

# Investigation of the Mount Vernon Police Department



United States Attorney's Office  
Southern District of New York  
Civil Division

and

United States Department of Justice  
Civil Rights Division

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## EXECUTIVE SUMMARY

In June 2020, Mount Vernon Police Department (MVPD) officers conducted a traffic stop of two women, one 65 years old and the other 75 years old, claiming that they saw the women engage in a hand-to-hand drug transaction. The driver of the car explained that she had given her husband a five-dollar bill to purchase a lottery ticket. An Internal Affairs (IA) investigation later determined that the MVPD officer had lied and there was no basis for the traffic stop. Without a basis for the stop, the officers ordered the women out of the car and searched it, but they found no contraband. The officers handcuffed the women and took them to the police station. At the police station, with supervisory approval, two female detectives made the women completely disrobe—including their bras and underwear—and told them to bend over and cough. No contraband was recovered, and the two women were driven back to their car and released. One of the women filed an IA complaint, recounting that she was “very humiliated” and was “on the verge of fainting I was so scared for my life.”

According to MVPD’s records, this is the only case in the last ten years in which MVPD acknowledged that a strip search was wrongful. Yet both of the female detectives who performed the strip and cavity searches confirmed to IA that they routinely conducted strip and visual cavity searches of all female arrestees, consistent with MVPD practice. One of the supervising officers who approved the arrest and search insisted that he and his officers did nothing wrong and were simply following long-standing practice. The only discipline imposed on the officers involved in the arrest and search was the loss of several days of accrued leave.

This incident is emblematic of the inadequate policies, training, supervision, and accountability that have contributed to MVPD’s conduct that violates the Constitution, including the unconstitutional arrests and invasive strip and visual cavity searches described above.

After completing a thorough investigation, the Department of Justice concludes that there is reasonable cause to believe that MVPD engages in a pattern or practice of conduct that violates the Constitution. MVPD engages in a pattern or practice of: (1) using excessive force; (2) conducting unlawful strip searches and body cavity searches until at least 2023; and (3) making arrests without probable cause, including unlawful arrests to perform strip searches, arresting people merely present when MVPD served a search warrant without independent probable cause for arresting those people, and arresting people for behavior that does not constitute a crime.

While it appears that MVPD curtailed its unconstitutional strip search and body cavity search practices during our investigation, we are not confident that these practices have ended. These unlawful searches were deeply ingrained in MVPD’s practices, occurring over many years, and were highly intrusive. MVPD only changed its practices during our investigation. Without sufficient oversight, we remain concerned that these practices will recur. We also have serious concerns about MVPD’s vehicle stop and evidence collection practices, as well as serious concerns that MVPD’s practices may result in discriminatory policing.

MVPD's practices are directly attributable to significant systemic deficiencies in MVPD's policies, training, supervision, and accountability systems, all of which are rooted in a long history of municipal dysfunction. Municipal financial mismanagement has seriously eroded MVPD's ability to follow basic practices standard in modern policing, such as keeping its 911 system up and running, providing its officers with Taser cartridges so they have a less-lethal force option, and ensuring that officers who interact with the public are equipped with body-worn cameras.

Leadership failures have resulted in the absence of needed policies or ones that have not been updated in decades; a complete lack of training on critical topics; and ineffective supervision, including supervisors investigating incidents in which they were personally involved. MVPD's data collection and records management are also deeply deficient. MVPD keeps no records of stops unless they result in arrests, for example, and despite our standing requests from early in the investigation for all misconduct files, MVPD continued to discover new files up until a few months ago. Put simply, MVPD does not have much of the basic infrastructure necessary to provide Constitutional and effective policing in the 21<sup>st</sup> century.

Comprised of approximately four square miles just north of the Bronx, Mount Vernon has significant poverty and has suffered from years of political turmoil. And even though Mount Vernon is located within one of the wealthiest counties in the United States, it struggles to adequately equip, train, and pay its officers. Instead, it consistently loses members of the police force to higher paying departments in neighboring towns. These long-standing challenges still plague the Department and contribute to the pattern of unconstitutional policing identified during this investigation.

Fortunately, the current leadership of the City and MVPD are taking steps to remedy this dysfunction and improve policing, including by revising MVPD's outdated policies, working to equip all officers with body-worn cameras and less-lethal weapons, and creating an officer and community wellness program. Although significant challenges remain, the City and MVPD have expressed a commitment to improvement. The City and MVPD have fully cooperated with this investigation, and we appreciate their engagement in this process.

## **BACKGROUND**

### **A. MOUNT VERNON, NEW YORK**

The City of Mount Vernon is in Westchester County, New York, immediately north of the Bronx. It has a population of roughly 67,000. The City's population is approximately 61% Black, 20% White, 17% percent Latino, and 2% Asian. The median income in Mount Vernon is \$68,300, consistent with the national average, but far below the median income of \$114,650 for Westchester County.

