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## D.C.'s Criminal Legal Systems Overview 2022

## Acknowledgements

Anya Kreider was the primary researcher and author for this report, with contributions from Casey Anderson, Misty Thomas, and Nassim Moshiree. The Council for Court Excellence would like to acknowledge several staff members and community partners for their assistance in this report. We extend our appreciation to CCE Deputy Director Elisa Ortiz and CCE's Quantitative Research Fellow Lucas Fox. Special thanks to Aladdin Fawal, CCE intern, for his contributions to this report. Finally, thank you to our community partners: Eduardo Ferrer, Olinda Moyd, and Emily Cassometus.

### Public Welfare Foundation

This report was produced with funding from Public Welfare Foundation. For 75 years, Public Welfare Foundation has supported efforts to advance justice and opportunity for people in need. Today, the Foundation's efforts focus on catalyzing a transformative approach to justice that is community-led, restorative, and racially just through investments in adult criminal justice and youth justice reforms. These efforts honor the Foundation's core values of racial equality, economic well-being, and fundamental fairness for all.

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### Council for Court Excellence

For over 40 years, CCE has worked to enhance the legal system in the District of Columbia to serve the public equitably. CCE identifies and proposes solutions by collaborating with diverse stakeholders to conduct research, advance policy, educate the public, and increase civic engagement.

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## About the Report

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This year's report is entitled *D.C.'s Criminal Legal Systems Overview 2022* in recognition of a shift in language in the advocacy community. By refraining from the use of the term "justice system," we acknowledge the lack of justice for many in a system often plagued by racism, discrimination, and inhumane practices.

## About the Artists

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In light of the prominent conversations about statehood in 2022 and the consistent tension between local and federal influence in the District, this report features murals from across D.C. to highlight the vibrant and creative community here. We are grateful to MuralsDC<sup>1</sup> for donating *Metamorphosis*, a mural they commissioned by the Ward 7 Arts Collaborative, as well as to Rose Jaffe for donating her piece *Let. Go.*

We encourage you to explore the other work of the talented artists found throughout this report: Shani Shih, Alicia Cosnanahan, Shawn Perkins, the Ward 7 Arts Collaborative (MuralsDC), Rose Jaffe, Jay Durrah, and Trap Bob. Thank you to each one of them for their contributions to this report.

# LETTER FROM CANDICE JONES

**What will it take to truly achieve justice?**

**Simply put, everything.**

Everything that works is what it'll take.

A new, transformative approach to justice is possible. To realize it, we need every avenue to be explored, every method entertained, and every voice welcomed to create solutions to answer the questions of our day.

For over 75 years, Public Welfare Foundation has supported efforts to advance justice and opportunity for people in need. Today, our efforts focus on catalyzing a transformative approach to justice that is community-led, restorative, and racially just through investments in adult criminal and youth legal system reforms.

Driving resources to the areas of greatest need and investing in community-led transformative justice solutions is more important than ever. We must help fund and grow systems of support that are comparable to the growing need in our communities.

That's why Public Welfare Foundation invests deeply in local ecosystems throughout the country. We began this approach in our

hometown of Washington, D.C., a city with unique governance and structural traits that make legal system reform especially challenging. Despite being one of the most heavily policed cities in the country, it is also a city ripe for reform, with community-based leadership developing new solutions for policymakers to test and scale.

This report is designed to provide consistent information about the functioning of local legal systems and allow District residents to better understand how their resources are being used. Consistent information about system functioning can move public discourse beyond broad rhetorical frames to real accountability. No one organization will be able to transform D.C.'s youth and adult legal systems but one of the most important allies in that work is a well informed and engaged public.

We hope this Overview provides some of the needed grounding to advance a transformative vision of justice in D.C.



Candice Jones  
*President and CEO*  
*Public Welfare Foundation*

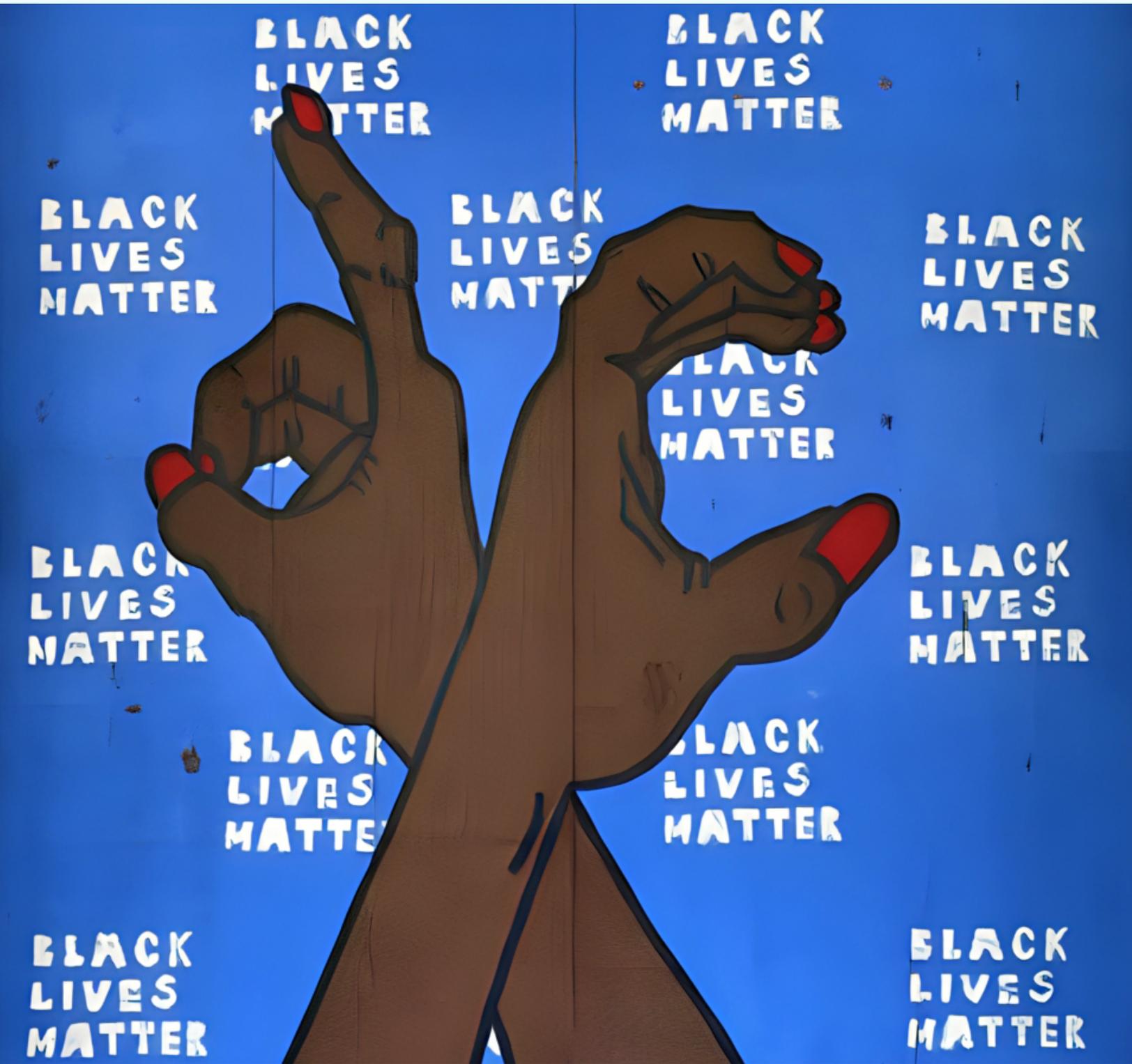


Image: "DC" by Alicia Cosnanahan, ©2020 Alicia Cosnanahan

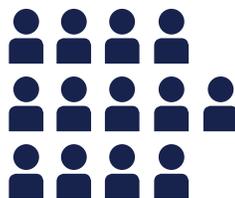
# Introduction

As D.C. began to emerge from the most devastating impacts of the COVID-19 pandemic in 2022, community members and government leaders continued to navigate challenges caused and exacerbated by trauma, isolation, and disruptions over the past three years. Community safety and the administration of justice remained prominent concerns for District residents and policymakers. Many grappled with police accountability, certain elements of a revised criminal code proposal, an increasing number of homicides, the overdue need for a new jail facility and men's halfway house, and how to better support returning citizens and youth.

Many jarring statistics emerged about the criminal legal system's impacts on the people of the District during 2022 – trends that showed stark disparities, as well as tragic impacts, on families and communities. For example, Black D.C.

residents were met with police force 13 times the rate of white residents, and eight people died in D.C. Department of Corrections (DOC) custody during 2022. District youth suffered from higher levels of fatal gun violence than in 2021, with 18 youth losing their lives in 2022.

**Black D.C. residents were met with police force 13x the rate of white residents.<sup>2</sup>**



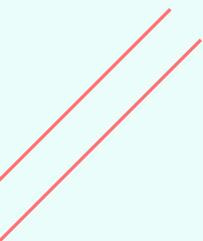
**Eight people died in DOC custody during 2022.<sup>3</sup>**

However, amid the challenges, D.C. also proved its resilience and resolve, working towards transformative solutions to violence and crime. For example, community leaders collaborated to provide violence intervention trainings and interruption programs, youth called for increased mental health support for themselves and their peers, and residents and activists voiced the qualities they want to see in any future jail facility. Local leaders came together to pass comprehensive police accountability reform; the D.C. Clemency Board began accepting applications; and many civic organizations successfully rallied the U.S. Senate to confirm judicial nominees to D.C. Courts before the close of the year.

In addition to providing more context for some of the developments described above, this report offers a snapshot of the significant challenges, advocacy, and reforms within the District's adult and youth criminal legal systems throughout 2022. It builds on prior reports [\*D.C.'s Justice Systems Overview 2021\*](#), [\*D.C.'s Justice Systems Overview 2020\*](#), and [\*D.C. Justice Systems: An Overview\*](#), published in 2019.

As with any report that relies on governmental information, there is often a lag between the events and the policy changes that can be described or the data that is available. Therefore, in this report, the most recent comprehensive data is often from 2021 or earlier, though we have done our best to incorporate 2022 data when available. We anticipate offering more data about 2022 in the next edition of this annual report.

We hope this report provides a glimpse into the District's criminal legal system in 2022. Unsurprisingly, a report like this cannot feature everything that occurred in a jurisdiction of nearly 700,000 people over the course of a year. Nevertheless, we hope that when you read this report, you learn new things and become interested in learning more about some of the topics. We also hope that you finish with a feeling that, although 2022 was marked by many losses and challenges, the District community also exhibited great effort and progress to increase residents' agency over solutions to conflict and violence, address inequity, and center those people most directly impacted by the criminal legal system.



A note on language: In this report, CCE sought to use “people first” language and generally uses terms like “incarcerated person” unless quoting a direct source or referring to an official or legal term. The report uses the phrase “returning citizen” to describe the people around whom this report centers because it is the preferred terminology in the District, as expressed by the community of people who have been directly affected by involvement with the criminal legal system. “Returning citizen” includes both previously incarcerated people and people with criminal records, classifications which often, but do not necessarily, overlap. It does not refer to a person’s citizenship or immigration status.

# Violence & Policing

2022 marked a continuation of challenges and efforts to meaningfully improve community safety and reduce incidents of violent crime in the District.

According to the Metropolitan Police Department's (MPD) year-end data, incidents of crime overall fell 4% in 2022 compared to 2021, and incidents of violent crime fell 7%, with robberies alone increasing amongst violent crimes, which increased by 2%.<sup>4</sup> Nevertheless, community concerns about perceived increases in crime continued to dominate public safety discourse.

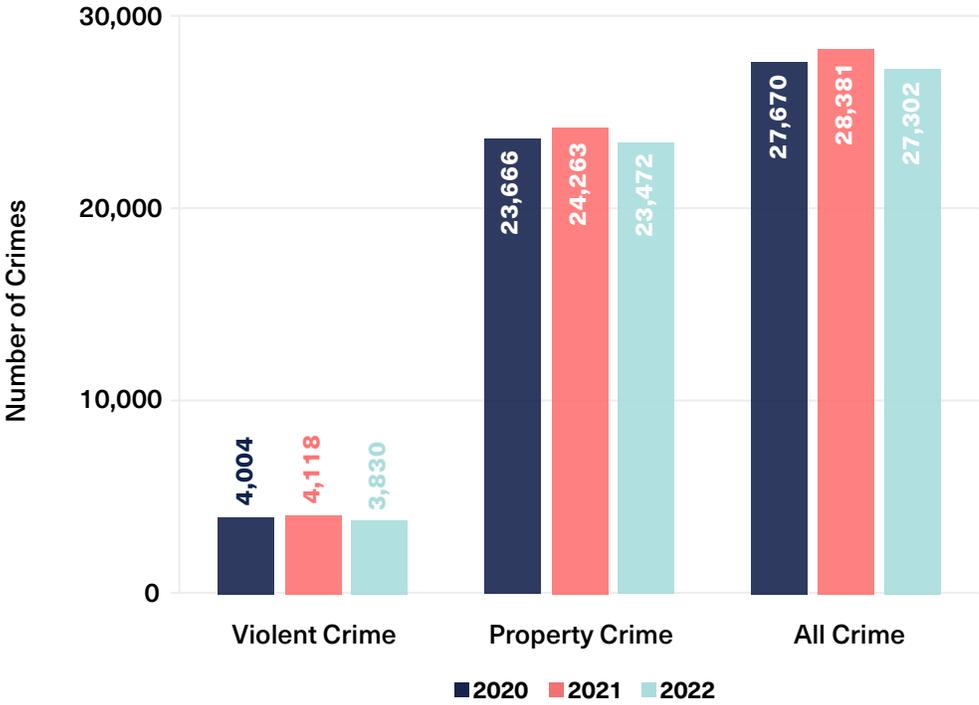
The increase in crimes involving guns over the past several years has contributed to the disconnect between the declining violent crime rate and the public perception of an increase in crime. The percentage of violent crimes involving a gun increased from 54.3% in 2021 to 58% in 2022.<sup>5</sup> Another major concern in the District is the increase in young people impacted by gun violence.

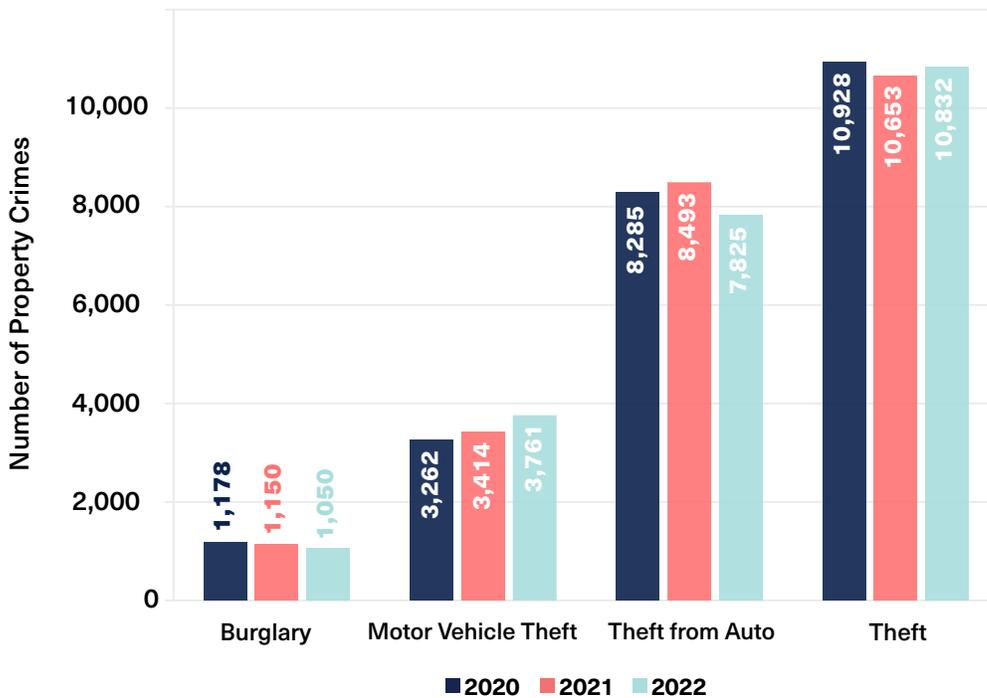
**Incidents of crime overall fell 4% in 2022 compared to 2021, and incidents of violent crime fell 7% in 2022.**



Above Image: "Black Lives Matter, The Story" by Shawn Perkins, ©2020 Shawn Perkins SP THE PLUG, LLC

