witness advocacy services and representation in criminal record sealing cases. Without access to free legal help, our clients also have a difficult time seeking employment, housing, educational opportunities or reunification with their families. However, with a highly trained, trauma-informed, and dedicated Amara attorney; our clients have the ability to stop the civil and human rights abuses suffered, using the law as a tool to advocate for their rights.

There are many survivors of sex trafficking in DC and most survivors report being arrested during their exploitation. During their involvement in the criminal justice system, many survivors are not identified as victims and are then saddled with a criminal record that exacerbates their vulnerability to exploitation. Involvement in the criminal justice system impacts most of Amara's clients, regardless of the legal issues they are seeking to resolve. Involvement may come from being arrested for prostitution or solicitation; arrests for drug use; mental illness that may precede, begin through,[9] or be exacerbated by involvement in commercial sex; struggles with housing and homelessness; and a variety of crimes related to

[9] § 22–2701. Engaging in prostitution or soliciting for prostitution (there is no distinction in the law made between a buyer and a seller of sex and individuals who are selling sex are also charged with solicitation).

survival.

In late 2016, Amara began investigating options for a diversion program in DC that would serve sex workers and survivors of trafficking. Amara conducted focus groups with survivors, contributed questions to focus groups with sex workers, and began conducting a survey of diversion programs across the country. Through this effort, Amara learned that pre-arrest diversion programs are both favored and effective. Since 2017, Amara has been collaborating with other organizations to gather information, educate potential stakeholders, and advocate for pre-arrest diversion in DC.

As implemented in other jurisdictions across the country, pre-arrest diversion approaches specific low-level criminalized activities with a public health response, instead of a typical criminal justice response. Rather than arresting individuals caught engaging in activities like prostitution, drug possession, or other low-level offenses, law enforcement connects these individuals to community service providers. By doing so, pre-arrest diversion programs address the underlying reasons an individual may be engaging in certain activities and at the same time, prevents them from incurring an arrest or conviction record that would leave them in a worse situation and lead to collateral consequences. Moreover, properly implemented, these programs work to combat the over-criminalization of communities for issues that stem from racism, poverty, addiction, or untreated mental illness.

Amara commends the DC Metropolitan Police Department ("MPD") for launching an adult pre-arrest diversion program with the Department of Behavioral Health ("DBH") and the Department of Human Services ("DHS") in 2018.[10] This pilot program provides individuals facing mental illness and/or substance use disorders who may otherwise be arrested with the opportunity to receive supportive services when they come into contact with MPD and the criminal justice system because of minor criminal offenses. By providing a diversion program focused on providing individuals with needed services as an alternative to criminal charges, these agencies can help to break the cycle of arrest, incarceration, release and re-arrest.

Despite the positive impact the DC pre-arrest diversion program can provide for Amara's clients, it is equally important to ensure that MPD is aware of the concerns our clients and other survivors of domestic violence have in their interactions and experiences with MPD. The DC Coalition Against Domestic Violence reports feedback from its listening sessions on how its clients experience the MPD, and the responses are reflective of Amara's clients' sentiments in contacting MPD.

Survivors have an overall lack of trust

- The majority of participants reported they do not trust police. Negative experiences when law enforcement was involved led to that mistrust.
- Did not feel safe

10 https://dhs.dc.gov/sites/default/files/dc/sites/dhs/page_content/attachments/DC%20Pre-Arrest%20Divers%20Pilot%20Program_Updated%20v3.pdf

- Felt afraid when they saw or came in contact with law enforcement
- Felt unsafe and afraid due to immigration status
- Fear of deportation

Survivors felt a lack of dignity and respect from law enforcement

- The majority of participants reported that they were mistreated and/or responded to in ways that were lacking dignity and respect.
- Lack of empathy
- There was no kindness towards survivor
- Felt as though there was a lack of empathy for survivors when reporting
- Desire to be heard and respected and treated with humanity and dignity
- Sex workers reporting to us that law enforcement ask for sexual favors in exchange for not charging them

