

Reimagining Police Stops

Policy Considerations

1. Introduction

In October 2020, Howard University, Georgetown University Law Center, and The Lab @ DC (“The Lab”) partnered to host the Reimagining Stops Workshop Series¹ (“the Workshop Series”) with the overall aim of imagining ways to reduce harm caused by police stops while improving public safety. To that end, the workshop organizers asked Howard University School of Law (“Howard Law”) and the Howard University Thurgood Marshall Civil Rights Center (“the Center”) to develop a suite of recommendations for harm-reducing policy and programmatic interventions related to police stops for potential implementation in D.C. and other interested jurisdictions. Howard Law and the Center sought to produce recommendations that would generate both measurable and lasting change by leveraging the insight provided by panelists and participants at the Workshop Series, as well as social science literature, legal and other academic scholarship. Most importantly, Howard Law and the Center highlighted the voices and views of the communities most impacted by policing and police stops, both those represented in the workshop community and those who were not. Using all of these perspectives, the recommendations first and foremost seek to recognize that structural changes, while perhaps the most daunting, offer the most assured chance of creating systems that are fairer, safer, and produce the least amount of harm. They also seek to emphasize that, without investments in and support of the very communities experiencing harm to ensure that they can lead the movements to address that harm, positive results are likely to be fleeting.

While the events of the summer of 2020 sparked a movement across the nation, people in Washington, D.C. and throughout the country were working long before then to reduce harm in their communities and tackle the various factors—from poverty to mental illness to aggressive policing to imbalance in the way we allocate our resources—exacerbating that harm. Now, cities all over the United States have the opportunity to amplify those efforts by supporting those who drive them and by actively utilizing the tools at their disposal to make change in ways they previously have not. The recommendations provided by Howard Law and the Center urge Washington, D.C. and other cities to do just that. The recommendations are both an evidence-informed and common-sense reflection of just a few of the most direct changes that could be made to address the concerns expressed both at the Workshop Series and by those with whom the Center works in the D.C. community every day. However, the primary goal of these recommendations is

¹ For more information on the workshop series, please see the accompanying white paper summarizing the event at <https://www.law.georgetown.edu/cics/publications/reimagining-the-role-of-police-stops-in-public-safety/>; or on The Lab @ DC’s project page: <https://thelabprojects.dc.gov/reimagine-police-stops>

to speak from a community-based viewpoint, as opposed to centering law enforcement or local government entities. Because bias operates on multiple levels Howard Law and the Center present recommendations on two levels: the system level (inclusive of city, state, and national policies) and the police department level. While acknowledging that bias may also occur at the individual level, Howard Law and the Center hope the efforts reflected in these recommendations can be a guide to jurisdictions seeking to support their communities experiencing the most harm and can act as support for those very communities.

Evidence-Informed Recommendations

To provide additional context for these recommendations as policymakers consider this document, The Lab @ DC reviewed the scientific evidence for each of the high-level recommendations from The Center. Those reviews appear as inset boxes, at the end of each of the five recommendations. These evidence reviews mirror The Lab’s role in the DC Government’s annual budget formulation process. Each year, The Lab begins the budget cycle with an assessment of all agency proposals for new or expanded programs and services, representing more than \$500M of proposed programming on average. Through our standardized process, agencies are required to provide the evidence base supporting their budget requests. The Lab then assesses these for applicability to inform implementation in DC (e.g., comparable implementation and settings) and scored for scientific rigor using criteria aligned with federal standards, focusing, in particular on “strong” and “moderate” levels of evidence, which are associated with well-designed and well-implemented experimental and quasi-experimental studies, respectively.² These assessments are revised through the budget process as proposals are refined, and the final ratings are presented to the mayor with each proposal.³ Through the process, The Lab’s role is to speak objectively to the available evidence rather than the other merits of a proposal—be they financial, political, legal, statutory, operational etc. Those merits are important considerations of any policy decision, but are the purview of other policy advisors in DC government. The Lab fulfills the same role in these recommendations, authored by The Center and driven by community voices from the Workshops Series and elsewhere.

For these policy recommendations, The Lab searched the published scientific literature for evidence of the effectiveness for each high-level recommendation’s potential to reduce harm if implemented in DC. In doing so, The Lab considered the scientific rigor of the identified program evaluations, the similarity of the studied programs, practices or policies to what’s being proposed, and whether the settings and implementation was sufficiently similar to DC. The Lab focused on the most rigorous scientific evidence—that from well-designed and well-implemented experimental and quasi-experimental impact evaluations—because it is most likely to predict what might happen—good or bad—if the recommendations were to be implemented in DC.⁴ The Lab also reviewed less rigorous evidence if it was particularly

² e.g., <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

³ For detail, see, the [Recovery Plan Performance Report for the District of Columbia](#), section on “Use of Evidence”

⁴ That is, we focus on findings from experimental and quasi-experimental studies, consistent with federal evidence standards (e.g., <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>).

germane to the recommendation.

A few caveats about these evidence reviews:

- A lack of evidence does not imply there's something wrong with a program, policy, or practice. Many of these recommendations are relatively new ideas that have not yet reached mature or full-scale implementation, let alone been studied rigorously in a scientific sense. Moreover, while there has been considerable growth in evidence-based policy, the vast majority of programs, policies and practices have not undergone a rigorous scientific evaluation to test their effectiveness. This is as true for public safety as it is for other fields, like education or human services and for programs at the local, regional, federal, and international levels. A lack of evidence suggests only that we don't know what impacts an idea will have. It suggests we look to other sources—logical arguments, case studies, and beyond— for areas to explore. Most importantly, a lack of evidence suggests that we implement the idea with caution; monitor its roll-out to confirm that, at minimum, we're not increasing harm; and, where useful, build evidence to inform future scale up.
- When we say that current levels of research (in relation to a particular proposal) lack rigor, we mean that in the sense of rigorous scientific evidence. We do not evaluate studies in terms of their rigor in relation to legal analysis, quality of historical archival research, or other interdisciplinary measures of excellence.
- Evidence provides information to inform decisions, but they are only one factor that goes into decisions-making. Community values, feasibility, legality, and more always matter. Evidence isn't the only factor to consider, but it should be a consideration.
- These evidence reviews focus on the high-level recommendations this document discusses as "Proposals," and operationalizes more deeply as "Suggested Changes." The Lab did not directly review evidence on "Issues" sections. It did take these into consideration during the reviews since they provide key context for the recommendations by describing the problem (e.g., the disparities highlighted).
- Evidence reviews are distinct from fact-checking.
- Evidence reviews are not endorsements.
- Evidence reviews capture a snapshot in time, reflecting the evidence available to the reviewers. They can, and should, evolve with new findings, re-interpretations of existing finds, and critiques. As such, the evidence reviews in this document reflect the state of evidence at roughly the time of the workshop series and are not intended to be evergreen.

1. Remove Police from Traffic Enforcement

Interventions with preliminary evidence (e.g., outcomes studies, pre-post or interrupted time series studies, or correlational studies with statistical controls) are promising but more study is needed to understand the effects. The Lab includes areas for future research in in another Workshop Series deliverable: Sample Learning Agendas and Measurement Guide. The document can be accessed at: <https://thelabprojects.dc.gov/s/Stops-Learning-Agenda>

a. Issue

One of the most common interactions people have with the U.S. legal system are police stops, which have a greater impact on low-income and minority communities.⁵ Police make approximately 18 million traffic stops per year in the United States,⁶ totaling more than 50,000 stops on average per day.⁷ Data indicates that the statistical likelihood of the police stop has no correlation to how individuals drive, and Black drivers are stopped at a much higher rate than white drivers.⁸ Further, once stopped, Black drivers are also more likely to be searched, frequently with little or no cause.⁹

In one study of police stops, the data showed that Black drivers were stopped 44 percent more often than white drivers.¹⁰ Another more recent study compiling and analyzing a data set of nearly 100 million traffic stops across the country also found that Black drivers were on average twenty percent more likely to be stopped than white drivers.¹¹ The study further found that Black drivers were nearly two times more likely than white drivers to be searched after being stopped, but were less likely to be carrying drugs, guns, or other illegal contraband than their white counterparts.¹² Interestingly, the study also found that Black drivers were less likely to be stopped after sunset when there is a “veil of darkness,” which suggests racial bias as a contributing factor in these stops.¹³ This reality increases the likelihood that Black drivers will have a negative interaction with police officers, and decreases the overall perceived legitimacy of the police.¹⁴ It also causes anxiety and trauma in the Black community that results in many avoiding driving in certain areas or presenting in specific manners while driving for fear of being pulled over by law enforcement.¹⁵

Additional data show that police discretion to conduct stops also has a disproportionate effect on the Black community in Washington, D.C. In 2020 alone, data released by the

⁵ Fliss, M.D., Baumgartner, F., Delamater, P. *et al*, *Re-prioritizing Traffic Stops to Reduce Motor Vehicle Crash Outcomes and Racial Disparities*, INJ. EPIDEMIOLOG. 7, 3 (2020), available at <https://doi.org/10.1186/s40621-019-0227-6>.

⁶ CHARLES R. EPP ET AL., *PULLED OVER: HOW POLICE STOPS DEFINE RACE AND CITIZENSHIP* 2 (2014).

⁷ The Stanford Open Policing Project, <https://openpolicing.stanford.edu/> (last visited Mar. 3, 2021).

⁸ *Id.*

⁹ *Id.*; see also Sarah Seo, THE JUST. COLLABORATIVE INST., *A PATH TO NON-POLICE ENFORCEMENT OF CIVIL TRAFFIC VIOLATIONS* 3 (2020), available at <https://www.filesforprogress.org/memos/non-police-enforcement-of-civil-traffic-violations.pdf>.

¹⁰ Alexis Chohlas-Wood, Sharad Goel, Amy Shoemaker, & Ravi Shroff, *An Analysis of Metropolitan Nashville Police Department's Traffic Stop Practices*, STANFORD COMPUTATIONAL POL'Y LAB (November 19, 2018), available at <https://policylab.stanford.edu/media/nashville-traffic-stops.pdf>.

¹¹ Emma Pierson, Camelia Simoiu, Jan Overgoor, et al, *A Large-Scale Analysis of Racial Disparities In Police Stops Across the United States*, 4 NATURE HUM. BEHAV. 736 (2020), available at <https://www.nature.com/articles/s41562-020-0858-1.pdf>.

¹² *Id.* at 738.

¹³ *Id.*

¹⁴ See EPP, *supra* note 2.

¹⁵ *Id.* at 16, 145.

Metropolitan Police Department (“MPD”) and analyzed by the American Civil Liberties Union (“ACLU”) revealed that Black people constitute almost 75 percent of stops, almost 86 percent of stops that lead to no warning, arrest or ticket, and almost 91 percent of searches that lead to no warning, arrest, or ticket.¹⁶ The data show that Black individuals experience not only more stops, but are also subjected to a higher amount of intrusion during those stops than their non-Black counterparts.¹⁷ Similar disparities are evidenced in data from 2019, which is concerning given that Black people comprise less than 47 percent¹⁸ of D.C.’s total population.¹⁹

Like other stops, traffic stops are an area with potential for abuse by law enforcement and where individual-level biases—both implicit and explicit—can and do cause negative effects on those whom police officers disproportionately choose to stop. Moreover, U.S. Supreme Court interpretations of what makes it “reasonable” for law enforcement to conduct a traffic stop under the Fourth Amendment²⁰ have legitimized widespread department-level policies that allow for racially motivated stops, whether that racial motivation is overt or a product of implicit bias. The Court’s opinion in *Whren v. United States*²¹ set the constitutional parameters surrounding permissible justifications for traffic stops and shaped police department policies regarding traffic stops, permitting a system-wide standard under which racial motivation regarding traffic stops is constitutionally irrelevant.

In *Whren*, plainclothes vice-squad officers were patrolling a “high drug area” in Washington, D.C. when they stopped a car of young Black men after suspecting them of criminal activity.²² The officers based their suspicion on the facts that the driver look down at the lap of the passenger and that the vehicle remained at a stop sign for an “unusually long time.”²³ While the young men in that case contended that police officers like the ones in this case may stop drivers based on factors such as race, the Court held that “subjective intentions play no role in [the] ordinary [] analysis” of what constitutes permissible justification to conduct a stop under the Constitution.²⁴ This has led to a paradigm under which racial bias—whether implicit or explicit—has become irrelevant when discussing the reasons why traffic stops are conducted.

