

Introduction

The summer of 2020 changed the nation and the District of Columbia. In overwhelming numbers, people took to the streets to affirm the value of Black lives and protest police killings of George Floyd, Breonna Taylor, and so many others. In the context of a pandemic also disproportionately killing Black and Brown Americans, the weight of history and an unbearable present converged.

In Washington, D.C. there were near-continual protests and a City Council hearing on the Metropolitan Police Department that elicited roughly 16,000 witness statements.¹ In July, the Council passed the Comprehensive Policing and Justice Reform Second Emergency Amendment Act of 2020.² In addition to placing temporary limits on MPD, the legislation established the DC Police Reform Commission, tasking it to “examine policing practices in the District and provide evidence-based recommendations for reforming and revisioning policing in the District.”

History of Policing in Washington, D.C.

Long before the creation of the Metropolitan Police Department, a handful of constables patrolled the District’s streets. Among their explicit duties was the pursuit of “fugitive servants”—slaves who did not have permission from their owners to leave the plantation.³ Each month, these constables were required to check areas where slaves would congregate. If they found people hiding or running from their owner, the law instructed constables to whip them.⁴

As the population of “free” Black residents increased, lawmakers enacted “Black codes” in an effort to control the Black population by criminalizing an array of normal activities, from being outside past 10:00 p.m. to dancing without a license.⁵ The constables enforced these laws vigorously by arresting or fining people.⁶ When Congress created an auxiliary night watch,⁷ these officers also disproportionately targeted the District’s Black population.⁸ These

¹ Amanda Michelle Gomez, “District line daily: More than 16,000 testimonies,” *Washington City Paper*, June 16, 2020, <https://washingtoncitypaper.com/article/323205/more-than-16000-testimonies/> (accessed March 22, 2021).

² DC Act 23-336.

³ J. L. Alpert, “The origin of slavery in the United States—the Maryland precedent,” *The American Journal of Legal History*, 14(3), (1970): 189-221.

⁴ *The Slavery Code of the District of Columbia, Together with Notes and Judicial Decisions Explanatory of the Same* (Washington: L. Towers & Co. Printers, 1862), 24.

⁵ *Id.*, 30-31.

⁶ Thomas Smallwood, “A Narrative of Thomas Smallwood, (Coloured Man:) Giving an Account of His Birth—The Period He Was Held in Slavery—His Release—and Removal to Canada, Etc. Together With an Account of the Underground Railroad. Written by Himself,” (Toronto: James Stephens, 5, City Buildings, King Street East), (1851): 13.

⁷ National Constitution Center Staff, “Looking back: One of the ugliest protests in White House history,” August 16, 2019, National Constitution Center; *An Act to establish an auxiliary watch for the protection of public and private property in the city of Washington*, August 23, 1842.

⁸ Sylvester, *supra* note 1, at 30.

mechanisms designed to uphold slavery and institutionalize anti-Black racism were the foundation for the newly created Metropolitan Police Department in 1861.

In the department's initial years, a five-member Board of Metropolitan Police Commissioners, appointed by the President, functioned as the primary oversight body. The Board set up station houses, adopted minimum standards for becoming a police officer, and allocated police resources across the District.⁹ While policing became more organized, racial bias rooted in laws linking criminality and Blackness persisted. Over the course of the year 1870, for example, officers arrested roughly one out of every 10 Black residents, mostly for "vagrancy" and "disorderly conduct."¹⁰

Reforms throughout the late 19th and early-to-mid 20th century did nothing to change these dynamics. The focus was on fashioning MPD into a "model police force" in the eyes of White residents to justify expanding its resources and authority.¹¹ The creation of the Traffic Bureau is an apt example. A media report issued not long after the bureau's creation gushed that its "highly trained" officers were "experienced, efficient and courteous."¹² This led to more resources for the bureau, and, in less than a decade, to all officers being trained in traffic control.¹³ While MPD was heralded for its professionalism, the reforms also meant that police had more resources to stop, cite, or arrest people; and this power was, as throughout history, exerted disproportionately to control, punish, and investigate Black residents. In a handful of years, police reported over 13,000 misdemeanor traffic violations against Black residents, more than any other misdemeanor offense.¹⁴

When Black residents sought accountability for the harassment and abuse they experienced at the hands of police, they were met with denials, justifications, and desultory investigations.¹⁵ For years, the only avenue for accountability was the Police Trial Board, a quasi-judicial body made up of personnel from the Metropolitan Police Department.¹⁶ Recognizing the bias baked into the Trial Board, community groups and advocates spent years agitating for a civilian complaint review board. The first came in 1952 but was quickly abandoned.¹⁷ A subsequent iteration in the late 1960s also failed to achieve its mission.¹⁸ Calls to bolster the board or create a new, better

⁹ *Id.*, 36.

¹⁰ Annual Report of Secretary of Interior, 1870, and Reports of Subordinate Officers, Ninth Annual Report of the Board of Metropolitan Police for the Year of 1870, 930. Total Black population is based on Decennial Census data from 1870.

¹¹ See, for instance: Washington Post Staff, "Model Police Force," *The Washington Post*, July 30, 1905, 12.

¹² E. Clark, "Hey, You, Pull Up to the Curb!" *The Washington Post*, September 1, 1929, SM7.

¹³ H.F. Wentworth, "All Policemen To Be Trained For Traffic," *The Washington Post*, October 5, 1938, 16.

¹⁴ Report of the Commissioners of the District of Columbia, Report of the Major and Superintendent of the Metropolitan Police, District of Columbia, 1929, 21-22.

¹⁵ Washington Post Staff, "Brutal Police Blamed for Fear of Riots," *The Washington Post*, August 1, 1938, 11.

¹⁶ An Act To amend section one of an Act entitled "An Act relating to the Metropolitan police of the District of Columbia," approved February twenty eighth, nineteen hundred and one, June 8, 1906, 34 Stat. 222, ch. 3056.