Survivors wanted to be heard and believed by law enforcement

- Survivors were not believed and oftentimes told they were lying, or the situation was not severe enough for action to be taken.
- Need to be believed, not antagonized or blamed for not calling/reported sooner
- Police told survivor they were lying
- Did not feel believed about the severity of the situation or taken seriously
- Mocked survivor and made sexist jokes

Survivors described negative experiences when contacting law enforcement regarding

domestic violence, sexual assault, or stalking

- Called MPD in an effort to get the abuser to leave
- Told by the officer they couldn't make the abuser leave because it was also his residence
- Called police for abuse and officers believed the abuser
- MPD unable to distinguish between person using harm to control another person
- Unable to get necessary help due to language barriers and lack of interpretation services
- Arrested abuser in front of child

Survivors want more community-based supports and alternatives to calling law enforcement

- When asked about community response vs. police involvement, survivors want less immediate involvement of law enforcement
- Strengthen the police liaison program within the community
- Communities already have strong leaders within their own neighborhoods, they need resources to continue the work they're already doing
- Immigrant populations need access to information for supports and alternative to police in a variety of languages
    - Demonstrated fear of abuser using police to enforce deportation
    - Equip communities with the resources to work within their own existing communities
- Have designated community support workers for the area as opposed to calling the police

    - Call police only when absolutely necessary
    - Work with police collaboratively to find balance
    - Prefer advocates or violence interrupters to be who shows up when calls are made
- Alternatives to 9-1-1
    - Invest in crisis intervention and mental health interventions
    - Officers need to live in the communities they're policing to understand in depth what communities are dealing with
    - Officers need to connect with community and religious leaders to build relationships
- Organizations who are already doing the work and offering the services should be easily accessible and adequately funded
- MPD have additional and mandatory trauma-informed and culturally humble training to adequately identify and respond to instances of domestic violence, sexual assualt, and human trafficking.

We ask that the DC Council address the concerns expressed by our clients and other victims of domestic violence and sexual assault related to their experiences and interactions with law enforcement. We also ask the DC Council to continue to support funding for pre-arrest diversion (especially efforts to meaningfully involve impacted communities and community organizations), housing and other services necessary to make pre-arrest diversion a success.

We look forward to continuing to work with Chairman Allen and his staff to support survivors of human trafficking and sex workers. We are available at any time to answer any questions the committee may have.

Sincerely,

Carole Bernard
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
METROPOLITAN POLICE DEPARTMENT

Fiscal Year 2020
Performance Oversight Hearing

Testimony of
Robert J. Contee, III
Acting Chief of Police

Before the
Committee on the Judiciary & Public Safety
Council of the District of Columbia
The Honorable Charles Allen, Chairperson

Virtual Hearing
March 11, 2021

Good afternoon, Chairman Allen, members of the Committee, and everyone watching the hearing virtually. My name is Robert Contee, and I am the Acting Chief of Police for the Metropolitan Police Department (MPD). I am honored to be testifying before the Council and the residents of the District of Columbia for the first time as the Acting Chief of Police. I have many ideas and plans to share with you about public safety in the District and how we can work together moving forward to have a safe, vibrant, and inclusive city. MPD must be the police department of our community, and we must renew our focus on the relationships we build, rather than just the transactions we conduct. However I will save much of that for the two forward-looking hearings coming up for my confirmation and the budget. Since the performance hearing is intended to be a retrospective of the past year, I will take this opportunity to focus on the unimaginable year that we have experienced together in the District.

Oversight hearings, and discussion about policing in general, often focus on the topline numbers. We talk about the change in violent crime – a 4 percent decrease – and property crime – down 20 percent. Calls for police service declined 14 percent. Adult arrests decreased 34 percent in 2020, and juvenile arrests were down 40 percent.