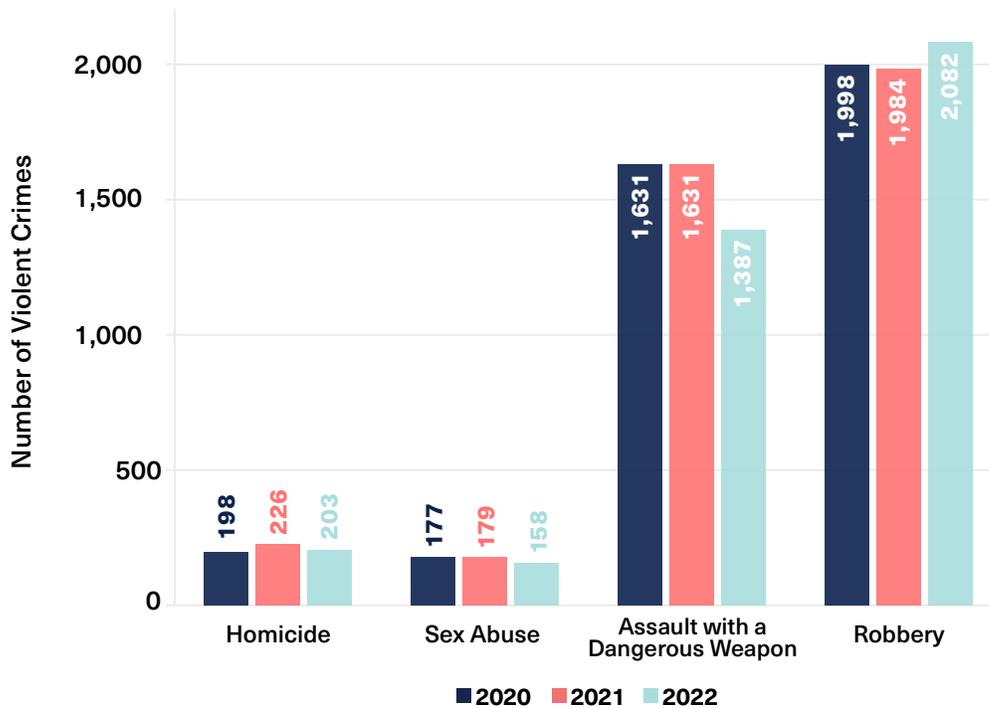
Number of Crimes, by Category, 2020-2022.<sup>6</sup>



Number of Property Crimes, by Type, 2020-2022.<sup>7</sup>

Eighteen of the 203 people killed in the District in 2022 were children.<sup>8</sup> While District leaders and experts have acknowledged that the factors leading to shootings are complex and require comprehensive approaches to address successfully, stopping gun crime remained a major focus in 2022. District leaders debated about the ratio of police to non-police violence intervention and prevention resources the District should invest to address the concern.

The role and impact of policing on communities of color was also a focus of public safety discourse in 2022. Policing data continued to reflect deep racial disparities in law enforcement practices. New data showed that MPD officers continued to engage in disproportionate levels of use of force against Black residents. Black people were subject to 13 times the number of use of force incidents when compared to white residents in 2021, despite Black residents comprising less than 46% of the District's population.<sup>9</sup> The D.C. Council passed various bills to address transparency over police practices, study police efficacy, and improve police accountability after years of debate and discussion.

Number of Violent Crimes, by Type, 2020-2022.<sup>10</sup>

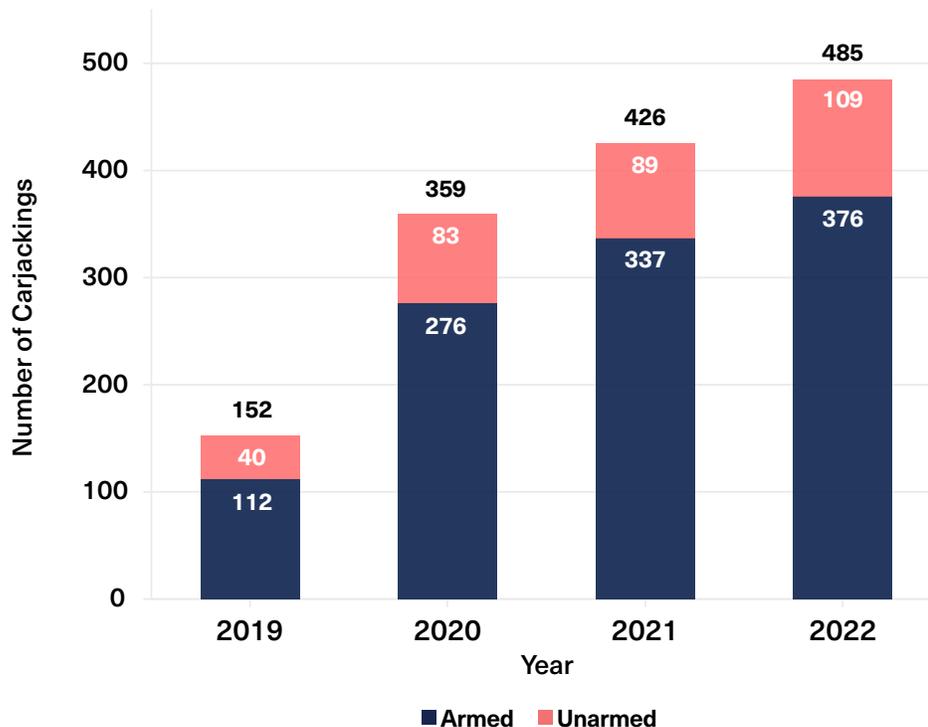
## CHALLENGES

### Increased Gun Violence and Access to Guns.

District law enforcement officials have identified the proliferation of guns as a critical driver of increased gun violence in recent years. There were 174 fatal homicide shootings in the District in 2022, a 29% increase above 2019 pre-pandemic numbers, which saw 135 fatal homicide shootings.<sup>11</sup>

96% of both victims and suspects of fatal and non-fatal shootings in the District are Black, and 89% of victims and suspects are male.<sup>12</sup> 66% of homicide victims and suspects and 64% of victims and suspects in non-fatal shootings are adults between the ages of 18-34.<sup>13</sup> These incidents of gun violence have taken incalculable emotional and mental tolls on victims, families, and communities in the District. In addition to the devastation and trauma on individuals and

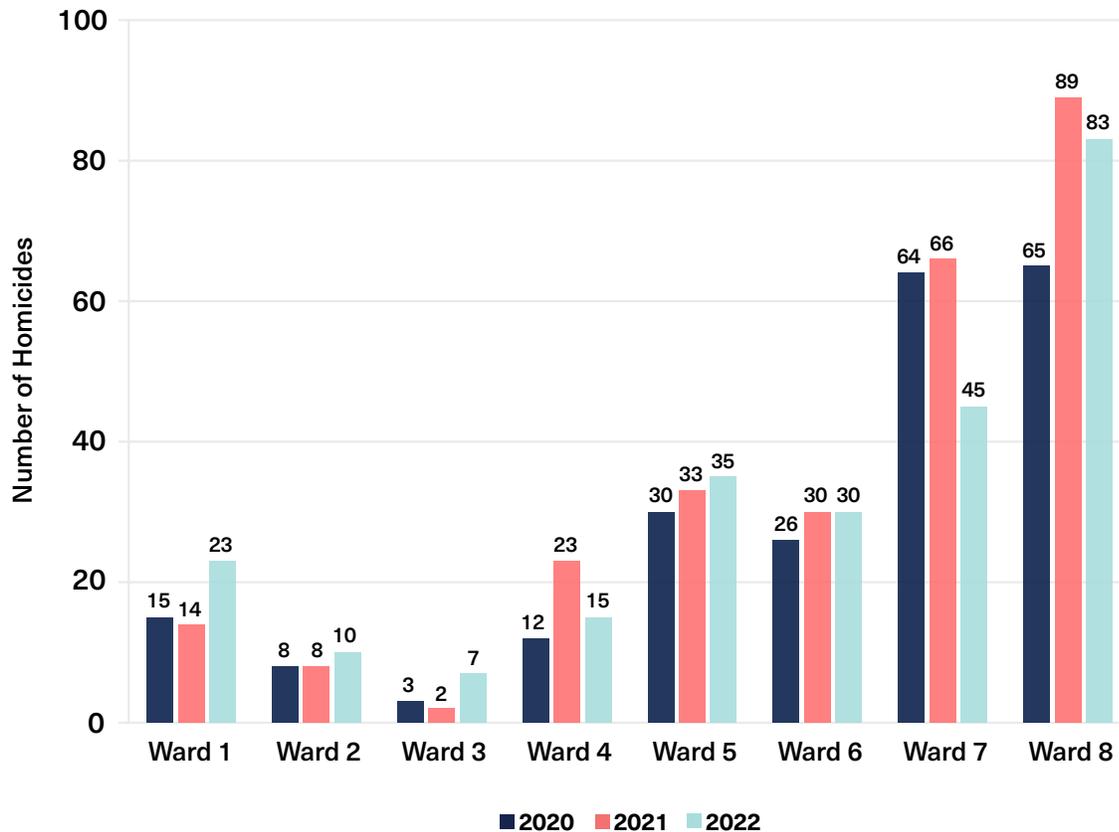
### Armed and Unarmed Carjackings, 2019-2022.<sup>14</sup>



Note: For more information on carjackings see the Youth Justice Chapter.

communities, a report commissioned by the nonprofit Peace for DC and released in April 2022 calculated incidents of gun violence cost the District more than \$1 billion in 2021.<sup>15</sup>

Controlling access to guns to prevent such incidents remained a key challenge in 2022. Despite comparatively strict local gun possession laws, the District struggled to prevent guns from flowing into D.C. from surrounding jurisdictions with more permissive gun laws.<sup>16</sup> One major obstacle is the ease of access to “ghost guns,” so-called because they are assembled privately and are largely untraceable because they are unregistered and not serialized.<sup>17</sup> In August 2022, the Office of the Attorney General for the District of Columbia (OAG), announced a \$4 million settlement in its lawsuit against Polymer80, a major manufacturer of ghost guns, for making false and misleading claims about the legality of its products.

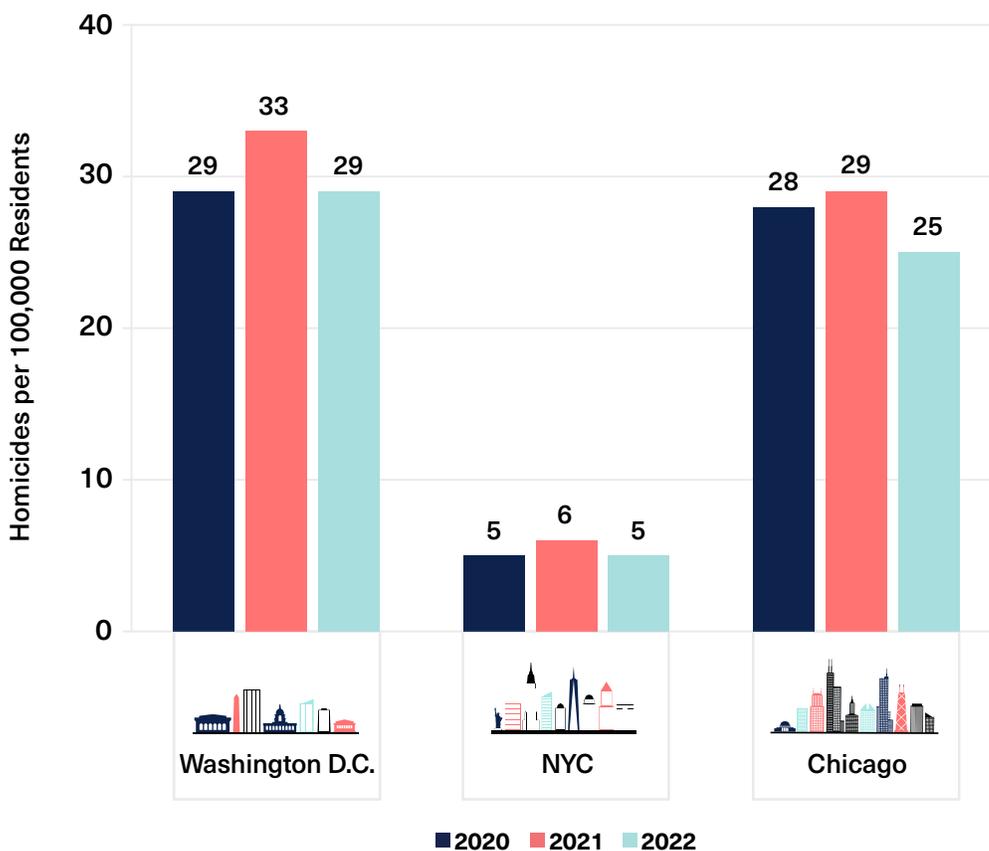
Homicides, by Ward, 2020-2022.<sup>18</sup>

### Lack of Data on Varied Approaches to Violence Prevention.

Over the last several years, the Mayor and the D.C. Council increased investments in violence interruption and intervention programs in the District, in recognition that effectively addressing violence requires a comprehensive, public-health centered approach that does not task law enforcement with the full responsibility to reduce crime.<sup>19</sup> However, ongoing debate about the efficacy of the varied and disconnected approaches, as well as the funding for and the size of the police force, continued to dominate public debate in 2022. A significant challenge in determining how best to invest District resources to combat violent crime has been the lack of consistent data and objective evaluation of both MPD and non-police violence prevention and intervention approaches.<sup>20</sup>

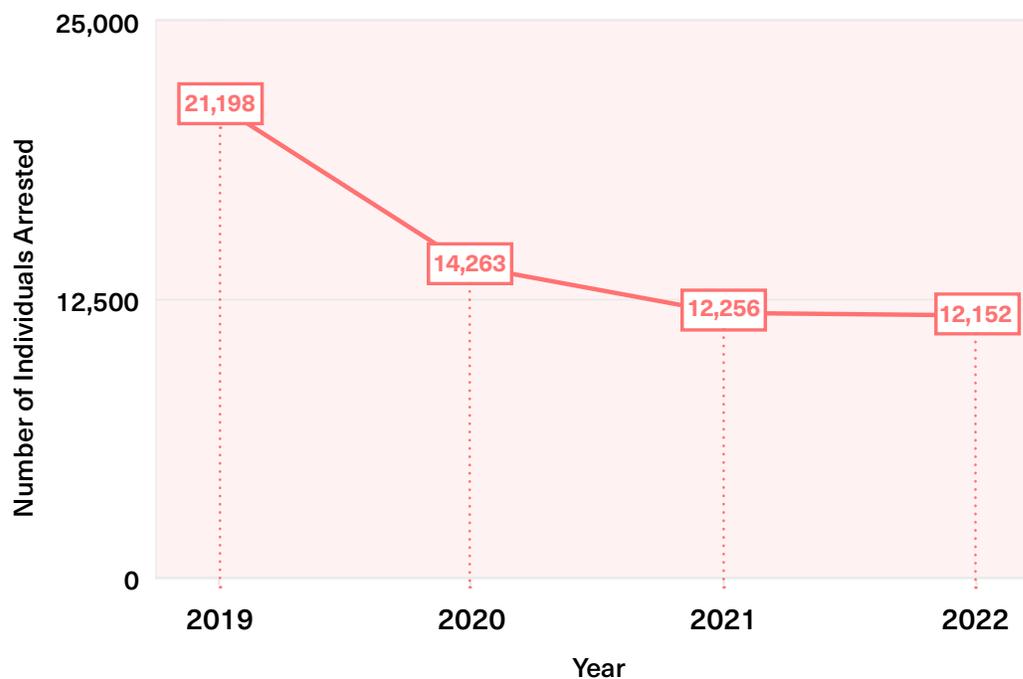
Non-police violence prevention and intervention programs, such as Pathways, run through the Office of Neighborhood Safety and Engagement (ONSE), the Cure the Streets Program operated by OAG, and a hospital-based intervention program through the Office of Victim Services and Justice Grants (OVSJG), received roughly \$20 million in investment in Fiscal Year (FY) 2023, as compared to the \$526.1 million for MPD.<sup>21</sup> While these programs have shown early promise in reducing rates of violent crime, researchers, advocates, and evaluators assert that they have insufficient funding and community reach, as well as a lack of clear metrics by which their progress can be clearly evaluated.<sup>22</sup>

Homicide Rate, by City, 2020-2022.<sup>23</sup>



Note: Data based on the populations of each city proper, not the full metropolitan areas.