¹⁷ A. Lewis, "New Police Complaint Plan Gains," *The Washington Post*, September 22, 1964, C1.

¹⁸ R.G. Kaiser, "Complaint Unit Doing Poorly," *The Washington Post*, July 19, 1967, B1.

system of civilian oversight were drowned out by a chorus of policymakers arguing that police needed more resources, authority, and harsher tactics to deal with a “plague of lawlessness” that “struck our Nation’s Capital.”¹⁹ In 1956, the District’s federal overseers, the three-person board of commissioners appointed by the United States Congress, imposed a law on the District that required a minimum number of Metropolitan Police Department officers—2,500 officers.²⁰ This law was modified by Congress in 1961 to increase that minimum to 3,000 MPD officers,²¹ and remains on the books to this day, even as the population of the District has decreased.

By 1971, when President Nixon launched the War on Drugs,²² D.C. was in the throes of a heroin epidemic that disproportionately impacted Black communities.²³ While the initial response was grounded in public health, this quickly gave way to calls for more punitive measures.²⁴ Congress quickly expanded MPD’s resources by giving the department more personnel and a new computer system to better track crime and distribute personnel.²⁵ New laws also granted police and prosecutors greater authority and discretion, including the ability to enter a residence without knocking and to charge youth who committed certain crimes as adults.²⁶ Once again, this punitive response was meted out disproportionately on the District’s Black residents.²⁷

Although concerns around the expanded reach of police revived the push for civilian oversight, the new civilian complaint review board created in 1980 quickly floundered due to a lack of resources and hostility from the police union.²⁸ According to one report, the board had nearly 1,500 unresolved complaints within five years.²⁹ The board was dissolved in 1995, leaving residents with no avenue to have their complaints heard.³⁰

At the same time, in 1994, a series of reports in the Washington Post highlighted widespread dysfunction³¹ and corruption³² within MPD, in part a result of the department’s rapid expansion

¹⁹ L. Johnson, “Text of Message on City Rule, War on Crime,” *The Washington Post*, February 28, 1967, A10.

²⁰ PL 84-514 (1956).

²¹ PL 87-60 (1961).

²² President Richard Nixon: Special Message to the Congress on Drug Abuse Prevention and Control, June 17, 1971.

²³ See, for instance: James Forman Jr., *Locking up our own: Crime and punishment in Black America*. (Farrar, Straus and Giroux, (2017).

²⁴ *Id.*

²⁵ L. Downie Jr., “City Acts In Crime Crusade,” *The Washington Post*, February 2, 1969, 1.

²⁶ A. Barnes, “Tougher Crime Action Seen,” *The Washington Post*, January 31, 1971, A1.

²⁷ See: James Forman Jr., *Locking Up Our Own: Crime and Punishment in Black America*; Testimony of James Forman Jr. before Commission on February 23, 2021.

²⁸ Peter Perl, “Police Union To Shun Review Board Hearings,” *The Washington Post*, August 3, 1983, A1; Victoria Churchville, “Police Board Concedes It’s a Failure,” *The Washington Post*, December 18, 1987, B1.

²⁹ *Id.*

³⁰ Michael A. Fletcher, “Death of Police Review Panel Leaves District Cases in Limbo,” *The Washington Post*, June 25, 1995, B3.

³¹ Keith A. Harrison and Mary Pat Flaherty, “Cutting Corners at Police Academy,” *The Washington Post*, August 29, 1994, A1.

³² Keith A. Harrison and Mary Pat Flaherty, “District Police Are Still Paying for Forced Hiring Binge,” *The Washington Post*, August 28, 1994, A1.

to hire more officers despite the lack of any evidence that this increase in officers would improve public safety. It took a second Washington Post investigation four years later to spark change. That five-article series in November 1998 on use of force by MPD officers was shocking: Officers had shot and killed more people in the previous five years than many other larger police departments, including Chicago and Los Angeles.³³ Officers fired their weapons once every two and a half days,³⁴ and internal investigations of police shootings were riddled with errors and bias.³⁵

As a result, Mayor Anthony Williams and Chief of Police Charles Ramsey invited the Department of Justice to investigate MPD's use, reporting, and investigation of force, a process that led to a slate of reforms and years of independent monitoring.³⁶ By June 2008, MPD was found to be in "substantial compliance" with a majority of the required reforms;³⁷ and a follow-up report in 2016 by the District of Columbia's Office of the Auditor described MPD as "plainly a very different, and much better, law enforcement agency than when DOJ began its investigation in 1999."³⁸ Unfortunately, a report issued on March 23, 2021 by the auditor found significant backsliding within MPD and, worse, an unwillingness or inability to change on its own. The auditor wrote: "Unfortunately, the weaknesses identified in our 2016 report have not been remedied; indeed, they have grown substantially worse. Our review of the four 2018–2019 fatal use of force cases has shown that those weaknesses persist, and that generally MPD has not recognized them and appears to resist or be unconcerned with remedying them."³⁹

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This Commission

As this brief history illustrates, efforts to reform police have often reinforced or expanded law enforcement's role in systemic racism or eluded the problem altogether by examining policing out of context; and also have failed to provide communities what they need to truly be safe and to thrive. This Commission, born out of protest against this long-standing dual failure, was determined to avoid perpetuating that legacy. Indeed, from the outset, we were animated by two fundamental questions: What really makes us safe? And what limited role should police play in the broad social project of nurturing safe and healthy communities?

We were well equipped to conduct such an inquiry. The Commission's 20 members represent a wide array of professional backgrounds and lived experiences. They include activists,

³³ Jeff Leen et al., "District Police Lead Nation in Shootings," *The Washington Post*, November 15, 1998.

³⁴ *Id.*

³⁵ David Jackson, "Holes in the Files," *The Washington Post*, November 17, 1998, A1.

³⁶ Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department (June 13, 2001).

³⁷ The Office of the Independent Monitor, Final Report for the Metropolitan Police Department (2008).