But what really matters are the people impacted by these stats. So I would like to begin by taking a moment to remember the lives we have lost this year – lives lost to tragedy, whether through the more than 1,000 DC residents who died due to COVID, or the 198 who were victims of fatal violence. Even when people survived these misfortunes, the scars they left may be felt for a lifetime. Every day, I think about the 198 homicide victims in the District last year, and the 750 victims of gun violence who lived. I think about the families, friends, and communities that have been impacted and how we can work better to prevent and deter this violence.

We are dealing with the same stresses among our MPD family, where 12 sworn members have died in the past 18 months, and both a civilian and a Reserve Officer were victims of homicide. More than 700 MPD employees have tested positive for COVID, and tragically one succumbed to the virus. Each of these losses has been a difficult blow for their families and for our MPD family. For everyone watching today who has survived such tragedy this year, know that we understand and support you. Do not be afraid to ask for help, because we all need support, and more so than ever after this past year.

Ironically, this journey began a year ago today, when Mayor Bowser issued a declaration of a public health emergency in the District, just four days after the first known COVID case in the city. In the following weeks and months, MPD worked to protect the safety of its employees and community members while maintaining the continuity of its operations through these unprecedented times. MPD issued more than 60 policy guidelines and updates to direct member operations. In the beginning, in the face of mixed messages from the national stage, we all faced the challenge of trying to determine the right protocols for personal protective equipment. The Department of General Services was a strong partner in improving safety at approximately two dozen MPD facilities. MPD also worked with partner agencies in the criminal justice system to modify all operations to safeguard arrestees and colleagues throughout District and federal

agencies, while continuing to conduct necessary law enforcement functions to keep our neighborhoods and residents safe. For instance, to limit contact within the criminal justice system, MPD expanded the use of the Telephone Reporting Unit for members of the public to report minor crimes. We plan to continue this successful change.

Recognizing that COVID would have different impacts on some of our communities, our Special Liaison Branch (SLB) immediately targeted outreach to communities with limited English proficiency (LEP). They developed COVID public service announcements in seven languages. SLB officers gave interviews on Spanish language media and worked with the Mayor's Office to distribute translated COVID information to organizations and retail businesses with LEP clientele. When the public health emergency was first declared, three additional Cantonese or Mandarin speaking officers were detailed to SLB for outreach to ensure our Chinese community felt safe reporting any concerns. Fortunately, over the past year, the District has not seen the significant jump in hate crimes targeting Chinese or Asian communities that has been seen elsewhere in the country, although we are investigating a simple assault from last week as possibly motivated by bias. In 2020, there have been two simple assaults and one criminal threats case that appeared to be motivated in whole or in part by bias against these communities.

As last summer approached and we began to adjust to a new normal during the health emergency, the murder of George Floyd at the hands of a police officer in Minneapolis forced many in our country – and the law enforcement profession – to face the need for reform in policing. Thousands to tens of thousands of people – District residents and visitors alike – took to the streets of DC this summer to demand change. Through dozens of peaceful demonstrations, they broadcast their message. Unfortunately, some people and groups turned a strong but peaceful presence into a few violent and destructive protests. But that didn't invalidate the importance of the message.

As some of you may know, I grew up in Carver Terrace, I have policed in DC for three decades, and have chosen to raise my children here in the District. I understand how structural racism pervades so many aspects of our society – housing, education, healthcare, access to financial resources, access to opportunity, and policing. And I know we all must choose to take a stand against racism. Our communities are hurting right now. And too many of them don't trust police. It is up to police to earn the trust of our community members, to be seen as legitimate guardians in their eyes.

I'm looking forward to listening to and talking with the community more in the coming months about how we can partner together to earn trust and build relationships while safeguarding our residents. Earlier this week, I launched the first in a series of listening sessions with community members. These listening sessions, which will be facilitated by professionals from outside the Department, will touch on critical topics, such as the role of police in society, what should the police be doing, what should the police not be doing, and what other services does our

community need to ensure public safety. If you were not able to attend the first one, there will be several more across all eight wards in the coming months. Please follow us on social media for more information. If the last year has taught us nothing else, it is that we must guide our actions not by what we can do, but what we should do. We must always be ready and willing to change, to adjust and to learn. I look forward to learning more from the community.