### Individuals Arrested by MPD, 2019-2022.<sup>24</sup>



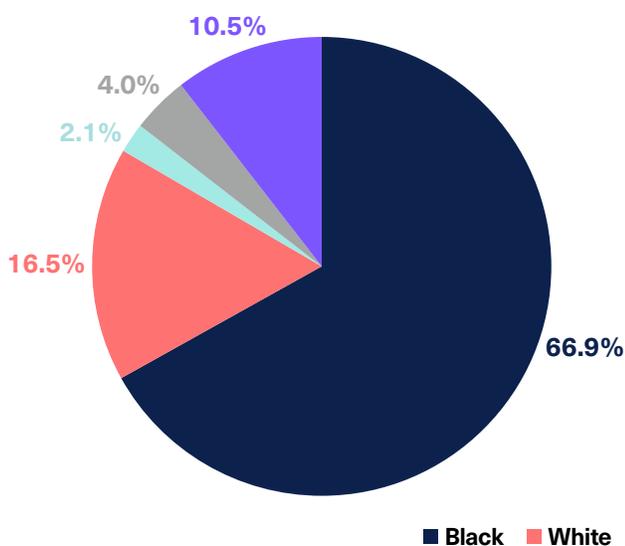
In addition to the programs noted above, the Mayor's Building Blocks DC initiative, a public health approach to crime reduction, was restructured after only one year of operations, prompting Councilmember questions about its operations, metrics, and overall effectiveness.<sup>25</sup> In 2022, Mayor Bowser also launched a new initiative called the People of Promise Program, referring to the roughly 200 individuals deemed most at-risk of committing or falling victim to violence and identified for intervention that includes individualized treatment plans and connections to resources. Critics of the program raised concerns that the rollout was too slow and that the list of people was distributed too widely among service providers, leading to stigma and resistance to engage. As of October 2022, D.C. had not contacted roughly half of the people on the list.<sup>26</sup> Proponents of the program noted that the framework could offer the coordination that other violence intervention programs have been accused of missing, and connect people with resources quickly.<sup>27</sup>

### Racial Disparities in MPD Stops and Use of Force.

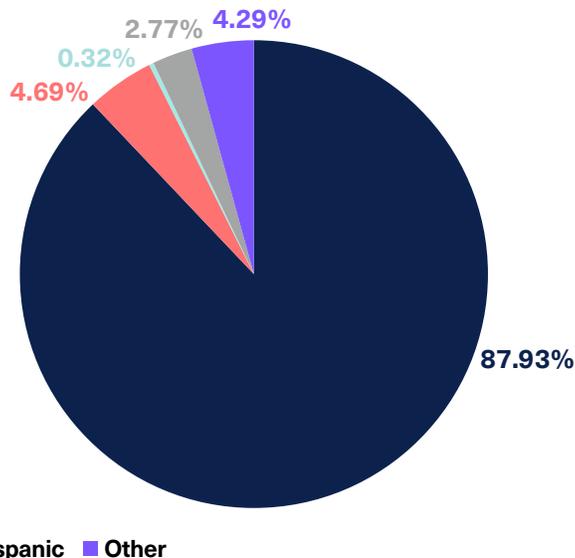
Black residents make up 46% of the District’s population, but 67% of all non-arrest police stops, and over 85% of subjects of reported use of force incidents according to the most recently available data collected by MPD.<sup>28</sup>

In June 2022, the D.C. Office of Police Complaints released its annual report on MPD’s use of force in the District, covering the calendar year 2021.<sup>29</sup> The report showed a continued trend of MPD officers disproportionately using force against Black residents. In 2021, MPD officers discharged their firearms at 20 people and one dog, resulting in the death of five individuals, all of whom were Black men. More than 85% of all reported use of force incidents were against Black community members. 56 officers reported using force five times or more in 2021. Additionally, ten officers reported using force ten times or more, highlighting that some officers use force far more frequently than their peers. Lastly, the individuals targeted were armed in only 24% of reported use of force incidents.

Race of Individuals in Non-Arrest MPD Stops, 2021.<sup>30</sup>



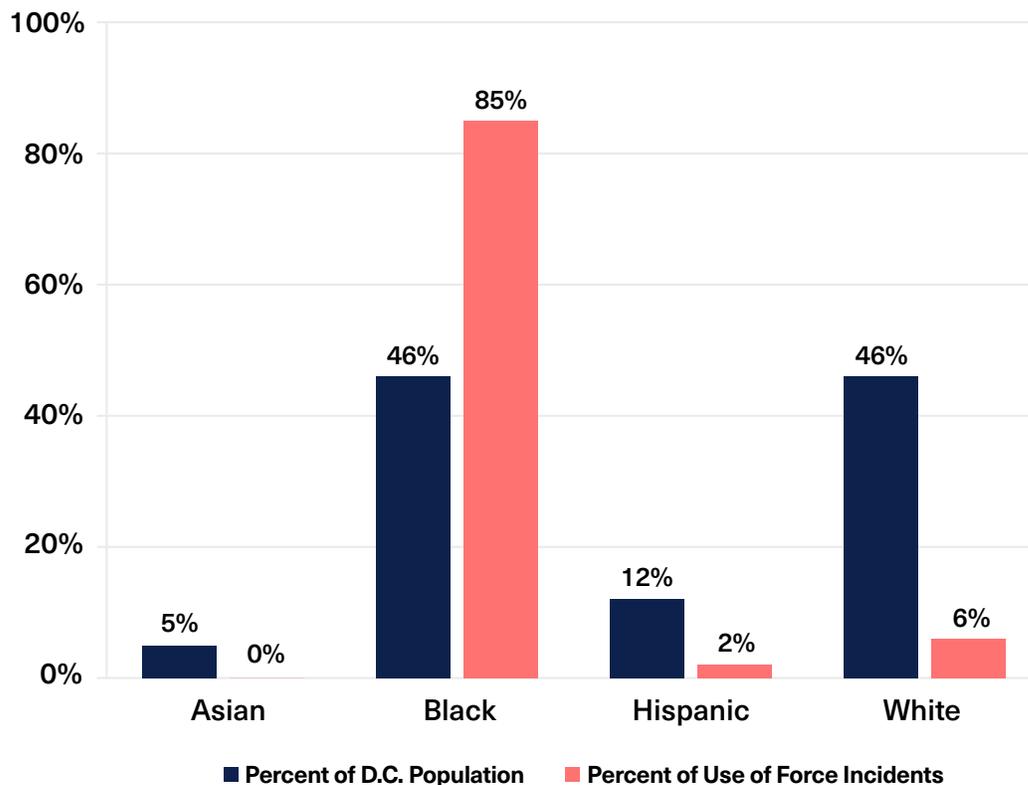
Race of Individuals Arrested in MPD Stops, 2021.<sup>31</sup>



## The Cost of Police Misconduct.

The Office of the District of Columbia Auditor (ODCA) reported in October 2022 that between 2015 and 2020, 36 officers who had been terminated from MPD for misconduct were subsequently reinstated at a cost of \$14.3 million to the District in settlement payments and back pay.<sup>32</sup> Arbitration, a key part of the disciplinary process that allows a third party to reverse termination decisions, led to the reinstatement of officers who exhibited harmful behavior, including physical and sexual assault, child abuse, compromising evidence, or crashing vehicles while intoxicated. ODCA categorized the behavior of 17 of the reinstated officers as a “threat to safety.” Following their reinstatement, MPD reported 33 additional instances of misconduct by the 37 officers detailed in the report. Key among ODCA’s recommendations was for the D.C. Council to

### MPD Use of Force Incidents: Subject’s Race Compared to Percentage of D.C. Population, 2021.<sup>33</sup>



Note: These figures do not add up to 100% because the racial categories are not mutually exclusive, and the race of all subjects was not known based on MPD data.

eliminate arbitration as part of the police disciplinary process, a measure largely supported by both the D.C. Council and MPD Chief Contee. A *Washington Post* investigation showed that between 2010 and 2020, police misconduct cost D.C. taxpayers over \$90 million, including claims against 65 officers involved in repeated claims.<sup>34</sup>

## DEVELOPMENTS & RESPONSES

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### **Historic Conviction in the Death of Karon Hylton-Brown.**

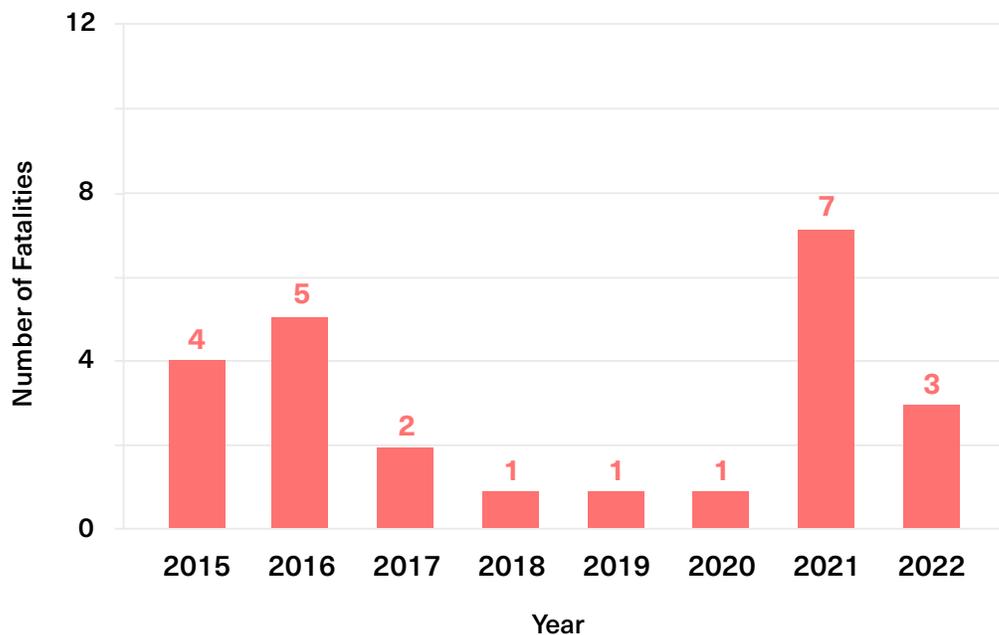
In 2022, for the first time in known history, D.C. police officers were charged, and convicted, of an on-duty death.<sup>35</sup> Karon Hylton-Brown, 20, died from injuries he suffered when his moped crashed into oncoming traffic as he fled a police chase in 2020.<sup>36</sup> During the eight-week trial, the jury deliberated for five days before finding Officer Terence Sutton, 38, guilty of second-degree murder for violating a police policy prohibiting officers from initiating a vehicle chase for a traffic violation and conducting an illegally reckless pursuit. Lieutenant Andrew Zabavsky, 54, was found guilty of conspiracy and obstructing justice for attempting to cover up the chase and the seriousness of the crash.<sup>37</sup> As of the end of 2022, Sutton and Zabavsky remained free on bail awaiting sentencing.<sup>38</sup>

Hylton-Brown's death, along with other incidents, was cited as an motivating factor for the D.C. Council's passage of legislation further restricting vehicular pursuits by police officers in December 2022 as part of the "Comprehensive Policing and Justice Reform Amendment Act."<sup>39</sup>

### **Expansion of Violence Intervention Programs.**

In response to the trauma faced by communities most impacted by gun violence, new community-led initiatives to address crime and facilitate healing were launched in 2022, additional resources were deployed, and some coordination increased. For example, Peace for DC, a new privately-funded group, launched "Peace Academy" in June 2022.<sup>40</sup> The program offers a 13-week training to frontline violence intervention workers. Peace for DC hopes that by bringing violence intervention workers together to learn from one

### Fatalities from D.C. Law Enforcement Shootings, 2015-2022.<sup>41</sup>



Note: D.C. Law Enforcement includes MPD, Prince George County Police Department, Metro Transit Police Department, Capitol Police, Secret Service, Marshals Service, and U.S. Park Police.

another, the program will foster greater collaboration in violence intervention initiatives. Peace for DC also increased calls for greater government leadership in advancing communication and collaboration between such violence prevention initiatives.

OAG's Cure the Streets program also expanded in 2022. The program, based in targeted neighborhoods that have historically experienced some of the highest rates of gun violence, added four new program locations and additional funding. Cure the Streets now includes ten program sites, operated by five different community-based organizations.<sup>42</sup> In FY 2022 the program organized 31 community responses to shootings, conducted 730 mediations, and engaged 224 program participants.<sup>43</sup> The rate of mediations and number of program participants has increased significantly since Cure the Streets began in 2019. However, early data does not reflect decreased levels of gun-related crimes in the target neighborhoods and suggests mixed results regarding the impacts of Cure the Streets.

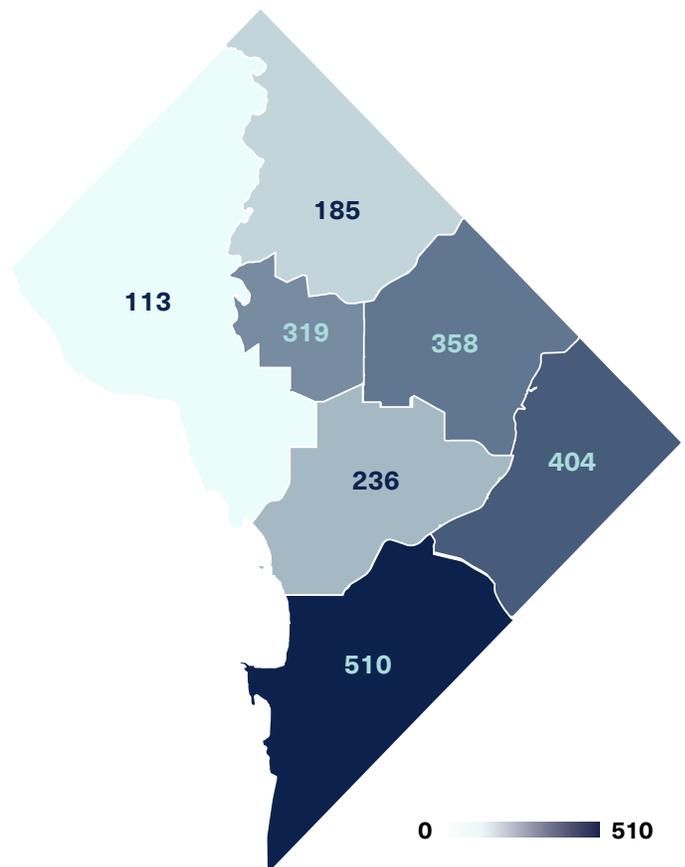
The District also opened a new Domestic Violence Intake Center in Anacostia in 2022.<sup>44</sup> The Center offers wrap-around services through collaboration with the D.C. Courts' Domestic Violence Division, DC SAFE, MPD, the Legal Aid Society, and OAG. Survivors of domestic violence can come to the intake center to meet with an advocate, make a police report, file for a protection order, participate in a remote emergency court hearing for a protection order, and access victims' benefits.

The District also made strides in bolstering coordination between violence intervention programs.<sup>45</sup> In 2022, the Deputy Mayor for Public Safety and Justice (DMPSJ) began organizing coordination calls among violence interruption programs through a weekly briefing.

### MPD Updates Use of Force Policy.

On January 1, 2022, an updated version of MPD's Use of Force Policy went into effect, which includes prohibitions on when an officer can use or threaten to use force, and factors that officers should consider in determining how much force to use.<sup>46</sup> MPD clarified reporting requirements and investigation procedures through the new policy. For example, the reporting requirements delineate when conduct must be reported immediately, as opposed to by the end of the shift, as well as what conduct warrants investigation.<sup>47</sup> The revised Use of Force Policy is aligned with the recommendations of the District Task Force on Jails & Justice and the D.C. Police Reform Commission.<sup>48</sup>

Use of Force Incidents, by Police District, 2021.<sup>49</sup>



### **D.C. Council Passes Police Accountability Reforms.**

In June 2022, the D.C. Council passed the “Metropolitan Police Department Budget and Staffing Transparency Emergency Amendment Act of 2022,” to mandate greater transparency in MPD’s staffing and budget practices.<sup>50</sup> The law requires MPD to periodically publish data on its website, including information on the number of sworn officers and civilian employees, as well as information on vacant positions, and overtime spending. MPD must also publish its use of force and stop data biannually and include stop data details such as the division, unit, and if applicable, police service area and rank of the officer who conducted the stop.<sup>51</sup> The law will go into effect on April 1, 2023.<sup>52</sup>

In December 2022, the D.C. Council unanimously passed the “Comprehensive Policing and Justice Reform Amendment Act of 2021,” which places restrictions on harmful police practices including prohibiting neck restraints, restricting the use of chemical weapons, and limiting vehicular pursuits.<sup>53</sup> Many of the provisions incorporate recommendations published by the D.C. Police Reform Commission in 2021. The legislation includes transparency and accountability provisions that improve public access to body-worn camera footage, expand membership of the Use of Force Review Board, and create a public database of police misconduct. A temporary, less robust version of this legislation was in effect in 2022,<sup>54</sup> prior to the December passing of the “Comprehensive Policing and Justice Reform Amendment Act of 2021,” which will go into effect in 2023, following the required congressional review period.