¹⁶ ACLU ANALYTICS & ACLU D.C., RACIAL DISPARITIES IN STOPS BY THE METROPOLITAN POLICE DEPARTMENT: 2020 DATA UPDATE (2021) [hereinafter ACLU Report], available at https://www.acludc.org/sites/default/files/field_documents/2021_03_10_near_act_update_vf.pdf. Note that these analyses include both traffic stops and non-traffic stops.

¹⁷ *Id.* at 4.

¹⁸ *Id.* at 2.

¹⁹ While it is important to note that a portion of drivers in D.C. are not D.C. residents which could have an impact on this data, the stark disparity in the number of Black people stopped by law enforcement in D.C. and their total population in D.C. remains a cause for concern. Moreover, the majority of the counties adjacent to D.C. where drivers may reside and commute into the District have a larger demographic of white people than D.C., which could actually serve to show the greater disparity in Black versus non-Black drivers stopped.

²⁰ The Fourth Amendment to the U.S. Constitution protects against “unreasonable searches and seizures.” U.S. Const. amend. IV.

²¹ *Whren v. United States*, 517 U.S. 806 (1996).

²² *Id.* at 808.

²³ *Id.*

²⁴ *Id.* at 810, 813.

Discussing *Whren*, Devon Carbado, the Honorable Harry Pregerson Professor of Law at the University of California, Los Angeles, writes the “Court [] made clear that so long as police officers have probable cause to believe that a suspect has committed a traffic violation—any traffic violation—the fact that the decision to stop the car was racially motivated does not render the search unreasonable.”²⁵ He further argues that the decision legitimizes pretextual stops—including those motivated by racial profiling, which denies the “‘important’ police function blackness performs as a proxy for suspicion.”²⁶ Countless other scholars have criticized the *Whren* decision, arguing that it encourages racial profiling by law enforcement and allows police to use the traffic code to stop a disproportionate number of Black and Latinx individuals.²⁷

Under the legal paradigm established in *Whren*, law enforcement is constitutionally permitted to use the pretext of even minor traffic violations to investigate issues unrelated to that traffic violation. This creates incentives for police officers to engage in pretextual stops and legalizes such conduct, therefore making it an institutional practice among police departments nationwide with approval from the Supreme Court.²⁸ As *Reimagining Stops* workshop participant Charles Epp and his co-authors note, “*Police Chief* magazine, the official voice of the International Association of Chiefs of Police (IACP), repeatedly and enthusiastically encouraged police departments” to engage in pretextual stops.²⁹

When traffic stops become a pretextual investigative law enforcement practice unrelated to traffic safety, they erode public confidence in the idea that law enforcement is acting fairly, impartially, and in the best interests of public safety.³⁰ This result is particularly concerning when data continues to show that Black drivers are disproportionately affected by this practice. The themes of increased stress, anxiety, and trauma generated by these police stops permeated the Workshop Series.³¹ Kristin Henning, Blume Professor of Law and Director of the Juvenile Justice Clinic and Initiative at Georgetown Law, noted that “even when the officer is being cordial, that blue uniform carries a history of so much more.” Bridgett Stumpf of the Network for Victim Recovery of D.C. echoed this sentiment that “trauma is not defined by an event. It’s defined by the person who experiences it.” Brenda Richardson of PSA 702 Outreach Committee emphasized her particular experience in D.C. saying, “I live in Ward 8. People like me are born into fear about police.” These statements represent just a portion of the trauma, anxiety, and stress caused by police stops noted by the workshop panelists and participants.

²⁵ Devon Carbado, *From Stopping Black People to Killing Black People: The Fourth Amendment Pathways to Police Violence*, 105 CAL. L. REV. 125, 151 (2017) [hereinafter *From Stopping Black People to Killing Black People*].

²⁶ Devon Carbado, *(E)racing the Fourth Amendment*, 100 MICH. L. REV. 946, 1033 (2002) [hereinafter *(E)racing the Fourth Amendment*].

²⁷ Stephen Rushin & Griffin Edwards, *An Empirical Assessment of Pretextual Stops and Racial Profiling*, 73 STAN. L. REV. 637, 649–50 (2021).

²⁸ *From Stopping Black People to Killing Black People*, *supra* note 21, at 156.

²⁹ EPP, *supra* note 2, at 36.

³⁰ *From Stopping Black People to Killing Black People*, *supra* note 21, at 135, 157.

³¹ Demarcus Edwards of the Melanin Coalition shared that when he anticipates an interaction with law enforcement officers, even if the interaction goes well, “[his] palms sweat and [he]...feel[s] [anxiousness] in [his] chest.”;

b. Proposal

A number of changes to the ways in which traffic laws are enforced—both in Washington, D.C. and across the country—could begin to address the various problems that are a product of current police stops and the ways in which law enforcement conducts them and the harm that sometimes accompanies them.

A method of decreasing police encounters and the harm that often accompanies them is the complete transfer of traffic enforcement of most traffic violations away from the police to unarmed personnel in another agency. In doing so, the use of pretextual traffic stops would no longer be wielded as means of conducting unrelated investigations, particularly those that disproportionately target Black and Latinx individuals. According to Columbia Law Professor Sarah Seo, transferring traffic enforcement away from the police would treat traffic issues as the public safety issue they are instead of as an excuse to make pretextual stops for other law enforcement purposes.³² Her proposal would also benefit from the increased automation of traffic enforcement, which helps eliminate police discretion and reduce racial bias in traffic enforcement because laws cannot be selectively enforced.³³ Concerns do exist that automation can also perpetuate racial bias because even in their current use, tools like traffic cameras are often placed in poor communities or communities of color.³⁴ This concern is already prevalent in D.C. where Black communities are disproportionately affected by the automated enforcement that the city already has in place.³⁵ This is driven in part by the District’s high degree of racial residential segregation.³⁶ Acknowledging and addressing this concern is an important part of ensuring that automated enforcement is comprehensive in tackling racial bias. But on balance, this method would greatly reduce the level of interaction with police, as traffic stops are the most common type of police encounter.³⁷ Any reliance on automated traffic enforcement as an alternative to police stops must ensure that the program does not disproportionately harm communities of color.

Transferring enforcement to civilian personnel also does not necessarily eliminate the risk of harbored biases that could result in the issuance of traffic citations in an unequal way to the detriment of the Black community. To address this concern and some of the concerns regarding automated traffic enforcement, Jordan Blair Woods, professor and faculty director of the Richard B. Atkinson LGBTQ Law & Policy Program at the University of Arkansas School of Law, has suggested two policy reforms: (1) “reevaluating the breadth of imprecision of traffic codes so that traffic law and enforcement only focuses on driving behaviors that pose and imminent public safety threat” and (2) “reducing financial and professional incentives that contribute to aggressive

³² Sarah Seo, THE JUST. COLLABORATIVE INST., A PATH TO NON-POLICE ENFORCEMENT OF CIVIL TRAFFIC VIOLATIONS 3 (2020), available at <https://tjc.institute.com/wp-content/uploads/2020/09/non-police-enforcement-of-civil-traffic-violations.pdf>.

³³ *Id.* at 3–4.

³⁴ I. Bennett Capers, *Race, Policing, and Technology*, 95 N.C. L. Rev. 1241, 1273 (2017).

³⁵ William Farrell, *Predominantly Black Neighborhoods in D.C. Bear the Brunt of Automated Traffic Enforcement*, D.C. POLICY CENTER (June 28, 2018), <https://www.dcpolicycenter.org/publications/predominately-black-neighborhoods-in-d-c-bear-the-brunt-of-automated-traffic-enforcement/>.

³⁶ *Id.*

³⁷ Seo, *supra*, note 28, at 3.

and biased traffic enforcement,” such as restructuring the fines and fees system and prohibiting ticket issuance as a measure of performance.³⁸ These policy suggestions represent just two ways to further eliminate potential racial bias in systems where civilian agencies handle traffic enforcement and others should be explored.

Other concerns also exist that such civilian traffic enforcement personnel would be subject to potential danger,³⁹ but relevant data shows that traffic stops are not as dangerous as popular narratives suggest. For example, a recent comprehensive study of over 200 law enforcement agencies in Florida over a 10-year period found that violence against police officers during traffic stops was rare, and those that did involve violence were typically low-risk and did not involve weapons.⁴⁰ According to the data, approximately one in 6.5 million routine traffic stops results in the felonious killing of an officer and one in every 361,111 stops results in an assault causing injury.⁴¹ The study further revealed that typical signs occur prior to such violence—such as intoxication or signs of flight—which could enable civilian responders to engage outside help if necessary.⁴²

To address such concerns about more difficult traffic stops, Professor Woods concedes that traffic stops by law enforcement may be necessary for a narrow set of serious traffic violations such as instances of hit-and-run and vehicle racing.⁴³ He suggests authorizing traffic monitors to contact police dispatch on mobile radios for a limited set of non-traffic criminal matters such as kidnapping, assault, or battery.⁴⁴ Regular collisions would be handled by traffic monitors, who would be responsible for filling out accident reports. Woods further argues that—while the risk of encountering hostile drivers always exists—basic training for traffic monitors including violence prevention, verbal de-escalation tactics, and self-defense strategies could assuage some of these concerns.⁴⁵ Other strategies such as clearly distinguishing traffic monitors from police officers through their uniforms and vehicles could help reduce the risk of driver noncompliance that sometimes devolves into conflict.⁴⁶

Workshop panelists such as Michael Perloff, the D.C. ACLU’s Dunn Fellow, agreed with removing police from traffic enforcement. Perloff suggested that unarmed civilians from other agencies should conduct traffic stops and noted that the idea is not as radical as it initially may seem. Perloff emphasized that, for many other types of regulation related to public health and safety, we do not entrust armed police with enforcement but rather officials from various other

³⁸ Jordan Blair Woods, *Traffic Without the Police*, 73 STAN. L. REV. (forthcoming) (manuscript at 8) [hereinafter *Traffic Without the Police*].

³⁹ “Opponents of such a proposal may understandably argue that enforcement of traffic laws exposes non-law-enforcement officers to unreasonable risks of physical harm. Policing, they may argue, is a dangerous job, even if an officer is primarily engaged in traffic stops.” Stephen Rushin & Griffin Edwards, *An Empirical Assessment of Pretextual Stops and Racial Profiling*, 73 STAN. L. REV. 637, 703 (2021).

⁴⁰ Jordan Blair Woods, *Policing, Danger Narratives, and Routine Traffic Stops*, 117 MICH. L. REV. 635 (2019).

⁴¹ *Id.* at 640, 683.

⁴² *Id.*

⁴³ *Traffic Without the Police*, *supra* note 34, at 8.

⁴⁴ *Id.* at 25.

⁴⁵ *Id.* at 29.

⁴⁶ *Id.* at 30.

agencies. Further, while acknowledging that law enforcement does face risks in its work, like others, Perloff emphasized that traffic stops are not uniquely dangerous. According to the ACLU's data, from July 22, 2019 to December 31, 2019, of the over 45,000 traffic stops conducted by the MPD, seven stops resulted in an arrest for assault on a police officer, 0.8 percent of all stops resulted in the recovery of a weapon, and 0.29 percent resulted in an unlawful weapons arrest or arrest for a violent crime. To Perloff and the ACLU, this data suggests that civilians who are not armed could safely handle the job of maintaining traffic safety through the enforcement of traffic laws in many contexts.

As an example of this enforcement model, the city of Berkeley, California passed a measure in July 2020 calling for the creation of a department of transportation ("BerKDOT") to take over traffic and parking enforcement.⁴⁷ It is thought to be the first city to pass such a wholesale change.⁴⁸ The legislation gives unarmed BerKDOT agents the responsibility of enforcing traffic stops, obviating the need for police interaction for violations that do not pose a threat to public safety. Although the city of Berkeley foresees significant upfront costs in creating the new department and funding its personnel, it also believes the changes will result in significant long-term savings.⁴⁹ Because D.C. already has DDOT in place, such a change would require only the transfer of funds from MPD to the DDOT in order to facilitate the changes and would not require the wholesale creation of a new department.

Similar calls for such changes have also been made in D.C. as well as throughout the United States. For example, in D.C., the District Task Force on Jails and Justice and the D.C. Police Reform Commission have both recommended transferring the enforcement of certain traffic violations away from MPD and otherwise limiting policing involvement in traffic stops.⁵⁰ In addition, although a small step, the Los Angeles City Council passed a motion calling for the city to hire a consultant to study the feasibility of implementing civilian traffic enforcement in June 2020.⁵¹ Organizations and coalitions, such as Black Lives Matters L.A., ACLU SoCal, CHIRLA, and Brothers Son Selves, supported the passage of the motion, demonstrating the strong grassroots

⁴⁷ Meg O'Connor, *What Traffic Enforcement Without Police Could Look Like*, THE APPEAL (Jan. 13, 2021), <https://theappeal.org/traffic-enforcement-without-police/>.

