
Government of the District of Columbia



Metropolitan Police Department

Testimony of
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Police Tactics

Committee on the Judiciary & Public Safety
Tommy Wells, Chair
Council of the District of Columbia

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John A. Wilson Building
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Good afternoon Chairman Wells, members and staff of the Committee, and members of the public. As the Chief of the Metropolitan Police Department (MPD), I appreciate the opportunity to have a frank discussion with you about how the Department interacts with members of the public each and every day in the District of Columbia.

There is no doubt that law enforcement around the country is under a great deal of scrutiny, with several tragic deaths and shocking incidents happening one after another, and often recorded for public viewing. Other issues, like “stop and frisk”, the militarization of police, and use of deadly force, are contributing to a picture of law enforcement that contradicts our mission to protect and serve the public. That is why I welcome this opportunity to explain to the residents of the District of Columbia and this Council how our police department operates and what tactics we use.

First and foremost, I want to reassure our community members that not all police departments are the same, and the Metropolitan Police Department is firmly dedicated to protecting our communities, respecting the rights of individuals, and building on the strong relationship that we have worked so hard to establish with our community.

While we have worked hard to ensure that we have the best police officers in the world working here in our Nation’s Capital, I recognize that we still have challenges. Members of the community call me, write to me, and come to countless community meetings across the city to share their experiences—to both complement and complain about the Department. As I have shared with many of them and discussed in several public hearings in front of this Council, I know we have some members that aren’t meeting our standards, and I am committed to making sure they are identified and removed from our ranks. But I need both the Council and the community’s help to do so.

I want to start by addressing the hottest issues being raised about policing nationally by elaborating on how those issues are handled here by the Metropolitan Police Department. When it comes to stop and frisk I have said in many public forums; stop and frisk is a legal definition not a tactic. The definitions were set by the courts to define the criteria or legal standard officers should use to make contacts, stops, and frisks in the course of their duties. Unfortunately, what has happened with stop and frisks in other jurisdictions has also happened with other law enforcement tactics over the past 15 years; and in some communities has created a significant rift between police and their communities.

I have been very vocal and have written numerous articles about the use of these now controversial tactics going back to 2008. As I told *Governing Magazine*:

[T]he goal isn’t to make arrests; It’s to make connections. [In the past], instead of engaging community members, the force emphasized ‘zero tolerance’ and ‘hot spot’ policing. [However], zero tolerance –hot spot policing wasn’t driving crime down; it was making it harder to solve crimes. When you’re doing zero-tolerance policing, who are you picking up and who are you alienating? Your resident, your victims, and your witnesses.”¹

¹ “Cathy Lanier has Changed Policing in the District of Columbia. *Governing Magazine*, July 2012.

Although a common measure of police performance, I don't evaluate our agency's performance solely on numbers and statistics. In fact, that is what has caused so many of these once useful tactics to be viewed so negatively. I have always said the goal is less crime AND less arrests; you must have both. Similarly, a reduction in the number of traffic citations issued by police officers can be a good sign if traffic crashes and fatalities are down. I also want to touch briefly on the issue of militarization of policing. Although most of this discussion has come from images of assault rifles and Armored Personnel Carriers being used during protests in Ferguson, some have also used it to suggest an overuse of SWAT Teams and specialized equipment in general policing. Our Emergency Response Team and their specialized equipment are never used for general policing in our communities and certainly not for protests. In fact, their use as a SWAT team is limited to hostage barricade situations, active shooters, and service of extremely high risk search warrants. Over the past two years they have only been activated for five criminal barricades and 17 high risk search warrants.

Even though we don't use controversial tactics and we have a police force that is reflective of our community we still have an obligation to ensure that our police officers, tactics, and equipment are appropriate to carry out our mission. During the hearing at Howard University I heard people; even elected leaders, question MPD's commitment to working with the community based on a relatively small number of interactions with an even smaller number of police officers. But I do realize that it only takes one negative interaction with one officer to change the perception of police in general. That is why I had internal affairs officials from MPD at that hearing to talk to individuals who testified about their negative interaction with a police officer. Our goal was to first determine if the interaction was in fact with a member of MPD – as many of the complaints involved officers that were not in uniform (often described as jump out units) or were in areas where other law enforcement agencies have concurrent jurisdiction. This is an important first step since we so often take complaints from community members about officer conduct and later learn that it was a member of one of the other 30 or more law enforcement agencies operating in the city. In fact, we have had to reach out to several federal law enforcement agencies that were conducting plain clothes operations in the city wearing vests or jackets that only say "police" and ask that they use "federal agent" or their own agency's name instead. We have even had cases that turned out to be bail bondsman or security guards. That is why it is so critically important that every negative interaction be reported immediately so we can determine who was involved and prevent further negative interactions.