**Black residents make up 46% of the District’s population, but 67% of all non-arrest police stops, and over 85% of reported use of force incidents according to the most recently available data collected by MPD.**

# Adult Prosecution & the Courts

2022 represented a year of both significant challenges and progress for the District's courts and criminal legal system.

The D.C. Council undertook a comprehensive modernization of the District's criminal code in 2022, the culmination of a 16-year planning process.<sup>55</sup> That proposed overhaul represented the first comprehensive revision of the D.C. Code since 1901, when Congress first codified District criminal statutes.<sup>56</sup>

D.C.'s local courts, which rule on matters of District law but operate under the authority of the federal government, continued to face high levels of judicial vacancies in 2022 that contributed to lengthy delays in court cases, and were partially addressed by a flurry of confirmations in the U.S. Senate in December. While those new judges reflect meaningful progress in filling the almost 25% vacancy rate in D.C. Superior Court, at least eight vacancies remained at the end of 2022. Court backlogs also began to decrease; at the end of 2022, there were 1,532 felonies pending in D.C. Superior Court, as opposed to 2,589 at the end of 2021.<sup>57</sup> Finally, the District grappled with the ongoing repercussions of the D.C. Department of Forensic Sciences losing its accreditation in the spring of 2021 and remaining unaccredited throughout 2022, amid ongoing critiques of its methods and results.



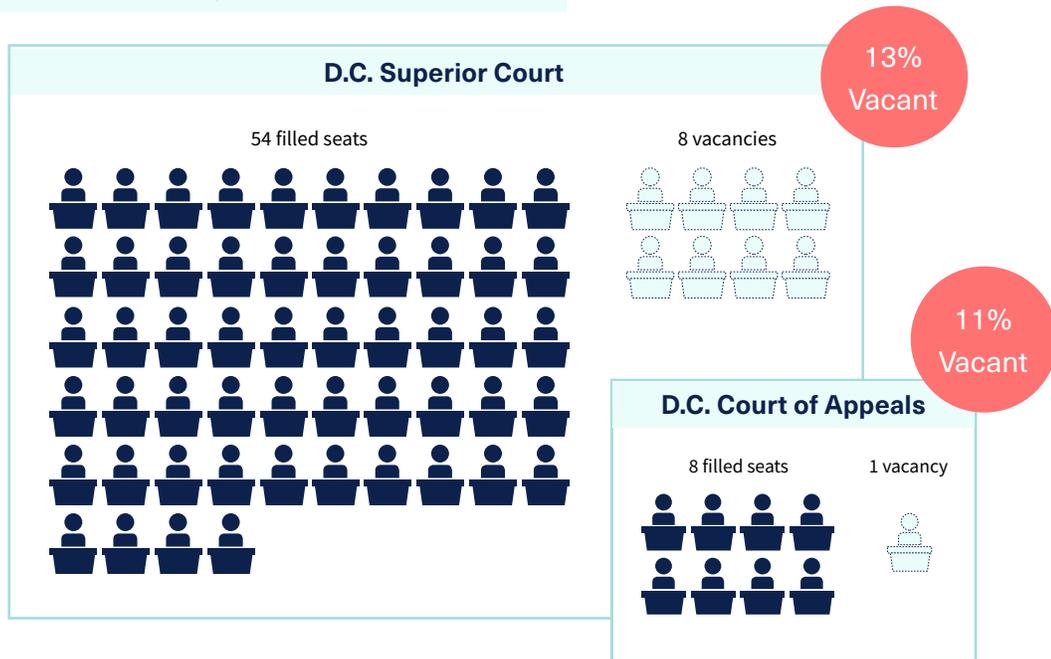
Image: "Defiant" by Shani Shih, ©2021 Shani Shih

# CHALLENGES

## Continued Judicial Vacancies in D.C. Courts.

Judicial vacancies continued to affect the capacity and efficiency of the District's local courts. Despite the U.S. Senate's confirmation of eleven new judges for D.C. Superior Court and three for the D.C. Court of Appeals,<sup>58</sup> the D.C. Courts ended the year with nine additional vacancies. These remaining vacancies leave the District with an almost 13% reduction in total trial court capacity, and an 11% reduction in appellate court capacity as of the end of 2022.

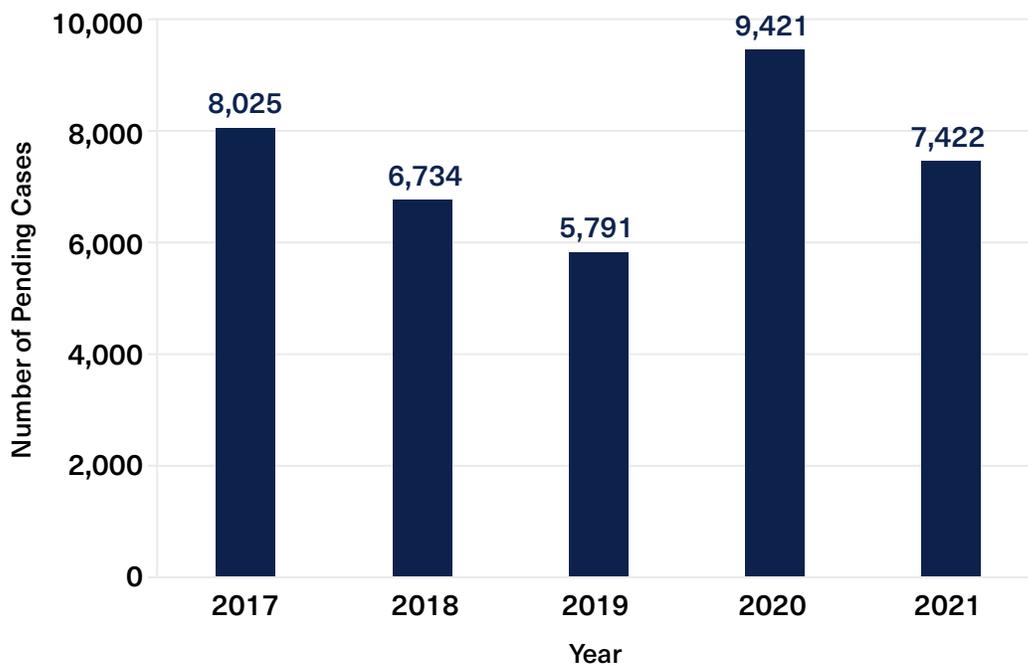
Judicial Vacancies, as of December 2022.<sup>59</sup>



Delays in the D.C. Courts' ability to process cases caused by vacancies – and made worse by the pandemic – affect the daily lives of thousands of residents. The D.C. Courts handle most criminal cases related to violations of the D.C. Code, as well as a wide array of civil and family matters like child abuse and neglect, domestic violence, adoption and custody, probate, landlord-tenant, small claims, and commercial matters. For people who have been charged with

a crime and are being detained pretrial, court backlogs can extend their incarceration, increasing the impacts on employment, housing, and child custody. The fact that the U.S. President nominates, and the Senate confirms D.C.'s judges is one of many unique elements of the District's legal system. No locally-elected official can compel the federal government to act on pending judicial vacancies, and in recent years several nominations have lapsed without Senate consideration.<sup>60</sup> Representatives of the D.C. Courts note that they expect additional vacancies in 2023.<sup>61</sup>

#### D.C. Superior Court Criminal Cases Still Pending at the End of Each Year, 2017-2021.<sup>62</sup>



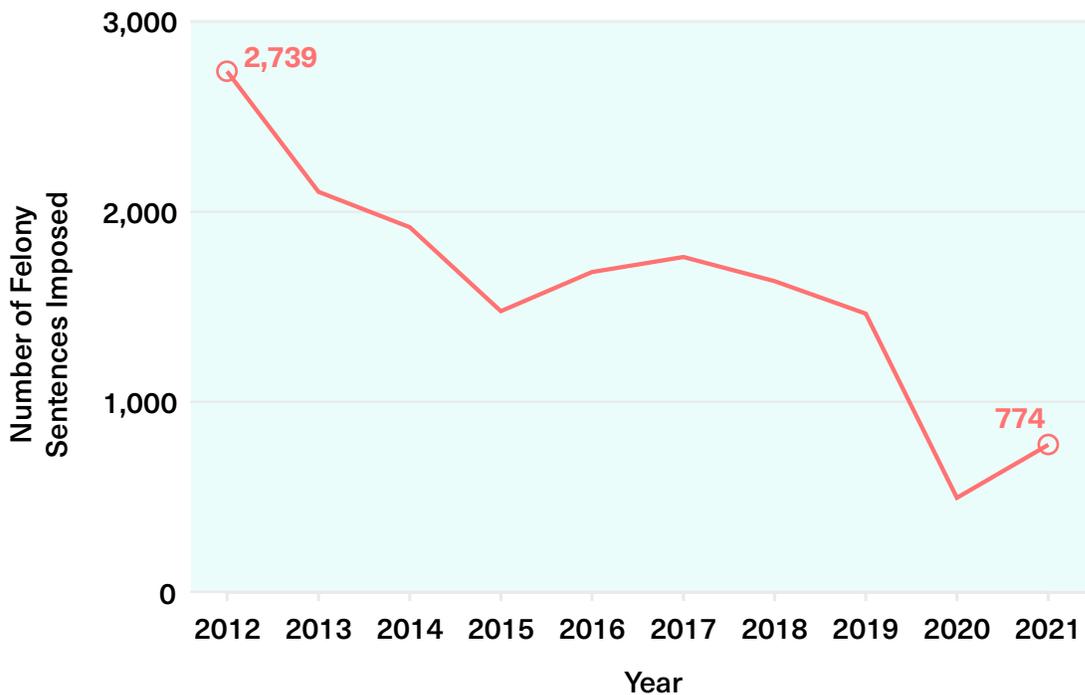
#### D.C. Crime Lab Oversight Challenges Continue.

The District continued to experience a backlog in evidence testing for criminal cases in D.C. Superior Court after the D.C. Department of Forensic Sciences (DFS), which examines physical evidence from any D.C. governmental agency investigating a criminal offense, lost accreditation in 2021.<sup>63</sup> Since the loss of its accreditation, DFS has relied on other private and state labs, including in states like Connecticut and Wyoming, to examine evidence.<sup>64</sup> Additionally, the

Drug Enforcement Administration (DEA) entered into a one-year agreement with federal prosecutors in March 2022 to assist with drug analysis to help address the backlog in drug testing. Sending evidence to outside jurisdictions has slowed processing times and capacity, raising concerns over the impact on case closure rates, public safety, and, as D.C. Councilmember Charles Allen said, “the administration of justice on all sides.”<sup>65</sup> In December 2022, the Office of the D.C. Auditor reported that DFS still had not reached independence given a “lack of resources, inconsistent regulations, and partners circumventing the statutory oversight structure.”<sup>66</sup>

The D.C. Council unanimously passed the “Restoring Trust and Credibility to Forensic Sciences Amendment Act of 2022” in December 2022.<sup>67</sup> The law provides mechanisms to increase transparency, address errors, and maintain qualified leadership of the agency. It also addressed concerns raised by the D.C. Auditor, such as increasing access to records by the Science Advisory and Review Board, a new oversight body created by the legislation. Implementation of the new law and, ultimately, DFS reaccreditation remain pending as of the end of 2022.

**D.C. Superior Court Felony Sentences Imposed, 2012-2021.<sup>68</sup>**



## DEVELOPMENTS & RESPONSES

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### **D.C. Council Revises Local Criminal Code.**

D.C. completed the legislative process to comprehensively revise its local criminal code in 2022, the first such revision in more than a century. The Criminal Code Reform Commission (CCRC), an independent agency, worked for over 16 years to propose model reforms to the Mayor and the D.C. Council that focused on improving the clarity, consistency, completeness, and proportionality of the D.C. Code sections related to criminal law.<sup>69</sup> Voting members of the CCRC's advisory group included representatives from the Office of the Attorney General for the District of Columbia, the Public Defender Service for the District of Columbia, the U.S. Attorney's Office for the District of Columbia, and two expert professors from District area law schools.

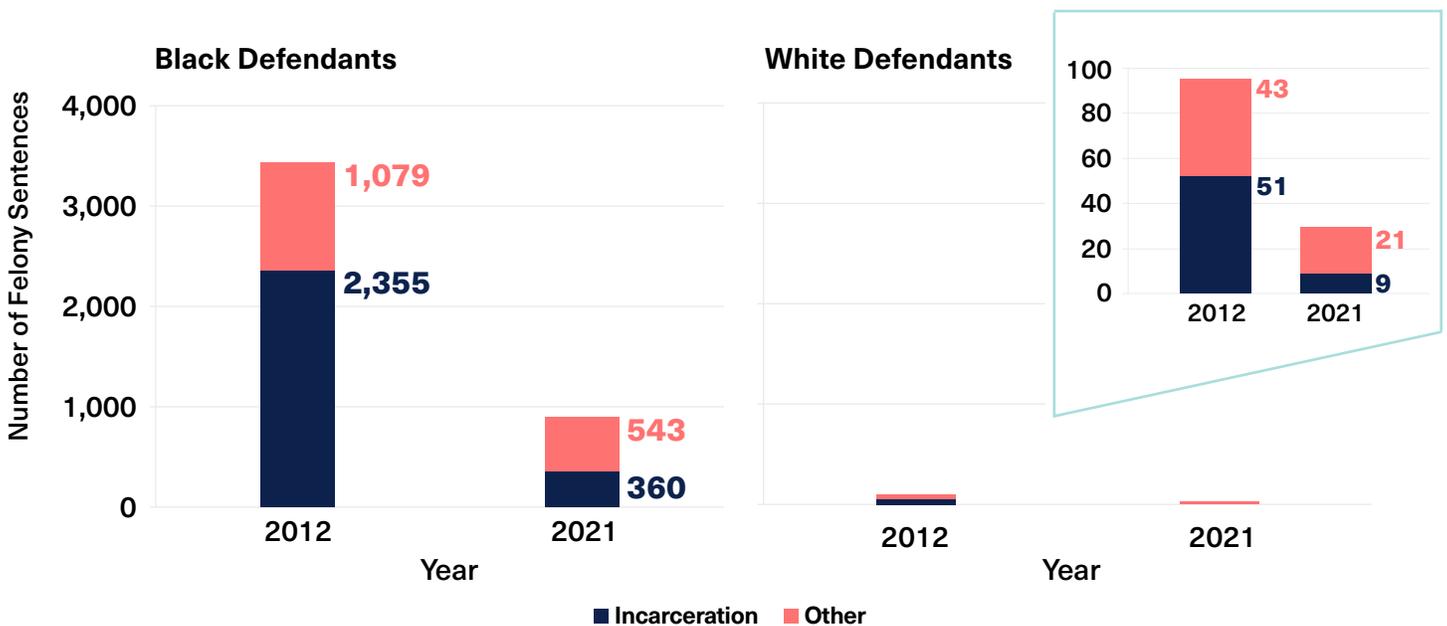
The resulting 450-page bill, the "Revised Criminal Code Act of 2021" (RCCA), largely reflected the CCRC's recommendations and was considered at three public D.C. Council hearings.<sup>70</sup> The RCCA provided clear and updated definitions for criminal offenses, created a uniform classification system of penalties considering the severity of harm caused, and modernized antiquated and confusing language in the D.C. Code. The RCCA also expanded the right to jury trial for those charged with misdemeanors starting in 2025, and allowed judges to exercise greater discretion in sentencing by eliminating mandatory minimum sentences for certain offenses.