One issue I know the community will raise is gun violence. It has been a problem in the District throughout my entire life, and sadly, we as a city have only made temporary gains to curb it. Indeed, gun violence in 2020 reached a 12-year high. Of the city's 198 homicides, 172 died from gun violence. In looking at some of the city's most vulnerable populations, it is disturbing that the number of female victims increased from eight in 2019 to 29 last year. We know that at least ten of these women were victims of domestic violence. Tragically, eleven children and youths were victims of homicide in 2020. Needless to say, none of us are satisfied with that. As a great city, as a cooperative ecosystem, we should be able to protect all of our children from deadly violence.

In addition, 750 people were injured from gun violence. The number of illegal guns continued to climb, with 2,314 guns recovered, including more than 300 ghost guns. While removing illegal guns from our neighborhoods is necessary, we know that it is not enough. On the surface, the causes of gun violence include things like petty arguments and insults, retaliation from ongoing disputes, social media disputes that move from the virtual to the real world, violent robberies, and domestic violence. However, the District must continue to try to address the deeper issues related to gun violence, which include untreated trauma, education inequality, unemployment, unstable housing, social influences that normalize violence, and structural racism.

Last month, Mayor Bowser introduced a whole-of-government response to violence based on recent experience with the effectiveness of the COVID emergency operations center, as well as research on where violence is committed and who is at risk of being involved with it. The mission of Building Blocks DC is to transform the District government's approach to providing services, supports, and opportunities for those impacted by violence in communities where residents are empowered to co-create public safety. Building Blocks DC will work to support stable people and blocks, focusing on the 151 blocks in the city where more than 40 percent of the gun violence takes place, and on the people at highest risk for being involved in gun violence. Working together as a city, if we can predict this violence, we can prevent it.

In the meantime, MPD will also be examining our strategies related to guns and gun violence. I want to be more strategic about getting the right guns out of the wrong hands. We have already shifted resources to focus on an intelligence-based policing approach to identify, interdict, and interrupt violent offenders within the District. The goal of this Violence Reduction Unit (VRU) is to build strong criminal cases on offenders and groups to ensure those repeat offenders cannot continue to endanger our communities. The VRU is already seeing some success with its casework. I'll also continue to work with residents to ensure that our strategies support – and

don't undermine – vibrant and safe communities where our residents – our youth, families, and seniors – can thrive and succeed.

* * * * *

Lastly, I would like to address the January 6th Insurrection at the U.S. Capitol, an event with a profound impact on our residents and MPD. In the past two months, I have testified before Congress on this topic twice, but I think it is important to share this information directly with District residents. I'll discuss a few points here and my written testimony, which is available at www.mpdc.dc.gov, provides more details.

It is important to understand the very different roles of Mayor Muriel Bowser and the District of Columbia, including MPD, and those of Congressional and federal authorities. First, MPD is prohibited from entering the Capitol or its grounds to patrol, make arrests, or serve warrants without the consent or request of the Capitol Police Board. (2 U.S. Code § 1961) Second, unlike any other jurisdiction in the country, the President of the United States, not the Mayor of the District of Columbia, controls the DC National Guard (DCNG). Third, since Mayor Bowser declared a public health emergency in March 2020, the District of Columbia has not issued permits for any large gatherings. Although the District and MPD take pride in facilitating the exercise of First Amendment rights by all groups, regardless of their beliefs, none of the public gatherings on January 5-6 were issued permits by the District of Columbia.