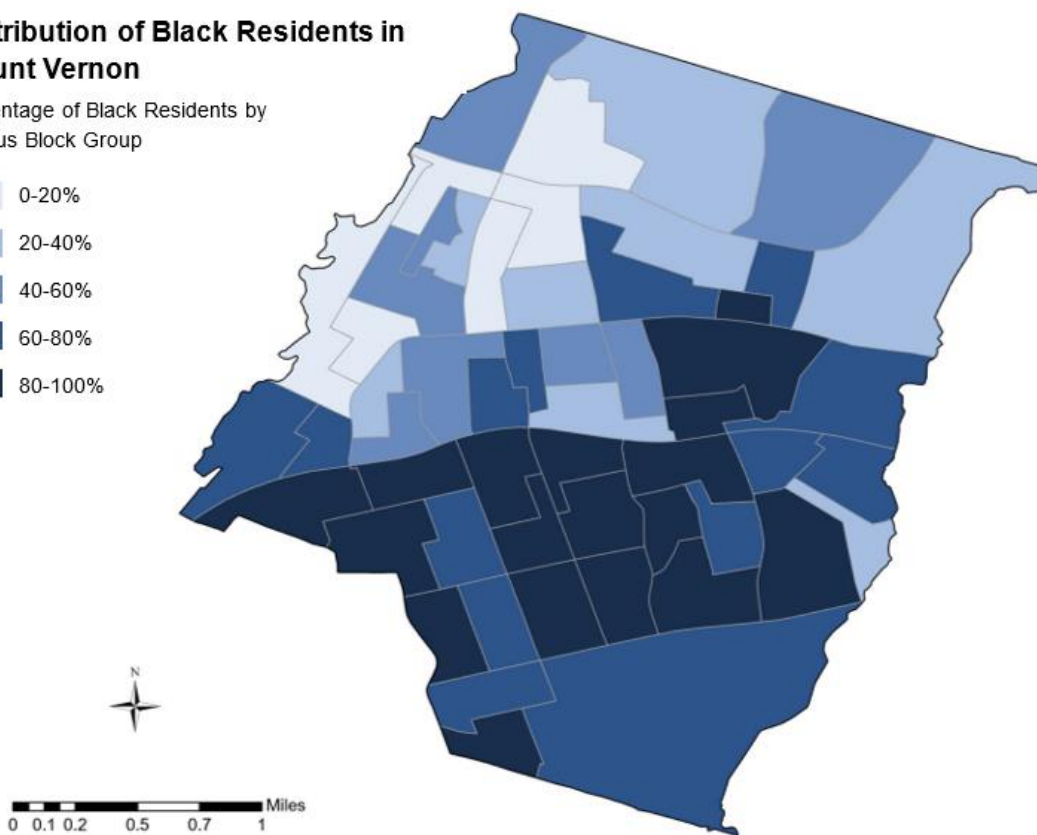
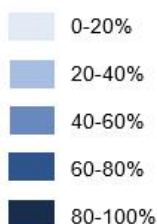
Mount Vernon is governed by a mayor and a five-member City Council. Both the mayor and city councilmembers, who serve at large, are elected for four-year terms. The City's current mayor is Shawyn Patterson-Howard, who was elected to office in 2019 and

reelected in 2023. Mayor Patterson-Howard, who is Black, is the first female mayor of Mount Vernon, the first woman of color, and the first sitting mayor in 20 years to win reelection. The Mayor is responsible for appointing City agency heads, including the Commissioner of Public Safety. The City Council is presided over by Council President Cathlin Gleason, who was elected to the council in 2021.

Like many cities in the United States, Mount Vernon is heavily segregated by race, with Black residents largely residing on the southern side of the city, closest to the Bronx. A majority of white residents live in the northern neighborhoods, closest to Bronxville, one of the wealthiest communities in Westchester.

### **Distribution of Black Residents in Mount Vernon**

Percentage of Black Residents by Census Block Group



## **B. MOUNT VERNON POLICE DEPARTMENT**

The Mount Vernon Police Department (MVPD) has a force of approximately 164 sworn officers. Forty-nine percent of MVPD officers are Black, 27% are white, and 23% are Hispanic. The Department is led by the Commissioner of Public Safety, who is appointed by the mayor. Since May 2023, David Gibson has served as Interim Commissioner, assuming office following the retirement of Glenn Scott. Commissioner Gibson joined MVPD in the fall of 2022 as Deputy Commissioner, after a 30-year career at the Bureau of Alcohol, Tobacco, Firearms, and Explosives. The Commissioner is responsible for the administration, operation, and discipline of the police department. He

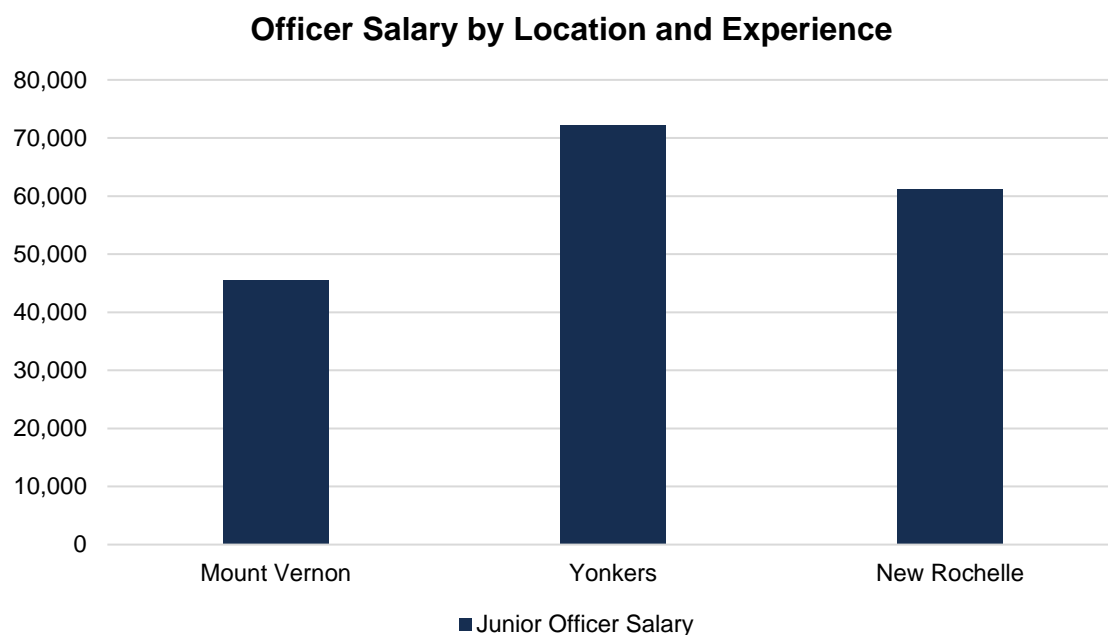
is assisted in his responsibilities by Deputy Commissioner Jennifer Lackard and Chief of Police Marcel Olifiers.<sup>1</sup>

The Department has five divisions: the Patrol Division, Detective Division, Training and Personnel Division, Support Services Division, and Community Wellness Division. The Patrol Division covers seven geographic patrol areas within the City, as well as the K-9 Unit. The Patrol Division also includes the Emergency Service Unit (ESU), which handles high risk search warrant entries and responds to calls of individuals in crisis. The Detective Division investigates criminal activity within the City and includes the Major Case Unit, which investigates homicides and other major crimes; the Violent Crimes Unit, which investigates pattern crimes; and the Youth Unit.

The Department also has an Internal Affairs Unit (IA). IA investigates allegations of criminal misconduct against Department employees, although it also may investigate matters assigned to it by the commissioner or the police chief. IA is staffed by a sergeant and two investigators.

The Mount Vernon Police Association represents the interests of sworn MVPD members below the rank of Deputy Chief. The union has a collective bargaining agreement (CBA) with the City which establishes the terms and conditions of employment, and the union is currently in the process of negotiating a new CBA.

