



**IMPLEMENTATION UPDATE ON THE
REPORTS AND RECOMMENDATIONS OF THE
POLICE COMPLAINTS BOARD
FROM FISCAL YEAR 2022
APRIL 1, 2024**

Executive Summary

The Police Complaints Board (PCB) is authorized by D.C. Code §5-1104(d) to make recommendations to the Mayor, the DC Council, and the chiefs of the Metropolitan Police Department (MPD) and District of Columbia Housing Authority Police Department (DCHAPD) in any areas affecting police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers. The PCB issues policy recommendations that address large-scale concerns about District law enforcement policies, training, or supervision. In addition, the PCB issues policy reports that address substantive or procedural law enforcement matters, which, if corrected, could greatly improve community trust in the police. At the close of fiscal year 2023, the PCB had issued 68 detailed reports with recommendations for police reform since its inception. All reports and recommendations are available on the Office of Police Complaints' (OPC) website.

Each year, OPC reviews the actions that have been taken by the Mayor, the DC Council, and/or the chiefs of MPD and DCHAPD in response to the PCB's previous recommendations. Beginning on February 1, 2018, at the request of the DC Council, OPC published an update on the implementation of reports and recommendations made by the PCB in fiscal years 2015 and 2016. OPC continues these periodic reviews to promote transparency and ensure that all parties, including community members, are informed of the policy changes that are and are not being made each year in response to recommendations made by the PCB. OPC published these additional implementation updates:

- Implementation Update on the Reports and Recommendations of Police Complaints Board From Fiscal Year 2017; *published December 18, 2018*
- Implementation Update on the Reports and Recommendations of Police Complaints Board From Fiscal Year 2018; *published February 6, 2020*
- Implementation Update on the Reports and Recommendations of Police Complaints Board From Fiscal Year 2019 and a Reexamination of Implementation Updates from Fiscal Years 2015-2018; *published February 8, 2021*
- Implementation Update on the Reports and Recommendations of Police Complaints Board From Fiscal Year 2020; *published February 14, 2022*
- Implementation Update on the Reports and Recommendations of Police Complaints Board From Fiscal Year 2021; *published March 7, 2023*

The current report tracks the four reports with 11 separate recommendations made to MPD in fiscal year 2022. These reports were:

- Warrantless Misdemeanor Arrests; *Issued May 27, 2022*
- Enabling Sound During the Pre-Event Buffer on Body-Worn Cameras; *Issued September 27, 2022*
- Improved Guidance on Communicating with Deaf and Hard of Hearing Community Members; *Issued September 27, 2022*
- Use of Hair Holds by Metropolitan Police Department Officers; *Issued September 27, 2022*

OPC's review process includes requests to MPD to determine the status of the recommendations within the department. In addition to this, OPC also considers other information gleaned from interactions with MPD, media reports, and any other additional pertinent information.

Based on the review of all relevant information, OPC found that of the eleven recommendations made in fiscal year 2022, two have been fully implemented, one has been partially implemented, and eight are not implemented. These findings are further explained in the contents of this report.

Warrantless Misdemeanor Arrests

Issued May 27, 2022

Recommendation 1:

MPD should issue additional guidance for its members with respect to warrantless misdemeanor arrest procedures. MPD can accomplish this by, for example, updating General Order 201.26: Duties, Responsibilities and Conduct of Members of the Department and/or General Order 304.10, Field Contacts, Stops, and Protective Pat Downs to reference D.C. Code § 23-581, Arrests Without Warrant by Law Enforcement Officers, and include the statute's main points. In the alternative, MPD should issue a comprehensive standalone general order exclusively devoted to all arrest procedures and ensure that it includes guidance for warrantless misdemeanor arrests.

Status According to MPD, February 2023¹:

Agree. Fully Implemented.

As noted in our response, we believe information on warrantless misdemeanor arrests was best placed in in GO 702.01 (Arrests and Bench Warrants). GO 702.01 was updated in October 2023 and provides members with guidance on handling warrantless arrests.