When one of our officers is involved, my goal is to identify the officer immediately to ensure we don't allow bad officers to remain on the force or bad practices to continue. Just like with a crime, cold cases are harder to investigate and close, making it much more difficult to hold the offender accountable. That is why I sent members of the Internal Affairs Bureau to the previous hearing so that they could follow up with community members who came to testify. They spoke with many of them, provided their cards, followed up with emails, and even followed up with you, Councilmember Wells, about the concerns you reported with a police stop. Of the more than 20 people who testified, only one followed up with police. Others were not able provide enough information for an investigation; it may have happened too long ago, in another jurisdiction, or with another police agency, or they were relaying second-hand information. Just as with a crime, we can't take action if we can't substantiate an allegation. The sooner we hear from someone with a complaint, the more likely it is that we can

identify the officer, any witnesses, or other evidence to address the allegation. Let's take your mention of police misconduct during a traffic stop. Did that traffic stop happen in Washington, DC? If so, how long ago? Were the officers in uniform or a marked car? In other words, do you know whether they were Metropolitan Police officers? Since none of that was included in your statement, and we have not been able to get any details from you despite repeated attempts, how can we conclude that these incidents represent problems that need to be addressed by MPD?

That said, we have identified problems with some MPD tactics and are prepared to offer solutions to resolve many of the legitimate complaints impacting our community. The solutions recommended include legislative and policy changes as well. Let's go back to the issue of jump outs. Many of the complaints at the hearing were from people who described negative interactions with "jump outs". While there are no "jump out" units in MPD, I have found that people will often refer to our vice units or Crime Suppression Teams (CSTs) that way. For reference, I will describe the typical interactions each of these units have in a community that is referred to as a jump out.

The first scenario involves our Crime Suppression Teams. Crime suppression teams are created by District Commanders to address a specific crime issue (like burglaries or robberies) in a particular Patrol District. Often times their interaction will be stopping an individual in response to a specific call for service. For example, if the CST is working a pattern of street robberies in a specific area and they hear a call go out for a robbery, they will immediately go to the area to look for suspects while another officer responds directly to the victim to take the report. If the CST comes across a person in close proximity that matches the physical description they will stop that individual and ask additional questions to determine if they are involved in the crime. All CST members are supposed to be in full uniform and operating in marked police cars at all times.

The second scenario involves the District Vice Units. In response to community complaints about drug dealing, vice units may set up hidden observation posts in an area. If the officers in the observation post observe a drug transaction, or if an undercover officer is able to enter the area and purchase drugs, an arrest team of four to six officers in unmarked cars wearing tactical police vests, will pull into the block, jump out of the car and arrest those observed in the drug transaction. That group of four to six officers is commonly and informally referred to as the jump out squad.

While we do still have vice units operating in every patrol district, that tactic is not used nearly as often as it was in the late 90s and early 2000s when we had more than 200 open area drug markets around the city. In fact, many of the policing tactics and strategies developed and used during our high crime years are no longer effective. Every element of crime and criminal activity is different now and demands different laws, policies, and tactics. While I can give you many examples, think of the legislative and regulatory changes we had to make to deal with the dramatic surge in the theft and fencing of mobile electronic devices a couple years back. We had to change laws, purchase and train on new technologies, establish new units and train member on new tactics to identify and go after virtual fencing operations. Fifteen years ago that was work that was done by a single officer who conducted pawn store checks and placed stops on stolen items that were most often taken in burglaries.

The same is true for how we conduct drug operations across the city. The current model of multiple vice units spread around the city using tactics designed for the open air drug markets of the late 90s and early 2000s is not the model that is going to be effective in dealing with today's drug problem. Today we have extremely dangerous synthetic drugs being marketed and sold to kids openly and legally in our local variety stores. We have a generation of prescription drug abusers now turning to heroin that is so cheap and so potent that according to a study of 28 states by the Centers for Disease Control, the death rate doubled between 2010 and 2012.² The open air, violent crack cocaine markets have been replaced with drug deals arranged via social media, Craig's List and text messaging. The once out of control gang violence largely fueled by a criminal enterprise reliant on open air drug markets have has changed into a problem of violent commercial and street robberies to steal the next expensive technology that can be resold on the black market for quick cash.