MVPD salaries in 2024 start at \$45,567 for the most junior officers. In comparison, the starting salaries for police officers in two neighboring towns in Westchester County—Yonkers and New Rochelle—were \$72,233 (as of 2021) and \$61,183 (as of 2024).



<sup>1</sup> Mount Vernon Police Department, <https://cmvny.com/525/Executive-Leadership-Organizational-Char> [<https://perma.cc/H9M3-ZF4R>].

## **C. FINANCIAL MISMANAGEMENT WITHIN CITY GOVERNMENT AND MVPD**

Mount Vernon has a long history of dysfunction and financial struggles, which has significantly impacted MVPD. The Office of the New York State Comptroller audited Mount Vernon's finances for the years 2017 through September 2020 and issued a report in January 2022. The State concluded that the then-comptroller failed to pay more than \$2 million in claims and created a voucher system that "restricted the ability of officials and employees to monitor operations" and "prevented officials from determining whether vendors had been paid."<sup>2</sup> The State further found that the comptroller had made more than \$16 million of unauthorized electronic disbursements and withdrawals. The current administration is taking steps to address these financial problems, and a new comptroller was elected in 2021. However, the administration faced—and still faces—a serious financial shortfall created by the prior years of dysfunction.

These financial problems have significantly affected MVPD's policing operations. MVPD leadership explained that due to the actions of the last comptroller, MVPD had difficulty paying outstanding invoices, and thus could not obtain or replace a sufficient amount of body-worn cameras or Taser cartridges. As of September 2024, approximately 40 officers still need body-worn cameras, and the Department has access to only a limited number of Tasers. During an interview on December 11, 2021, Commissioner Scott complained that officers lacked Taser cartridges, stating that officers "don't have less than lethal force." In December 2021, the Commissioner reported that "911 ha[d] been down three times since January 2020 due to unpaid bills." Financial difficulties are also undermining MVPD's ability to hire new officers; in 2020, newly hired Probationary Police Officers were not paid for seven weeks and, in 2021, new recruits were not paid for at least two weeks. MVPD officers are also forced to buy much of their own equipment, despite their low pay relative to neighboring departments. One officer noted that her vest is fifteen years old and thus likely ineffective, but that she cannot afford to replace it.

The City's monetary challenges have undermined MVPD's ability to hire and supervise officers, train them adequately, and provide them with appropriate equipment to police constitutionally. By the fourth quarter of 2023, however, the City had made some progress in reducing its debt and managing its financial operations. Nevertheless, it still faces significant monetary shortfalls. Until the City's financial difficulties are fully addressed, MVPD will continue to be vulnerable to non-payment of invoices for equipment and resources it needs to conduct constitutional and effective policing.

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<sup>2</sup> Office of the New York State Comptroller, *City of Mount Vernon – Non Payroll Disbursements (2021M-163)* 1 (2022), <https://www.osc.ny.gov/files/local-government/audits/2022/pdf/mount-vernon-2021-163.pdf> [<https://perma.cc/XX8R-GXRH>].

## **D. MVPD INCIDENTS UNDERMINING PUBLIC TRUST**

MVPD has also had numerous incidents undermining community confidence in the Department over the last few years. Former MVPD Police Chief Richton Ziadie was suspended for overtime abuse in 2019, leading to an investigation by the Westchester County District Attorney's Office (WCDAO). The WCDAO ultimately declined to bring criminal charges, but Ziadie retired shortly thereafter. In 2017, an officer, after observing illegal searches and uses of force, recorded his fellow officers discussing misconduct and corruption within the Department's narcotics unit. As a result of the public outcry following the recording's release by a media outlet in 2021, the Department disbanded the narcotics unit; however, that unit appears to have been reconstituted under another name. MVPD initiated an internal affairs investigation into the incident but, three years after the recordings were made public, the investigation is still ongoing.

Incidents such as these have come at a price to the City—both literally and figuratively. One officer, now retired, cost the City so much in lawsuits and settlements that he was dubbed by local media as the City's "Million Dollar Man." More tellingly, however, these incidents have cost MVPD significant public trust, as many community members lack confidence in the Department's ability to police lawfully and hold officers accountable.

## **FINDINGS**

### **A. MVPD ENGAGES IN A PATTERN OR PRACTICE OF CONDUCT THAT VIOLATES THE UNITED STATES CONSTITUTION AND LAWS**

The Department of Justice, through the United States Attorney's Office for the Southern District of New York and the Civil Rights Division, opened this investigation on December 3, 2021. We conducted the investigation pursuant to the police misconduct statute, 34 U.S.C. § 12601, which prohibits law enforcement agencies from engaging in a "pattern or practice" of conduct that deprives people of rights protected by the U.S. Constitution or federal law. Where we develop reasonable cause to believe that an agency engages in a prohibited pattern or practice, we may bring a lawsuit to eliminate it.

We find that MVPD engages in a pattern or practice of conduct that violates the Constitution. This pattern or practice is rooted in MVPD's deficient policies, training, equipment, supervision, and accountability systems for officer activity, and it manifests in specific Constitutional violations: (1) MVPD routinely uses unreasonable force; (2) MVPD engaged in unlawful strip searches and body cavity searches until at least 2023; and (3) MVPD unlawfully arrests individuals without probable cause, including unlawful arrests to perform strip searches. This includes arresting people present when MVPD served a search warrant without independent probable cause for arresting those people, and arresting people for behavior that does not constitute a crime. And although we do not make a finding that MVPD's vehicle stop or evidence collection practices violate the Constitution, or that MVPD's practices result in discriminatory policing in violation of the Constitution or federal law, we have serious concerns about those



practices.

We make these findings after a comprehensive investigation into MVPD's practices. We consulted a broad set of sources and sought the perspective of numerous stakeholders. In total, we conducted more than one hundred interviews of current Department officers and command staff, City Hall officials, leadership of the Mount Vernon Police Association, residents of Mount Vernon, local civic associations, prosecutors, and witnesses and lawyers involved in criminal and civil litigation with the Department. We examined more than one hundred thousand pages of internal Mount Vernon documents, including MVPD's policies, use of force reports, arrest reports, civilian complaints, internal discipline files, command discipline files, training materials, video footage, and years of stop, search, and arrest data. We conducted multiple tours of the Department, which include participating in overnight ride-alongs with patrol officers. During the course of our investigation, we consulted with law enforcement experts with experience in the relevant issues and hired data technicians to assist us in analyzing MVPD data on stops, arrests, and other enforcement activities.