⁴⁸ Jane Har, *Berkeley Moves Toward Removing Police From Traffic Stops*, PBS (July 15, 2020), <https://www.pbs.org/newshour/nation/berkeley-moves-toward-removing-police-from-traffic-stops>.

⁴⁹ Proposal by Rigel Robinson, Berkeley City Councilmember, to Berkeley Mayor and City Councilmembers (July 14, 2020), available at https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_Commissions/2020-07-14%20Item%2018e%20BerKDOT%20Reimagining%20Transportation.pdf (The proponents of the proposal have not yet provided specific budget forecasts of the potential savings because the program's development is still in its infancy, but the presumed savings would likely result from a decrease in the police department's budget and other resources currently invested in law enforcement response to traffic issues).

⁵⁰ See JAILS AND JUSTICE: OUR TRANSFORMATION STARTS TODAY—PHASE II FINDINGS AND IMPLEMENTATION PLAN (2021) available at <http://www.courtexcellence.org/uploads/publications/TransformationStartsToday.pdf>; see also DECENTERING POLICE TO IMPROVE PUBLIC SAFETY: A REPORT OF THE DC POLICE REFORM COMMISSION (2021) [hereinafter POLICE REFORM COMMISSION REPORT], available at <https://img1.wsimg.com/blobby/go/dd0059be-3e43-42c6-a3df-ec87ac0ab3b3/DC%20Police%20Reform%20Commission%20-%20Full%20Report.pdf>.

⁵¹ *LA (Finally) Will Explore Alternatives to Armed Police in Traffic Enforcement*, LAIST (Feb. 23, 2021), <https://laist.com/latest/post/20210223/la-finally-will-explore-alternatives-to-armed-police-in-traffic-enforcement>.

support for such changes.⁵² According to the motion, the city of Los Angeles will explore the use of automated technology to monitor and cite drivers for speeding, illegal turns, and other moving violations to “virtually eliminate” the Los Angeles Police Department’s role in traffic enforcement.⁵³

Other methods of reducing police contact through traffic stops have also been implemented in other large U.S. cities. In October 2020, a Philadelphia council member introduced the “Driving Equality Bill” to address similar racial disparities in Philadelphia traffic stops as those seen in Washington, DC.⁵⁴ Believed to be the first municipal legislation of its kind,⁵⁵ the bill prohibits officers from stopping drivers for code violations that do not pose a risk to public safety, such as too-tinted windows or a burnt out tail light.⁵⁶ The bill also requires cooperation with community stakeholders in further eliminating racial disparities in the enforcement of the traffic code.⁵⁷ Ultimately, proponents’ aim to “promote fairness by reducing the racial disparities within these stops, promote safety by reducing community trauma and improving police-community relations, promote efficiency by refocusing officers’ time and resources on solving real crime.”⁵⁸

Similarly, in late 2020, the Virginia legislature passed a law seeking to address these same issues. The new law provides:

No law-enforcement officer may lawfully stop a motor vehicle for operating (i) without a light illuminating a license plate, (ii) with defective and unsafe equipment, (iii) without brake lights or a high mount stop light, (iv) without an exhaust system that prevents excessive or unusual levels of noise, (v) with certain sun-shading materials and tinting films, and (vi) with certain objects suspended in the vehicle.⁵⁹

Additionally, the law prohibits officers from stopping vehicles solely for the smell of marijuana and for expired inspection or registration tags until the fourth month after expiration. Any evidence seized in violation of the law will be inadmissible in any trial, hearing, or proceeding.⁶⁰ While these changes may appear to be minor, taken together, they can produce

⁵² Letter from Push L.A. to Nury Martinez, Los Angeles City Council President (Feb. 2, 2021), http://clkrep.lacity.org/onlinedocs/2020/20-0875_misc_2-4-21.pdf.

⁵³ Ryan Fonseca, *Do We Need Police to Curb LA’s Traffic Violence? Some Cities are Saving Lives Without Them*, LAIST (Nov. 11, 2020), <https://laist.com/how-to-new-la/reinvent/traffic-safety-los-angeles-police-roles-reexamined-vision-zero.php>.

⁵⁴ *Councilmember Thomas Introduces Driving Equality Bill*, PHILLY DEFENDERS (Oct. 29, 2020) [hereinafter *Councilmember*], <https://phillydefenders.org/driving-equality/>.

⁵⁵ Aaron Moselle, *Philly City Council Bill Would Ban Police Traffic Stops for Minor Violations*, PBS (Oct. 27, 2020), <https://whyy.org/articles/philly-city-council-bill-would-ban-police-traffic-stops-for-minor-violations/>.

⁵⁶ *Councilmember*, *supra* note 50; DRIVING EQUALITY BILL § 12-201(2).

⁵⁷ Philadelphia, Pennsylvania, Proposed Municipal Code Amendment Title 12 § 12, *available at* <http://phlcouncil.com/wp-content/uploads/2020/10/CM-Thomas-Reimagining-Driver-Safety-Bill.pdf>.

⁵⁸ *Councilmember*, *supra* note 50.

⁵⁹ Virginia Senate Bill No. 5029, Virginia 2020 First Special Session.

⁶⁰ *Id.*

measurable results in reducing unnecessary interaction with the police—and the harm associated with it—largely without decreasing public safety.

Other localities have also implemented similar changes. For example, the police department in Lansing, Michigan will no longer stop drivers for secondary traffic violations such as loud exhaust, cracked windshields, and dangling ornaments, such as air fresheners.⁶¹ One Lansing City Council member also proposed⁶² the elimination of 15 local ordinances that prohibit such things as “being too loud or annoying,” playing in the street, or walking in the park after dark due to the discretion the ordinances give to law enforcement to arbitrarily stop people.⁶³ Finally, similar legislation has also passed in Berkeley, California to eliminate stops for low-level offenses.⁶⁴

c. Suggested Changes

1. System-level: In alignment with the Los Angeles City Council’s approach, the City should hire a feasibility consultant to determine the costs and needs associated with the suggested reform;
2. System-level: The D.C. Council should implement legislation transferring the enforcement of civil traffic violations to a team of DDOT’s unarmed civilian employees. For this section unarmed means civilian employees will not possess firearms, tasers, batons, chemical munitions, or any other weapons given to law enforcement;
3. System-level: Because the responsibility for enforcing traffic violations would be removed from the purview of MPD and transferred to DDOT, commensurate funding should also be transferred from MPD budget to DDOT’s budget to aid in the implementation of civilian enforcement of traffic laws;
4. System-level: Funding should be transferred from MPD Budget to community-based organizations who have community led initiatives that promote public safety on the roads.(i.e brake light clinics);
5. System-level: DDOT should contract with community-based organizations to ensure the biases present in police enforcement of traffic law does not similarly pervade enforcement by civilian traffic enforcers and to create other public safety strategies for traffic enforcement that do not involve law enforcement;

⁶¹ *Lansing Police Department Will No Longer Stop Motorists for Secondary Traffic Violations*, WLNS 6 NEWS (July 1, 2020), <https://www.wlns.com/news/michigan/lansing-police-department-will-no-longer-stop-motorists-for-secondary-traffic-violations/>.

⁶² See Lansing City Council Meeting Agenda, City of Lansing, Michigan (Feb. 08, 2021), available at https://www.lansingmi.gov/AgendaCenter/ViewFile/Agenda/_02082021-3403.

⁶³ Christiana Ford, *Lansing City Council Looking at Repealing 15 Ordinances for Police Reform*, WILX 10 (Feb. 08, 2021), <https://www.wilx.com/2021/02/08/lansing-city-council-looking-at-repealing-15-ordinances-for-police-reform/>.

⁶⁴ Anagha Srikanth, *Sweeping Police Reforms in Berkeley, California Include Ending Stops for Low-level Crimes*, THE HILL (Feb. 25, 2021), <https://thehill.com/changing-america/respect/equality/540535-sweeping-police-reforms-in-berkeley-california-include>.

6. System-level: Whether DDOT or MPD, the agency should end traffic stops for traffic violations that do not pose an immediate threat to public safety⁶⁵ and other violations relating to the ownership, maintenance, and operation of a vehicle, including those for such things as expired tags,⁶⁶ torn fenders, or defective windshields, even if the Council fails to repeal such laws and if the enforcement of such laws is not mandatory under the law;
7. Department-level: Until a transfer to DDOT is made, MPD should formalize a policy banning the use of pretextual stops—investigative stops unrelated to the purpose for which the stop was alleged initiated—including transparent punitive measures for enforcement officers who disobey this policy, and MPD should also announce the new policy to the public and implement punitive measures to discipline officers found to disobey this policy;
8. System-level: The city should provide funding to a third party (other than the D.C. Council or Mayor’s office) or an independent firm to complete a comprehensive assessment of existing traffic violations—moving and otherwise—to identify, then remove through legislation, infractions giving unlimited discretion with no clear guidelines or parameters for enforcement and that do not pose an immediate threat to public safety⁶⁷ in an articulable and demonstrable way in line with the changes considered or adopted by other jurisdictions above; and
9. The city should provide funding to a third party (other than the D.C. Council or Mayor’s office) or an independent firm to complete a comprehensive assessment of D.C.’s automated traffic enforcement system to identify any issues of racial bias before increasing any automated traffic enforcement measures.
10. Department-level: MPD should implement and follow the above suggestions until traffic enforcement is completely under DDOT’s purview.

⁶⁵ The effectiveness of such changes will depend on how broadly the term “public safety” is interpreted.

⁶⁶ It is important to note that the COVID-19 pandemic has made it increasingly more difficult for D.C. drivers to maintain compliance with administrative registration and vehicle inspection requirements.

⁶⁷ See note 56.

○ **Evidence Review for removing police from traffic enforcement**

The Lab found no rigorous scientific evidence that speaks to the effects of transferring traffic enforcement from police officers to either non-law-enforcement agencies or to automatic traffic enforcement mechanisms, such as speed cameras. We also found no rigorous evidence on interventions that might reduce racial disparities in tickets issued by automatic traffic enforcement. As the “Proposal” section notes, these practices have only recently been tried by a small number of jurisdictions. We expect evidence to emerge over time, especially if more jurisdictions adopt the policy.

There is moderate evidence that prioritizing safety stops (and thus to deprioritizing investigative or economic stops) leads to less racial disparities in stops. Specifically, the Fayetteville, NC, police practice to prioritize safety stops led to less racial disparities between Black and Whites in traffic stops, relative to a matched group of similar police agencies.⁶⁸ Additionally, there was no definitive evidence that the associated deprioritization of investigative stops led to increases in (non-traffic) crime. Note, however, that this evidence speaks to changes within police enforcement only, rather than transferring enforcement away from law enforcement.

2. **Ban the Use of Pretextual Justifications for Stops, Limit the Permissible Justifications for Reasonable Suspicion to Conduct a Stop, and Prohibit ‘Jump-Outs’**

a. **Issue**

A large factor underlying the concern with police stops stems from the belief that particular stops did not take place based on the grounds stated by the police, but rather are initiated for investigative purposes or to harass on the grounds of race. These are called “pretextual stops.” The amount of justification that the Constitution requires law enforcement to have prior to making a stop can exacerbate this sentiment, especially when vague, generalized, or otherwise seemingly pretextual reasons are cited when officers stop individuals and subsequently frisk them. Most police departments, including MPD, utilize stop-and-frisk policies⁶⁹ that model the language from the U.S. Supreme Court seminal case in 1968, *Terry v. Ohio*.⁷⁰ Specifically, the Court’s holding in *Terry* created the standard under which law enforcement may constitutionally stop an individual on the street and conduct a “protective pat down” for weapons. Under *Terry* and most corresponding police department guidelines, law enforcement may stop an individual if an officer has “reasonable suspicion” that a person has committed, is committing, or will soon commit a

⁶⁸ Fliss, M.D., Baumgartner, F., Delamater, P. *et al*, *Re-prioritizing Traffic Stops to Reduce Motor Vehicle Crash Outcomes and Racial Disparities*, INJ. EPIDEMIOL. 7, 3 (2020), available at <https://doi.org/10.1186/s40621-019-0227-6>.

⁶⁹ MPD policies refer to “stop-and-frisk” encounters as “protective pat downs.” METROPOLITAN POLICE DEPARTMENT GENERAL ORDER 304.10 (July 9, 2019) [hereinafter GENERAL ORDER 304.10].