³⁸ The Bromwich Group LLC, "The Durability of Police Reform: The Metropolitan Police Department and Use of Force, 2008-2015," A report of the Office of the District of Columbia Auditor, (2016) xvii.

³⁹ The Bromwich Group LLC and Steptoe & Johnson, "The Metropolitan Police Department and the Use of Deadly Force: Four Case Studies 2018-2019," A report of the Office of the District of Columbia Auditor, (2021) xvii.

advocates, and leaders of community-based organizations that provide essential services and support to District residents. There are educators, attorneys, and faith leaders, as well as current and former District officials. The Commission includes a retired MPD officer, a current member of the Police Complaints Board, and others with deep expertise in law enforcement and the limits of reform to date. City Council Chairman Phil Mendelson should be commended for forming such a diverse body, in which the vast majority of Commissioners are residents of color.

To move quickly while covering a range of topics and issues, the Commission established five substantive committees:

1. Committee on Policing Youth and Police in Schools
2. Committee on Assessing and Expanding Violence Reduction Efforts
3. Committee on Building Up Non-Police Community Health and Safety Interventions
4. Committee on Reforms to MPD Practices
5. Committee on MPD Accountability and Oversight

Each Commissioner served on two committees of their choosing. Beginning in September 2020, each committee typically met weekly, while the full Commission met monthly. Meetings were open to the public and held via videoconference because of the COVID-19 pandemic.

With considerable support from Council and Impact Justice staff and consultants, Commissioners considered relevant research, emerging national trends, policies and practices in other jurisdictions that might work in D.C., and reports by recent commissions and task forces with mandates similar to our own. While we surveyed the national landscape, our primary focus was local, learning as much as we could in just a few months about public safety in the District of Columbia: what is working and should be expanded, where there are gaps in services, and what policies and practices undertaken in the name of safety appear ineffective or even harmful.

To answer these and other questions, this diverse body of Commissioners sought information and perspectives from an equally diverse array of local experts, including people whose keen insights stem from their own lived experience. They range from individuals on the frontlines of violence interruption, to the Chief of Police, the deputy mayor for public safety, and other senior District officials; from public school teachers and students to community-based mental healthcare providers; from police union representatives to members of the Defund MPD Coalition, among many others. The Commission also held two open community forums where anyone could share their experiences and concerns. In total, the Commission consulted with or heard from more than 100 individuals. We sought to acknowledge each of these individuals in our report.

Beginning in November 2020, the Commission made repeated requests to MPD for approximately 70 key pieces of data and information, including the composition and performance of MPD's Crime Suppression Teams and Narcotics & Special Investigations Division (NSID); data on search warrants executed by MPD officers; descriptive information about stops conducted by MPD officers; reports for a random sample of pre-arrest "probable

cause” searches; recent use of force data; information about pre-service and in-service training; school campus arrest data, and more.⁴⁰

In a telling aspect of our inquiry, MPD fulfilled only a small fraction of those requests, and for many of the requests did not respond until March 7, 2021, just three weeks before the release of our recommendations and report. While lack of data hampered our own inquiry to some extent, far more concerning is the department’s inability and/or unwillingness to extract and share information about what it does, how and why it does it, and what the results of those choices are. This suggests that MPD is not monitoring itself as it should in order to responsibly guide the Department and supervise individual officers, and does not have a culture of transparency, even though transparency is a core aspect of policing in a democratic society. Indeed, in mid-February 2021, the ACLU of D.C., Black Lives Matter D.C., and Stop Police Terror Project D.C. once again had to sue MPD and the Mayor before the Department released stop data as required by the NEAR Act.⁴¹

The culmination of the Commission’s work is the report you are reading, in which we propose and provide a road map for a significant shift in the District’s approach to public safety. That shift is grounded in specific, actionable recommendations that, while not exhaustive, would lead to far greater investment in services and supports to address the root causes of crime and disorder, both individual and systemic; and to a smaller, more appropriate and constructive role for police. It would be a clean break with the District’s and the nation’s legacy of over-policing yet under-protecting people of color, and the beginning of a new era of greater health, safety, justice, and equality in D.C.

⁴⁰ For a complete list of data requests made by the Commission and the outcomes of those requests, see Appendix B: MPD Data Requests.

⁴¹ Colleen Grablick, “Update: DC police publish six months of stop and frisk data following ACLU law suit,” *DCist*, February 24, 2021, <https://dcist.com/story/21/02/17/aclu-sues-dc-police-missing-stop-and-frisk-data/> (accessed March 22, 2021).

Summary of Recommendations

This section provides an overview of the Commission's recommendations. It briefly describes key shifts that are essential to improving public safety in the District and ending harms associated with over-reliance on law enforcement. It also highlights anchor recommendations: changes in perspective, policy, practice, and resources that are necessary to begin to realize the broader shifts.

Use this summary as a guide, not as a replacement for the Commission's 90 highly detailed recommendations, many of which have multiple sub-parts. The report as a whole includes crucial information that is only minimally captured in this brief summary. The Commission was rigorous in its effort to craft recommendations that draw from a broad range of experiences and expertise but are tailored to current circumstances in the District. Our recommendations are often highly specific, and if implemented holistically would lead to meaningful change. We also were rigorous in explaining the rationale for our recommendations. The statements that open each section of the report, and the discussions that follow clusters of related recommendations, address why particular changes are needed and what they aim to accomplish. These narratives point to research, data, best practices and emerging trends, and other factors that support the recommendations; and, in some cases, raise considerations that are important to successful implementation.

Reflecting the Commission's commitment to taking a more complete view of public safety and the social supports necessary to achieve it, our slate of recommendations covers a wide range of issues. This report is the product of 20 independent minds that worked collectively for roughly seven months and, as a whole, reflects the views of the overwhelming majority of Commissioners.