At all times, MVPD and City leadership took a cooperative and professional approach to our investigation. We are grateful to MVPD personnel for their candor and insights during interviews. We are likewise grateful to the leadership of the Mount Vernon Police Association, which met with us on multiple occasions and invited us to speak to union members. We also met with a substantial number of people in the broader Mount Vernon community. We are thankful for the many community members who came forward to share information with us, even when doing so involved reliving difficult personal experiences.

## **1. MVPD Uses Excessive Force**

MVPD engages in a pattern or practice of using excessive force that manifests in various ways, including: (1) by unnecessarily escalating minor encounters, resulting in excessive force; and (2) through excessive use of Tasers and closed-fist strikes, including against individuals who have already been taken to the ground, are controlled by a large number of officers, and/or are already fully or partially restrained.

Excessive physical force claims are analyzed under the Fourth Amendment's objective reasonableness standard. The analysis requires balancing the intrusion on the individual's Fourth Amendment interests against the governmental interests at stake. The criteria to assess whether a law enforcement officer used excessive force include the severity of the crime at issue, the presence of an immediate safety threat to the officers or others, and the subject's resistance to or attempt to evade arrest. Objective reasonableness is determined from the perspective of a reasonable officer at the time the force was used, or whether a reasonable officer would be aware that the force used was excessive. Reasonableness is a fact-dependent inquiry based on the totality of the circumstances.

Even if the use of some force is justified, the particular level of force used may still be excessive if it is disproportionate to the resistance or threat encountered. "The fact that a person whom a police officer attempts to arrest resists, threatens, or assaults the

officer no doubt justifies the officer's use of some degree of force, but it does not give the officer license to use force without limit."<sup>3</sup> It is well-established that use of force on an arrestee who is already handcuffed or confined in custody is excessive when the arrestee is not actively resisting or reasonably perceived to be a threat. Similarly, the use of force following surrender is excessive because the threat of force and level of resistance is low, even where the subject is being arrested for a violent crime. High levels of force used to effectuate an arrest for a non-violent, non-threatening violation are more likely to be unreasonable. Force may also be excessive where it is in response to simple noncompliance. And courts have held that it is "an excessive and unreasonable use of force for a police officer repeatedly to administer electrical shocks with a taser on an individual who no longer is armed, has been brought to the ground, has been restrained physically by several other officers, and no longer is actively resisting arrest."<sup>4</sup>

#### **a. MVPD's Overly Aggressive Tactics Unnecessarily Escalate Encounters and Result in Excessive Force**

We found numerous instances where relatively minor offenses that could lead to a peaceable arrest instead led to significant use of force due to overly aggressive MVPD tactics. Many of these incidents involved Tasers,<sup>5</sup> which courts have recognized "is a serious use of force. The weapon is designed to cause . . . excruciating pain and application can burn a subject's flesh."<sup>6</sup> As discussed in the next section, MVPD's use of Tasers is often excessive even where some use of force is justified, but we also found MVPD officers using Tasers when no force was likely justified but for MVPD officers escalating the situation. The following examples illustrate MVPD's use of overly aggressive tactics which resulted in excessive force:

- Five MVPD officers used force on a man they suspected of selling narcotics despite not announcing their presence beforehand or attempting to peacefully arrest him. One officer approached the man from behind and attempted an

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<sup>3</sup> *Sullivan v. Gagnier*, 225 F.3d 161, 165-166 (2d Cir. 2000); see also *Curry v. City of Syracuse*, 316 F.3d 324, 332 (2d Cir. 2003) (holding that fact that arrestee struck police officer did not automatically defeat excessive force claim if arrestee could show that officer used more force than necessary to subdue him).

<sup>4</sup> *Meyers v. Baltimore County*, 713 F.3d 723, 734 (4th Cir. 2013).

<sup>5</sup> A Taser is a weapon that "can be used either in 'probe' mode or in 'stun' mode. In probe mode, two probes are fired from a distance, attached to thin electrical wires, to lodge in the skin of the subject. The Taser then delivers a fixed five-second cycle of electricity designed to cause electro-muscular disruption, effectively freezing the subject's muscles and thereby temporarily disabling him. In stun mode, the probe cartridge is removed and the Taser's electrodes are applied directly to the subject. The Taser operator can then deliver a painful electric shock, the duration of which is completely within the operator's control. In stun mode, the Taser does not cause muscular disruption or incapacitation, but rather functions only as a 'pain compliance' tool." *Meyers v. Baltimore County*, 713 F.3d 723, 728 n.3 (4th Cir. 2013) (alterations omitted) (quoting *Meyers*, 814 F. Supp. 2d 552, 555 n.3 (D. Md. 2011)). "[U]sing drive stun mode 'to achieve pain compliance may have limited effectiveness and, when used repeatedly, may even exacerbate the situation.'" *Armstrong v. Pinehurst*, 810 F.3d at 902 (quoting Police Exec. Research Forum & Cmty. Oriented Policing Servs., 2011 *Electronic Control Weapon Guidelines* 14 (2011)).

<sup>6</sup> *Estate of Armstrong v. Vill. of Pinehurst*, 810 F.3d 892, 902 (4th Cir. 2016) (internal quotation marks and citations omitted).

“upper body hold” simultaneous with announcing his presence. This prompted an altercation in which one officer threw the man to the ground, breaking his nose; another officer drive-stunned him with his Taser five times; a third officer punched the man repeatedly in the head; and a fourth officer used his baton to pry apart the man’s arms. The man suffered a fractured nose and bruises to his face and back. This force was not only unreasonable, but potentially unnecessary had MVPD officers attempted a less confrontational initial approach. Instead, the situation rapidly escalated due to MVPD officers’ immediate aggressive actions. Officers recovered a small amount of drugs and MVPD found the uses of force justified.