The RCCA passed the D.C. Council unanimously in November 2022.<sup>71</sup> Proponents of the RCCA argued that it was necessary to fix the many structural problems of the District's aging and piecemeal criminal laws, and brought the District in line with the majority of other jurisdictions that have modernized their codes over the past several decades.<sup>72</sup> Despite expressing general agreement on most provisions of the RCCA, the year ended with a veto threat from Mayor Muriel Bowser, who argued against provisions which would lower existing maximum penalties for specific offenses, stating that doing so "sends the wrong message to our residents when we are using every resource in our government

to drive down crime.”<sup>73</sup> Critics of the legislation raised concerns about judges’ capacity to take on more jury trials, some lower mandatory maximum penalties, and an expansion to the Second Look Act, which would allow additional people to petition for earlier release.<sup>74</sup>

The Executive Director of the CCRC testified in the last public hearing for the legislation that the RCCA represents “the first time that, like other states, the District’s various criminal laws have been reviewed and redesigned to function together as a clear, consistent, complete, and proportionate system of laws.”<sup>75</sup>

**D.C. Superior Court Felony Sentences to Incarceration, by Race, 2012 and 2021.**<sup>76</sup>

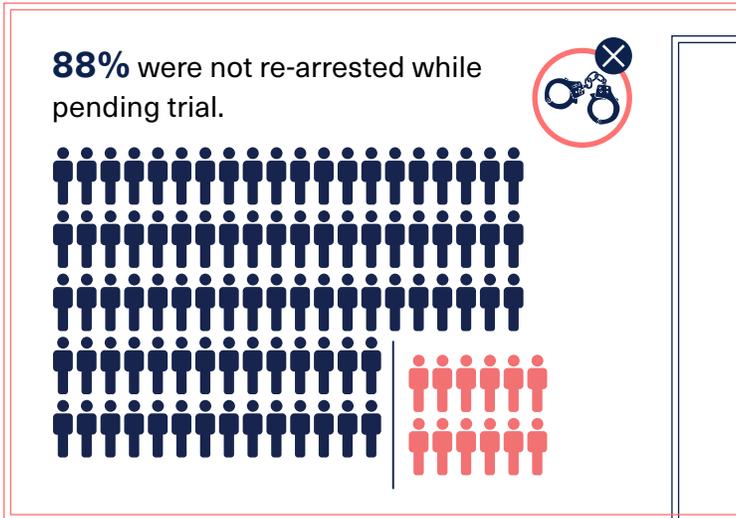


**Pandemic-Related Pretrial Detention Policy Lifted.**

Back in March 2020, the D.C. Courts policy-making body, the Joint Committee of Judicial Administration, issued an order in response to the new COVID-19 pandemic that allowed for the extension of case deadlines.<sup>77</sup> Under that policy, the average time individuals facing criminal charges spent in pretrial detention

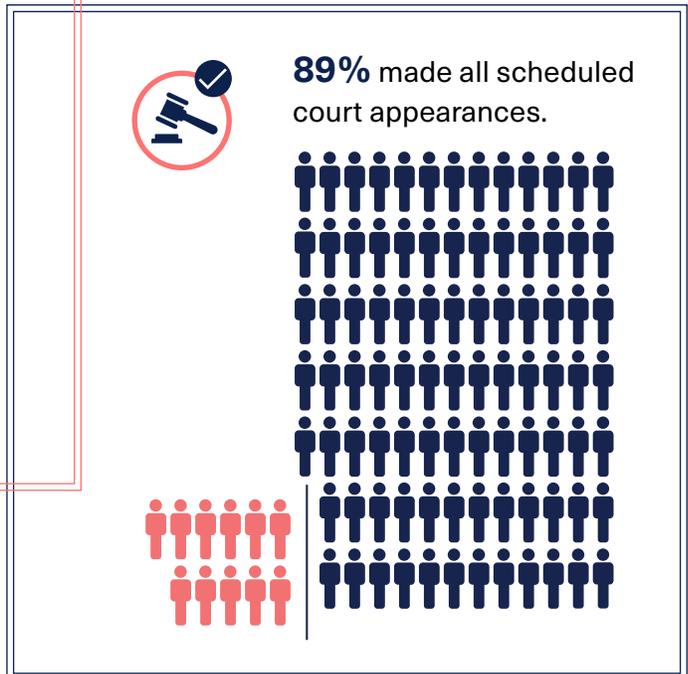
rose dramatically.<sup>78</sup> After nearly two and a half years, the D.C. Courts lifted this emergency order in early September 2022, reverting back to its existing policy of giving prosecutors 90 days under the D.C. Code to formally charge a defendant in most cases, and 100 days to bring a defendant to trial.<sup>79</sup>

**Pre-Trial Arrest of PSA-Supervised\* Defendants, 2017-2022.<sup>80</sup>**



\*PSA stands for Pre-Trial Services Agency.

**Court Appearances of PSA-Supervised\* Defendants, 2017-2022.<sup>81</sup>**

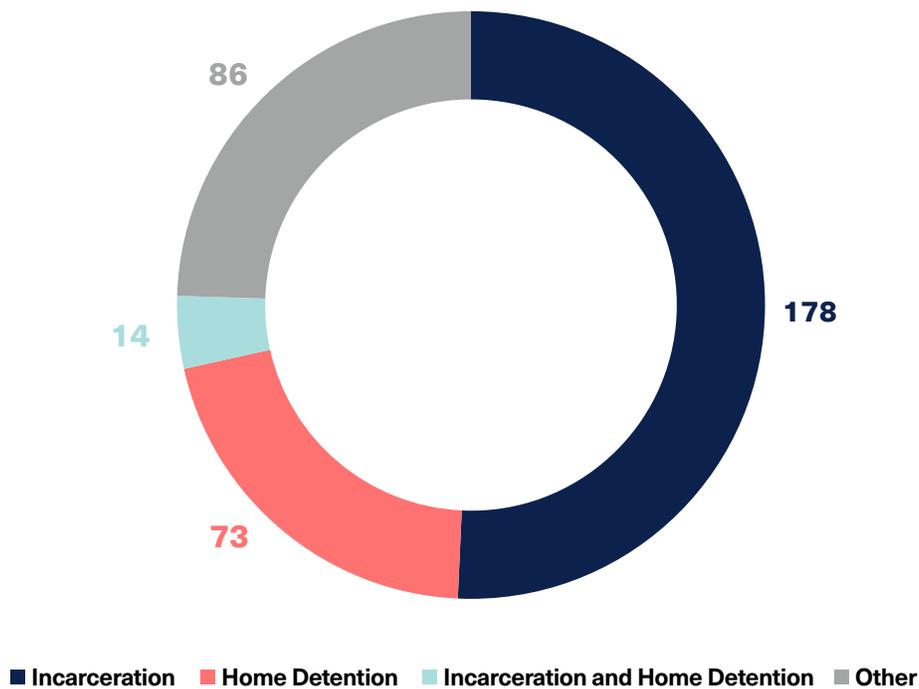


**January 6 Defendants Proceed in District Court.**

In 2022, criminal cases related to the violent insurrection on January 6, 2021, continued to be primarily heard in the U.S. District Court for the District of Columbia (District Court).<sup>82</sup> The more than 950 individuals who have been arrested across the country in relation to January 6 face charges such as assaulting, resisting, or impeding officers; entering a restricted area with a dangerous or deadly weapon; and corruptly obstructing, influencing, or impeding an official proceeding.<sup>83</sup> More than a dozen of those charged have unsuccessfully tried to move their trials out of the District, arguing that a

D.C.-based jury would be biased.<sup>84</sup> Other defendants have chosen to pursue a bench trial before a judge without a jury. As of January 6, 2023, of the 351 federal defendants sentenced in the District Court, approximately 192 have been sentenced to periods of incarceration.<sup>85</sup>

**Sentence Type Among January 6 Defendants Who Have Been Sentenced/Adjudicated, as of January 2023.<sup>86</sup>**



**Prosecution of Local Gun Possession Cases.**

In May 2022, U.S. District Judge Emmet G. Sullivan upheld a policy by which most “felon-in-possession” cases in D.C. are brought in District Court.<sup>87</sup> “Felon-in-possession” is a term that refers to a charge against a person who has a prior felony conviction and illegally possesses a firearm.<sup>88</sup> The people charged with possession argued unsuccessfully that by categorically prosecuting some charges federally, federal prosecutors were taking control of D.C.’s right to enforce local law.<sup>89</sup>

Prosecution of gun cases was once again at the forefront of District conversation when federal prosecutors announced in November that they planned to drop dozens of gun cases.<sup>90</sup> This announcement came after seven officers from the Crime Suppression Team of the Metropolitan Police Department (MPD) were under investigation for seizing guns without making arrests and possibly lying on reports.<sup>91</sup> The officers involved were a part of a specialized unit responsible for patrolling for guns and drugs.

### **Local Courtwatch Organization Expanded.**

Local nonprofits Harriet's Wildest Dreams and Courtwatch PG expanded their Maryland-focused court watching program to include a branch in D.C. in 2022.<sup>92</sup> Court watching programs train volunteers to observe court proceedings and gather data, with the ultimate goal of reporting back findings to the community. The organizations' stated purpose for the new D.C. program is to shed light on the patterns and practices of police, judges, and prosecutors to promote accountability and transparency in the criminal legal system.<sup>93</sup> Founder Qiana Johnson explained that "As I was going through the criminal legal system...I thought 'People are not going to believe what I'm going through. I have to find a way to let people see this for themselves.'"<sup>94</sup> As of summer 2022, 70 people were trained to begin court watching in D.C. Courts. Defund MPD and the American Civil Liberties Union of the District of Columbia are also involved in the D.C. branch.

**Between 2017 and 2022, 89% of individuals supervised by the Pre-Trial Services Agency made all scheduled court appearances.**

# Adult Incarceration

2022 marked the 50-year anniversary of the “D.C. Jail Uprising,” where residents took 12 hostages in an effort to draw attention to degrading and unsafe conditions in the District’s former jail.<sup>95</sup>

The 1972 rebellion, which ultimately reached a peaceful resolution, drew national attention and led to a range of reforms. Five decades later, residents of the current jail and their advocates are again raising concerns about dangerous conditions and insufficient transparency in D.C.’s local facilities.

Amid sustained criticism about its handling of COVID-19, the physical conditions of its facilities, and findings from a U.S. Marshals Service (USMS) inspection, 2022 ushered in several major policy and leadership changes at the D.C. Department of Corrections (DOC). In January, Thomas Faust replaced Quincy Booth as the Director of DOC, which controls the Central Detention Facility (CDF), often called the D.C. Jail, Correctional Treatment Facility (CTF), and Central Cell Block. Faust previously served as DOC Director from 2011 to 2016 and has experience in corrections, community supervision, and law enforcement.<sup>96</sup> DOC adopted a new policy related to housing transgender people and expanded its educational and substance use programs. Additionally, the District made a significant investment in its capital budget to build a new jail annex over the next several years, with the eventual goal of replacing the aging CDF. Finally, advocates successfully pushed for legislation to increase public transparency and accountability following deaths in DOC custody.



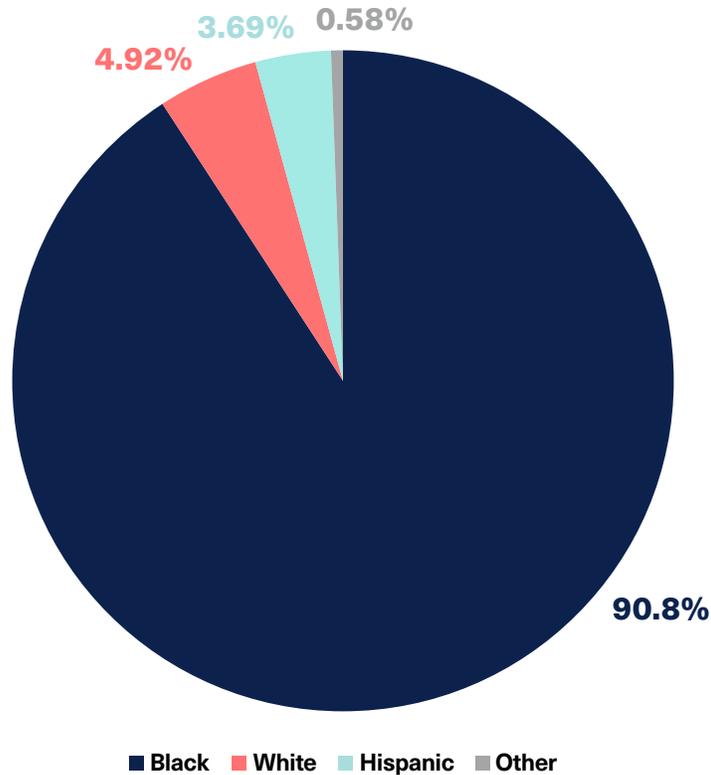
*Image: "Metamorphosis" by Ward 7 Arts Collective, ©2009  
MuralsDC, Ward 7 Arts Collective*

# CHALLENGES

## Resident Deaths at DOC Facilities.

At least eight people tragically died while incarcerated at DOC facilities in 2022.<sup>97</sup> The majority of the deaths were disclosed to the public only after inquiries from reporters and legislators.<sup>98</sup> DOC only reported proactively on the eighth person to die in DOC custody in 2022. The causes of death for the eight people included two people who died by suicide, two people who suffered drug-related deaths, two people who died of unestablished causes, one person who was a victim of homicide, and one person who died of natural causes. Historically, DOC had not been required to publicly report on deaths in its facilities, and families have expressed concern over the, at times, limited information provided to them about loved ones' deaths in custody.<sup>99</sup>

Race of Individuals in DOC Custody, September 2022.<sup>100</sup>

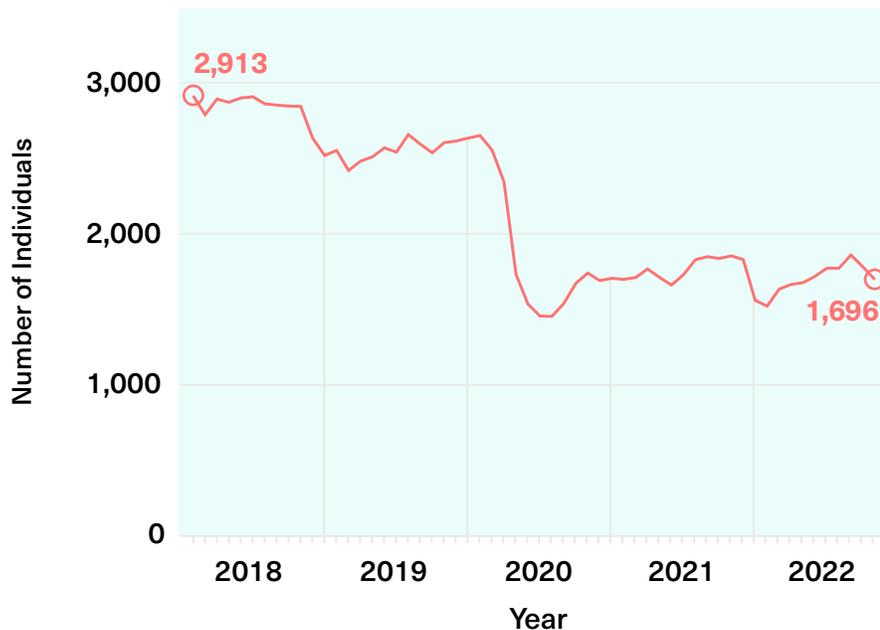


### Continued COVID-19 Effects in DOC.

The pandemic continued to have varied impacts within DOC facilities. First, in January 2022, the D.C. Jail and CTF shut down in-person group activities, religious services, and other programming when the facilities experienced a spike in COVID-19 cases, but largely resumed all such programming by late February.<sup>101</sup> While masking requirements stayed in place throughout 2022, DOC dropped its requirement that residents' attorneys and visitors must provide proof of vaccination or a negative COVID-19 test in February. In-person legal visits resumed in 2022 and in-person personal visits are slated to resume in 2023.

Additionally, DOC agreed in February 2022, as part of a settlement of a lawsuit filed in 2020, to allow an infectious disease specialist to make five unannounced inspections of the D.C. Jail to oversee compliance with COVID-19 protocols.<sup>102</sup> The settlement further specified that the findings of the inspections will be provided to the suing residents' lawyers, which include the Public Defender Service for the District of Columbia (PDS) and American Civil Liberties Union of the District of Columbia (ACLU-DC).<sup>103</sup>

Number of People in DOC Custody, 2018-2022.<sup>104</sup>



Note: These figures were collected on a monthly point in time basis.

Finally, the last time the District updated its public data about COVID-19 cases in DOC was on February 28, 2022. In that data set, the District cited that 771 residents and 639 DOC personnel had tested positive for COVID-19 to date.<sup>105</sup>

### **Corrections Officers Charged with Misconduct.**

Three DOC corrections officers were charged with work-related offenses in 2022. The first set of charges, of both an incarcerated resident and an officer, included conspiracy to smuggle contraband, including drugs, into the D.C. Jail.<sup>106</sup> Another DOC corrections officer was arrested and charged with bribery and providing or possessing contraband, including narcotics and knives, in the D.C. Jail.<sup>107</sup> The flow of drugs into DOC facilities has been a focus for DOC leaders, especially given at least two drug related deaths in 2022. The USMS also observed the use of drugs in the facility during their 2021 inspection.<sup>108</sup> A third DOC corrections officer was arrested for wire fraud after funding a trip to New York City with union funds.<sup>109</sup> The cases against the officers all remained pending as of the end of 2022.