On the morning of January 6th, MPD was prepared to support our federal partners with a First Amendment assembly that was held primarily on federal land, while continuing to patrol and respond to calls for service throughout city neighborhoods. Based on our experience with prior demonstrations in the District after the election, we recognized that there was a possibility of violence, especially after dark as smaller groups of protestors gathered with malicious intent on city streets. In the aftermath of the December 12th protests, MPD met with our federal partners to escalate planning for January 5th and 6th. To be clear, available intelligence pointed to a large presence of some of the same groups that had contributed to violence in the city after demonstrations in November and December. The District did not have intelligence pointing to a coordinated assault on the Capitol, but was prepared for the potential for violent individuals and groups on our streets.

Preparation included ensuring the Department was fully deployed on 12-hour shifts the week of January 4th, with days-off and leave canceled. Our federal partners each had their primary areas of responsibility: the U.S. Secret Service (USSS) was focused on the security of former President Donald Trump and the White House area, U.S. Park Police (USPP) was focused on the Ellipse and the National Mall, and the U.S. Capitol Police (USCP) had responsibility for the Capitol, including both the building and grounds.

At Mayor Bowser's request, and in advance of the scheduled demonstrations, mutual aid was requested from several area police departments to be on standby in the District, and more than 300 members of the D.C. National Guard were deployed on District streets providing traffic control and other services to allow MPD to support the First Amendment assembly and continue to provide services to our neighborhoods. Other law enforcement partners such as the Metropolitan Transit Police and non-law enforcement agencies such as the District's Homeland Security and Emergency Management Agency and the Fire and Emergency Medical Services Department also supported the city's efforts.

However, these resources were barely enough to counter an event that had never happened in the history of the United States: a mob of thousands of American citizens launching a violent assault on the U.S. Capitol – the seat of our government – in an attempt to halt the counting of the electoral ballots, an essential step in the peaceful transfer of power in our nation. The mob's sustained assault on the Capitol precipitated an equally unprecedented response, with then Chief of the Capitol Police Steven Sund issuing an urgent request for MPD to come defend the Capitol. Needless to say, when we received the call for help, MPD responded immediately with several Civil Disturbance Unit Platoons and proceeded to aid Capitol Police in defending the Capitol. What follows is a brief outline of MPD's role in these events.

At about 12:45 p.m., the first of two pipe bombs were found, the first one at the Republican National Committee headquarters. The second pipe bomb was found about 30 minutes later, at the Democratic National Committee headquarters. MPD responded to the scenes for the pipe bombs to assist the Capitol Police. At 12:58 p.m., Chief Sund asked for MPD's assistance to address the growing violent mob at the Capitol. Officers were immediately authorized to deploy to the west front of the Capitol and arrived within minutes. Additional officers were on standby at Third Street SW and Maryland Avenue SW.

MPD arrived at a chaotic scene. Shortly after our arrival, I was able to stand on the west front of the Capitol to get a broad view of the riot as many of MPD's brave officers made their way to the front line. Our police officers were under attack, the Capitol – hallowed ground for our country – was under attack, and the constitutional electoral process – the very foundation of our democracy – was under attack. MPD's police officers ended up engaged in a literal battle for hours. Many were forced into hand-to-hand combat to prevent more rioters from gaining entry into the Capitol. This was not a peaceful protest; this was not a crowd trying to express their First Amendment rights – rights which we are proud to protect regardless of belief. At the end of the day, this was an assault on our democracy, and MPD officers held the line.

The violent mob overran protective measures at the Capitol in an attempted insurrection, prior to the arrival of MPD officers at the west front. By 1:50 p.m., MPD had declared the assembly to be a riot. Upon arrival, the MPD platoons immediately began working to achieve our objectives:

1. Stop rioters from entering the Capitol building and remove those that were already inside,
2. Secure a perimeter, so that the Capitol could be cleared for lawmakers,
3. Enable Congress to resume their sessions to demonstrate to our country and the world that our democracy was still intact, and
4. Lastly, only once the third objective had been accomplished, begin making arrests of anyone violating the law.