- Seven officers responded to a welfare check for a person who had behavioral health issues. Instead of attempting to calm the individual, the officers immediately handcuffed him. This increased the person’s alarm and distress, and he began to struggle. The officers further escalated the encounter by placing him in a body wrap restraint, but the individual was able to reach out and grab an officer’s hand. MVPD officers then tased him seven times to gain compliance, all while he was handcuffed, on the ground, and in a body wrap restraint. Two officers received discipline; the sergeant who deployed the Taser lost 32 hours of leave and had his Taser certification suspended, while another sergeant was given verbal counseling for failure to intervene. As explained below, such discipline is exceedingly rare, allowing an incident like this one to occur in the first place.
- Two officers responded to a domestic disturbance that appeared to be resolving—the man was walking away from the apartment when officers arrived. Instead of escorting him from the scene and interviewing the parties, the officers immediately attempted to arrest the man when he pushed past one of the officers and attempted to leave. The reports give no indication of the probable cause for that arrest; the man was ultimately charged only with obstruction of a government officer and resisting arrest. During the arrest, both officers deployed their Tasers. One officer tased the man; then the second officer attempted to tase the man, but accidentally tased the first officer instead; finally, the second officer tased the man (successfully this time), after which the man was handcuffed. While the second officer was counseled to “better visualize his target when deploying a Taser,” the use of force was found “justified” and “within Department guidelines,” and no disciplinary action was taken.
- One MVPD officer pushed a handcuffed woman in MVPD detention into her cell so forcefully that she stumbled over a trash bin and hit a cinderblock wall face-first. The incident was captured on body-worn camera video, and the officer was subsequently charged with reckless endangerment. The charges were later dropped against the officer.

## **b. MVPD Regularly Uses Tasers and Closed-Fist Strikes to the Head When This Level of Force Is Not Reasonable**

Even when some force may be required, MVPD's use of Tasers is frequently excessive and unnecessary, particularly in circumstances where officers already have sufficient control of a person. MVPD officers also frequently punch individuals in the head and face during physical confrontations, even when multiple officers are in the process of restraining the person and at times when the individual has already been taken to the ground. While the use of a Taser or closed-fist strikes can be justified under certain circumstances, officers' use of force must be reasonably related to the threat posed. MVPD's use of Tasers and closed fist strikes often occurs even when the arrestee does not pose an active threat and officers have sufficient personnel to gain compliance without this level of force.

For example, four officers pursued a man on foot on suspicion of selling marijuana. When they caught him, they took him to the ground and used significant force while attempting to handcuff him: based upon the officers' own descriptions, one officer kned him in the chest and punched him multiple times in the body; another punched him twice in the face with a closed fist; another officer punched him multiple times on his body and then twisted his ankle (a tactic described by MVPD as "pain compliance"); and the fourth officer used a baton to force his arms behind his back. Despite their numbers and already substantial use of force, a fifth officer arrived and twice fired his Taser into the man's back. The officers eventually recovered seven grams of marijuana and the individual was charged with possession of marijuana, resisting arrest, and obstructing governmental functions. While some of the initial force may have been justified, the head strikes to the face and the two instances of tasing after the man was already on the ground and being restrained by four officers were unreasonable.

In another incident, two officers confronted a man who had been acting erratically, but not dangerously, in a store. The officers took the man to the ground but—stating that he displayed "extra ordinary strength, possibly due to the fact that he was high on narcotics"—were unable to place him in handcuffs. Additional officers appeared on the scene while the original officers attempted to handcuff him. During the struggle the lieutenant advised the officer to use his Taser and drive-stun the man, which the officer did four times. Body-worn camera footage reveals that, at the point where the Taser was deployed, several officers were on top of the man, who was refusing to turn over onto his stomach so that he could be handcuffed. Again, given the degree of control the officers already had over the man, the use of the Taser was unreasonable.

We examined other cases reflecting poor police tactics that led to unnecessarily violent encounters, including head strikes with closed fists. For example, an officer stopped a vehicle based upon a report of vehicular assault on an officer in another jurisdiction. Rather than wait for additional backup (beyond the second officer already at the scene), which was only minutes away, the officer reached in through the driver's window to turn off the ignition. This prompted an altercation, during which both officers struck the man multiple times with closed fists, including in the head, to subdue him and get him out of the vehicle. Though force may have been justified once the driver reacted to the officer's initial movement, the officer's actions in reaching through the window likely

escalated the incident. The officer's actions also put him in an extremely dangerous position that may have resulted in his being dragged by the car, had the driver accelerated when the officer reached through the door. In addition, once several more officers arrived and the individual was on the ground, they continued to repeatedly strike him in the head with their fists. These head strikes by the officers after the individual was already on the ground were unreasonable. No discipline or counseling resulted, as it was determined that the officers "used proper tactics during this incident." Indeed, none of the incidents listed above resulted in any disciplinary action.

### **c. MVPD's Excessive Force Is Attributable to Inadequate Policies, Training, Supervision, and Accountability**

MVPD's use of force policies and training do not provide adequate guidance to officers on how to use force consistent with the Fourth Amendment. For example, MVPD's use of force policy states that "[f]orce shall not be used by an officer . . . [a]gainst persons who are handcuffed or restrained unless it is used to prevent injury, escape, or otherwise overcome active or passive resistance posed by the subject." This language allows MVPD officers to deploy force against a handcuffed suspect who is merely failing to comply with demands (passive resistance), which would be unconstitutional in most circumstances.

Officers also fail to consistently report force so it can be appropriately investigated. As is evident from many of the descriptions of force incidents above, reports about those incidents vary widely, with some officers reporting that little to no force was used, while other officers document significant force such as head strikes and Taser use. For example, in the incident where five officers collectively struck a man multiple times in the head, one officer's report stated that he "did not observe officers using other than restraining force" during the entire struggle.

MVPD's use of force training is likewise inadequate. While use of force is one of the few areas on which regular training is provided, that training is often inadequate, ad hoc, and poorly organized. For example, although MVPD's policy on conducted energy weapons states that Tasers may not be used "[o]n a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion," the incidents described above demonstrate that MVPD officers do not adhere to this policy. Indeed, MVPD's use of force training suffers from the same failures that we found pervade all of MVPD's training: a lack of full-time training staff, standardized materials, or any systemic training for supervisors. These failures are described in more detail in Section B.2 below.

Finally, supervision and accountability after use of force incidents are also inadequate. Supervisors who are involved in use of force incidents often provide the first level of review, notwithstanding their personal involvement in those incidents. In one case, for example, a sergeant who was on the scene for an arrest also completed the initial use of force review in which he found the officers' use of force was justified.