⁷⁰ *Terry v. Ohio*, 392 U.S. 1 (1968).

crime. The stated purpose allows the officer the opportunity to investigate whether probable cause exists to make an arrest. In tandem with this right to stop, *Terry*—and therefore police departments using it as a guide—allows law enforcement to “frisk” the stopped person if an officer has a reasonable suspicion that the person is carrying a weapon and a search is necessary to protect the officer or the public.

Police departments across the nation often cite their adherence to this constitutional norm as an example of the acceptable nature of their practices, practices which are largely driven by the lax constitutional standards governing them. But adherence to those standards is the constitutional floor and best practices can and should be set well above it because “it is the systemic use of stops and frisks that are the problem du jour.”⁷¹ Such a view is reflected in the fact that many scholars have long decried the problems inherent in the *Terry* standard.⁷² The reliance on racially-motivated findings of reasonable suspicion and demonstrated by the disproportionate number of people of color stopped by police across jurisdictions makes a higher standard of cause to stop necessary. Bennett Capers, Professor of Law and Director of Fordham University School of Law’s Center on Race, Law & Justice, has argued the term reasonable suspicion is “so malleable that [it] is often reconfigured into whatever a law enforcement officer wants it to be at any given moment. [It] has been a windfall to officers who can and do categorize almost anything as suspicious.”⁷³ Although it is certain that not *every* officer intentionally employs the *Terry* standard with malintent, it is difficult to ignore the problems inherent in a standard granting so much discretion to individual officers. Additionally, the fact that the “programmatically stops are imposed from the top down”⁷⁴ makes recognizing their pervasive use at the department level equally as important. This is especially true in a world full of both implicit and explicit bias—especially toward Black individuals and other marginalized groups.⁷⁵

Although many police departments maintain that stop and frisk has led to a reduction in crime since the 1990s, no reliable evidence supports this claim.⁷⁶ Even still, police departments throughout the United States continue to use the practice under which officers stop a person suspected of involvement in criminal conduct and then frisk that person based on a further

⁷¹ Capers, *supra* note 30, at 1263.

⁷² See Devon Carbado, *From Stop and Frisk to Shoot and Kill: Terry v. Ohio’s Pathway to Police Violence*, 64 UCLA L. REV. 1508 (2017) [hereinafter *From Stop and Frisk to Shoot and Kill*]; Paul Butler, *Stop and Frisk and Torture-Lite: Police Terror of Minority Communities*, 12 OHIO ST. J. CRIM. L. 57, 57 (2014) [hereinafter *Torture-Lite*]; Paul Butler, *The White Fourth Amendment*, 43 TEX. TECH L. REV. 245 (2010); Jeffrey Fagan, *Terry’s Original Sin*, 2016 U. CHI. LEGAL F. 43 (2016); William J. Stuntz, *Terry’s Impossibility*, 72 St. John’s L. Rev. 1213 (1998).

⁷³ Capers, *supra* note 30, at 1262.

⁷⁴ Tracey L. Meares, *Programming Errors: Understanding the Constitutionality of Stop-and-Frisk As A Program, Not an Incident*, 82 U. Chi. L. Rev. 159, 162 (2015).

⁷⁵ See Glaser, J., Spencer, K.B., & Charbonneau, A. (2014). Racial bias and public policy. *Policy Insights from Behavioral and Brain Sciences*, 1, 88-94. (“Far more common than shooting or even using non-lethal force is the decision about whom to stop for investigatory purposes. For the same reasons that activating thoughts of crime causes police officers to look at Black people, police are more likely to conduct discretionary stops and searches on Black and Hispanic people. In decisions made by law enforcement officers to stop and question civilians, policy guidance coming from command staff is likely to be influential to the extent that supervisors expect a large number of stops. This will require officers to stop people at lower levels of suspicion.”).

⁷⁶ Davis S. Abrams, *The Law and Economics of Stop-and-Frisk*, 46 LOYOLA U. CHI. L.J. 369, 371 (2014), available at <http://dx.doi.org/10.2139/ssrn.2669515>.

suspicion that the person has a weapon.⁷⁷ However, Reimagining Stops workshop participant and Senior Fellow at the University of Pennsylvania Carey Law School David Rudovsky noted the low chance of recovering a firearm or other weapon during a search, suggesting a weakness regarding the police’s assessment of whether someone is carrying a weapon when stopped.⁷⁸ In particular, data collected in New York City from 2011 prior to prohibiting its stop and frisk practices revealed police stops recovered only 176 guns out of 524,873 stops and, of 297,000 reported frisks in 2012, police officers found weapons in only two percent of cases.⁷⁹ Data from D.C. shows similar results, with only 1.22 percent of stops in 2020 leading to the seizure of a weapon of any kind and only 1 percent of all stops leading to the recovery of a firearm.⁸⁰ Limited data from a five-month period in 2019 produced similar numbers, with 1.6 percent of all stops leading to the recovery of a firearm.⁸¹

This form of “proactive” policing presents various problems because of the harm it often inflicts on those stopped and searched and because data shows that harm to be disproportionately inflicted against minority communities. Studies regarding the accounts of young men of their direct and vicarious experiences with law enforcement in several St. Louis County neighborhoods suggest that *Terry* stops “are often harsh encounters in which physical violence, racial/ethnic degradation, and homophobia are commonplace.”⁸² Prior to New York City’s prohibition on the practice 2014, half of stops included physical contact of a frisk and 20 percent involved the use of force.⁸³ Further qualitative research has also suggested that during these stops in New York City police officers “often” threw young men to the ground or slammed them against walls.⁸⁴ Even when physical harm does not occur during a stop, individuals often experience emotional trauma, stigma, stress responses, and depressive symptoms as a direct result of stops by law enforcement—all of which “harsh language, such as racial invectives and taunts about sexuality” by police against citizens can compound.⁸⁵ All of this combined can lead to compromised mental health in those affected and the possibility of experiencing anxiety, trauma, and other symptoms associated with post-traumatic stress disorder (“PTSD”).⁸⁶

In his keynote during the Workshop Series, Albert Brick Professor in Law at Georgetown University and workshop panelist Paul Butler further noted the fact that Black people are stopped and frisked at a rate two times higher than white people weakens public safety because the practice

⁷⁷ *Id.*

⁷⁸ David Rudovsky & David A. Harris, *Terry Stops and Frisks: The Troubling Use of Common Sense in A World of Empirical Data*, 79 OHIO ST. L.J. 501, 542 (2018) (“The fact that so few frisks lead to the recovery of a weapon...raises serious questions as to whether the police are accurately reporting what they observe and, if so, whether the grounds that the courts have regularly approved for conducting frisks are reliable indicators of weapon possession.”).

⁷⁹ *Id.* at 535.

⁸⁰ ACLU Report, *supra* note 12, at 5.

⁸¹ *Id.*

⁸² Amanda Geller, Jeffrey Fagan, Tom Tyler & Bruce Link, *Aggressive Policing and the Mental Health of Young Urban Men*, 104 AM. J. OF PUB. HEALTH 2321 (2014) [hereinafter *Aggressive Policing*].

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

erodes public trust in law enforcement and residents begin to feel alienated from not only police officers themselves but also from democracy in general. He highlighted the correlation that research has shown between those routinely stopped and those who fail to show up for jury duty, to vote, and to otherwise participate in civic society.

Legal scholars—informed both by their personal experiences and their education—have emphasized the pervasive harm embedded in stop-and-frisk and sanctioned by the constitutional norms articulated in *Terry*. Professor Butler previously wrote, “stop and frisks are violent assertions of police dominance of the streets...[that] communicate[] to African-American men that they are objects of disdain by the state and that their citizenship is degraded.”⁸⁷ Scholar Devon Carbado has further analyzed how Fourth Amendment doctrine, which defines the contours of what constitutes an unreasonable search or seizure under the Constitution, “enables police officers to target African Americans with little to no justification,” a fact that “overexposes African Americans to the possibility of police violence.”⁸⁸ Elaborating, he states “the weakness in the [*Terry*] standard makes it easy for police officers to employ racial suspicion as an investigatory tool without having to admit they are doing so.”⁸⁹

Regardless of the actual intent behind a *Terry* stop—although important in many respects—the truth remains that Black men and women disproportionately feel the brunt of the policy, a policy that leads to distrust of law enforcement, disengagement in democracy, and increased trauma among the Black community. Vesla Weaver, Bloomberg Distinguished Associate Professor of Political Science and Sociology at Johns Hopkins University and workshop panelist, and her co-author Amy Lerman, political scientist and professor at The Goldman School of Public Policy at the University of California, Berkeley, have argued that custodial interactions “negatively affect the likelihood of participating in politics and carrying out the responsibilities of citizenship.”⁹⁰ This includes a decrease in the likelihood of voting and participating in cultural, social, and political groups.⁹¹ And, as panelist Jeff Fagan, Isidor and Seville Sulzbacher Professor of Law at Columbia University, stated based on his research, “we’re producing harm as opposed to reducing harm,” evidenced by the almost direct correlation between hostile police interaction and anxiety and PTSD. Panelist Brenda Richardson of the PSA 702 Outreach Committee echoed this sentiment stating that, while she feels safe seeing a police car on her street, she and her family were “born into a fear of the police” that still causes anxiety when she hears a police siren.

In the Workshop Series, then-MPD Chief Peter Newsham agreed the broad scope of acceptable discretionary stops should be scaled down, and current Chief Robert Contee indicated he would like to hear from community members regarding how to customize policing to their needs. Workshop panelist Patrice Sulton of the D.C. Justice Lab—who has worked alongside community-based movements in D.C. for 15 years—argued that the city must legislate what is acceptable because data has shown law enforcement often exercises its discretion to the fullest

⁸⁷ *Torture-Lite*, *supra* note 67, at 57.

⁸⁸ *From Stop and Frisk to Shoot and Kill*, *supra* note 67, at 1509.

⁸⁹ *Id.* at 1541.

⁹⁰ Vesla M. Weaver & Amy E. Lerman, *Political Consequences of the Carceral State*, 104 AM. POL. SCI. REV. 817, 818 (2010).

⁹¹ *Id.* at 824.

extent possible. Although the Workshop Series presented a range of views regarding how to limit discretion from banning *Terry* stops and quality-of-life stops to implementing automated enforcement of laws, there was a consensus that the current amount of discretion afforded to police officers in making stops is too much.

b. Proposal

Under MPD's current policy directive, General Order 304.10, in establishing reasonable suspicion, officers are permitted to consider such factors as whether individuals are overly nervous, whether they seem "evasive" or "suspicious," and whether they are "excessively tentative or nervous."⁹² While such characteristics could suggest someone is engaged in criminal activity, these factors are also consistent with the natural reactions much of the Black community feels in response to police interaction. As Demarcus Edwards of the Melanin Coalition stated during the *Reimagining Stops* workshop, his palms sweat, he fidgets, and he feels increased anxiety during interactions with law enforcement. Other participants expressed similar sentiments to Mr. Edwards, even when such interactions go smoothly.

Workshop Series panelist Bridgette Stumpf, a trauma-informed social worker and victim's advocate of the Network for Victim Recovery, affirmed that nervousness, fidgeting, sweating, and shaking hands are natural physiological responses when a person's fight or flight responses are activated. Stated otherwise, when communities that are all too often affected by police violence and are disproportionately likely to experience police interactions without justification, such a response should be expected and should not be the basis to conduct a stop or subsequent search of a person. These nervous responses exemplify inappropriate factors for an officer's reasonable suspicion in conducting a *Terry* stop and subsequent frisk. Even with training in procedural justice and implicit bias, officers should be required to have much more justification for performing a stop than the factors above alone, and therefore, law enforcement should be prohibited from basing the justification for a stop on those factors.

Although distinct from *Terry* and other discretionary stops, several workshop participants also voiced concern for tactics used by the Gun Recovery Unit (GRU) and the Narcotics and Special Investigations Division (NSID) referred to as "jump-outs." According to D.C. Justice Lab, during "jump-outs" "[o]fficers jump out of unmarked cars to surround, stop, and search individuals without basis. These routine patrols drive around demanding that people who are doing nothing wrong stop, lift up their shirts, and display their waistbands to prove that they are not carrying firearms."⁹³ Other accounts further indicate that these "jump-outs" are often conducted by plainclothes officers in unmarked vehicles.⁹⁴ As with *Terry* stops, and likely more so due to the

⁹² GENERAL ORDER 304.10, *supra* note 64.