At 2:22 p.m., a call was convened with, among others, myself, leadership of the Capitol Police, the D.C. National Guard, and the Department of the Army. I was stunned at the response from Department of the Army, which was reluctant to send the D.C. National Guard to the Capitol because of a concern about the plan and the "optics." While I certainly understand the importance of both planning and public perception – the factors cited by the staff on the call – these issues become secondary when you are watching your employees, vastly outnumbered by a mob, being physically assaulted. I was able to quickly deploy MPD and issue directives to them while they were in the field, and I was shocked that the Army could not – or would not – do the same with the Guard.

In the meantime, by 2:30 p.m. the District had requested additional officers from as far away as New Jersey and issued notice of an emergency citywide curfew beginning at 6 p.m. Just before 3 p.m., the District issued a citywide Wireless Emergency Alert declaring a curfew in effect from 6 p.m. until 7 a.m. on January 7th. The alert can be heard going off on the cell phones of insurgents in some of the videos taken on the Capitol grounds. From that point, it took another three and a half hours until all rioters were removed from the Capitol. Ninety minutes later, at 8 p.m., Congress was able to resume its critical work and fulfill its constitutional duty.

Those seven hours, between the urgent call for help from the Capitol Police to MPD and the resumption of work by both houses of Congress, will be indelibly etched on the memories of every law enforcement officer defending the Capitol, as it is undoubtedly in the minds of the elected officials, congressional staff, and other Capitol employees who were forced to seek safety behind locked doors. The costs for this insurrection – both human and monetary – will be steep. During the height of the incident, approximately 850 MPD members were at the Capitol, and by the day's end, an additional estimate of 250 had been in the area to directly support the response and aftermath.

Five people lost their lives on January 6th. We offer condolences to all the grieving families. Sixty-five MPD members sustained injuries documented in injury reports. Many more sustained injuries from the assault – scratches, bruises, eyes burning from bear mace – that they did not even bother to report. Their fellow officers at MPD and elsewhere are proud of the unheralded bravery of MPD officers in the face of this unprovoked and vicious attack.

Other harm from this traumatic day will be widely felt but possibly unacknowledged. Law enforcement training neither anticipates nor prepares for hours of hand-to-hand combat. Even brief physical fights are physically and emotionally draining. MPD is working to support the emotional well-being of our officers who experienced this. The officers who were deployed elsewhere on the 6th share in the trauma of their colleagues, many frustrated that they could not rush in to stand on the line with them. And like everyone in the District that day, we all have families and friends who watched the violence unfolding and worried about the safety of their loved ones.

I appreciate the opportunity to highlight the heroism of MPD officers who put their lives on the line to protect the Capitol, Congress, and our democracy, and I want to thank all the MPD employees for their exemplary dedication and service to the residents of the nation's capital. I also want to thank the Council for honoring our members who served on January 6th with a ceremonial resolution. Looking forward, to ensure the continued safety of the District and its residents, the federal enclave, MPD officers, and others, we must be frank in considering several critical issues. This assault on the Capitol has exposed weaknesses in the security of our city. The federal police forces in DC will be reexamining their security protocols given the risks of both foreign and domestic terrorism. As the Chief of the District's municipal police force, I must think about our preparations not only for possible attacks, but the daily impact of the changing operations of our federal partners. As they harden targets in the federal enclave, other buildings in the city under MPD jurisdiction may become more likely targets.

Between the twin challenges of the COVID pandemic and rising civil unrest, often targeted at police, the past 12 months have been exhausting for everyone at MPD – sworn members of all ranks and professional employees alike have been working around the clock while dealing directly with issues that have increased stress levels for everyone in this country. I have no doubt that MPD will successfully meet the challenges of this new security posture, but this workload and stress level are unsustainable with the current staffing levels, which are dropping every day. People can only work six days a week, 12-hour days for so long before decision making is impaired and the considerable physical and mental costs become irreversible. I urge the Council to keep in mind the safety and well-being of MPD officers and all people in the District of Columbia as we assess and plan for the future.

Thank you for the opportunity to present this testimony. I look forward to continuing to work with our communities and this Committee on our shared goal of improving safety in the District.