OPC Response:

OPC considers this recommendation **fully implemented**.

Recommendation 2:

Updated training should be provided for all MPD members to ensure they are familiar with the law and regulations for warrantless misdemeanor arrests and the changes that are made to General Order 201.26, General Order 304.10, or the standalone general order so that the members can perform their duties in accordance with current law. In addition, MPD should ensure that supervisor members are properly trained to advise officers when they are making decisions regarding a warrantless arrest.

Status According to MPD:

Agree. In Progress.

The procedures for warrantless misdemeanor arrests will be addressed in a forthcoming roll call training and/or training bulletin.

OPC Response:

OPC considers this recommendation **not implemented**. OPC is encouraged that MPD added guidance to GO 702.01 and plans to provide training on misdemeanor arrests in a forthcoming roll call and/or training bulletin. This recommendation will not be fully implemented until MPD has implemented the accompanying training module for warrantless misdemeanor arrests.

Recommendation 3:

MPD should encourage its members to review D.C. Code § 23-581 using their Mobile Data Terminals or their department issued cellular phones prior to making the decision to arrest any suspect for a misdemeanor that they did not contemporaneously witness. Specifically, MPD should advise its members to verify that the crime is an arrestable offense under D.C. Code § 23-581 prior to making any warrantless misdemeanor arrest. This can be accomplished with roll call training.

Status According to MPD:

Agree. In Progress.

¹ All responses attributed to MPD, throughout this report, are verbatim as received from the department.

A refresher on the law governing warrantless misdemeanor arrests will be addressed in a forthcoming roll call training and/or training bulletin.

OPC Response:

OPC considers this recommendation **not implemented**. This recommendation is related to providing additional training in support of MPD's updated general order on the law surrounding warrantless misdemeanor arrests. This recommendation will not be fully implemented until MPD has implemented the accompanying training module for warrantless misdemeanor arrests and encouraged members during the training to review D.C. Code § 23-581 prior to making any warrantless misdemeanor arrests.

Enabling Sound During the Pre-Event Buffer on Body-Worn Cameras

Issued September 27, 2022

Recommendation:

To help improve and facilitate better relations and increase trust between MPD officers and community members, the PCB recommends that MPD enable sound during the entire two-minute pre-event buffer on all department issued BWCs. By merely changing the sound settings on its BWCs, MPD could potentially enhance its officers' ability to gather and document evidence, reduce and more quickly resolve the complaints against its officers, improve the training of its members, reduce civil liability, and better provide its officers' perspective of events that may be misconstrued by the general public. Furthermore, since the silent pre-event buffer is the standard and default setting for BWCs in most police departments, MPD has the opportunity to become a nationwide leader and model agency with respect to best practices when it comes to using BWC technology.

Status According to MPD:

Disagree. Not Implemented.

As we noted in our response, we recognize both the need and benefit of capturing officers' actions while they are engaged with the public. MPD's BWC policy requires activation as soon as officers receive a call for service and at the beginning of any self-initiated police action. However, because officers never know when they will have to take police action, adding audio to the two-minute buffer would essentially create a situation where everything officers say during their shift would be recorded, including things like personnel-related discussions between employees and supervisors and personal conversations while on break. MPD's current policy strikes the appropriate balance of requiring the recording of police activity without recording every conversation that an officer has, and any conversation they are in the vicinity of, throughout their work day.

OPC Response:

OPC considers this recommendation **not implemented**. OPC acknowledges that MPD must balance its duty to preserve the privacy rights of officers with its goal of promoting greater transparency and accountability. One way that MPD accomplishes this balance is by redacting publicly released BWC videos to protect the privacy rights of those involved. A review of MPD's publicly released BWC videos indicated that its redaction procedures include footage captured during the pre-event buffer. The pre-event audio would provide benefits such as better documentation of evidence, resolving and reducing community complaints, improving police officer training, reducing civil liability, and providing a police officer's perspective on events.