⁹³ Jordan Crunkleton, Diontre Davis, Emily Friedman & Patrice Sulton, D.C. Just. Lab, End Jump-Outs (2020), available at <https://static1.squarespace.com/static/5edff6436067991288014c4c/t/5f5a34666fe5f14fe1dbaf98/1599747174878/End+Jump-outs.pdf>.

⁹⁴ Jacob Fenston, D.C.'s Special Police Units Exclusively Used Force on Black People, Report Finds, DCIST (Sept. 29, 2020), <https://dcist.com/story/20/09/29/dc-mpd-special-police-units-black-people-arrests-use-of-force/>.

manner in which they are conducted, tactics like this erode public trust in law enforcement and diminish public safety.⁹⁵

Despite contentions by MPD that the jump-outs are no longer permitted, reporting on residents of D.C. are replete with examples of practice.⁹⁶ Panelist Michael Tobin of the D.C. Office of Police Complaints emphasized that despite MPD’s contentions, anybody in the community would tell you otherwise. The numerous accounts of Black residents’ traumatic experiences in D.C. with “jump-outs” demonstrates a need to address them further. Without official policy by MPD banning the practice or legislation by city of D.C.—as urged by Patrice Sulton of D.C. Justice Lab during the Workshop Series—residents affirming their encounters with officers conducting stops like this will continue to distrust police and trauma will persist.

c. Suggested Changes

1. Department-level: To eliminate the use of pretextual justifications for stops, MPD officers should be prohibited from relying on individuals’ being “excessively nervous or tentative” in their interactions with officers during field contacts;
2. Department-level: MPD officers should be prohibited from basing a stop on “furtive” movements or other conduct by an individual aimed at avoiding speaking to an officer;
3. Department-level: Without additional specific and reliable evidence that an individual is involved in criminal activity, MPD officers should be prohibited from using a person’s location in a high-crime area or their demographic characteristics to justify a stop;
4. Department-level: Quarterly audits of stop records and the documented reasons for those stops should be conducted by an independent entity funded by the D.C. Mayor’s office, to ensure that MPD is in compliance with requirements;
5. Department- and system-level: The changes above should be made both at the department and systems levels. That is, they should be made internally by MPD and legislated by the D.C. Council to provide a legislative avenue for redress if the policies go unfollowed;
6. Department-level: MPD should suspend the enforcement of minor infractions such as crowding and obstructing laws, minor trespassing laws, and other similar minor violations, which have historically been discriminatorily enforced against Black communities. Deprioritization should also take place for excessive noise infractions, public consumption

⁹⁵ *The ACLU-NCA Presents Testimony on the Metropolitan Police Department*, ACLU-D.C. (Mar. 11, 2015), <https://www.acludc.org/en/node/43332> (The ACLU-NCA receives regular complaints about MPD’s use of “jump out squads.”).

⁹⁶ *See Id.*; see also Max Kutner, ‘Jump-Outs’: D.C.’s Scariest Version of ‘Stop-and-Frisk,’ *Newsweek* (Jan. 16, 2015), <https://www.newsweek.com/jump-outs-dcs-scarier-version-stop-and-frisk-300151>; No More Stop-and-Frisk, Stop Police Terror Project D.C., <https://www.sptdc.com/nomorestopandfrisk> (last visited Mar. 25, 2021) (“D.C. residents have years of stories of being stopped, followed, and abused by police who routinely violate their civil rights. And while the D.C. Metropolitan Police Department (MPD) has claimed to have ended jump out squads, described as “D.C.’s scariest version of stop and frisk”—which involve heavily armed teams of undercover officers violently searching and arresting anyone deemed suspicious—these tactics have also continued; DC Justice Lab, Testimony of Diontre Davis to D.C. City Council (Oct. 15, 2020), available at <https://static1.squarespace.com/static/5edff6436067991288014c4c/t/5f8ef41a011ccb1bfcc206e9/1603204122288/Testimony+%28Diontre+Davis%29.pdf>).

of marijuana, and similar infractions that are currently enforced in a discretionary and discriminatory manner;

7. Department-level: MPD should formalize a policy eliminating the use of “jump-stops,” and MPD should issue a notice to that effect to all officers and the public, including a method for the public to report the ongoing use of jump stops, and articulate a minimum penalty for officers found to have engaged in such activity;
11. System-level: The city should contract with community-based organizations and an independent entity to develop reparation proposals to address the harms of stop-and-frisk.
8. System-level: The city should decriminalize the laws discussed above to further ensure they are not used as justification for stops or other lesser conduct by MPD that could be perceived as a stop; and
9. System-level: The Criminal Code Reform Commission should conduct ongoing surveys of present laws to identify conduct that can be decriminalized or whose enforcement does not have a demonstrable impact on public safety. Also, the survey should identify infractions and violations that law enforcement should be prohibited from using to make pretextual stops (i.e. quality of life offenses)

○ **Evidence Review for banning the use of pretextual justifications for stops, limiting the permissible justifications for reasonable suspicion to conduct a stop, and prohibiting ‘jump-outs’**

The Lab found no rigorous scientific evidence that speaks to the effects of changing pretextual justifications for stops, the permissible justifications for reasonable suspicion to conduct a stop, or the use of “jump-outs.” Since a number of states ban pretextual stops and some have recently reconsidered the bases for reasonable suspicion for stops, this area is ripe for additional research.

3. Shift Police Funding to Grassroots and Other Community-Based Organizations that are addressing public safety and community violence.

a. Issue

Throughout the Workshop Series, participants highlighted that public understanding of the need for police stops is often driven by the belief that stops are necessary to reduce violent crime. This belief is further entrenched by the fact that law enforcement is the default—and sometimes the only option of which people are aware—when they want to address violent crime and other harms to their communities. While recognizing that reducing harm in communities is a paramount concern, panelist Puneet Cheema of the NAACP Legal Defense Fund posed the important question of whether police responses to violent crime are actually getting at the violence communities are experiencing. She cited data showing that police officers spend only about four percent of their time responding to serious violent crime while the rest of their time is spent responding to other issues, which includes responding to non-criminal matters, traffic violations, property crime, other

crime, and engaging in proactive policing.⁹⁷ While these statistics reflect data from only New Orleans, Sacramento, and Montgomery County, Maryland, they underscore the idea that law enforcement's current responsibilities are much broader than responding to violent crime. Cheema further noted that, even though response to violence may be necessary, decisionmakers should not assume that police responding to violence is the best and only response, and we should be asking whether stops by law enforcement are really the best method of achieving public safety in communities experiencing violence. She also emphasized that alternative means exist to achieve the desired result of public safety but without inflicting the types of harm associated with police stops described throughout the Workshop Series.

b. Proposal

Instead of centering law enforcement to achieve public safety and improve public health, other options can be more beneficial in directly addressing the factors driving violent crime and impacted communities need to be involved in deciding what those options will be and educated about them. Cheema emphasized that those most often involved in the articulation of the needs of a community are not generally those most harmed by policing. Because of this, the voices of those most impacted by policing need to be the ones centered in determinations of whether, and when, police stops should occur. This includes making sure that more options are presented to people when they indicate that they want a police response to a particular issue, especially when most people understand the options to be a police response or nothing. It also includes resourcing and supporting methods that communities have developed on their own to address safety issues and considering investing in such things as behavioral health in order to prevent crime in the first place.

Numerous other participants echoed the sentiment that police cannot be expected to fix larger problems of economic inequality and unequal access to mental health and other services that drive crime, and communities need to be offered investments in behavioral health systems instead of armed police intervention. Joseph Richardson of the University of Maryland College Park highlighted the fact that because crime is a derivative of inequality and poverty, it is necessary to address the issue of crime reduction through that lens and acknowledge that inequality and poverty are not issues law enforcement can address. Tracey Meares of Yale School of Law similarly emphasized the need to shift the inquiry from asking communities how they want to be policed to asking them how they want their communities to look. Meares noted that decentering the police in conversations surrounding public safety and healthy communities is necessary because people have come to over-rely on policing as an answer to everything. The result, Meares suggests, will be an increase in the quality of life in overpoliced communities that changes in the way law enforcement polices simply cannot produce.

Additionally, Tim Goddard, professor of Criminal Justice at Florida International University, and Andrea Headley, Georgetown professor focusing on criminal justice policy and racial equity and a Workshop Series panelist, noted in 2015 that “[t]he principle mode of community-driven crime prevention is to promote collective action...by bringing together and gathering resources for program implementation or to change the social conditions and institutions

⁹⁷ Jeff Asher & Ben Horwitz, *How Do the Police Actually Spend Their Time?*, NY TIMES (June 19, 2020), <https://www.nytimes.com/2020/06/19/upshot/unrest-police-time-violent-crime.html>.

that influence offending in residential communities.”⁹⁸ Other panelists, such as Ashley Carter, Co-Director and Senior Attorney for the Justice Project at the Advancement Project, noted that many existing community organizations are already working to ameliorate the myriad factors that are detrimental to public safety. Such factors include those mentioned above such as poverty, mental illness, and a lack of access to resources related to alleviating those things. Further, these organizations often demonstrate positive results in addressing such issues, despite a lack of funding and support from the city. She also highlighted the need for community-driven political education so that community members have a better idea of the role police should and do play in public safety and health.

These community-based organizations often offer a range of services including those on the individual, family, peer, and community level, each of which is aimed at targeting interpersonal, familial, and societal risks that can reduce community cohesion and public safety. Although assessing results of each organization’s impact is sometimes difficult, the benefits of this proposal lie in its ability to custom-tailor proposals to the problems and needs of specific communities. The District has demonstrated some commitment to community-based initiatives geared toward addressing the city’s needs and reducing violence. This is reflected in the Office of Neighborhood Safety and Engagement (“ONSE”) part of whose focus is “empowering communities to uplift themselves in response to neighborhood violence and build a self-sufficient infrastructure where resources are accessible and utilized.”⁹⁹ ONSE also includes a Violence Intervention Initiative under which it contracts with three community-based organizations to develop tailored intervention services plans that promote community engagement to reduce violence.¹⁰⁰ Panelist Setarah Yelle of ONSE emphasized the value of the usage of these strategies in which communities have an input and those that are rooted in the public health rather than conducted through a law enforcement lens.

Through ONSE, its initiatives, and other programs in the city like them, the District has recognized the importance of community involvement in reimagining public safety to decenter the outsized role law enforcement has in ensuring public safety. Moving forward, such approaches must continue to grow and even further center organizations and individuals in impacted communities such that they are leading the movements surrounding community-based services with the government acting as a facilitator of those movements. Also, echoing cautions of the Police Reform Commission, “[t]hese new government entities must facilitate, not impede, deep reform of MPD and the District’s public safety infrastructure.”¹⁰¹ This includes recognizing the disparity in funding for offices such as ONSE which had an allocated operating budget of \$28.7 million in the 2022 fiscal year and the MPD whose allocated budget was \$516.8 million for that same year.¹⁰²

⁹⁸ Tim Goddard & Andrea Headley, *Community-Based Organizations and Crime Prevention* (2015), Oxford Handbooks Online in Criminology and Criminal Justice. New York: Oxford University Press.

⁹⁹ Office of Neighborhood Safety and Engagement, <https://onse.dc.gov/service/community-response-team-onse> (last visited June 9, 2021).

¹⁰⁰ Office of Neighborhood Safety and Engagement, <https://onse.dc.gov/service/violence-intervention-initiative> (last visited June 9, 2021).

¹⁰¹ POLICE REFORM COMMISSION REPORT, *supra* note 46, at 19.

¹⁰² Government of the District of Columbia, *FY2022 Approved Budget and Financial Plan: Volume 2, Agency Budget Chapters - Part 1*, <https://app.box.com/s/qerszz0zt2a307w72n8e4nq4ka3advz1>

More generally, the Institute for Local Government in California has also noted the local agencies with which they work cite the following advantages from partnering with community-based organizations in a variety of contexts:¹⁰³ (1) extending agency outreach so more residents are aware and informed; (2) balancing the most involved advocates with perspectives representing more of the community; (3) reducing mistrust, misperceptions, and resentment; (4) identifying broader community-based resources and recommendations; (5) developing communication channels for keeping people informed over time; and (6) reaching people emotionally as well as physically.¹⁰⁴ This list, while non-exhaustive regarding the potential benefits of the city partnering with local organizations to enhance the breadth and depth of participation by community residents in local decision-making generally and reduce its reliance on law enforcement, raises many of the issues and concerns highlighted throughout the Workshop Series.