Moreover, MVPD leadership signs off on officers' actions in nearly every instance, including all but a handful of those discussed here. This approval occurs even though,

as described above, officers' accounts contain numerous inconsistencies, including whether officers used force at all and the amount of force used. MVPD supervisors make no attempt to reconcile these inconsistent statements or to hold officers accountable for deficient force reporting even when it is obviously insufficient or non-existent. In the rare instances when MVPD does carry out a force investigation, it is by an inadequately experienced, trained, or staffed Internal Affairs.

## **2. MVPD Unlawfully Conducted Strip and Body Cavity Searches of All Arrestees**

Until at least October 2022, it was MVPD's practice to subject every person they arrested to a strip search—and, in many cases, a visual cavity search<sup>7</sup>—which are among the most degrading and intrusive searches officers can perform. In the words of a commanding officer who oversaw many of those searches, MVPD officers strip searched “every single person who walked in th[e] building.” After an internal review of its strip and cavity search practices in 2023 that was prompted by our investigation, MVPD concluded as follows: “There is a question of whether the Mount Vernon Police Department had a history of regularly conducting *strip searches* on arrestees. The simple answer to this would be [] yes . . . .” The Department found “the regular searching of an arrestee so as to have their underwear exposed” was the result of MVPD's inadequate policy and training; with a policy change in October 2022 and subsequent training, MVPD aimed to “ensure that a strip search was, in fact, a rare occurrence.” Because strip searches and visual cavity searches are permissible only when an officer has reasonable suspicion that evidence or weapons were concealed in a person's clothing or body cavities, this practice was a gross violation of Fourth Amendment rights.

During this period, MVPD searches of individuals suspected of possessing narcotics sometimes included unconstitutional manual cavity searches. Manual body cavity searches, where an officer inserts or removes something from a suspect's body, are so intrusive that they are wholly prohibited (outside the prison context) absent a warrant explicitly permitting such a search or exigent circumstances.<sup>8</sup> We did not find evidence that MVPD's manual cavity searches were justified by exigent circumstances or authorized by a warrant.

Arrestees were not the only ones subject to unconstitutional strip or cavity searches. Prior to 2023, MVPD officers regularly conducted strip searches and visual cavity searches of individuals prior to any lawful arrest. As with the other unconstitutional policies and practices we have found, MVPD's practice of conducting unconstitutional

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<sup>7</sup> “A ‘strip search,’ though an umbrella term, generally refers to an inspection of a naked individual, without any scrutiny of the subject's body cavities. A ‘visual body cavity search’ extends to visual inspection of the anal and genital areas. A ‘manual body cavity search’ includes some degree of touching or probing of body cavities.” *Blackburn v. Snow*, 771 F.2d 556, 561 n.3 (1st Cir. 1985).

<sup>8</sup> See *Schmerber v. California*, 384 U.S. 757, 770 (1996) (“[A]bsent an emergency,” “[s]earch warrants are required where intrusions into the human body are concerned.”); accord *People v. Hall*, 10 N.Y.3d 303, 311 (2008).

strip and body cavity searches was the result of deficient policies, a lack of training, and a lack of meaningful oversight and accountability. MVPD now represents that the Department has put a stop to these practices by updating its policy and providing training, but it admits that it has not put oversight and accountability measures in place to verify that representation or ensure that it remains true. We remain concerned that MVPD's unconstitutional strip and body cavity search practices may still be occurring or could recur. The practice was a serious violation of the Fourth Amendment, and it was deeply ingrained in MVPD's culture. MVPD did not take steps to end the practice through a new policy on these searches until nearly a year into our investigation and, as described below, then took months to begin training officers on the new policy. Without meaningful oversight, we are not confident that MVPD's unconstitutional strip and cavity searches have been eliminated.

**a. MVPD Officers Subjected Arrestees to Suspicionless Strip and Visual Cavity Searches**

Until at least October 2022, it was MVPD's practice to subject persons they arrested to a strip search and, in many cases, a visual cavity search. They did so as a matter of course, regardless of any reasonable suspicion to believe contraband or evidence was secreted under the arrestee's clothing. Many of these arrestees—particularly those arrested in connection with narcotics—were also made to remove their underwear and subjected to visual cavity searches, whether or not the MVPD officers had reasonable suspicion contraband was hidden inside a body cavity. As MVPD arrested about 8,000 people across approximately 14,500 arrests from 2015 to 2022, this practice resulted in a gross violation of the Fourth Amendment on an enormous scale.

MVPD has conceded that it subjected all arrestees to strip searches until the Department issued a new written policy governing strip and cavity searches in 2022. MVPD's practice of subjecting all arrestees to strip searches and, in many cases, visual cavity searches led MVPD officers to conduct suspicionless—and thus unlawful—strip and cavity searches of many arrestees. Though MVPD officers rarely noted in their incident reports or elsewhere that they conducted these routine strip and cavity searches, they did document these searches in a few cases. For example, MVPD officers conducted a visual cavity search of an individual from whom they had recovered two plastic twists of suspected cocaine during a search of his pockets. One of the two sergeants who supervise the Violent Crime Unit authorized the cavity search. However, in their incident report concerning the arrest, the officers documented no reasonable basis to believe the person was concealing contraband in his body cavity, and no contraband was found during the search. Without such a basis, the search was unconstitutional.

In addition, a number of arrestees reported to us during interviews and in civilian complaints that MVPD officers conducted multiple, redundant strip searches or visual cavity searches, even though they were under MVPD observation at all times between these searches. Because MVPD rarely documented strip and cavity searches, it is difficult to determine whether, or how often, this occurred. Because there can be no

reasonable suspicion of contraband in such a situation, redundant searches like those alleged are unconstitutional.

MVPD circulated to its officers a new written policy governing strip and cavity searches in October 2022—backdated to July 2022—meant to end suspicionless strip and cavity searches. However, we are not confident that MVPD stopped subjecting arrestees to suspicionless strip or cavity searches in October 2022. MVPD has no record of training on the new policy until January 2023; the Department did not begin to document strip or cavity searches until 2023; and, to this day, MVPD has not taken any steps to audit or otherwise test officers' compliance with the new policy, which depends on officers only conducting such searches in the presence of a supervisor and that supervisor logging the search.