Improved Guidance on Communicating with Deaf and Hard of Hearing Community Members

Issued September 27, 2022

Recommendation 1:

MPD should update General Order 304.14 and SO-00-19 to comply with all DOJ guidelines for interacting with D/HH community members. The guidelines provide a strong foundation for ensuring ADA compliance. While General Order 304.14 provides some helpful guidance when interacting with D/HH civilians, integrating the more thorough guidelines suggested by the DOJ could help MPD become a nationwide leader and model agency with respect to being a D/HH-friendly police department.

Status According to MPD:

Agree in Part. In Progress.

We are currently drafting updated policy guidance governing interacting with the deaf and hard of hearing (DHH) community and compliance with the Americans with Disabilities Act (ADA). We will incorporate appropriate guidance from the Department of Justice in our policy and training. As we noted in our response, we believe some of the DOJ guidance is better framed in training than as policy.

OPC Response:

OPC considers this recommendation **not implemented**. This recommendation will not be fully implemented until MPD updates General Order 304.14 and SO-00-19, or creates a standalone general order to include the guidance provided in the recommendation.

Recommendation 2:

MPD should update General Orders 901.07, 304.14, and SO-00-19 to require that officers take meaningful steps to ensure any perceived non-compliance by a community member is not the result of a disability before using any level of force unless there is an immediate threat to the health and safety of another member of the community or the officer.

Status According to MPD:

Agree. In Progress.

When GO 901.07 (Use of Force) was republished in January of 2022, additional guidance was provided to members to consider whether a person's failure to comply may be the result of a disability prior to using force. We will include reference to this language when we issue updated guidance on interacting with the deaf and hard of hearing (DHH) community and the ADA.

OPC Response:

OPC considers this recommendation **not implemented**. OPC is encouraged by MPD providing additional guidance to members to consider whether a person's failure to comply may be the result of a disability prior to using force. However, this recommendation will not be fully implemented until MPD provides more detailed written guidance for its members and subsequent trainings on the new or revised general orders.

Recommendation 3:

MPD should reissue the updated version of SO-00-19 as a standalone general order. In the alternative, MPD should update General Order 100.14, Compliance with Title I of the Americans with Disabilities Act, to incorporate the policies and procedures outlined in the updated version of SO-00-19 into a unified directive on compliance with the ADA.

Status According to MPD:

Agree. In Progress.

We are currently drafting updated policy guidance governing interacting with the DHH community and compliance with the Americans with Disabilities Act (ADA).

OPC Response:

OPC considers this recommendation **not implemented**. This recommendation will not be fully implemented until MPD either provides written guidance for its members by updating the general orders or creates a new standalone general order.

Recommendation 4:

MPD should provide updated training for all members to ensure they are familiar with the best practices for interacting with members of the D/HH community and the changes made to General Orders 901.07, 304.14, and SO-00-19. This can be accomplished through roll call trainings and by offering a training module at MPD's annual Professional Development Training.

Status According to MPD:

Agree. In Progress.

MPD will provide training to all members when the updated DHH and ADA policies are issued.

OPC Response:

OPC considers this recommendation **not implemented**. This recommendation will not be fully implemented until MPD provides updated written guidance for its members with subsequent trainings.

Recommendation 5:

MPD should offer ASL and Signed English trainings to its officers outside of the DHHU and incentivize its officers to attend. More officers in the field who know ASL, even if it is at a rudimentary or beginner level, will help ensure effective communication and reduce delays caused by obtaining interpreters. This need is heightened by D.C.'s large D/HH population. Avoiding such delays not only benefits the civilians who otherwise would be detained longer than necessary, but also helps officers get the information they need quicker and more efficiently.

Status According to MPD:

Agrees in Part. Complete.