### **Treatment of People Incarcerated in BOP.**

PDS filed a lawsuit against the Federal Bureau of Prisons (BOP) in February 2022 claiming the criminal history score calculations it uses for people convicted of D.C. Code offenses lead to routinely higher scores than for individuals incarcerated for federal offenses.<sup>110</sup> A criminal history score is an internal BOP-calculated number that governs security classification, eligibility for home confinement, and release to a halfway house. As a result, people incarcerated for D.C. Code offenses are more likely to be held at higher security facilities and are less likely to qualify for early release programs.

Additionally, D.C. residents in BOP facilities began expressing concern for their safety after two people convicted of D.C. Code violations were killed in a Pollock, Louisiana federal prison in the summer of 2022.<sup>111</sup> Following these deaths and reports of particular dangers for individuals from D.C., Congresswoman Eleanor Holmes Norton addressed new BOP Director Colette Peters regarding the treatment of D.C. residents in BOP facilities and requested that all D.C. residents be transferred out of United States

Penitentiary (USP) Pollock.<sup>112</sup> An estimated 28 D.C. residents remained at the prison in Pollock, Louisiana at the end of 2022.<sup>113</sup> Returning citizens and advocacy organizations have also called on Peters, who became Director in August 2022, to address conditions in federal facilities.<sup>114</sup>

## DEVELOPMENTS & RESPONSES

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### **Investments for a New Jail Annex.**

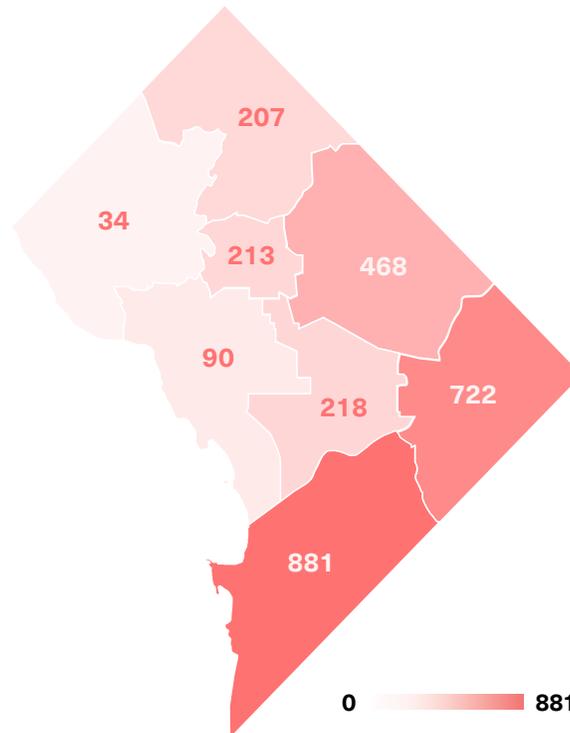
Advocates have been sounding alarms regarding the need for a safe and humane D.C. correctional facility for nearly a decade, while also calling on the District to explore non-carceral solutions in earnest.<sup>115</sup> More recently, Councilmembers and the D.C. Auditor have joined the call for a new jail facility in light of persistently unaddressed concerns about conditions including sanitation, temperatures, and pests.<sup>116</sup> In recognition that many advocates do not want any new jails or prisons in the long run, but do want dangerous conditions to be remedied in the short term, the District Task Force on Jails & Justice (Task Force) brought together local leaders to develop a ten-year plan to build a non-traditional facility that can “provide a safe, secure, and healthy environment that supports personal growth through innovative, promising, and evidence-based practices.”<sup>117</sup>

Utilizing the framework recommended by the Task Force, the District allocated \$251 million in capital funds to build a new correctional annex to the CTF in the Fiscal Year (FY) 2023 budget, including \$4 million in FY 2023 for planning and design.<sup>118</sup> The Task Force recommended that the city construct an annex by FY 2027 and build a new main jail by FY 2030.<sup>119</sup> As of December 2022, the District had not solicited proposals from consultants willing to conduct the pre-planning of the new annex, but planned to do so in early 2023.

In anticipation of a design consultant being hired, local advocates including the Council for Court Excellence, DC Justice Lab, Neighbors for Justice, and the Task Force held a series of community events at which they collected ideas from residents about important traits for a future correctional facility in D.C.<sup>120</sup>

Community-proposed features include vibrant colors on the walls, windows that allow fresh air into the facility, ample greenery, innovative programming spaces, and more. The feedback collected was consolidated, published, and provided to D.C. government leaders.<sup>121</sup>

#### Number of People in DOC Custody, by Ward, 2022.<sup>122</sup>



#### Custody Changes for Transgender People.<sup>123</sup>

In March 2022, DOC agreed to change its policy on housing transgender people based on a settlement with Sunday Hinton, a transgender woman who had filed a 2021 lawsuit based on her experience being housed in a men's unit, despite identifying as a woman.<sup>124</sup> Under the new policy, DOC is supposed to house people based on their gender identity and no longer automatically place transgender people in protective custody, a housing condition similar to disciplinary segregation and other forms of solitary confinement. DOC also changed its policy to end the indiscriminate shackling of transgender people during movement through the facility.

## **Programming Developments at D.C. Jail.**

DOC offered several new and expanded programs for people in its custody in 2022. For example, Maya Angelou Public Charter Schools graduated its first class of 15 high school students at the D.C. Jail in June 2022 since taking over from the District of Columbia Public Schools.<sup>125</sup> DOC also offers the opportunity for residents to work towards their GED, in addition to other continuing education services.<sup>126</sup>

Additionally, in August 2022, DOC convened local leaders and participating D.C. Jail residents for the LEAD Up! Program. Through the program, D.C. officials, including the Director of Gun Violence Prevention, a U.S. Magistrate Judge, and local anti-violence academics, solicited ideas from incarcerated men about what resources could help curb violence in the District.<sup>127</sup> The participants in LEAD Up! shared their ideas for more mentorship, more job programs, and a new agency devoted to treating gun violence as a public health crisis.<sup>128</sup> The LEAD Up! program had 33 participants in FY 2022.<sup>129</sup> DOC plans to continue the popular program.<sup>130</sup>

Finally, DOC opened a new therapeutic housing unit for men with substance use disorders in August 2022. Residents in this unit can participate in trauma-informed programming alongside receiving Medication Assisted Treatment. Available programming on this voluntary unit includes recovery groups, yoga, and meditation.<sup>131</sup>

## **D.C. Strengthens DOC Oversight.**

DOC received national attention in late 2021 after the USMS conducted an inspection of its facilities, largely prompted by complaints raised by the January 6 insurrection defendants being housed in DOC.<sup>132</sup> Soon thereafter, DOC made an agreement with the USMS that laid out “corrective action plans” to improve the “egregious conditions” at the D.C. Jail within six months.<sup>133</sup> Although the agreement was supposed to have ended in May 2022, neither the specific terms of the agreement nor the corrective actions completed were ever released to the public.<sup>134</sup>

In light of limited transparency about conditions, as well as community concerns surrounding deaths in custody, the D.C. Council unanimously passed the “Corrections Oversight Improvement Omnibus Amendment Act of 2022,” in December 2022. This legislation increases oversight at DOC by strengthening key functions of the Corrections Information Council (CIC), the body mandated by Congress and the D.C. Council to inspect and report on the conditions at facilities where D.C. residents are incarcerated.<sup>135</sup> Under the new law, DOC must post key information on any death in its custody on its website within three days of the occurrence and the CIC must publicly report on any death within 30 days.<sup>136</sup> Additionally, CIC must annually report on the conditions of confinement of detained and incarcerated residents housed in DOC facilities, food services in DOC facilities, use of force by DOC personnel, use of safe cells and segregation in DOC facilities, and more. The new law also classifies CIC as an “independent agency” within D.C. government and gives it unrestricted access to all facilities to conduct oversight. The CIC board will increase from three members to five members, to whom DOC will be required to provide a quarterly report on living conditions in the D.C. Jail and CTF.<sup>137</sup>

**Community-proposed features of the future correctional facility in D.C include vibrant colors on the walls, windows that allow fresh air into the facility, ample greenery, innovative programming spaces, and more.**

# Reentry

As returning citizens in the District continue to face employment, housing, and other reintegration challenges, D.C. took steps to enhance current services and establish new opportunities to assist them in 2022.

Construction for a long-awaited men's halfway house in the District finally began, and planning began for a new READY (Resources to Empower and Develop You) Center facility. Four years after legislation was enacted, the D.C. Clemency Board began accepting applications in March 2022 for recommendations to the President for pardon or commutation. Given the ongoing impacts of the COVID-19 pandemic, the District largely sustained its investments in resources for returning citizens. At the same time, progress stalled on efforts for the District to retake local control of parole and supervised release powers from the federal government.<sup>138</sup>

*Image: "Let. Go." by Rose Jaffe, ©2017 Rose Jaffe*



# CHALLENGES

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## **Local Control of Parole Delayed.**

After a series of short-term extensions by Congress, the U.S. Parole Commission (USPC) was scheduled to end its jurisdiction over parole and supervised release decisions for people convicted of D.C. Code offenses in November 2022. Many saw this sunset date as a promising opportunity for the District to finally re-establish local control of important criminal legal system decisions, including the granting of and revocation of individuals' release from incarceration.<sup>139</sup> In Fiscal Year (FY) 2022, over 85% of USPC's hearings were D.C. cases, even though none of its decision makers were selected by or are accountable to District residents.<sup>140</sup>

Throughout 2022, advocates called upon District leaders to finalize a plan and structure for a new local paroling authority so that Congress could pass needed legislation to convert the authority back to the D.C. government. In 2021, the Deputy Mayor for Public Safety and Justice hired several contractors to help the District develop plans for a new authority that could launch in 2022, but progress stalled in 2022 when some of the contractors stopped their work and relevant governmental entities could not agree on a path forward. Despite significant media attention and community interest, none of the District's plans were implemented and no legislation was introduced at the D.C. Council to provide the legal structure for a new D.C.-based paroling authority. Ultimately, District leaders requested to extend USPC operations for at least another two years, citing the need to develop and fund the necessary infrastructure before assuming local parole functions.<sup>141</sup> In December 2022, the federal government reauthorized USPC's jurisdiction over individuals convicted of D.C. Code offenses for one year, expiring on October 31, 2023.<sup>142</sup>

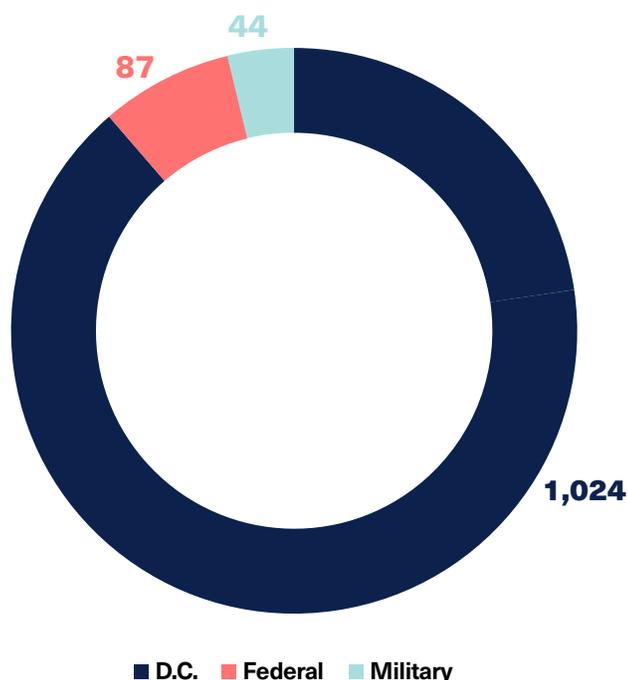
## **Construction Begins on Men's Halfway House.**

D.C.'s last halfway house for men closed in April 2020, leaving many of the District's returning citizens in limbo for nearly three years. In 2018, CORE

DC, a nonprofit with experience running shelters and halfway houses, was awarded the federal contract to open and operate a men’s halfway house for the District.<sup>143</sup> After many delays and challenges, including an initiative to designate the proposed property for historic preservation, CORE DC broke ground at 3701 Benning Road NE in 2022. As of the end of 2022, CORE DC projected they would complete the new men’s halfway house in 2023.<sup>144</sup>

The halfway house will have up to 300 beds and expects to provide services to men transitioning back to the District from incarceration including: case management, job readiness training, employment placement, educational services, life skills training, substance use disorder treatment and counseling, and appropriate medical and social service referrals.<sup>145</sup> Currently, men returning home to the District are either placed on community supervision, or in halfway houses in Maryland and Delaware.

U.S. Parole Commission Hearing Subject-Matter, FY 2022.<sup>146</sup>



### **New Barriers in Occupational Licensing.**

In June 2022, the D.C. Council passed a law that reversed some occupational licensing reforms enacted in 2021 intended to decrease barriers to employment in health-related fields for returning citizens.<sup>147</sup> Occupational licenses are required for individuals to enter certain government-regulated jobs. Under the 2022 changes, D.C.'s Health Occupation Board may deny an occupational license application based on a conviction even if the crime was not directly related to the occupation. Under the prior law, denial was limited only to directly related convictions. Now, the Health Occupation Board can also consider juvenile adjudications, participation in diversion programs, arrests that did not lead to a conviction, or expunged convictions, all of which could not previously be considered. Lastly, the new law updates the mandatory considerations of the Board to include the seriousness of a conviction, the age at conviction, and evidence of rehabilitation. Despite the Council Office of Racial Equity's (CORE) conclusion that the law would "likely harm employment and economic outcomes for Black residents in the District,"<sup>148</sup> it was enacted and went into effect in September 2022.

## DEVELOPMENTS & RESPONSES

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### **Record-Sealing Reform Passed.**

In December 2022, the D.C. Council passed the "Second Chance Amendment Act of 2021," which updates the criminal record sealing and expungement process and standards in D.C.<sup>149</sup> These changes will remove some of the barriers that D.C. residents with current criminal histories face when trying to secure housing, employment, and training opportunities. Under the new legislation, individuals can now file a motion to seal a conviction, following a five-year waiting period for misdemeanors and an eight-year waiting period for felonies, barring some exceptions. Citations, arrests, charges, and convictions for all misdemeanors are automatically sealed after a ten-year waiting period following sentence completion.

Additionally, the legislation increases the number of eligible convictions that may be sealed and provides for independent legal experts to consider generally ineligible convictions and offer recommendations for eligibility. Decriminalized citations, arrests, and charges, as well as cases of actual innocence, can be expunged under this legislation. Criminal history providers will be prohibited from reporting non-convictions. The law is slated to go into effect in early 2023.

### **Rally for Returning Citizens.**

On December 19, 2022, returning citizens, families and friends, advocates, and public officials rallied in front of the John A. Wilson Building for the Emergency Rally for Returning Citizens.<sup>150</sup> Leaders from Inner Voices, Alliance of Concerned Men, and Philemon Mission Transitional Facility, organized the event to draw awareness to the “crisis resulting from lack of housing, jobs, medical and economic assistance for returning citizens.”<sup>151</sup> Those gathered called for emergency assistance for necessities like housing and medical care. The group also proposed long-term solutions such as transitional housing, hiring fairs for people with criminal records, and additional training opportunities for returning citizens in public health jobs.