According to MVPD's new log, it has conducted only a single strip search and no cavity searches since 2023. One of the primary supervisory officers responsible for approving requests to conduct strip searches who was re-interviewed in 2024 stated that, since the change in policy in the last year or so, he was aware of only that single strip search. In addition, there have been no recent civilian complaints concerning strip or cavity searches—though MVPD's civilian complaint intake process has, historically, been unreliable, see *infra* Section B.4. If MVPD's log is accurate, and the Department has almost entirely stopped conducting strip and cavity searches, that would be a dramatic change in practice in a short period of time. However, in April 2024, another supervisory officer told us that, contrary to the new policy, officers may be conducting strip searches outside the presence of supervisors. While it appears that MVPD has at least curtailed its practice of subjecting arrestees to suspicionless strip and cavity searches, given the above, we are not confident that the practice has ended.

#### **b. MVPD Officers Conducted Unconstitutional Strip and Visual Cavity Searches Prior to Any Lawful Arrest**

MVPD officers not only conducted suspicionless searches of arrestees, but they also regularly conducted strip searches of people prior to arrest. Until at least 2023, when MVPD officers lacked probable cause to arrest individuals suspected of possessing narcotics, they frequently conducted illegal strip searches and visual cavity searches in the hopes of recovering narcotics that would support an arrest. In many cases, an MVPD officer searched an individual's pockets for narcotics, found no contraband, and then conducted an unconstitutional strip search—sometimes after detaining and transporting the person to the station—even though the individual was not seen to conceal anything under his or her clothing and the officer lacked reasonable suspicion to believe that narcotics were concealed there. When no contraband was found, MVPD would release these individuals, as they lacked probable cause for an arrest. This unconstitutional conduct is exemplified by the unlawful detention and visual cavity searches of the 65-year-old woman and 75-year-old woman described in the beginning of this report.

Unconstitutional strip searches prior to any arrest were particularly common when MVPD officers executed search warrants on suspicion of narcotics violations. When



executing these warrants, MVPD officers routinely conducted strip searches and visual cavity searches of the individuals present, regardless of the requisite reasonable suspicion. This is unconstitutional.

In 2015, a federal district court, in connection with a private lawsuit alleging that MVPD officers conducted illegal strip searches while executing a search warrant, reminded Mount Vernon that “it is clear that the existence of a warrant authorizing the search of a person or persons, without more, does not justify the extraordinary invasion of privacy caused by a strip search.”<sup>9</sup> The officer who supervised the searches at issue in that lawsuit—which was ultimately settled—went on to become MVPD’s Commissioner from 2020 to 2023.

Despite this 2015 judicial decision, the MVPD continued the strip search practice for years. In a video of a search conducted in an apartment pursuant to a general warrant, an MVPD officer tells a visitor to the apartment, “All right . . . you know the deal, we got a search warrant,” and then proceeds to conduct a visual cavity search. A supervisory officer who reviews many of MVPD’s warrants wrongly insisted, when we interviewed him in 2022, that such searches are authorized by a general search warrant. Many other supervisory officers also advised us during interviews that it was standard practice to conduct strip searches, if not visual cavity searches, when executing a general search warrant.

### **c. MVPD Officers Conducted Unconstitutional Manual Body Cavity Searches of Narcotics Suspects**

Though MVPD’s written policies have long recognized that manual cavity searches are prohibited absent a warrant expressly authorizing such a search or exigent circumstances, until at least October 2022 MVPD officers nevertheless conducted manual cavity searches in violation of this policy and individuals’ Fourth Amendment rights. Illegal manual cavity searches occurred in the field, when MVPD officers were executing general search warrants, and at the police station, when conducting post-arrest searches of individuals suspected of narcotics activity. This conduct violated MVPD’s written policy, which required a warrant or exigent circumstances and that “a medical doctor” conduct such a search in a medical facility. More importantly, it violated these individuals’ Fourth Amendment rights.

We found complaints alleging that MVPD officers conducted manual cavity searches in the field while executing general search warrants related to narcotics investigations. For example, MVPD executed a search warrant authorizing the search of an apartment and those present at the time of the search in connection with a narcotics investigation. When MVPD officers attempted to conduct a strip search of one of the individuals present in the apartment, he resisted; the person alleges that an MVPD officer held him down and inserted a finger into his rectum at least twice. A contemporaneous video captured MVPD officers speaking about a “search” of this individual and instructing the

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<sup>9</sup> *Green v. City of Mount Vernon*, 96 F. Supp. 3d 263, 292 (S.D.N.Y. 2015).

officer alleged to have conducted the manual cavity search to “get some gloves.” No narcotics were recovered from the person.

We also found in the years prior to 2023, nine individuals filed civilian complaints or lawsuits alleging MVPD officers conducted manual cavity searches at the station. The details alleged in these complaints—including how, where, and by whom those searches were performed—are consistent and mirror video evidence of other MVPD visual cavity searches.

### **Complaint of Manual Cavity Search at Police Station**

A man filed a complaint alleging that, after he was arrested for selling narcotics to an undercover officer, an MVPD officer placed him in a holding cell, instructed him to remove his clothes and then bend over, spread his buttocks, squat, and cough. After he dressed himself again, the officer’s partner came, removed him from the holding cell (which had a camera), and took him to another room without a camera. The complainant alleges this officer put on blue gloves, removed the complainant’s pants, put a hand on his back to bend him over, and then inserted a finger into the complainant’s anus. MVPD has no record of investigating this complaint.

#### **d. MVPD’s Unconstitutional Strip and Cavity Search Practices Are the Result of Inadequate Policies, Training, and Supervision**

The unconstitutional strip and cavity search practices described above result from MVPD’s failure to provide officers with adequate policies, training, and supervision. At the time we started our investigation, MVPD’s policy on strip and cavity searches had not been revised since it was issued in 1993. It did not define a “Strip Search” and did not distinguish between strip searches and visual body cavity searches. The policy set out inconsistent standards on when a strip search is permissible; in its initial paragraph, the policy erroneously suggested that a “full strip search” may be permissible if an officer had a “rational basis for doing so.” Later on, the policy correctly referenced the need for reasonable suspicion of concealed contraband or evidence. And MVPD’s policy made no mention of visual cavity searches. MVPD leadership has admitted that, at least prior to 2022, MVPD officers did not understand that stripping a person down to undergarments constituted a strip search, and they did not understand that visually inspecting a person’s anus constituted a visual cavity search.

Similarly, prior to January 2023, there is no record of MVPD training its officers in the last ten years on its written policy governing strip and cavity searches. As a result, when we interviewed MVPD officers in 2022, they were generally unaware of the Department’s policy and its requirements. When interviewed in 2022, senior MVPD officers continued to believe, erroneously, that visual cavity searches were strip searches.