Meeting Crisis with Specialized Skill and Compassion

Law enforcement should be one option in an array of emergency responders, not necessarily the first option. Individuals in crisis need specialized intervention and sometimes skillful de-escalation, not forced compliance or arrest. As the public is well aware, involvement of an armed officer can make a difficult situation much worse, and potentially deadly.

The District should make behavioral healthcare professionals and other specialists the default first responders to individuals in crises. This is the emerging trend nationally, and the District could be a leader by taking this approach to scale in a large city. This will require investments to build a corps of specialized first responders that can act quickly, reliably, and effectively. In addition to behavioral healthcare professionals, this corps should include domestic violence advocates and those equipped to provide emergency support and shelter to survivors of sex trafficking. Because anyone may encounter a person in crisis, the Council should fund in-depth crisis intervention trainings open to the public and mandatory for every MPD officer. Once a

diverse corps of first responders is able to be deployed districtwide, they should have responsibility for conducting wellness checks.

In situations where a person in crisis has a weapon or for some other reason poses a significant danger to others, a co-response is needed. The Council should require and fund the creation of teams staffed by experienced behavioral healthcare professionals who co-train with specially selected MPD officers. Similarly, the Council should fund the Office of Victim Services and Justice Grants to expand the number of domestic violence advocates able to respond *along with* officers, if not *in lieu of* police as suggested above; and legally redefine domestic violence as occurring within the scope of an intimate partner relationship to ensure limited resources are used where they are needed most.

This sea change in how the District responds to individuals in crisis should be accompanied by a reduction in the use of arrest in those situations where police are involved. Arrest rarely solves the underlying problem and can trigger a range of negative consequences. Reforms should include expanding pre-arrest diversion for individuals with a behavioral health problem, eventually replacing the District's domestic violence mandatory arrest law with clear guidance that officers follow in consultation with advocates on the scene and survivors themselves; as well as policies that discourage criminalizing survivors of sex trafficking.

These reforms and others the Commission calls for in Section I of this report require changes to the infrastructure, technology, staffing, and dispatch protocols of the Office of Unified Communications which operates 911, in conjunction with a public information campaign to build confidence in a new emergency response network among DC residents who are reluctant to make a call for help that might spark an unhelpful (or worse) response from police.

Strengthening the Safety Net for Vulnerable Residents and Decriminalizing Poverty

While the previous section focuses on the need to provide a broader public safety response to individuals in crisis, it is of course preferable to prevent a crisis from occurring at all. Yet, for far too many DC residents, life is lived from one crisis to the next. The District needs to expand and create community-based services and other resources that meet people's underlying needs and thus improve the quality of life for District residents and prevent many emergencies from arising in the first place.

One essential thread of a strong social safety net is culturally competent and easily accessible behavioral healthcare, including for substance use disorders. During the Commission's inquiry, it became increasingly clear that the Department of Behavioral Health (DBH), does not have the funding and other resources to meet the current and anticipated needs of all District residents. This must change.

The District needs far greater investment in behavioral health and wellness services that are based in communities and culturally competent. Research shows that when mental health

professionals understand the role of cultural differences and community circumstances, and act on that knowledge, people fare better. Expansion of community-based mental health care must occur in collaboration with communities and intentional efforts to ensure that all residents know about the services available to them. The District must also establish processes to improve the coordination of care across agencies and initiatives.

The Commission realizes that the significant expansion of services we recommend will be iterative. With that in mind, we call on the Council to establish a task force or coalition of community-based providers and public officials to assess the adequacy of preventative community behavioral health and wellness programs on an annual basis.

Lack of safe, stable, and affordable housing is also a serious problem for vulnerable residents, from the chronically homeless, to youth leaving foster care, to individuals seeking safety from family violence. The Council must prioritize addressing DC's housing crisis by expanding emergency shelter and supportive services and, most important, by investing in pathways to permanent housing. As part of that process, the Department of Housing and Community Development (DHCD) must enforce equitable development policies and seek input from low-income residents and people of color to ensure that wealthy developers do not control the decision-making process.

Many of the people falling through a weak social safety net are also subject to over-policing and criminalization. Efforts to better support residents must be accompanied by a far less punitive approach to low-level offenses that are driven primarily by structural racism, intergenerational poverty, and a deficit of resources. This Commission joins with others in calling on the Council to decriminalize low-level offenses, including but not limited to illegal vending and panhandling.

Formal systems and services are not the answer to every problem. The Council should invest in restorative justice and other processes that leverage the potential of community members to support one another. Restorative justice approaches have been found to be effective at building community, strengthening relationships, and fostering healing. While there are a number of community-based organizations led by Black, Indigenous, and other people of color (BIPOC) already engaged in restorative justice, their work is occurring on a small scale. The Council should create funding opportunities that enable these and other BIPOC-led community-based organizations to expand services and secure designated spaces.

Back to Normal: Re-establishing Police-Free Schools

Since 2005, when the Council approved legislation inviting police into public schools, MPD officers have taken the lead in school public safety. The daily presence of police officers in schools is antithetical to environments meant to foster learning and positive development. Youth of color in particular often do not feel comfortable, valued, or safe in educational spaces where they are interacting with representatives of a system that generally views Black and Brown people as a threat. Indeed, a panel of youth told this Commission that instead of fostering safety

in school, officers often escalate altercations, create a hostile atmosphere, and cause anxiety among young people by their mere presence, especially since they carry guns.

While the daily presence of police in schools has been the experience of a whole generation of youth in D.C., the District has a much longer history of operating schools where police are rarely on campus. That is the normal, healthy reality to which the District should return. The District should replace police, who, by design, are trained primarily in coercion and crime control, with professionals who are skilled and trained in helping young people navigate the opportunities and challenges of life in the classroom, schoolyard, and beyond. That takes money. By the end of FY21, the Council should eliminate the Metropolitan Police Department School Safety Division and create a community-led process to re-allocate those resources (roughly \$14 million); and make additional investments supporting positive youth development and promoting safe and healthy learning environments.

