

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



Report on Litigation Data-Calendar Year 2021

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 2021. 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 2021. These closed lawsuits include dismissal of cases and judgments against and settlements executed on behalf of the Department, of any amount, in calendar year 2021. 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 2021. 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 this and previous years’ responses can be found here: <https://dccouncil.us/performance-oversight-2022/>

Employment Discrimination

- In an effort to assess its organizational culture, the Department solicited the assistance of two independent entities to perform reviews.
 - 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.
 - 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 has started and is currently ongoing.
- The Department created the new position of Chief Equity Officer and filled it through the hiring of former United States Park Police Chief of Police Pamela Smith, who began her employment on May 9, 2022. This executive’s responsibilities include coordinating implementation of the recommendations of the D.C. Office of Racial Equity and developing a strategic and transparent approach to equity and inclusion within the Department.

First Amendment Assemblies

- In 2021, the two lawsuits arising out of the arrest of more than 200 individuals during the 2017 Presidential Inauguration—*Shay Horse, et al. v. District of Columbia, et al.*, and *Jesse Schultz, et al. v. District of Columbia*—were settled.
- As a result of these lawsuits and the civil unrest beginning in May 2020, the Department overhauled its mass arrest process during First Amendment assemblies to be more efficient and to better meet the basic needs of its prisoners. Specifically, the Department:

- Adopted streamlined procedures for identifying, photographing, searching, and processing prisoners and prisoner property at the scene of a high volume arrest;
 - Moved and consolidated the external prisoner processing stations to the interior of the Prisoner Processing Center to protect against inclement weather and to decrease processing times;
 - Installed permanent external CCTV cameras on the campus of the Prisoner Processing Center to capture the entry and exit of transport vehicles and the movement of prisoners;
 - Set up additional cameras within the Prisoner Processing Center to capture the movement of prisoners from entry, through the processing stations, to the detention cells until their release;
 - Required individuals equipped with body cameras to position themselves to capture prisoner searches at various angles;
 - Created the position of Safety Officer to assist with the food, water, and bathroom needs of prisoners;
 - Instituted logs for food, water, and bathroom breaks provided to prisoners in the detention cells;
 - Created a paperless process for quicker processing and easier preservation of records;
 - Required an OAG attorney to be present in the Joint Operations Command Center during any presidential inauguration or protest of similar size and nature; and
 - Included a reminder to review and abide by the directive regarding Crowd Management and Civil Unrest in the teletype before any presidential inauguration or protest of similar size and nature.
- Further, attorneys in the Office of the General Counsel have provided training regarding these changes, assisted in the set up and conducted inspections of the Prisoner Processing Center, and have been on site during activations of the Processing Center to provide advice and to mitigate risk since the 2017 Presidential Inauguration.

Allegations of Fourth Amendment Violations

- Roughly half of the lawsuits filed and closed during the past year concerned allegations of Fourth Amendment violations resulting from police action. These cases generally involved claims of false arrest and excessive force by members of the Department.
- In every Fourth Amendment case settled in 2021, the charges were either “no papered” or later dismissed by the prosecution; in one case, the plaintiff was found not guilty at trial. 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 and remedy any potential procedural deficiencies that these entities may discover.
- Training:
 - The Metropolitan Police Academy developed training bulletins focused on search warrants of residences, and the Department is currently amending the pertinent portion of its directive concerning searches.
 - The Department issued a new directive concerning use-of-force that further emphasized de-escalation techniques, among other best practice changes, on January 1, 2022. The Department has conducted comprehensive on-line training for all sworn members regarding the new policy and is in the process of developing a further interactive video presentation for the Department.
 - The Metropolitan Police Academy developed training bulletins that focused on the Fourth Amendment requirements related to both stops and protective pat-downs.

Civil Forfeitures

- In 2013, a class action lawsuit was filed against MPD that challenged the District’s civil forfeiture law, which asserted that it did not provide sufficient clarity on the process for seizing property, adequate notice of seizure to property owners, or clearly described how to challenge the seizures. In 2015, the law was changed to address these issues, and in 2021, the case was settled.

- The circumstances identified in the lawsuit have been mitigated through the legislative change in 2015, as well as the Department's use of a database to track its seizure of property and currency. In addition to the written notice provided to owners, the Department has also implemented a process of posting notice on its website of property seized and the identity of the property owner.

<https://mpdc.dc.gov/service/recovered-property>

- Lastly, in May of 2022, the OAG conducted training to Department officials in charge of the Evidence Control Division regarding the forfeiture statute.