However, because many of these existing organizations and the individuals in charge of operations—many of which are volunteers—do not currently receive the financial support necessary to run programs in a continuous, steady manner, adequate funding is vital to generate a meaningful reduction in reliance on police involvement. Shifting resources away from budgets earmarked for law enforcement and instead giving it directly to the community groups already acting in areas related to public health and safety would both ensure that gaps do not exist in addressing the community’s needs and that those communities have a voice in driving the very policy that affects them. Even if such a shift cannot functionally occur overnight, the funding disparity highlighted above suggests that room does exist to reconsider budget priorities.

c. Suggested Changes

1. System-level: D.C. should move funding from MPD’s budget to provide ONSE with additional resources to increase the number of contracts it has with existing community-based organizations aimed at decreasing violence throughout the city’s wards, making sure programs are specifically tailored to the communities in which they work by engaging community members and leaders directly in the program implementation process. This includes not only giving community members a voice when determining needs, but also giving them leadership roles and decision-making authority in implementing the programs adopted to address those needs;
2. System-level: D.C. should increase funding for its violence interrupter programs¹⁰⁵ in order to effectively engage more community members in a community-driven approach to public safety; and

¹⁰³ Such benefits are not limited to the context of police stops and are applicable in many areas where community involvement is beneficial.

¹⁰⁴ Institute for Local Government, *Partnering with Community-Based Organizations for More Broad-Based Public Engagement*, https://www.ca-ilg.org/sites/main/files/file-attachments/partnering_with_comm_based_orgs_final.pdf.

¹⁰⁵ The Office of the Attorney General and the Office of Neighborhood and Safety Engagement currently run violence interruption initiatives currently working to reduce gun and other violence and increase public safety through community engagement throughout D.C. Other groups have recommended consolidating the initiatives to be operated fully under ONSE and assessing their respective strengths and weaknesses with funding by the Council. See POLICE REFORM COMMISSION REPORT, *supra* note 46; see also, Office of the Attorney General, Cure the Streets: OAG’s Violence Interrupter Program, <https://oag.dc.gov/public-safety/cure-streets-oags-violence-interruption->

3. System-level: D.C. should identify and contract with additional community-organizations already working in the crisis-intervention space that provide community-based health care and other social service needs and provide grants or other sources of funding to ensure their continued ability to address the public health and safety needs of the communities in which they work and that programs like the violence interrupter program are tailored to D.C. residents' needs.

[program](#) (last visited June 1, 2021); Office of Neighborhood and Safety Engagement, Learn About the Critical Work of Violence Interrupters, <https://onse.dc.gov/page/learn-about-critical-work-violence-interrupters> (last visited June 1, 2021).

○ **Evidence Review for shifting police funding to grassroots and other community-based organizations to reduce the need for police stops**

The Lab found no rigorous scientific evidence that speaks to the effects of funding non-governmental organizations to increase public safety by moving funding from the police budget. Historically, police budgets have been relatively stable as a proportion of local and state funding, which has limited opportunities to study this question.¹⁰⁶ Only recently have we seen local and state budget decisions to strategically reallocate funding from law enforcement to health and social programs, or to community-based organizations. More generally, the Urban Institute conducted a landscape study on public investments in community-driven safety initiatives that, while not yet rigorously evaluated, provide helpful examples of how these investments might be made.¹⁰⁷ We expect evidence to emerge over time if more jurisdictions fund more community-based strategies and sustain them.

There is moderate evidence supporting violence interrupter programs. A quasi-experimental study of a prominent violence interrupter program, Cure Violence, in New York City found significant declines in gun injuries in areas with violence interrupters, and declines in shooting victimizations in one of the two sites.¹⁰⁸ A quasi-experimental study of this same model in Philadelphia, called Philadelphia CeaseFire, found significant reductions in shootings in neighborhoods with violence interrupters.¹⁰⁹ Finally, a quasi-experimental study of Operation Peacemaker Fellowship, in Richmond, CA, found violence interrupters led to significant reductions in firearms violence, but small increases in non-firearm violence.¹¹⁰

There are two caveats on the evidence base for violence interruption. First, while some evidence on violence interrupters is positive, other studies find no effects and, in some cases, increases in violence. Second, all of the evidence cited is based on adding violence interrupters to neighborhoods in which police still have a presence. There is no evidence on violence interrupters as full or partial substitutes for law enforcement activities.

¹⁰⁶ Auxier, R. C. (2020) “What Police Spending Data Can (and Cannot) Explain Amid Calls to Defund the Police,” in *Urban Wire: Taxes and Budget*. The Urban Institute. Available at <https://www.urban.org/urban-wire/what-police-spending-data-can-and-cannot-explain-amid-calls-defund-police> (last visited, September 15, 2021).

¹⁰⁷ Sakala, L., S. Harvell & C. Thomson (2018) *Research Report: Public Investment in COmmunity-Driven Safety Initiatives: Landscape Study and Key Considerations*. Washington, DC: The Urban Institute. Available at https://www.urban.org/sites/default/files/publication/99262/public_investment_in_community-driven_safety_initiatives.pdf (last visited, September 15, 2021).

¹⁰⁸ Delgado, S. A., et al. (2017). The Effects of Cure VIolence in the South Bronx and East New York, Brooklyn. In *Denormalizing Violence: A Series of Reports from the John Jay College Evaluation of Cure Violence Programs in New York City*. New York, NY: Research and Evaluation Center, John Jay College of Criminal Justice, City University of New York, <https://johnjayrec.nyc/wp-content/uploads/2017/10/CVInSoBronxEastNY.pdf> (last visited, August 31, 2021).

¹⁰⁹ Roman, C.G., et al. (2017). “Philadelphia CeaseFire: Findings from the Impact Evaluation.” In *Key Findings Research Summary - January 2017*. Philadelphia, PA: Temple University, https://cvg.org/wp-content/uploads/2020/03/SummaryofPhilaCeaseFireFindingsFormatted_Jan2017.pdf (last visited August 31, 2021).

¹¹⁰ Matthay, E.C., et al. (2019). “Firearm and Nonfirearm Violence After Operation Peacemaker Fellowship in Richmond California, 1996-2016,” in *American Journal of Public Health* 109, 1605_1611, <https://doi.org/10.2105/AJPH.2019.305288>.

4. Improve Mental Health Crisis Response

a. Issue

A common theme throughout the Workshop Series centered around the notion that law enforcement officers are tasked with addressing a litany of issues, a number of which they are not adequately trained or best positioned to handle. This, in turn, results in negative interactions between community members and police officers that other service providers with expertise and training in specific areas (i.e., mental health and economic injustice) could avoid. Workshop Series panelist Pastor Delonte Gholston of PeaceWalksDC and Peace Fellowship Church argued that D.C. should be “radically investing in mobile crisis response units and coordinating across agencies,” an idea that many other participants generally echoed throughout the Workshop Series. Such a shift allows a more nuanced and targeted approach to public safety than field contacts or investigatory police stops, increasing the overall well-being of affected communities.

Because the lack of mental health services in the United States has resulted in police officers serving as first responders in most instances,¹¹¹ increasing the services provided by crisis response teams (“CRTs”) would help to both increase positive interactions between community members in crisis and those charged with addressing such crises and reduce burdens on law enforcement ill-equipped to deal with such situations. Although collaboration with law enforcement may be necessary in some limited circumstances involving dangerous situations, the operation and oversight of CRTs should be separate and apart from the police department. Further, to reduce the most harm and produce the most benefit, trained non-law enforcement professionals should provide the services, which would limit police contact thus decreasing the prospect of violence. Washington, D.C. does currently support a limited number of CRTs, but those teams are separate and apart from other emergency response options and do not necessarily function as an immediate emergency response option. A pilot program was recently launched in Washington, D.C. representing a first step in the right direction with the Department of Behavioral Health beginning to respond to some 911 calls instead of the MPD.¹¹² These changes are laudable and signal the feasibility of such options, further indicating that these efforts should be continued and expanded in line with the models and recommendations that follow, taking into consideration the unique needs of D.C.

b. Proposal

One particular program that has reimagined public safety—even regarding CRTs—and gained attention for being particularly successful as an alternative to on-scene police response is

¹¹¹ Crisis Intervention Team (CIT) Programs, National Alliance on Mental Illness, [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs) (last visited Mar. 3, 2021).

¹¹² Rachel Weiner, *D.C. to Divert Some Mental Health Calls Away From Police*, WASH. POST (May 17, 2021), https://www.washingtonpost.com/local/public-safety/dc-mental-health-crisis-response/2021/05/17/2c761706-b746-11eb-96b9-e949d5397de9_story.html.

Eugene, Oregon’s Crisis Assistance Helping Out on the Streets (“CAHOOTS”) program.¹¹³ CAHOOTS provides mobile crisis intervention teams consisting of a medically-trained professional, such as a nurse or an emergency medical technician (“EMT”), and a crisis worker with several years of experience in the mental health field.¹¹⁴ CAHOOTS teams are dispatched through a non-emergency number and are not trained as police officers, nor do they have the authority of law enforcement.¹¹⁵ The responders are trained to provide crisis intervention, counseling, mediation, information and referral, transportation to social services, first aid, and basic-level emergency medical care.¹¹⁶ Moreover, all of the provided services are voluntary and lack the inherent coerciveness of law enforcement encounters.

CAHOOTS responders may request police intervention if they believe the situation warrants such contact, and police officers may request CAHOOTS support where they believe non-law enforcement services are necessary.¹¹⁷ The program has been funded through the Eugene Police Department since 1989, and the Eugene City Council increased its budget by \$225,000 in 2016 to allow it to provide service 24 hours a day, seven days a week.¹¹⁸ Overall, between Eugene and Springfield, Oregon, CAHOOTS is funded by \$2 million annually, which represents only two percent of the police budget.¹¹⁹ Although this model functions on a smaller scale because of the size of the city, the relative budgets of police departments—and therefore the resources that could be diverted to such a program—creates opportunity for the development of such programs. Recognizing the differences in needs that accompany differences between smaller cities and larger metropolitan areas like Washington, D.C., ensuring systems like this are tailored to specifically meet the needs of the District’s communities is vitally important. This includes identifying the sort of responses to crisis specific communities desire and understanding how those communities want to interact with first responders.

Although any city beginning to implement alternative response teams requires an assessment of that jurisdiction’s specific needs and context, existing models still provide an informative starting point. The Eugene Police Department is home to the city’s public safety communications center, which is tasked with receiving and dispatching all police, fire, and CAHOOTS calls.¹²⁰ There, dispatchers are empowered to divert calls concerning non-police issues to CAHOOTS based on criteria the police department and CAHOOTS staff develop collaboratively.¹²¹ Under that criteria, anyone who reports a crime in progress, violence, or a life-threatening emergency may receive a response from the police or medical emergency services instead of or in addition to CAHOOTS.¹²² Specifically, CAHOOTS may not respond when there

¹¹³ White Bird Clinic, CAHOOTS, <https://whitebirdclinic.org/cahoots/> (last visited Mar. 3, 2021).

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ Jackson Beck, Melissa Reuland, & Leah Pope, *Case Study: CAHOOTS*, VERA INST. OF JUST. (Nov. 2020), <https://www.vera.org/behavioral-health-crisis-alternatives/cahoots>.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

is “any indication of violence or weapons” or handle calls involving “a crime, potentially hostile person, a potentially dangerous situation...or an emergency medical problem.”¹²³ In situations where law enforcement acts as a first-responder, they may, however, request assistance from CAHOOTS where de-escalation may more appropriately resolve a situation.¹²⁴

This collaboration ultimately decreases the potential for negative interactions between community members and law enforcement and also allows the police to focus their time on crime-related matters rather than unnecessary interactions with citizens experiencing mental or behavioral health crisis.¹²⁵ Further, of the 24,000 calls diverted to CAHOOTS in 2019, only 311 required support from law enforcement (approximately 1.3 percent), and 20 percent of all calls were resolved through the city’s alternative to police dispatch.¹²⁶ This demonstrates the magnitude of the extent to which law enforcement resources are overused where mental health resources would provide those in crisis a more targeted response to their needs and reduce the occurrence of violence—both to the individuals in crisis and to communities generally—during those interactions.