Over the past eight years we have continued to analyze and update our policing strategies, resources and tactics to keep up with the times. This takes an immense commitment and a lot of hard work but it has always resulted in more efficient and effective policing and increased safety in our neighborhoods. Although change is often controversial, I don't intend to stop now. Let me highlight for you a few of things we have done and are in the process of doing to address the concerns of our community and modernize our policing strategy. As I mentioned earlier, most of the negative interactions between our police officers and our residents come from interactions with vice units, crime suppression teams, or officers conducting traffic stops. This is not to say that the officers assigned to these units are bad police officers; I will tell you they are not. In fact, these are some of the hardest working police officers in the city. However, we have identified three areas where policy, legislative, and tactical changes will make a difference.

First, I agree that we need a legislative fix for the misdemeanor Assault on a Police Officer, or APO, statute. It was enacted during the crime emergency in 2006 to address a large number of assaults on our officers – as well as employees of the Department of Youth Rehabilitative Services, Court Social Services, and Pretrial Services – that couldn't be prosecuted under felony APO because the officers weren't seriously injured. However, the language in the statute is too broad and includes behavior that is not an assault, such as resisting, opposing, or impeding an arrest. However because the charge is called an "assault", it appears that police are overcharging someone who resists arrests, which naturally causes tensions between police and residents. While I firmly believe a misdemeanor APO statute is necessary, we must make sure the language and application is appropriate. When resisting arrest reaches a criminal level, it should be called resisting arrest, and not an assault.

Next we need to deal with the regulations and policy issues. One of the most frequent citizen complaints involves traffic stops. While being pulled over by a police officer is not pleasant to begin with, there are a variety of issues that frustrate our residents and create a perception of over-ticketing. For many this feels like an abuse of police authority or out-right harassment. For instance, under the

² Increases in Heroin Overdose Deaths — 28 States, 2010 to 2012. (2014, October 3). *Centers for Disease Control and Prevention*. Retrieved October 22, 2014, from http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6339a1.htm?s_cid=mm6339a1_w

Vehicle Insurance Enforcement Amendment Act, any time an officer stops a car or responds to an accident, the officer has to ask the driver for proof of insurance. If the driver has none, the officer is required to issue two tickets: a \$30 ticket for failing to **show proof** of insurance and a \$500 ticket for failing to **have** insurance. Even though the \$500 ticket can be contested later if insurance was in effect when the ticket was issued, it leaves drivers with the feeling that police are abusing their power. From a policy perspective, I would like to be able to limit officers to issuing a maximum of three tickets at any one stop, but the insurance law is standing in the way.

Imagine if a driver whose insurance expired 10 days ago is on a cell phone and doesn't come to a complete stop at a stop sign. Without a doubt the driver should be issued tickets for distracted driving and failing to stop. But the officer is also required by law to issue two other tickets related to insurance. The Council has inadvertently established a system where officers who are following the law are perceived as harassing the community. The Council should fix that so that we can work to change the perception.

And lastly we must modernize our strategy and operations. We are in the process of redefining what the drug enforcement strategy will look like in the Washington, DC, we live in today and over the next several years. Not the Washington, DC, of 10 years ago. By January 1, 2015 we will be rolling out that new strategy and it will look significantly different than what we have today. It will not only address the street level drug trade that includes PCP, cocaine and heroin; but it will also address the more sophisticated challenges like the shifting nature and motive of the drug trade itself. Although perceptions about illegal drugs may be changing, make no mistake that drugs like PCP, cocaine, heroin, and synthetic narcotics are dangerous – and sometimes fatally so – for the user, and the illegal distribution of these drugs encourages an often violent criminal enterprise. Along with this new strategy will be new standards for drug enforcement operations, training, equipment, and tactics.

I will also ask the Council and the incoming administration to take the lead on funding and developing more effective solutions for addressing non-violent drug users who are not otherwise breaking the law. Comprehensive harm reduction strategies can help to move some of these issues from the law enforcement arena to the public health realm where they belong. Believe it or not, police have no more interest than anyone else in continuing the cycle that awaits many drug addicts – a cycle of arrest, incarceration, release, and re-arrest. A comprehensive approach will enable officers in patrol to focus on other public safety matters, while allowing well trained officers to focus on the criminal drug enterprises that pose a significant danger to users and communities.

In closing, MPD is committed to representing all that is positive about law enforcement. Every day, our offices are on the street, in our schools, homes, and offices, serving and protecting our residents, businesses, and visitors. Most officers do this with skill, efficiency, respect, and integrity, and many others even with warmth and kindness. For the vast majority of the people in the District who are not breaking the law and endangering others, I want that to be what they remember about their interactions with the Metropolitan Police Department. The Department has come a long way to making that a reality, and we are committed to continuing the process. We need equal commitment from the Council and our partners in the government and community to working together on this important goal.