In October 2020, MPD launched a mobile app that provides a direct link to video American Sign Language (ASL) interpretation services, providing the fastest access to services on the smart phones of all officers. Each officer having immediate access to ASL translation services ensures that there are no delays in communicating with our DHH community members. While we support our officers learning ASL, MPD does not have the expertise to offer this course, and would not expect that the demand would be sufficient to develop and maintain the necessary qualifications to formally train in ASL. Gallaudet University used to provide free training for officers, but GU is no longer providing this. We have also encouraged officers to participate in beginning classes available through the DC Public Library in the past. We will continue to work with the Mayor's Office of Deaf, Deafblind, and Hard of Hearing to identify and leverage suitable training. In the meantime, the DHHU officers continue to demonstrate basic emergency signs (e.g., need help, hospital, police) during all of the trainings and discussions they have with officers.

OPC Response:

OPC considers this recommendation **partially implemented**. OPC is encouraged by the launch of the mobile app that officers can use to communicate with members of the D/HH community

more effectively. However, while MPD asserts that it does not have expertise to offer this course and would not expect sufficient demand, there are plenty of topics which are required training topics for officers for which MPD brings in outside experts. More officers should be trained to have at least a basic proficiency in communicating with D/HH individuals given the large D/HH population in the District. Beyond the ramifications that usually result from use of force incidents, an officer's inability to properly identify a D/HH individual and the ensuing miscommunications caused by lack of adequate training could be a violation of Title II of the Americans with Disabilities Act (ADA) and could result in otherwise avoidable civil liability for the District, MPD, and its members.

Use of Hair Holds by MPD Officers

Issued September 27, 2022

Recommendation 1:

MPD should update General Order 901.07, Use of Force, to either prohibit the use of hair holds or discuss their appropriate use. MPD should either outright prohibit the use of hair holds or, recognizing that there are some situations where hair holds may be an effective technique to bring a person under control, implement a use of force policy for hair holds in General Order 901.07 that limits the technique's use to a suspect that behaves as a Threatening Assailant. Placing the hair hold technique in the Defensive Tactics category for situations when members are faced with a Threatening Assailant ensures that MPD officers limit their use of the technique to appropriate situations.

Alternatively, MPD should establish, at a minimum, that hair holds should be used in situations when MPD officers are faced with Active Resisters. Such a policy would place MPD in line with various other departments that have established policies regarding hair holds. Furthermore, combined with training on the use of hair holds, a use of force policy on the use of hair holds would better assure that officers use this tactic as a proportionate response to a suspect's level of resistance.

Status According to MPD:

Agree in Part. Complete.

MPD agrees that providing guidance and adding discussion of hair holds, and their appropriate use, will be beneficial for both our members and the public. However, we do not believe a policy change is required. Under certain circumstances, a member may grab or pull a subject's hair when they are struggling to gain control, and the subject is assaulting the member or others.

OPC Response:

OPC considers this recommendation **not implemented**. OPC is encouraged by MPD incorporating discussion of hair holds into recruit training and 2023 and 2024 use of force professional development training (PDT), which is attended annually by members of OPC's staff. However, this recommendation will not be fully implemented until MPD revises General Order 901.07 to provide *written* guidance for its members.

Recommendation 2:

MPD should provide updated training to all members with respect to the use of hair holds and include hair holds in its use of force trainings for new recruits. The OPC cases indicate that MPD either does not provide training to its officers regarding hair holds or officers are generally unaware of such training. According to General Order 901.07, officers cannot use any force tactic unless MPD has authorized it, the officer has received the appropriate training, and the tactic has been used in accordance with departmental policies. Training new and veteran officers would provide much needed clarity to officers regarding the appropriate use, if any, of hair holds as a compliance technique. MPD can accomplish this with roll call training and by updating its training for new recruits.

Status According to MPD:

Agree. Complete.

A discussion on the use of hair holds has been added to MPD's training curriculum including revisions to recruit training and incorporation of the discussion into 2023 and 2024 use of force professional development training (PDT).

OPC Response:

OPC considers this recommendation fully implemented.