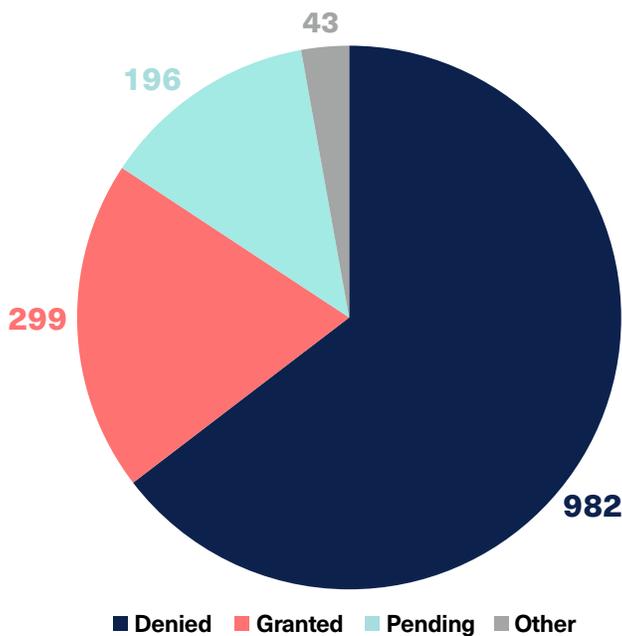
### **READY Center Prepares for Location Change.**

A new location for the READY Center was secured with plans to open in 2023 at 3640 Martin Luther King Jr. Avenue SE, where the READY Center will be housed for at least the next two years.<sup>152</sup> The READY Center offers a centralized location where formerly incarcerated D.C. residents can access government and community-based services. The new location will replace the current temporary location in the Reeves Municipal Center at 2000 14th Street NW. In FY 2022, the READY Center served 463 residents leaving DOC custody.<sup>153</sup> The new location will provide additional open hours for eligible residents to access streamlined services from a variety of D.C. agencies, service providers, and other organizations within 24 hours or the next business day following their release from DOC custody, or within 45 days for those released from BOP custody.<sup>154</sup>

### Clemency Board Begins Accepting Applications.

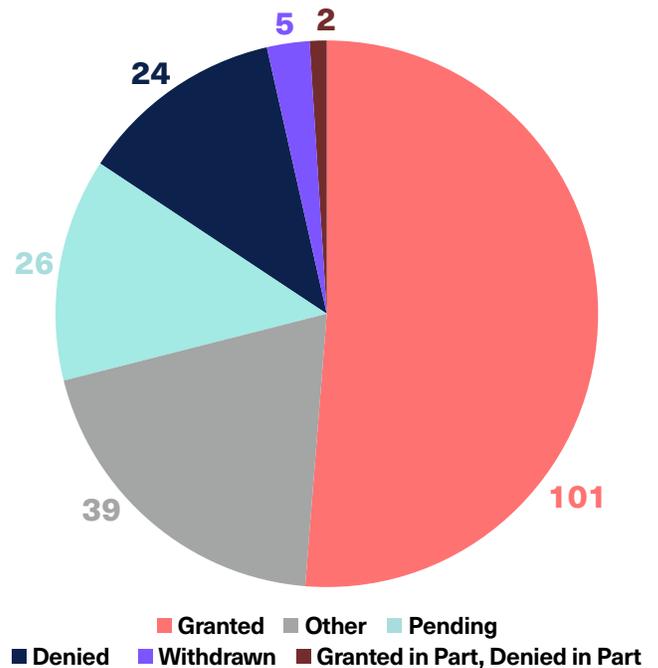
D.C.'s clemency process is unique because, ultimately, the U.S. President holds the power to grant any pardons or commute any sentences when someone convicted of a D.C. Code offense seeks relief.<sup>155</sup> However, District leaders created the D.C. Clemency Board to provide a layer of locally controlled review of applications and to make recommendations for relief to the President.<sup>156</sup> Although the D.C. Clemency Board was established in 2018, it only hired its first full time staff member and started receiving its first applications from individuals convicted of D.C. Code violations in 2022.<sup>157</sup> In 2022, it received two applications: one was rejected and the other remained pending at the end of the year as the Clemency Board awaited additional information.<sup>158</sup>

Outcome of Compassionate Release Motions, Filed March 2020-December 2022.<sup>159</sup>

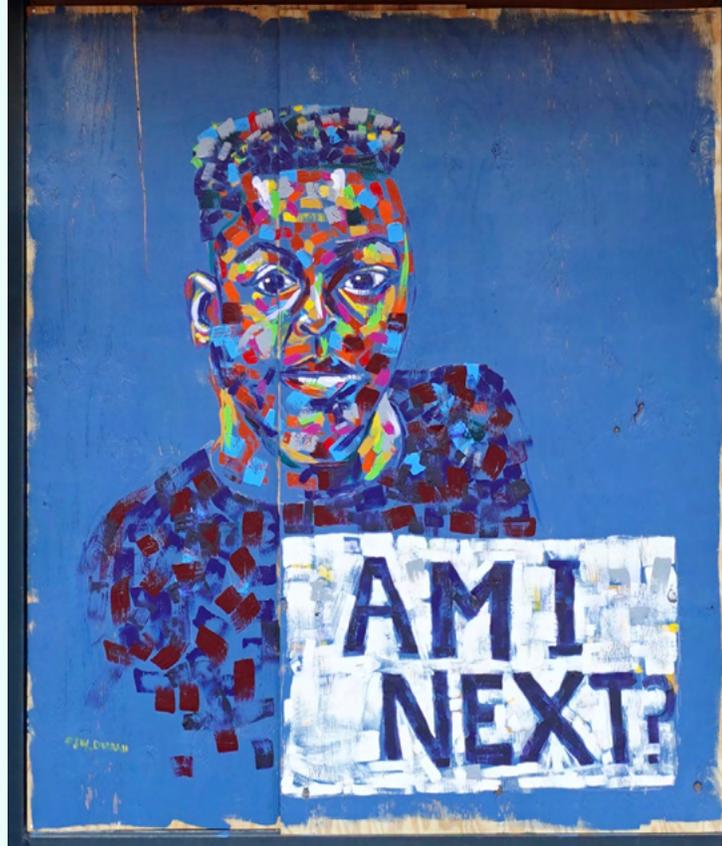


Note: Compassionate Release Motions offer an avenue for an incarcerated individual to seek a modification of their sentence based on their rehabilitation among other factors.<sup>161</sup>

Outcome of IRAA Motions, October 2021-October 2022.<sup>160</sup>



Note: The Incarceration Reduction Amendment Act (IRAA) allows individuals who were younger than 25 at the time of their offense and have served at least 15 years of their sentence to apply for resentencing.<sup>162</sup>



*Image: "Am I Next?" by Jay Durrah, ©2020 Jay Durrah*

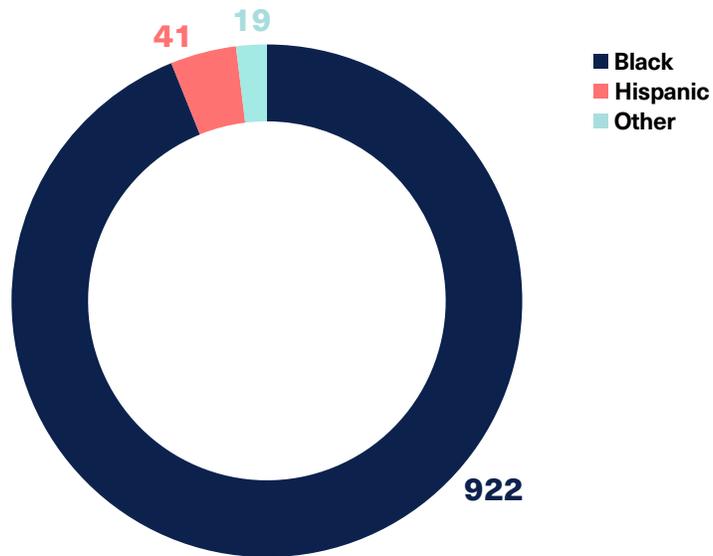
# Youth Justice

**In 2022, D.C. faced diverse challenges related to the growing need for educational and mental health supports for children, as well as the rise in public attention to vehicle- and gun-related crimes by and against District youth.**

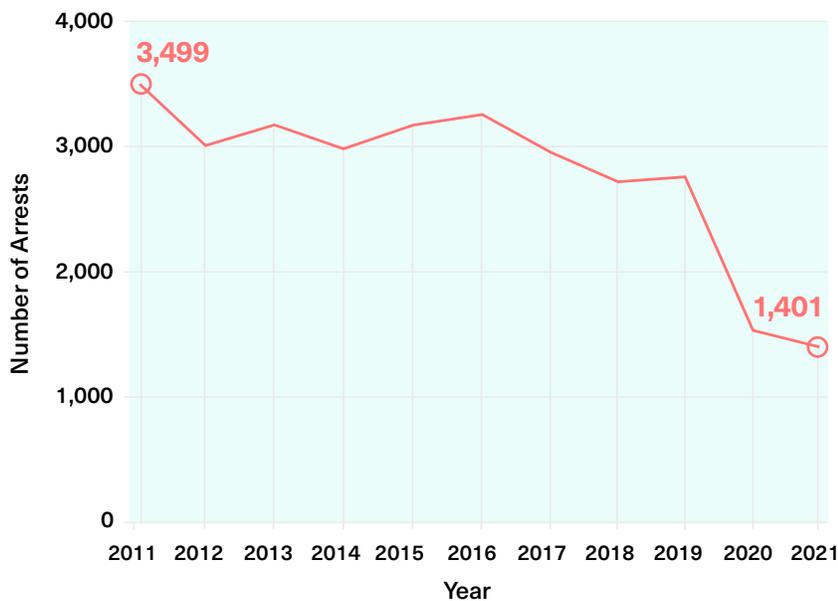
Communities across the District expressed concern about youth-involved violence, and suffered the tragic results of young people's increased access to and use of guns. Amid these concerns, District leaders, advocates, and families continued to support youth education and empowerment by promoting a variety of truancy prevention and work force development programs. Additionally, the D.C. Council addressed the safety of students traveling to and from school through the "Safe Passage to School Expansion Act of 2021," and D.C. Superior Court recognized the right of youth to have an attorney throughout their incarceration, supervision, and reentry in 2022 by creating a group of attorneys to provide this representation.

When it comes to reporting on the youth justice system, various data sources, laws, and researchers define the terms ‘youth,’ ‘young people,’ or ‘children’ differently. As a general matter throughout this chapter, ‘youth’ are conceptualized as people under 25 years of age; ‘children’ are people under the age of 18; and ‘young adult’ means people between 18 and 24 years of age. When terms vary or other terms are used because of the specific law or data being discussed, we will note the term and who it includes in the relevant section.

Number of Youth Subject to MPD Stops and Searches, By Race, 2022.<sup>163</sup>



Number of Youth Arrests by MPD, 2011-2021.<sup>164</sup>

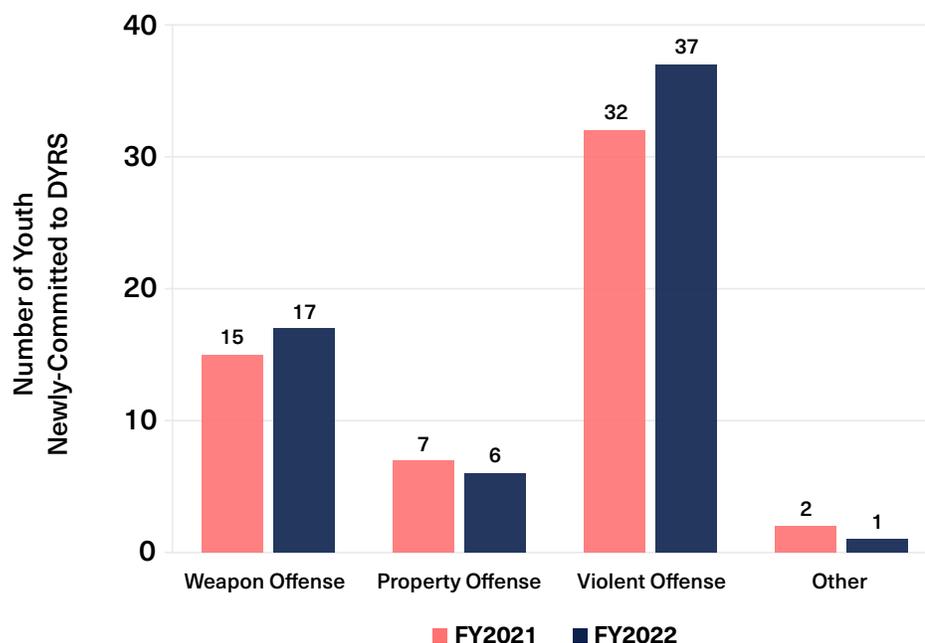


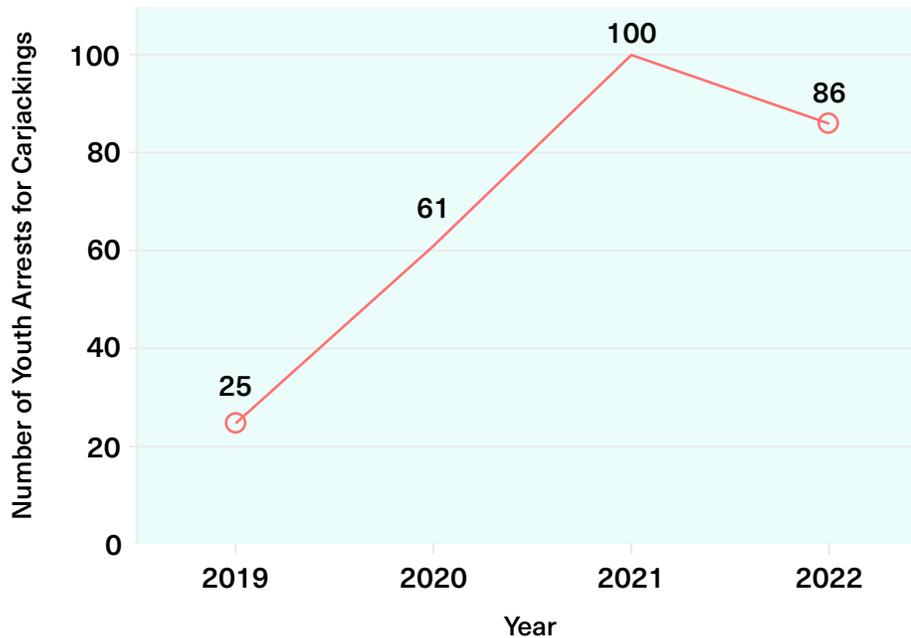
# CHALLENGES

## Increased Youth Fatalities.

In 2022, 18 D.C. children and 53 young adults were victims of homicide, up from 2021 when 11 children and 42 young adults were victims of homicide.<sup>165</sup> Across the District there were 203 total homicides, with 171 of these caused by shootings in 2022. In 2021, there were 226 total homicides in the District, with 186 from shootings.<sup>166</sup> In response to those tragic incidents, some District leaders, including Mayor Muriel Bowser and Metropolitan Police Chief Robert Contee, called for increased accountability through policing and harsher penalties for gun-related offenses.<sup>167</sup> In response, many advocates who represent D.C. youth raised concerns that such measures would only contribute to greater mass incarceration without addressing the youths' underlying trauma and the needs of all impacted people.<sup>168</sup> Further, advocates and some academic experts attributed the increase in youth involvement in gun-related incidents, both as victims and perpetrators, to pandemic-related crises, such as the loss of a caregiver or of a caregiver's job, as well as increased access to guns in D.C. and surrounding jurisdictions.<sup>169</sup>

### Youth Newly-Committed to DYRS, by Offense Type, FY 2021-2022.<sup>170</sup>



**Youth Arrests for Carjackings, 2019-2022.<sup>171</sup>**

### **Carjackings Raise Regional Concern.**

The number of carjackings in D.C. has risen steadily for the past five years, creating a source of major community concern in 2022.<sup>172</sup> In 2021, 100 children and 37 young adults were arrested out of the 425 total carjacking cases reported.<sup>173</sup> In 2022, 86 children and 26 young adults were arrested out of the 485 carjacking cases reported.

The Metropolitan Police Department's (MPD) closing rates on this type of charge remain low, making data analysis of carjackings and relevant demographics difficult. For example, in 2022 MPD made an arrest in only about 26% of carjacking cases reported.<sup>174</sup> Some researchers have suggested that youth who commit carjackings may be more likely to be caught than adults, and youth often offend in groups, skewing their representation in arrest data.<sup>175</sup> Put together, the MPD data may not be able to capture the full picture of carjackings occurring in the District, nor conclusively support arguments that most carjackings in the District are committed by youth.<sup>176</sup> Unlike other types of crime, there have been no hotspots for carjackings, rather the high rates of carjackings can be seen across the District.<sup>177</sup>

In response, MPD and the Prince George's County, Maryland Police increased collaboration to curb carjackings with additional investigative support and intelligence sharing.<sup>178</sup> Additionally, in February 2022, MPD expanded the number of detectives participating in its carjacking task force that was originally formed in 2021.