In particular, the District must increase investments in community-competent, trauma-informed school-based mental health professionals. The Commission's own analysis shows that many D.C. schools fall far short of national standards regarding student-to-staff ratios. In a sample of 114 schools, less than a third (29%) met the staffing standard for school counselors; 38% met the staffing standard for school social workers; and 62% met the staffing standard for school psychologists—professionals who are critical to student well-being. While DC public schools have, on average, one security guard for every 165 students, they have only one social worker for every 254 students, one counselor for every 352 students, and one psychologist for every 529 students.

Increased funding would support an array of other valuable services and resources, including Positive Behavioral Intervention and Supports (PBIS) programs, violence interrupters, and restorative justice, more art classes, and extracurricular activities that open doors and minds. Resources should be distributed based on a school's needs and the needs of its surrounding neighborhoods.

In police-free schools, security staff should be unarmed District of Columbia Public Schools employees chosen by and directly accountable to local school leadership, and well trained in how to handle mental health emergencies and use culturally relevant verbal de-escalation techniques; and in general be fully integrated into the life of the school.

To be in sync with this shift in the approach to school safety, the District must minimize arrests of children at school. Specifically, the Council should prohibit MPD and other law enforcement agencies from serving warrants, detaining, or arresting youth on campus or at school-related events, *except* for violent incidents that occur in school and involve the use of a dangerous weapon as defined by the District of Columbia Public Schools. The Council should enact similar safeguards that extend to school personnel to protect students and their family members from District and federal immigration enforcement agencies. And schools should be weapon-free zones. Law enforcement officers should be required to disarm before entering a school, unless responding to a violent incident.

Trusting and Investing in Communities to Stem Gun Violence

Roughly four years ago, with passage of the Neighborhood Engagement Achieves Results (NEAR) Act, the Council signaled the importance of relying more on community-based solutions to violence. Today the District has a permanent agency to support community-based solutions to violence: the Office of Neighborhood Safety and Engagement (ONSE). But the roughly \$10 million allocated to ONSE in FY21 is a tiny fraction of the more than \$500 million allocated to MPD. And ONSE lacks the authority to coordinate and support violence reduction efforts districtwide.

The Commission is heartened by the newly created gun violence prevention coordinator and emergency operations center, and by the new Building Blocks initiative, which suggests the Mayor's administration understands gun violence as a public health crisis fueled by deep and long-standing structural inequities. While there is great potential in these nascent efforts, how they are carried out is of considerable concern to this Commission. These new government entities must facilitate, not impede, deep reform of MPD and the District's public safety infrastructure.

In communities with elevated rates of violence, the risks also include violence by police—actual uses of force and the ever-present threat that many Black and Latinx residents feel. Even as gun violence is increasingly understood as a public health problem, it continues to drive and erroneously justify aggressive and ineffective policing strategies and tactics. Community-based interventions, not police, should be at the center of efforts to stem violence, including gun violence.

Beginning immediately and with strong leadership from the Council, the District must strategically scale up community-based violence interruption initiatives as a crucial first line of intervention. This work must include creation of a hospital-based violence interruption program in the new level-3 trauma center serving Wards 7 and 8. This public health-centered approach to stemming violence is poised to become the dominant paradigm nationwide, especially as a growing body of evidence demonstrates the potential for significant gains in safety. Growth must occur in tandem with streamlining and better coordinating separate initiatives, and better equipping, supporting, and compensating frontline staff, treating them on par with other public-facing essential workers.

Violence interruption is just one piece of the solution and only truly effective when it's a gateway, not an end point. The Council must invest more in job training and other programs and services that support healing and constructive life change for residents of historically marginalized communities. These programs should be evidence-based, while also leveraging local knowledge and potential for innovation; they must be trauma-informed and trauma-responsive and seamlessly connected as a network of community-based solutions to violence.

Neither officials nor the public should expect miracles immediately; programs like this take time to mature and pay off. At the same time, there must be a concerted effort to measure impact—in numbers and in other ways and incorporating participant perspectives—and then refine interventions as necessary. In the same vein, the Commission calls on the Council and Mayor to lead the District in partnering with a local university to establish a state-of-the-art research center to advance public health-centered, trauma-informed solutions to gun violence. For more than 25 years, federal funding for gun violence research has been hampered by a law that prevented the CDC from undertaking any research that could be used to promote gun control. Although its grip was finally broken, federal funding for research on gun-related deaths and injuries is still a small fraction of what is needed to understand and solve a problem that affects over 115,000 people in America every year, including more than 500 people in DC. The District should be a leader nationally in building a compelling base of knowledge that can save lives.

Embracing a Harm Reduction Approach to Policing

One of the challenges facing police agencies nationwide, MPD included, is to minimize the potential for their own officers to inflict harm. Because every stop, search, arrest, and use of force is inherently repressive and distressing to some degree, each one should have verifiable benefits that outweigh the anguish it causes to those directly affected. This is what it means to take a harm reduction approach to policing. MPD and its officers should be animated not by what they *can* do as a matter of law, but by what they *should* do based on what reliable evidence establishes as *effective* at addressing serious crime and as *minimally intrusive* as possible.

A harm reduction approach requires officers to be fair and impartial in exercising their enforcement authority. Police agencies have a long history of discriminating against and traumatizing people of color, in particular Black men and boys, and increasingly Black women and girls, as well as LGBTQ+ individuals. MPD is no exception. Although the Department has made progress toward eradicating deleterious, discriminatory policing practices over the past two decades, its work in this regard is far from complete. Even where individual officers strive to be impartial, the structural racism that infects all of American life continues to be particularly pernicious in policing, largely negating the efforts of individual officers. Statistical and experiential evidence of MPD's stop and search practices, presented in detail in our report, exposes the still difficult road ahead.