Eugene is just one example of a city investing in the success of CRTs by moving such responsibility away from police departments and Washington, D.C. should join a number of other large cities in leading this movement. In New York City, Mayor De Blasio’s office recently announced the creation of a pilot program in which mental health and medical experts will be the first responders to certain 9-1-1 calls as opposed to law enforcement.¹²⁷ The program mirrors CAHOOTS and other similar approaches in place around the country, including Albuquerque,¹²⁸ Denver,¹²⁹ Los Angeles,¹³⁰ San Francisco,¹³¹ as well as others.¹³² On a federal level, members of Congress from Oregon, Representative Peter DeFazio and Senator Ron Wyden, have responded

¹²³ Rowan Moore Gerety, *An Alternative to Police That Police Can Get Behind*, THE ATLANTIC (Dec. 28, 2020), <https://www.theatlantic.com/politics/archive/2020/12/cahoots-program-may-reduce-likelihood-of-police-violence/617477/>.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ 38 No. 02 Quinlan, Law Enforcement Employment Bulletin NL 8.

¹²⁸ Mayor Tim Keller to Refocus Millions in Public Safety Resources with First-of-Its-Kind Civilian Response Department, City of Albuquerque (June 15, 2020), <https://www.cabq.gov/mayor/news/mayor-tim-keller-to-refocus-millions-in-public-safety-resources-with-first-of-its-kind-civilian-response-department>.

¹²⁹ Liz Kotalik, *Denver’s STAR Program Sees Promising Results in First Six Months*, 9NEWS (Feb. 11, 2021), <https://www.9news.com/article/news/denver-star-program-results-police/73-90e50e08-94c5-474d-8e94-926d42f8f41d>; see also STAR Program Evaluation (Jan. 08, 2021), available at https://wp-denverite.s3.amazonaws.com/wp-content/uploads/sites/4/2021/02/STAR_Pilot_6_Month_Evaluation_FINAL-REPORT.pdf.

¹³⁰ Sentinel News Service, Wesson, Martinez Call for Reforms to Replace Police Officers with Non-Law Enforcement Agencies For Non-Violent Calls, L.A. SENTINEL (June 18, 2020), <https://lasentinel.net/wesson-martinez-call-for-reforms-to-replace-police-officers-with-non-law-enforcement-agencies-for-non-violent-calls.html>; see also Los Angeles City Council Motion, Unarmed Model of Crisis Response, CF 20-0769 (June 16, 2020), available at https://clkrep.lacity.org/onlinedocs/2020/20-1178_mot_09-16-2020.pdf.

¹³¹ Mayor London Breed Announces Roadmap for New Police Reforms, City of San Francisco (June 11, 2020), <https://sfmayor.org/article/mayor-london-breed-announces-roadmap-new-police-reforms>.

¹³² Quinlan, *supra* note 117.

to the success of programs like CAHOOTS by introducing companion legislation to increase mental health crisis response support.¹³³

San Francisco's introduction of its Street Crisis Response Teams ("SCRT") in November of 2020 provides useful guidance for implementing the same in Washington, D.C. Like CAHOOTS, San Francisco aims to provide rapid, trauma-informed response to calls for service to people experiencing crisis in order to reduce unnecessary law enforcement encounters.¹³⁴ The program was launched as a collaboration between the city's Department of Public Health, Fire Department, Department of Emergency Management ("DEM"), city agencies, and community-based organizations. Under San Francisco's SCRT model, the DEM is responsible for receiving, coding, and dispatching 911 emergency calls.¹³⁵ For a call to be coded as a response team call rather than a law enforcement call, the following criteria must be met: (1) the call must involve a person who is not actively violent and is displaying signs of a behavioral health crisis; (2) they must not have a weapon, be overdosing on drugs, or be displaying self-harm behaviors; (3) they must not pose an imminent threat to themselves, others, or property; and (4) they must be an adult who is in a public space.¹³⁶

Using such criteria, the city hopes to emphasize helping those experiencing mental health crises while recognizing a need to preserve safety for those experiencing the crisis and the broader public. In implementation, San Francisco prioritizes community engagement as a critical component of the program design and evaluation, and the planning team engaged with community-based organizations, Department of Behavioral Health programs, other city agencies, behavioral health consumer focus groups, and citywide committees and working groups.¹³⁷ Such a collaborative method of engaging in implementation ideally will increase the program's ability to respond to the broad range of needs held by various stakeholders.

Continuing to implement an effective system in D.C. would necessarily require increased investment in and enhancement of D.C.'s Office of Unified Communications, which is responsible for handling the 1.8 million 911 calls that occur in the District every year,¹³⁸ to allow it the capacity to determine which calls could be diverted to an alternative response team. In implementing such a model, the D.C. Justice Lab has suggested 911 dispatchers be trained to make such determinations and that more dispatchers be hired from the communities that they serve. It has

¹³³ Press Release, *DeFazio Introduces CAHOOTS Act to Reduce Violence, Strengthen Mental Health Crisis Response Resources* (Aug. 7, 2020), <https://defazio.house.gov/media-center/press-releases/defazio-introduces-cahoots-act-to-reduce-violence-strengthen-mental>.

¹³⁴ San Francisco Department of Public Health, *Street Crisis Response Team Issue Brief: Mental Health San Francisco Implementation Working Group 1*, available at https://www.sfdph.org/dph/files/IWG/SCRT_IWG_Issue_Brief_FINAL.pdf.

¹³⁵ *Id.* at 3.

¹³⁶ *Id.* at 2.

¹³⁷ *Id.*

¹³⁸ Office of Unified Communications, *Who We Are*, <https://ouc.dc.gov/page/ouc-who-we-are> (last visited June 6, 2021).

further suggested that Council allocate \$4.5 million in funding toward a community-based first response team similar to programs like CAHOOTS.¹³⁹

○

c. Suggested Changes

1. System-level: The City should provide funding so that agencies can begin reconfiguring their emergency response systems to include CRTs as a means of moving non-violent calls away from MPD in situations where law enforcement intervention is unnecessary. This includes enhancing the ability of CRTs to respond to emergency calls by creating collaborations between the Office of Unified Communication and the existing Department of Behavioral Health Community Response Team or by housing existing or newly created CRT dispatch within the Office of Unified Communication so that all emergency calls can be filtered through one response number. This would allow citizens seeking services to more easily contact the responder most appropriate for their needs and would also allow calls to be more easily diverted to new response options;
2. System-level: Trained community-based mental health professionals and social workers should work in tandem with EMTs and/or nurses as optional first responders when residents call for emergency services, especially when citizens are in crisis and such services should be offered 24/7;
3. System-level: Funds should be allocated to increase the support of existing CRTs and to create new CRTs to accommodate any increase in traffic to those teams;
4. System-level: Increased trauma-informed training should be provided to new and existing dispatchers to assist them in directing calls to the appropriate teams once new systems are in place; and
5. System-level: The City should conduct ongoing community education to inform the community of any existing or newly created services available that actively decenter police response. This includes working closely with existing community organizations throughout the city's wards to identify the best methods to disseminate that information and include those already working on the ground in the creation of these new systems.

¹³⁹ Brandon Spreckels, D.C. Justice Lab, *Community-Based First Response in Washington, D.C.* (last visited June 2, 2021), available at <https://static1.squarespace.com/static/5edff6436067991288014c4c/t/5fdb5edf6a3ce92fb0d982d1/1608212191950/Community-Based+First+Response+in+Washington+D.C.pdf>.

○ **Evidence Review for improving mental health crisis response:**

The Lab found no rigorous scientific evidence that speaks to the effects of Community Response Teams serving as first responders, independent of law enforcement.

We know of no impact evaluations of CAHOOTS. There are data, however, on CAHOOTS activities. As cited above, there were approximately 24,000 CAHOOTS calls. There is disagreement on how much this represents a diversion of calls that would otherwise go to the police. The organization responsible for CAHOOTS estimates that the teams answered 17% of the Eugene Police Department’s overall call volume.¹⁴⁰ The police department, however, estimates that the call diversion rate is closer to 5-8%, since a portion of the calls answered by CAHOOT are not those for which 911 is typically called or that require police dispatch.¹⁴¹

The most comprehensive evidence on crisis responses to mental illness comes focuses on different responses that involve the police, particularly through Crisis Intervention Teams (CITs). The CIT model includes CIT-trained and certified law enforcement officers as first responders, training for emergency dispatchers to appropriately dispatch CIT officers, and partnerships and collaborations between law enforcement and mental health providers. A 2021 systematic review and statistical analysis of all studies on police response models— a “meta-analysis”— for handling people with mental illness found effects on police officer attitudes, perceptions of mental health consumers, and beliefs about appropriate responses across the 42 studies.¹⁴² It found no effect, however, of these different models on arrests, use of force, response time, and injuries to the officers or people with mental illness. A 2018 systematic review of evidence on CIT models found that CIT-trained officers were more likely to transport individuals to mental health facilities than were non CIT-trained officers.¹⁴³ Studies differed on whether they found CIT-training led to no or some increases in use of force. They also differed on whether they found whether the training led to increases, decreases, or no changes in arrests of people with mental illness.

Finally, there is rigorous evidence on co-response models which pair law enforcement with mental health professionals. DeKalb County, GA has a mobile crisis team that consists of both dedicated police officers and psychiatric nurses who are first responders to psychiatric emergency situations. A quasi-experimental study of this team’s work found that psychiatric emergency situations handled by the mobile crisis team led to fewer voluntary and involuntary psychiatric hospitalizations than those handled by law enforcement alone.¹⁴⁴ There were, however, no differences in the numbers of arrests. In a different model, Toronto, Canada, has a mobile crisis intervention team of paired mental health nurses and police officers with supplementary mental health training who act as secondary responders, after police arrive on scene and assess the situation. Compared to police-only teams, the co-responding team interactions were more likely to lead to voluntary and involuntary escorts to hospitals. They were also likely to spend less time on handover in the emergency department, but their overall response time to the scene was higher.

¹⁴⁰ White Bird Clinic (2020). *What is CAHOOTS?*. Available at <https://whitebirdclinic.org/what-is-cahoots/> (last accessed September 14, 2021).

5. Ban Consent Searches and Increase Oversight of their Occurrence

a. Issue

In the Reimagining Stops Workshop Series, stops and field contacts followed by consent searches were identified as one type of police interaction that is prone to bad outcomes. Under MPD policies, an officer “may conduct a search based upon valid consent of the individual whose person or property is searched.”¹⁴⁵ The policies further note that the Constitution places certain limits on what constitutes valid consent.¹⁴⁶ While the U.S. Constitution does place limited restrictions on when a police officer can search a person—whether lawfully stopped or not—an officer can legally search any individual that consents to such a search, so long as such consent is ‘voluntary.’¹⁴⁷ Further, although citizens are permitted to decline such searches and some jurisdictions, including Washington, D.C.,¹⁴⁸ require that an officer inform a person of their right to decline to give consent, such measures are often insufficient to mitigate the inherently coercive effects of police contact.¹⁴⁹ This is especially true in contexts where those interacting with the police—namely Black and Latinx individuals—already feel an increased pressure to comply with police requests.¹⁵⁰

This increased pressure results from the harm,¹⁵¹ including the trauma, anxiety, and stress described throughout the Workshop Series, and sometimes death inflicted on Black and Latinx individuals during police encounters and the potential consequences of failing to comply with police requests—even when such requests are not legally required. In other words, “consenting is

¹⁴¹ Eugene Police Department Crime Analysis Unit (2020). *CAHOOTS Program Analysis*. Available at <https://www.eugene-or.gov/DocumentCenter/View/56717/CAHOOTS-Program-Analysis> (last accessed September 14, 2021).

¹⁴² Seo, C., B.Kim, and N.E. Kruis (2021) “A Meta-Analysis of Police Response Models for Handling People with Mental Illnesses: Cross-Country Evidence on the Effectiveness,” in *International Criminal Justice Review* 31(2): 182-202. Available at <https://doi.org/10.1177/105756720979184> (last accessed September 15, 2021).

¹⁴³ Peterson, J. and J. Densely (2018). “Is Crisis Intervention Team (CIT) training evidence-based practice? A systematic review,” in *Journal of Crime and Justice*, DOI: <https://doi.org/10.1080/0735648X.2018.1484303>.

¹⁴⁴ Scott, R. L. (2000) “Evaluation of a Mobile Crisis Program: Effectiveness, Efficiency, and Consumer Satisfaction,” in *Psychiatric Services* 51 (9): 1153-1156.

¹⁴⁵ GENERAL ORDER 304.10, *supra* note 64.

¹⁴⁶ *Id.*

¹⁴⁷ *See* Schneckloth v. Bustamonte, 412 U.S. 218 (1973).

¹⁴⁸ COMPREHENSIVE POLICING AND JUSTICE REFORM SECOND EMERGENCY AMENDMENT ACT OF 2020, 2020 District of Columbia Laws Act 23-336 [hereinafter ACT].