### **District Found in Contempt for Inadequate D.C. Jail Education.**

A federal judge ruled that students in the D.C. Jail were still receiving insufficient special education services in February 2022, following previous orders that the District must begin providing those services to eligible individuals in 2021.<sup>179</sup> Despite the D.C. Department of Corrections replacing D.C. Public Schools with Maya Angelou Public Charter School as its education provider in 2021, the judge determined that incarcerated students were still not receiving appropriate special education services.<sup>180</sup> In February 2022, the Court found that the District government was not complying with its previous orders.<sup>181</sup> The District was then specifically ordered to provide individualized learning plans for each student to make up missed hours of classes, have a fully remote learning system, and provide appropriate special education services to each eligible student by March 15, 2022.<sup>182</sup> Since that time, advocates and lawyers who represent students at the D.C. Jail have argued that incarcerated students continue to face ongoing disruptions in receiving appropriate educational services.<sup>183</sup>

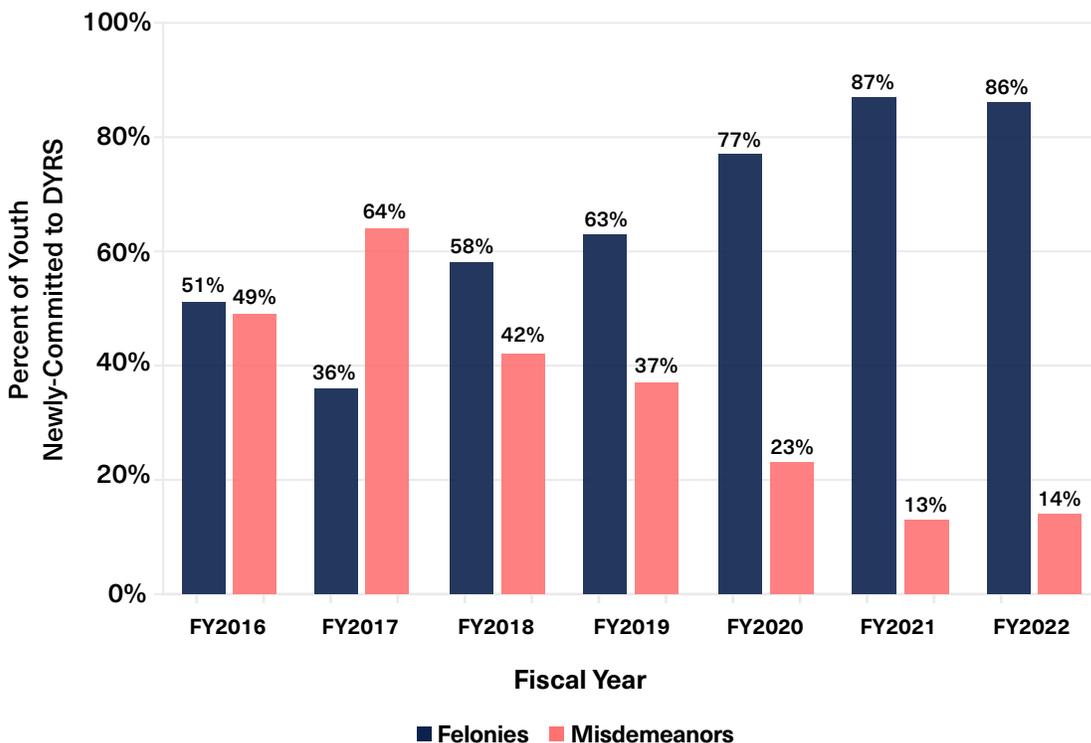
### **Local Research Identifies Risk Factors for Youth Justice Involvement.**

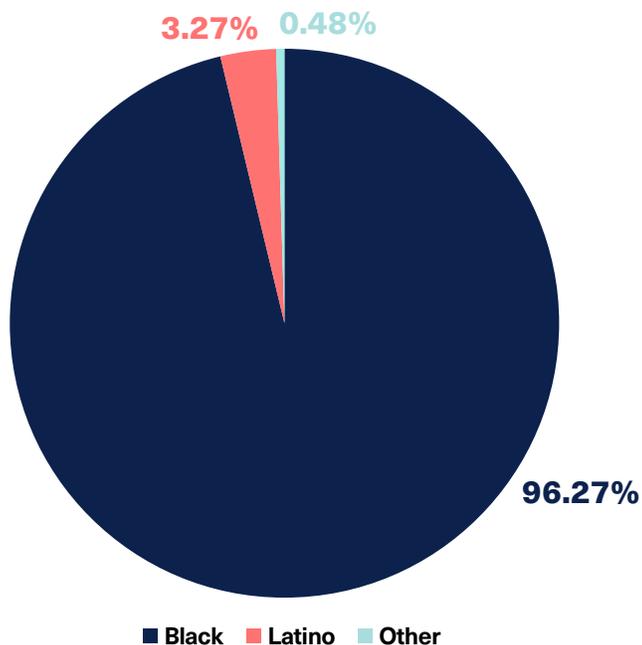
As required by the “Comprehensive Youth Justice Amendment Act,”<sup>184</sup> originally passed in 2016, the Criminal Justice Coordinating Council (CJCC) completed its newest study of what risk factors contribute to youth delinquency in D.C. and what protective factors reduce the likelihood of delinquent behavior among the highest-risk youth.<sup>185</sup> The study, published in October 2022, utilized data from a sample of D.C. youth enrolled in public schools, focus groups, surveys, and interviews. CJCC found that Black youth and males are over-represented in D.C.’s juvenile justice system. Additionally, CJCC found that youth who experience homelessness, abuse, or neglect are more likely to become involved in the juvenile justice system. Unexcused absences are also a significant factor

in youth justice involvement, as are certain mental illness diagnoses. Lastly, youth who live on one of the 25 blocks with the most violent gun crime incidents in D.C. are more likely to be involved in a delinquency matter themselves.<sup>186</sup>

In October 2022, CJCC also completed an analysis of the impacts of D.C.'s "Youth Rehabilitation Amendment Act of 2018" (YRA) since it became law.<sup>187</sup> The YRA offers sentencing alternatives for people who were under 24 years old at the time of their offense.<sup>188</sup> Not all eligible defendants are sentenced under the YRA. Instead, the judge decides whether to sentence a particular individual under the YRA. CJCC found that the most common YRA-sentence was probation (62%), whereas the most common non-YRA-sentence was incarceration (50%). A YRA-sentence was significantly associated with fewer rearrests among those ages 22 to 24, though there was no significant association for those under 21. These findings are reflective of D.C. lawmakers' purpose in enacting the YRA, which was to provide increased sentencing flexibility and privacy for convictions of young people in recognition of the many factors that influence criminal activity for youth.<sup>189</sup>

Youth Newly-Committed to DYRS, by Offense Level, FY 2016-2022.<sup>190</sup>



Race of Youth Newly-Committed to DYRS, FY 2010-2020.<sup>191</sup>

## DEVELOPMENTS & RESPONSES

### District Explores Youth Crime Prevention Approaches.

Both the D.C. government and advocates explored several new non-law enforcement responses to prevent youth crime involvement in 2022. For example, the D.C. Department of Employment Services (DOES) implemented a School Year Internship program utilizing an “earn and learn” approach to connect youth to employment opportunities.<sup>192</sup> According to DOES, giving young people jobs allows them to feel more economically empowered, and can therefore act as a deterrent to crime.<sup>193</sup> At the same time, youth justice advocates have expressed concerns that job connection programs often do not address some of the obstacles to maintaining employment, such as childcare, transportation, reliable internet access, and inadequate wages.<sup>194</sup> DOES planned to serve 25 youth in the School Year Internship Program during the 2022 school year.<sup>195</sup>

Additionally, DC Girls Coalition, a youth-led organization, coordinated efforts around holistic public safety by promoting police-free schools, soliciting input about educational support needs in light of COVID-19, and by offering healing circles.<sup>196</sup> Similarly, Black Swan Academy, a nonprofit that empowers Black youth through civic leadership and engagement, campaigned around their Black Youth Agenda.<sup>197</sup> During 2022, this agenda focused on three pillars: queer-affirming learning spaces, gun-violence prevention, and housing.<sup>198</sup> In 2022, Black Swan Academy youth met with local government candidates to share their priorities for D.C. and educated their peers regarding their recommendations, which includes expanding school curriculum requirements to include the histories and experiences of Queer and Black people; increasing the number of violence interrupters; and growing childcare options and utility assistance programs.<sup>199</sup>

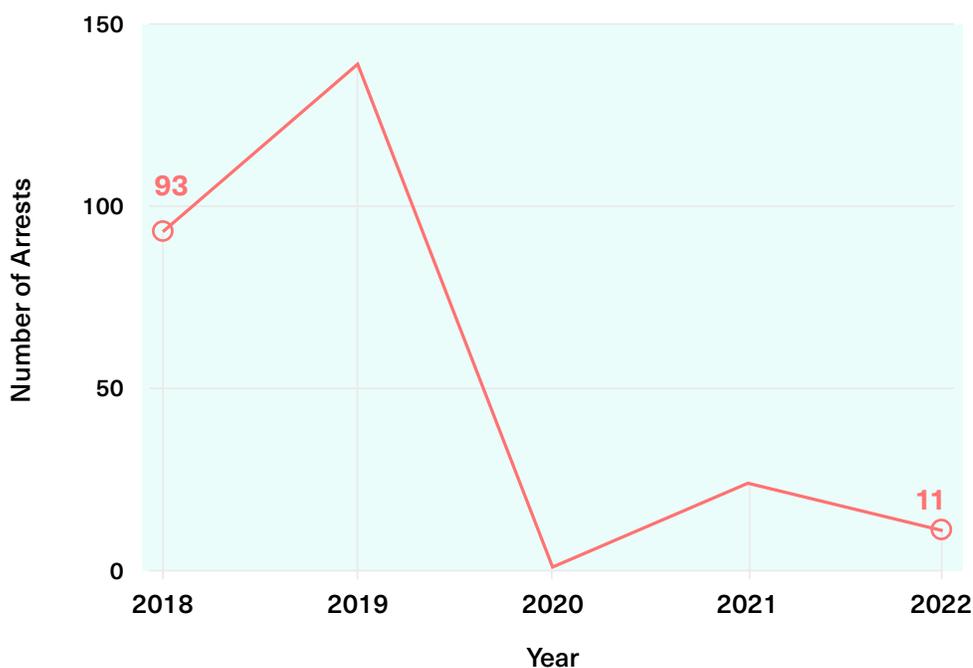
### **Increases in Truancy Prevention Efforts.**

Local leaders took new steps in 2022 to target truancy, unexcused absences from school, amongst students as a strategy for delinquency prevention. To reduce truancy, Attorney General Karl Racine expanded the ATTEND (Addressing Truancy Through Engagement and Negotiated Dialogue) Program to two additional schools in Ward 8, totaling six schools.<sup>200</sup> The program, which has worked with over 230 students and their families since being launched in 2018, provides case management and resource referral services, as well as community outreach and education. It seeks to address the underlying issues leading to truancy such as students not feeling safe or a lack of supervision.<sup>201</sup>

Additionally, the Office of Victim Services and Justice Grants (OVSJG) and the Department of Human Services (DHS) received a federal grant for the Parent and Adolescent Support Services (PASS) program and to integrate PASS staff and programming directly into District of Columbia Public Schools (DCPS) with high rates of truancy.<sup>202</sup> The program provides early intervention services, including case management and family therapy, for families with youth at risk of legal system involvement for skipping or missing school.<sup>203</sup> In D.C., PASS started in 2022 at Kramer Middle School, a DCPS middle school, with plans to expand into three additional schools by 2025.

Finally, in 2022, the State Board of Education and the Office of the State Superintendent of Education amended D.C.'s public school attendance policy.<sup>204</sup> Prior to the 2022-2023 school year, students were considered absent if they missed more than 20% of their classes in a single day.<sup>205</sup> A new policy took effect in July 2022, which considers students absent only if they miss more than 40% of their classes. The definition of a school absence is particularly important because if a student is absent from school on too many days, the student and their family can be referred to the Child and Family Services Agency (CFSA) for educational neglect.<sup>206</sup>

Arrests in D.C. Public or Charter Schools, 2018-2022.<sup>207</sup>



### Increased Mental Health Resources in Response to Youth Trauma.

In response to the growing need for mental health services for youth, some parents, students, advocates, and clinicians began 2022 calling for an expansion of D.C.'s school-based behavioral health program.

The District allocated an additional roughly eight million dollars to the Department of Behavioral Health (DBH) in the Fiscal Year (FY) 2023 budget for school-based behavioral health to supplement the prior year's total of about 30 million dollars.<sup>208</sup> Increased funding was designed to allow DBH to expand the program into each of the District's 216 school campuses, up from the 155 public and charter schools served in FY 2022.<sup>209</sup> Behavioral health school clinicians provide group and individual therapeutic sessions and classroom interventions.<sup>210</sup> However, D.C. residents continue to call for increased salaries for clinicians and more clinicians of color. "It's not easy to get the mental health care that you need because the whole city is suffering from post-traumatic stress disorder," noted one D.C. parent whose children have suffered injuries due to gun violence.<sup>211</sup>

### **Implementation of Post-Disposition Representation Panel.**

In 2022, D.C. Superior Court established a group of defense attorneys who judges can appoint to represent a child after they are committed to the custody of the D.C. Department of Youth Rehabilitative Services (DYRS). This panel was the Superior Court's way of ensuring compliance with a 2020 ruling by the D.C. Court of Appeals that recognized the right of all youth committed to DYRS to have an attorney throughout their incarceration, supervision, and reentry.<sup>212</sup> The initially approved group of 13 attorneys includes independent attorneys, as well as attorneys from the D.C. Public Defender Service, Georgetown's Juvenile Justice Clinic and Initiative, and Open City Advocates, a nonprofit focused on representing and mentoring youth sentenced by D.C. juvenile court.<sup>213</sup>

### **D.C. Council Considers Youth Safety Provisions.**

The D.C. Council unanimously passed the "Safe Passage to School Expansion Act of 2021" in December 2022.<sup>214</sup> The law addresses the risks that children and youth face traveling to and from school, including gun violence. The legislation created the Office of Safe Passage, which reports to the Mayor and coordinates safe commute efforts and monitoring.<sup>215</sup> It also established grant programs for organizations to develop violence prevention spaces and provides for increased busing to schools in areas with few transportation options for students.<sup>216</sup>

At the close of 2022, several pieces of legislation related to youth justice, remained pending at the D.C. Council. The “Youth Rights Amendment Act of 2021” was a bill to limit interrogation by law enforcement of anyone under age 18 without the opportunity to talk to an attorney. The bill would have also prohibited consent searches for anyone under age 18.<sup>217</sup> Additionally, the “Revised Criminal Code Act of 2021” (RCCA) would have established 12 as the minimum age to bring charges against a child<sup>218</sup> and the “Redefinition of Child Amendment Act of 2021” would have updated the definition of the word “child” in District law.<sup>219</sup> That change would require allegations against children under 18 years of age to be addressed in juvenile delinquency proceedings in Family Court unless specifically transferred by a judge to adult court.

**It’s not easy to get the mental health care that you need because the whole city is suffering from post-traumatic stress disorder,” noted one D.C. parent whose children have suffered injuries due to gun violence.**

# Conclusion

**We hope that this report provided a glimpse into the challenges, developments, responses, and complexities of D.C.'s criminal legal system in 2022.**

We hope that the developments described both instill a sense of urgency for systemic changes and inspire optimism as we take inventory of the collective power in our communities. While we could not name every event, disappointment, tragedy, or success that is worthy of attention, we hope that we have provided a foundation of understanding of the District's complex legal system.

The next edition of this report, *D.C.'s Criminal Legal Systems Overview 2023*, will be published in 2024 and will detail the developments of the prior year, including newly available data. CCE hopes that 2023 will bring new successes towards building a more equitable D.C., and we hope you will join us in our commitment to making this a reality.



Image: "Facing the Future Together"  
by Trap Bob, ©2021 Trap Bob

# ACRONYMS

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**ACLU-DC:** American Civil Liberties Union of the District of Columbia  
**ATTEND:** Addressing Truancy Through Engagement and Negotiated Dialogue  
**BOP:** Federal Bureau of Prisons  
**CCRC:** Criminal Code Reform Commission  
**CDF:** Central Detention Facility  
**CFSA:** Child and Family Services  
**CIC:** Corrections Information Council  
**DFS:** Criminal Justice Coordinating Council  
**CORE:** Council Office of Racial Equity  
**CTF:** Central Treatment Facility  
**DBH:** Department of Behavioral Health  
**DCPS:** D.C. Public Schools  
**DEA:** Drug Enforcement Administration  
**DFS:** Department of Forensic Sciences  
**DHS:** Department of Human Services  
**DMPSJ:** Deputy Mayor for Public Safety and Justice  
**DOC:** Department of Corrections  
**DOES:** Department of Employment Services  
**DYRS:** Department of Youth Rehabilitative Services  
**FY:** Fiscal Year  
**IRAA:** Incarceration Reduction Amendment Act  
**MPD:** Metropolitan Police Department  
**OAG:** Office of the Attorney General  
**ODCA:** Office of the District of Columbia Auditor  
**ONSE:** Office of Neighborhood Safety and Engagement  
**OVSJG:** Office of Victim Services and Justice Grants  
**PASS:** Parent and Adolescent Support Services  
**PDS:** Public Defender Service for the District of Columbia  
**READY Center:** Resources to Empower and Develop You Center  
**RCCA:** Revised Criminal Code Act  
**USMS:** U.S. Marshals Service  
**USP:** U.S. Penitentiary  
**USPC:** U.S. Parole Commission  
**YRA:** Youth Rehabilitation Amendment Act

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