A harm reduction approach also obligates MPD to be transparent about what it is doing and why. This means the Department must create a culture of transparency in which the collection, maintenance, analysis, and publication of information about officers' encounters with people who live in and visit the District is valued and supported, rather than distrusted and resisted. MPD needs this data on stops, searches, arrests, and uses of force to understand the impact of its own practices and ensure that they meaningfully address crime and genuinely reduce harm. District residents have a right to make their own determinations about MPD's performance

based on the same data, as well as a right to hold MPD accountable when its officers unjustifiably inflict harm.

Certain law enforcement practices will move MPD closer to the harm reduction objectives identified above, while other practices will make achieving those objectives either impossible or exceptionally difficult. The Commission calls on the Council and MPD to undertake the following anchor reforms without delay:

Curtail Aggressive, Ineffectual, and Harmful Stop and Search Practices

MPD's Crime Suppression Teams and Gun Recovery Unit, specialized units that use aggressive stop and search tactics, should be immediately suspended unless and until the Department produces data showing they address violent and otherwise serious crime more effectively than ordinary patrol units. To address gun violence in a potentially more effective and less harmful way, MPD should explore greater use of person-based focused deterrence.

The Council should correspondingly pass legislation curtailing several invasive, ineffectual enforcement tactics. It should ban "jump-outs," which Crime Suppression Teams and the Gun Recovery Unit are known for. It should prohibit consent searches, given that voluntary consent is an oxymoron in the policing context and that residents, especially in over-policed communities, rarely feel sufficiently free and safe to voluntarily consent. And it should allow "pretext" stops—stops for minor offenses when the actual purpose is to conduct a fishing expedition on a more serious offense—only with supervisory approval and only to investigate violent crimes.

Finally, the Council should transfer authority to enforce traffic violations that do not imminently threaten public safety from MPD to the Department of Transportation.

Limit Arrests that Do More Harm Than Good

The District has come to over-rely on arrests and to underestimate the often life-changing harm they produce. The Council should amend the DC Code to establish a presumption of citation in lieu of arrest for low-level offenses. At the same time, MPD should establish and enforce a "most effective, least intrusive response" policy that mandates compliance with the new law, defines and requires a problem-solving approach to criminal activity, and affirmatively promotes alternatives to arrest.

Adopt Safer, More Respectful Search Warrant Practices

The Council should modify search warrant execution practices by banning no-knock warrants and strictly limiting quick-knock raids. The Council should also require officers who seek and execute warrants to exercise diligence in confirming addresses and to comply with constitutional requirements for patting down and searching occupants. Additionally, the Council should authorize prompt compensation for any damage done to property during warrant executions.

Reinforce the Imperative of De-escalation

MPD officers must actively seek to de-escalate encounters that present a threat of violence, and when left with no option other than to use force, must use only the force that is necessary, reasonable, and proportional to the threat posed. Routinely meeting this standard requires enhanced training for all officers.

Apply a Harm Reduction Approach to Special Police Officers

Require more extensive training for the District's thousands of special police officers and disarm non-sworn special police officers in public housing.

Improve Transparency and Accountability Through Data Collection, Analysis, and Publication

MPD should significantly enhance its data collection and analysis practices. The Commission has identified a number of areas in which MPD must not only collect and maintain data, but analyze and utilize it to assess, inform, and refine departmental policy, training, supervision, and discipline. These areas include but are not limited to stops, protective pat-downs, searches, search warrants, arrests, uses of force, and canine use. All data in these areas should also be easily accessible to the public. The Department's legitimacy in the eyes of District residents depends on it.

In this vein, it is important to note that despite repeatedly asking MPD for data and other information about various practices, the Commission received only some of what we requested. Depending on the request, MPD claimed that it either lacked the capacity to respond or did not maintain the information requested. This hampered the Commission's inquiry to some extent, as we had neither the authority (e.g., no subpoena power) nor the resources to conduct a full inquiry into MPD practices. But it also raises larger concerns. MPD's inadequate response to our information requests suggests it does not engage in the type of rigorous self-evaluation required to properly supervise officers, correct departmental deficiencies, and improve departmental performance. It also suggests that MPD does not have a culture of valuing transparency, even though transparency is a core aspect of policing in a democratic society.

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

Even as MPD creates more youth-focused programs like the Officer Friendly program and the Youth Advisory Council, individual officers continue to over-police youth of color, often for normal adolescent behavior, mirroring national trends. In *Reforming Juvenile Justice*, the National Research Council of the National Academies, points to a sizable body of literature showing that youth of color are more likely than White youth to be stopped, arrested, and later adjudicated in court.

While Black boys are policed to a greater extent than any other demographic, the criminalization and biased treatment of young people of color extends to Black girls as well. According to a 2018 report by Rights4Girls and the Georgetown Juvenile Justice Initiative, Black girls in DC are 30 times more likely to be arrested than White boys and girls combined.

Black, Brown, Indigenous, and other youth of color understand their relationship with law enforcement in the context of a long history of over-policing and criminalization of their families and communities. At an early age, they learn the system is stacked against them; they learn to fear and avoid police, and to always comply when confronted by an officer. The weight of all this, coupled with their still-developing brains, means that youth of color often end up sacrificing their legal rights, with potentially serious repercussions for their futures. The District should take steps to limit punitive encounters between police and youth, and when such encounters cannot be avoided, ensure that they are developmentally appropriate.

To help limit punitive encounters, MPD should institute policies, coupled with training for officers and corresponding incentives, to increase the use of pre-arrest diversion and connect youth with community-based programs and other resources. The Council should play a role in this broad shift by decriminalizing status offenses, as well as some other offenses when committed by youth; and also by establishing 12 as the minimum age of liability for juvenile delinquency proceedings—a cut-off consistent with international law and recent state reforms.

The data are abundant: the adolescent brain is still developing, and the cognition and emotional reasoning of a child under 12 are far from that of an adult. In fact, neurological research shows a person's brain continues to mature throughout adolescence and into their mid-20s. As a result, young people are more likely to be swayed by peers, engage in risky and impulsive behaviors, and experience drastic mood swings—all the more reason for the legal system to treat them differently.

