

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Metropolitan Police Department**



Report on Litigation Data-Calendar Year 2022

Attached hereto is a report of all lawsuits against the Metropolitan Police Department (Department) or its employees in their official capacity filed during calendar year 2022. The Office of the General Counsel reviews each new lawsuit served on the Department or its employees, an effort that continues as the lawsuit proceeds.

Each new lawsuit is entered into the Department's Personnel Performance Management System (PPMS), which includes the Supervisory Support Program. Thereafter, personnel from the Department's Internal Affairs Division (IAD) review each lawsuit to determine if there is any newly identified misconduct that needs to be investigated. In most cases, the Department is already aware of the allegation or conduct that led to the lawsuit and is investigating or has investigated the incident. Regardless, an IAD agent is assigned to monitor the lawsuit as it proceeds through litigation. If the investigation ultimately sustains misconduct, the Department takes appropriate action, which may include retraining, suspension without pay, forfeited leave, demotion, or termination, depending on the nature of the misconduct sustained. In addition, the Office of the General Counsel works to identify policy and training improvements that can be implemented arising out of these cases. Described below are the trends identified in these cases and the training and/or policy changes made based on an analysis of these matters.

The attached report also includes all the cases filed against MPD or its employees in their official capacity that were closed during 2022. These closed lawsuits include dismissal of cases and judgments against and settlements executed on behalf of the Department, of any amount, in calendar year 2022. Cases that are closed with settlement may be settled for a variety of reasons, including the uncertainty of trial outcomes and the cost of litigation. The Office of the Attorney General (OAG) consults with the Department on settlements and exercises its business judgment in choosing whether to settle.

Below is an analysis of the litigation data related to the cases brought against the Department and closed during calendar year 2022. Information concerning Department lawsuits has been provided to the Council of the District of Columbia as part of the Department's oversight hearings since 2015, and information on settlements and judgments has been submitted for each of the past five years. Copies of previous years' responses can be found here: <https://dccouncil.us/performance-oversight-2022/>

### ***Allegations of Fourth Amendment Violations***

- A majority of the lawsuits filed and closed during the past year concerned allegations of Fourth Amendment and common law violations resulting from police action. These cases generally involved claims of false arrest and use of force by members of the Department.
- In many of these Fourth Amendment cases, the charges were either “no papered” or later dismissed by the prosecution. The Department will continue working closely with the United States Attorney’s Office (USAO) and the OAG to ensure that these prosecuting entities are equipped with the necessary evidence and cooperating witnesses to prosecute crimes.
- In addition to the annual in-service training provided to all veteran police officers, Department members received the below training:
  - Following a U.S. District Court decision, the Department amended its policy governing search warrants of premises. Thereafter, the Metropolitan Police Academy developed a training bulletin provided to all members explaining the revised policy.
  - Training on the below issues also occurred for all members during Daily Roll Call Training. These are periodic brief scenario-based or refresher trainings, provided in-person by supervising sergeants to all patrol officers. In months in which a DRCT is issued, the same training will be provided across multiple days and shifts to ensure all patrol officers receive it.
    - Warrantless vehicle searches;
    - Warrantless arrests;
    - Prohibition on neck restraints; and
    - De-escalation techniques to avoid using force during arrest.

- Some lawsuits involve a plaintiff suffering from mental illness as a contributing factor to the incident at issue. The Department saw the need to fully address the challenges of those with mental illness and has hired a Behavioral Health Partnerships Coordinator (BHPC) to support MPD’s programs and partnership with the District Department of Behavioral Health, and strengthen MPD’s efforts to serve individuals with behavioral health needs and the communities in which they live. The newly hired BHPC is a Licensed Professional Counselor with experience working with individuals diagnosed with severe and persistent mental illnesses or who were in need of immediate crisis intervention.

### ***Second Amendment Litigation***

- There have been several lawsuits filed challenging the District’s gun laws since the Supreme Court’s recent decision in *NY State Rifle & Pistol Association v. Bruen*, which struck down the “proper cause” standard to obtain an unrestricted concealed carry handgun license in the State of New York. While the District does not have a “proper cause” requirement to obtain a concealed carry license (CCL), these lawsuits have challenged other aspects of the District’s gun laws and regulations including the prohibition on possessing a firearm on the Metro, persons with a CCL carrying more than ten rounds of ammunition, the ban on large capacity magazines, and the prohibition on obtaining a CCL for applicants that have shown a “propensity for violence or instability.”
- The Department is committed to ensuring that the District’s gun laws are enforced to protect the safety and security of all residents and visitors to the city. This common sense legal framework balances gun owners’ Second Amendment rights with the rights of all citizens to be safe from gun violence. The D.C. Code and municipal regulations set forth requirements for firearm registration and concealed carry handgun licensing, which include fingerprinting, passing a criminal history and mental health record background check, and completing firearms training.
- The Department has worked closely with the Office of the Attorney General to ensure compliance with all legal requirements since the *Bruen* decision and assisted in the current litigation challenging the District’s gun laws. Also, the Office of General Counsel provides regular legal advice and counsel to the Department’s Firearms Branch who process applications for concealed carry licenses and firearms registrations.

## *Freedom of Information Act (FOIA) Cases*

- The Department receives significant volume of FOIA requests, many of which are complex and voluminous. Last year, it received a record high number of FOIA requests, more than double the number of requests received five years ago despite efforts to make data repeatedly requested more available.
- The FOIA Office continues to balance transparency with personal privacy, law enforcement needs, and the confidentiality of juvenile and witness information. Disputes over the balancing of these interests have resulted in more frequent FOIA appeals and lawsuits.
- The Department was without a permanent FOIA Officer for over two years; however, a new FOIA Officer began in May, 2022 and an additional FOIA specialist has been hired, helping to increase the rate at which FOIA requests and appeals are reviewed and answered.

## *Employment Discrimination*

- During the past year, the Department hired former Park Police Chief Pamela Smith for the newly-established position of Chief Equity Officer. Ms. Smith is leading the Department's efforts on improving diversity, equity, and inclusion (DE&I). The Department further supported this effort with the assignment of three additional staff members, and realignment of the MPD Employee Well Being Unit and Equal Employment Opportunity Program under the Chief Equity Office.
- The DE&I Team is working on an assessment of the organization's culture and is in the process of conducting a Voices Tour and Commanders Roundtable Discussions, designed to develop internal stakeholders at all ranks, understand the various work environments, and to solicit insight and information on the challenges they face.
- The DE&I Team is developing an employee resource group, building leadership alignment, honoring the 30 x 30 pledge to have 30% women recruited by the year 2030, and installing training programs for policy review.
- The Police Executive Research Forum (PERF) was contracted to conduct an independent organizational assessment of the Department, including the culture, equity, and inclusion of all sworn and professional staff members of the agency. That assessment is set to conclude shortly with an expected report to be released early in calendar year 2023.

- The D.C. Office of Racial Equity conducted an analysis of claims in the Department's Special Operations Division (SOD) and proposed strategies to promote racial equity. The Department has actively begun implementing these recommendations including:
  - Chief Robert Contee created a video message provided during the orientation/onboarding process for each new hire and for all managers highlighting the Department's commitment to an inclusive culture.
  - All Department managers received Equal Employment Opportunity training on October 18-19, 2022.
  - Members of the Chief Equity Office became trained facilitators on racial equity through the Government Alliance on Race and Equity (GARE).