¹⁴⁹ Susan Bandes, *Police Accountability and the Problem of Regulating Consent Searches*, 2018 U. ILL. L. REV. 1759, 1767 (“As Seth Stoughton notes, there remains a difference between “the lack of a legal requirement to consent and the lack of a social expectation of acquiescence, and it seems likely that the social pressure will largely survive even when the individual has been informed” of the lack of a legal obligation.”).

¹⁵⁰ *See, (E) racing the Fourth Amendment, supra* note 22, at 953–54, 1020.

¹⁵¹ *See, Aggressive Policing, supra* note 77; Amanda Gellar & Jeffrey Fagan, *Police Contact and the Legal Socialization of Urban Teens*, 5 THE RUSSELL SAGE FOUNDATION J. OF SOCIAL SCIENCES 26 (2019).

a survival tactic, not a choice.”¹⁵² What is doubly troubling is not only are Black individuals more likely to give consent, police officers are more likely to ask Black drivers for consent to search a vehicle.¹⁵³

Workshop Series panelist Michael Tobin of the D.C. Office of Police Complaints noted that consent searches often lead to police complaints and leave those affected feeling offended and disrespected, especially when no weapons or contraband are found. He also noted that a lack of information exists regarding stops generally because field contacts—which frequently lead to consent searches—often go unreported. According to Tobin, whether an incident constitutes a “consent search” is really just a matter of nomenclature and some contacts that technically do not qualify as consent searches requiring documentation may be experienced as such. As an example, Tobin described situations in which law enforcement may casually approach an individual and ask him if he is carrying a weapon or contraband and to show his waistband. Such interactions may not technically amount to a consent search and therefore are not reflected in stop data. Further, according to Tobin, these are the very interactions that lead to humiliating interactions and police violence.

A report issued by the Office of Police Complaints indicated that the Office received 112 complaints over three years regarding harassment related to consent searches, 76 percent of which were made by Black people.¹⁵⁴ Additionally, 44 percent of the complaints were related to incidents occurring in the Sixth or Seventh police districts, which cover wards seven and eight.¹⁵⁵ The population of these two wards are 92 percent and 88 percent Black, respectively.¹⁵⁶ The report further noted, “[w]hen officers routinely request consent searches it erodes individuals’ belief that the police are the guardians of our neighborhoods and fosters ill-will in areas of the District of Columbia that have the most need for improving trust.”¹⁵⁷

In response to concerns such as this and the harassment that can accompany consent searches, Workshop Series panelist Patrice Sulton of the D.C. Justice Lab further highlighted the need to legislate a prohibition on the use of consent searches, again because, at the individual-level, police discretion is often abused. Although the D.C. Council passed emergency legislation

¹⁵² Kayah Alexander, Josephine Ross, Patrice Sulton, & Leah Wilson, D.C. Just. Lab & STAAND, *Eliminate Consent Searches* (2020), available at <https://static1.squarespace.com/static/5edff6436067991288014c4c/t/5f81728032d45901b878f85f/1602318977141/Eliminate+Consent+Searches.pdf>.

¹⁵³ *Id.* at 2; see also *From Stopping Black People to Killing Black People*, *supra* note 21, at 160 (“[T]here is at least some evidence that African Americans are subject to consent searches at a significantly higher rate than whites.”) (“In one study of consent searches during traffic stops, “none of the 90-95% of subjects who consented knew of the right to refuse consent, and those few who knew the law were skeptical that the officer would actually take no for an answer.””).

¹⁵⁴ Office of Police Complaints, PCB Policy Report #17-5: Consent Search Procedures, <https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Consent%20Search%20Report%20FINAL.pdf>.

¹⁵⁵ *Id.*

¹⁵⁶ See Ward 7, D.C., Census Reporter, <https://censusreporter.org/profiles/61000US11007-ward-7-dc/> (last visited Mar. 25, 2021); see also Ward 8, D.C., Census Reporter, <https://censusreporter.org/profiles/61000US11008-ward-8-dc/> (last visited Mar. 25, 2021).

¹⁵⁷ Office of Police Complaints, *supra* note 139.

that included changes to consent search procedures in 2020,¹⁵⁸ that legislation will expire and the coercive nature of consent searches and need for oversight over them persists. And, despite the fact that many police departments are reluctant to do so because it is the easiest way to conduct a constitutionally permissible search because no probable cause, reasonable suspicion, or other justification for a search is required,¹⁵⁹ banning consent searches is a necessary step in reducing the harm inflicted during police stops.

b. Proposal

Although requiring warnings that inform individuals that they have the right to refuse a consent search may be a step in the right direction toward eliminating the inherently coercive nature of police requests for consent, the weakness of consent searches and *Miranda* warnings in the context of a person's rights to remain silent and to an attorney, among others, cautions against relying too much on consent given to authoritative figures.¹⁶⁰ Scholars and activists alike have also decried the myth that consent is given voluntarily.¹⁶¹ This is because the populations most vulnerable to police overreach are the most likely to waive their rights.¹⁶² Black and Latinx communities are more likely to fear harm than their white counterparts if they were to refuse to permit a consent search and children, as well as those with mental disabilities, are most likely to give consent without considering the implications.¹⁶³ Therefore, consent searches should be eliminated.¹⁶⁴

¹⁵⁸ ACT, *supra* note 133.

¹⁵⁹ In response to recommendations to eliminate consent searches by MPD suggested by the D.C. Police Reform Commission, Commissioner Robert Bennett, senior counsel at Bennett Doyle LLP, disagreed with the recommendation, indicating that “[c]onsent searches have long been recognized as a legitimate means of investigation and a fundamental strategy for crime prevention and detection for decades. The use of consent searches in many cases promotes efficiency in law enforcement.” POLICE REFORM COMMISSION REPORT, *supra* note 46, at 191. Although this may be a relevant consideration, concerns with efficiency should not undermine the confidence of the community or to circumvent higher standards of cause required to conduct a search.

¹⁶⁰ See Andrew Guthrie Ferguson, *The Dialogue Approach to Miranda Warnings and Waiver*, 49 AM. CRIM. L. REV. 1437, 1455–56 (2012) (“One study showed that forty-three percent of adult offenders and seventy percent of adult non-offenders misunderstand the right to silence in court. Similarly, twenty-one percent of adult offenders and thirty-five percent of adult non-offenders do not understand the right to silence in an interrogation.”); see also *From Stopping Black People to Killing Black People*, *supra* note 21, at 160 (“[P]eople seemed to consent to searches in the context of traffic stops because they think they have to, and that police officers seem to employ traffic stops to target African Americans for consent searches, does not matter under current Fourth Amendment doctrine.”).

¹⁶¹ See generally, Josephine Ross, *Can Social Science Defeat a Legal Fiction? Challenging Unlawful Stops Under the Fourth Amendment*, 18 Wash. & Lee J. Civ. Rts. & Soc. Just. 315 (2012); see also *From Stop and Frisk to Shoot and Kill*, *supra* note 67, at 1013 ([P]eople of color [] have to give up more of their privacy [and] [] have to consent to more intrusive searches than whites to erase the suspicions an officer may have about their criminality [and] people of color are less likely than whites to assert their constitutional rights.”).

¹⁶² See *id.* at 317 (“The people most likely to walk-children leaving inner-city schools, people without cars, those who live in poor neighborhoods-are the people most likely to be targeted for “consent” searches.”); see also, William J. Stuntz, “Miranda’s Mistake,” 99 MICH. L. REV. 975 (2001).

¹⁶³ Kayah Alexander, Josephine Ross, Patrice Sulton, & Leah Wilson, D.C. Just. Lab & STAAND, *Eliminate Consent Searches* (2020), available at <https://static1.squarespace.com/static/5edff6436067991288014c4c/t/5f81728032d45901b878f85f/1602318977141/Eliminate+Consent+Searches.pdf>.

¹⁶⁴ *Id.* at 3.

From a public safety standpoint, consent searches, although lauded as a convenient and necessary investigatory tool, also may not be truly effective. As an example, Maryland’s 2015 Race-Basic Traffic Stop Report revealed that consensual searches have the lowest “hit rate” across the board, and three out of four times that the police conducted consensual searches did not recover any contraband or weapon.¹⁶⁵ In addition, despite the higher likelihood that police will ask for consent to search Black and Latinx drivers, they have an even lower “hit rate” than white drivers.¹⁶⁶ A study in Illinois found similar results.¹⁶⁷

Thus far, Rhode Island is the only state that has legislatively banned the use of consent searches without independent reasonable suspicion in the context of traffic stops.¹⁶⁸ In addition to these changes, courts in Minnesota¹⁶⁹ and New Jersey¹⁷⁰ have also interpreted their state constitutions to prohibit consent searches of vehicles without reasonable suspicion unless a driver is involved in other criminal activity beyond the traffic violation for which he is stopped. In particular, the New Jersey Supreme Court had concern with “untrammeled discretion and abuse of discretion” as well as with the fact that warnings do not overcome the inherently coercive nature of requests for consent from uniformed officers on the side of the road. These concerns are universal, and the District of Columbia should follow suit in banning consent searches.¹⁷¹

c. Suggested Changes

1. Department-level: MPD should prohibit searches of person’s body or property based solely on the person’s consent and without any other justifying circumstances or independent cause;
2. Department-level: MPD officers should be prohibited from asking individuals questions that could reasonably amount to a consent search and should be trained to refrain from doing so;

¹⁶⁵ Toni Holnes, Testimony for House Judiciary Committee, ACLU Maryland, https://www.aclu-md.org/sites/default/files/field_documents/hb_1133_consent_search_ban.pdf.

¹⁶⁶ *Id.*

¹⁶⁷ Bandes, *supra* note 134, at 1768 (citing *Racial Disparity in Consent Searches and Dog Sniff Searches*, ACLU ILLINOIS (Aug. 13, 2014), <https://www.aclu-il.org/en/publications/racial-disparity-consent-searches-and-dog-sniff-searches> (“The Illinois ACLU study, based on information collected to comply with the Illinois Traffic Stop Statistical Study Act of 2003, found that in 2013, for example, black and Hispanic motorists were almost twice as likely as white motorists to have their vehicles consent-searched during traffic stops, yet white motorists were 49% more likely than black motorists, and 56% more likely than Hispanic motorists, to be found with contraband.”).

¹⁶⁸ R.I. Gen. Laws Ann. § 31-21.2-5 (West) (“No operator or owner-passenger of a motor vehicle shall be requested to consent to a search by a law enforcement officer of his or her motor vehicle, that is stopped solely for a traffic violation, unless there exists reasonable suspicion or probable cause of criminal activity.”).

¹⁶⁹ *State v. Fort*, 660 N.W.2d 415, 416 (Minn. 2003) (“[W]e conclude that in the absence of reasonable, articulable suspicion a consent-based search obtained by exploitation of a routine traffic stop that exceeds the scope of the stop’s underlying justification is invalid.”).

¹⁷⁰ See N.J. CONST, art. I, pt. 7.; *see also* *State v. Carty*, 790 A.2d 903, 908 (N.J. 2002) (“[An] officer’s decision to ask for consent to search is a purely discretionary one. ‘As Professor LaFave has noted, ‘a police procedure is less threatening to Fourth Amendment values when the discretionary authority of the police (and thus the risk of arbitrary action) is kept at an absolute minimum.’”).

¹⁷¹ Bandes, *supra* note 134, at 1766.

3. System-level: The D.C. Council should also enact legislation to prohibit consent searches to doubly ensure an end to the practice; and
4. Department and System-level: MPD and/or the D.C. Council should implement an anonymous feedback mechanism whereby individuals can immediately report complaints regarding violations of consent search policies to ensure that officers are abiding by consent search policies and to ensure oversight of those types of searches.¹⁷²

○ **Evidence Review for banning consent searches and increasing oversight of their occurrence**

The Lab found no rigorous scientific evidence that speaks to the effects of banning or otherwise changing consent searches. As the “” section notes, consent searches have only been banned through legislation in Rhode Island and we are unaware of any evaluations measuring the effect of that ban. If and when other jurisdictions adopt this policy, it represents an important avenue for future research.

10. Conclusion

The changes recommended above should be implemented in D.C. to reimagine modern policing and provide communities with the resources and support expressed during the Workshop Series.

¹⁷² *See Id.* at 1775 (“Given the vast disparities in the incidence and conduct of consent searches among neighborhoods, local governance initiatives have the ability and responsibility to gather evidence about how consent searches impact particular communities, and how best to address negative impacts in a way that garners community support and reaches the community effectively.”).