To protect young people in circumstances when arrest cannot be avoided, the District needs to take a developmentally appropriate approach to informing youth of their right to remain silent and other fundamental rights. *Miranda* rights should be conveyed in wording that young people can understand and in the presence of legal counsel, with whom a young person can consult before waiving their rights. Council should work with DC's Public Defender Service and MPD to ensure that legal counsel is available in police stations. The stakes are high: Most youth do not understand their rights and are not mentally or emotionally equipped to weigh short-term gains against longer term rewards. In fact, young people disproportionately make false confessions that can lead to wrongful convictions. Because of bias in the criminal legal system and racism in society at large, Black youth in particular may lack confidence that their claims of innocence will be believed.

Success of these reforms depends on buy-in from MPD officers and their supervisors. Because people won't adopt what they don't understand, MPD must provide more training for all officers in adolescent development and adolescent-appropriate policing, from brain science and the dynamics of trauma to de-escalation. For all the changes the Commission recommends in order to deliver the widest possible benefit, and to help end the unnecessary criminalization of individuals who are still growing and maturing, the Council must expand the legal definition of a child to include all persons under the age of 21 (albeit with important caveats described in Section VI). Finally, young people deserve to have a more substantive role in policymaking and

in the oversight of public agencies that directly impact their lives—and that certainly includes MPD. One way to make progress in this regard: The Council should form a youth council as part of the Office of Police Complaints.

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

One of the core recommendations of the President’s Task Force on 21st Century Policing is that police departments abandon the “warrior” model of policing—in which officers “fight crime” as though it’s a war and view the communities they police with suspicion—and instead embrace the “guardian” model, in which officers are guided by empathy and see themselves as public servants devoted to understanding, protecting, and working with community members. All of the Commission’s recommendations regarding MPD street encounters are rooted in the principle of harm reduction and aim to promote a guardian model of policing. So do recommendations that narrow the circumstances that require a police response. Being a guardian doesn’t mean being involved in every crisis and dispute.

Police agencies also cultivate and maintain a guardian model through departmental structures and systems: proper education and training, thoughtful recruitment, effective officer wellness programs, performance evaluations and promotions that embrace guardian values, and routine internal audits of enforcement actions. The Commission recommends ways that MPD can improve policies and practices in each of these areas.

With funding from the Council, MPD should revamp its approach to training new officers. Specifically, MPD must fully implement in practice a collegiate model focused on teaching the skills officers need to think critically, problem-solve effectively, and exercise discretion appropriately. Academy courses must be uniformly taught in sequence for all recruits, so that more complex topics and skills build on foundational ones; and recruits must have opportunities to learn from community members with professional or lived expertise to share.

In addition to all the other specialized training recommended in this report, MPD should provide Academy training and annual refresher training on “active bystandership” to underscore every officer’s duty to intervene to prevent fellow officers from engaging in misconduct. MPD also should provide in-service training annually to foster culturally competent, anti-racist policing—training that should be open to employees of other District agencies and members of the community.

The Council should revive the Police Officers Standards and Training (POST) Board by enhancing its membership; giving it more authority over training, recruitment and retention; and providing the funding necessary for it to have a permanent staff. The POST Board should also be empowered and required to maintain a registry of current MPD and DCHA officers, remove officers from the registry for cause or incompetence, and submit those names to the National Decertification Index currently run by the International Association of Directors of Law Enforcement Standards and Training. Equally important, the Council should make permanent

that portion of the emergency legislation that prevents MPD from hiring officers who have engaged in serious misconduct in another department.

In terms of recruitment, MPD should fortify its efforts to hire individuals who are from or intimately familiar with the District (including by expanding the Cadet Program); who possess good interpersonal and communications skills; and who would enhance MPD's diversity and value diverse perspectives and experiences.

Studies show officers are at elevated risk of anxiety, depression, PTSD, high blood pressure, substance abuse, suicidal thinking, and other serious health issues. Addressing particular health concerns and promoting overall wellness is fundamental to a guardian model of policing, since undue stress affects an officer's behavior on the job. MPD should enhance its wellness programming and take steps to make sure officers know what help is available to them.

In the area of performance evaluations and promotions, the Council should establish a Public Advisory Board, made up of both community members and experts in police management. This board should be empowered to assess and refine MPD's processes for evaluating officer performance, promoting officers to supervisory and command ranks, and assigning officers to specialty units.

MPD should strengthen and expand its Data Quality Division to ensure routine and thorough internal audits of its officers' stops, searches, arrests, and uses of force. In its enhanced form, this Division would be responsible for all the data collection, analysis, and reporting the Commission calls for throughout this report. Bolstering the Department's audit function is essential to ensuring adherence to harm reduction principles. The Division will not only evaluate compliance with law and policy by officers, units, and department-wide, but also gauge whether enforcement strategies are effectively addressing serious crime—that is, whether they are, in fact, doing more good than harm.

Finally, the Council should repeal the 65-year-old law requiring MPD to have a static minimum number of sworn officers. Enacted before the District had its own Council, this law has no basis in reason and hampers the District's ability to allocate resources to MPD and other agencies based on data and other evidence about what improves public safety. The law even undermines MPD's ability to use its own resources most effectively—by hiring non-sworn expert instructors or civilian crime analysts, for example, instead of sworn officers.

Holding Police Accountable

An effective police accountability system requires a variety of actors with complementary responsibilities acting in tandem. The District has some mechanisms in place but entirely lacks others. No accountability mechanism in the District is operating entirely as it should.

The Commission's cornerstone recommendation to promote MPD accountability for officer misconduct is to create a deputy auditor for public safety within the Office of the District of Columbia Auditor: an official with broad and substantial authority, required to release findings, at least bi-annually, with respect to the quality and timeliness of MPD and OPC investigations and the disciplinary process. Modeled after agencies that exist in other U.S. cities, a deputy auditor for public safety would substantially strengthen external oversight of MPD by providing both front-end accountability (proactive review of MPD policies, procedures, and practices designed to prevent things from going wrong) and back-end accountability (responses when things do go wrong).

The District also should bolster existing oversight entities: both the Police Complaints Board (PCB) and the Office of Police Complaints (OPC), which the board oversees. The Council and Mayor should move to expand the purview of the PCB, renaming it the District of Columbia Police Commission (DCPC). This reconstituted entity would continue to oversee the Office of Police Complaints and would also have authority to review and approve MPD policies prior to issuance that are not purely administrative in nature; play a role in selecting the police chief; participate in the process of setting MPD performance goals; and help make MPD more transparent.

Police commissions that review departmental policies and practices to ensure they are aligned with the needs and concerns of the community exist in Detroit, Kansas City, Los Angeles, Milwaukee, Oakland, and San Francisco. Public hearings or a single-issue task force should be devoted to fleshing out DCPC's precise mandate, authority, composition, and the process for selecting members.

The Council and Mayor should expand the jurisdiction, authority, and resources of the Office of Police Complaints (OPC). OPC should have the authority and resources to investigate all in-custody deaths and serious uses of force, *regardless* of whether a complaint has been filed, and to act on anonymous complaints. In addition, OPC should have statutory authority to recommend discipline for officers who are proven to have engaged in misconduct, and the ability to obtain relevant personnel records to make informed disciplinary recommendations. This broader scope of authority and work should enhance public trust in the District's ability to hold officers accountable.

Sunlight is said to be the best disinfectant. Secretive internal investigations and disciplinary processes leave the public in the dark—skeptical, doubting, and unable to hold the department or individual officers to account. The Council and the mayor should revise the Freedom of Information Act (FOIA) and explicitly make officers' disciplinary records public, as other jurisdictions have done. Based on these legal changes, the OPC and the MPD should create searchable public databases, like those that exist in New York City, enabling members of the public to easily access, for any officer, the status of open investigations, the outcome of administrative investigations, and the disciplinary action taken with respect to each act of misconduct. These changes, along with other FOIA revisions and recommendations we are making, would make MPD more transparent, and thus more accountable.

It's also important that MPD's disciplinary system comprehensively account for officers' prior disciplinary history. MPD should stop automatically purging "adverse actions"—the most serious level of discipline—from officers' personnel records after three years. They should be permanently recorded, and when disciplining an officer MPD should be able to consider any previous adverse actions against that officer. Even lesser "corrective actions" should not be automatically purged; officers should be required to demonstrate changed behavior.

Given the pivotal role that body-worn camera footage may play in understanding events and holding officers accountable, reforms are needed in this area as well. To ensure the availability of body-worn camera footage in potentially fatal uses of force, MPD should install technology to automatically activate body-worn cameras when an officer draws their firearm. The law should strictly limit officers' access to body-worn camera footage (their own as well as footage from their colleagues' cameras) so as not to bias their initial reports. Research shows that video recordings can suppress or even replace actual memories. Notwithstanding this concern, and with consent of involved individuals or their next of kin, body-worn camera footage of officer-involved deaths and serious uses of force—ideally unredacted—should be released to the public within just a few days.

It is important to note that the Commission was not able to review files for specific investigations conducted by the OPC or MPD, nor did we have access to MPD disciplinary records. Thus, we cannot comment on the quality and timeliness of these investigations or the resulting determinations. Such a review is a critical task for a newly created deputy auditor for public safety.

The Commission's recommendations in this area include calling on the Council and Mayor to make permanent the provision in the emergency legislation that removes discipline from the collective bargaining process. As Council Chairman Phil Mendelson noted when introducing this amendment, collective bargaining agreements should not be used to shield police officers, or any public employees, from accountability. For too long they have been allowed to do so. The District has the opportunity to lead the nation in dismantling this long-standing hurdle to holding police accountable when they harm people.

Realign and Reduce

As the above discussion and our complete report make clear, the District cannot achieve the public safety that all residents need and deserve if policing remains at the center of that effort. This overarching conclusion unifies the Commission's many recommendations. Decentering police requires shifting our collective focus and resources to invest far more in community-centered programs that prevent harm, while simultaneously realigning and reducing the size, responsibilities, and budget of MPD in line with a narrower scope of work for police. This shift must occur strategically: a smaller MPD does not guarantee a more community-responsive, less harmful, and ultimately more effective department.

In the next 12 months, the Council should adopt a plan that will strategically realign District agency budgets, including MPD's budget, so that funding and responsibilities are consistent with the recommendations in this report. This realignment, which should begin in FY 2022 and be complete by FY 2026, should include the following:

- Revising the police department's budgetary decision-making and oversight process and presentation to improve transparency *and* centering the voices of community members and organizations most impacted by harmful law enforcement practices.
- Increasing the number of personnel in community-building and alternative public safety programs *and* reducing the number of MPD sworn officers by at least the rate of attrition over the next five years, consistent with an independent audit that reviews MPD staffing, duties, and responsibilities. All mechanisms to achieve appropriate officer levels should be used, including attrition, buy-outs, early-outs, reductions in force (RIF), and retirement.
- Reducing MPD overtime to the fullest extent possible, especially un-budgeted overtime, which should be no more than three percent of MPD's annual budget.

The District relies on police more than other large cities. Based on data collected nationally in 2018, DC had more police officers per capita than any other large U.S. city, suggesting there is room to reduce the size of the police force, even before shifting any functions. While many cities have significantly reduced funding for police, MPD funding has *increased* by 12 percent since 2015. MPD's budget dwarfs the District's budgets for affordable housing, employment services, physical and behavioral health (and is less than human services).

Shifting some responsibilities from police to non-law enforcement agencies is supported by research and programmatic outcomes demonstrating that non-police interventions can improve public safety by addressing the root causes of crime and disorder. Reallocating resources in this way is a wise investment, has broad, bi-partisan public support, and is in line with trends nationally.