MVPD revised its written policy regarding strip and cavity searches in October 2022, following our feedback provided during our investigation. The October 2022 revision does a far better job of providing guidance to officers, but MVPD knew much earlier that the Department needed to change. Interviews suggest that, at least since we announced our investigation in December 2021, senior MVPD leadership understood that it was critical to change the Department's strip and cavity search practices. But once it did change the policy, the Department did not conduct comprehensive training on that new policy—even for the supervisors authorized to approve requests to conduct strip or cavity searches under the new policy—until May 2023, almost seven months after the policy change and more than a year after learning that the policy needed to change. Such lengthy delays in policy revision and training reflect the difficulty MVPD continues to have executing even urgently needed changes to its policies and practices.

Moreover, MVPD does not yet have in place adequate systems to ensure that officers comply with the new policies and training. MVPD's unconstitutional strip and cavity searches were pervasive, and MVPD rarely documented these searches when they occurred. MVPD must institute robust supervision and accountability measures to ensure that officers have discontinued these practices.

### **3. MVPD Makes Unlawful Arrests in Violation of the Fourth Amendment**

We find that MVPD engages in a pattern or practice of unconstitutional arrests in violation of the Fourth Amendment. We found significant evidence that MVPD makes arrests that lack probable cause. This includes MVPD officers conducting unlawful arrests to perform strip searches; arresting individuals present during service of a search warrant even though officers did not have probable cause to arrest those individuals; and arresting people for behavior that does not constitute a crime.

The Fourth Amendment requires that arrests be supported by probable cause. Probable cause requires “facts and circumstances within the officer's knowledge that are sufficient to warrant a prudent person, or one of reasonable caution, in believing, in the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense.”<sup>10</sup>

Law enforcement officers, therefore, may not arrest people in retaliation for criticism directed at the officers that is protected speech under the First Amendment. As the Second Circuit recently affirmed, “the First Amendment protects a significant amount of verbal criticism and challenge directed at police officers”—including speech that, had it been between civilians might, especially in bygone eras of greater civility, have been viewed as ‘fighting words.’”<sup>11</sup>

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<sup>10</sup> *Michigan v. DeFillippo*, 443 U.S. 31, 37 (1979).

<sup>11</sup> *Rupp v. Buffalo*, 91 F.4th 623, 635 (2d Cir. 2024) (quoting *City of Houston, Texas v. Hill*, 482 U.S. 451, 461 (1987)) (brackets and citation omitted).

**a. MVPD Makes Arrests that Lack Probable Cause, Including Unlawful Arrests to Perform Strip Searches; Unlawful Arrests of People Present when MVPD Served a Search Warrant Without Independent Probable Cause for Arresting those People; and Arrests of People for Behavior that Does Not Constitute a Crime**

We found that MVPD officers frequently make arrests that lack probable cause. For example, MVPD officers detain people and transport them to the police station for questioning or a strip search. Detaining individuals and transporting them to the station for a strip search constitutes an arrest and is impermissible absent probable cause. The Fourth Amendment likewise prohibits officers from extending detentions “for the purpose of gathering additional evidence to justify the arrest.”<sup>12</sup> While *Terry v. Ohio* allows officers to detain an individual for brief investigation where officers have reasonable suspicion that the individual may be involved in criminal activity, *Terry* stops may not “resemble a traditional arrest.”<sup>13</sup> Courts have resisted putting precise limits on the permissible duration of *Terry* stops, but MVPD’s practice of detaining individuals and transporting them to the station for questioning or a strip search without probable cause clearly exceeds the permissible scope of a *Terry* stop, and therefore violates the Constitution.

MVPD’s pattern of unconstitutional arrests manifests in a number of ways, including making unlawful arrests to conduct questioning or perform strip searches, arresting people present when MVPD served a search warrant without independent probable cause for arresting those people, and arresting people for behavior that does not constitute a crime:

- Following a 2020 roll call training at which MVPD officers were instructed that strip searches must be conducted at the police station, MVPD officers began unconstitutionally detaining persons, in the absence of probable cause for an arrest, to transport them to the station and conduct strip searches. When interviewed in 2022, key supervisory officers did not understand that involuntarily detaining individuals and transporting them to the station constituted an arrest.
- The occupant of an apartment that was subject to a search warrant was arrested at the outset of the execution of the search warrant—not merely detained while the apartment was searched—without any documented probable cause. MVPD officers described this as standard practice, extending even to residents of an apartment for which a search warrant was issued who were *not* at the premises.
- The mother of a victim who was struck by a stray bullet was detained for initial investigation and ultimately brought back to the station for further interrogation and not permitted to leave—without any articulation of probable cause to support

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<sup>12</sup> *County of Riverside v. McLaughlin*, 500 U.S. 44, 56 (1991); see also *Brown*, 422 U.S. at 605 (station house detention and questioning “in the hope that something might turn up” requires probable cause).

<sup>13</sup> *Hiibel v. Sixth Judicial District Court*, 542 U.S. 177, 185-86 (2004).

an arrest—while her daughter was taken to the hospital without her and ultimately died.

- MVPD officers arrested and charged a pedestrian with Obstructing Governmental Administration solely on the basis that an MVPD officer ordered him to stop and he ran away. However, such a charge requires the use of intimidation or physical force, leading a Mount Vernon city court to dismiss it as facially inadequate because “fleeing from a police officer, in and of itself, is not a crime and does not amount to the type of physical force or interference required by the statute even if the defendant is a suspect of a police investigation.”<sup>14</sup>
- MVPD officers arrested a person for shouting profanity at them while they were making another arrest. The officers searched for the passerby after completing the first arrest, found him, chased him into a private residence, and used force to arrest him. <sup>15</sup> He was charged with resisting arrest and possession of marijuana found on him after his arrest. No valid basis was ever articulated for the officers’ pursuit in the first instance. Similarly, other Mount Vernon residents told us that they were arrested for engaging in verbal confrontations with MVPD officers. The residents had the criminal cases against them dismissed or were acquitted at trial. Arresting a person for engaging in protected speech violates both the First and Fourth Amendments.

#### **b. MVPD Lacks Effective Policies, Training, Oversight, and Accountability of Arrests**

MVPD’s pattern or practice of unconstitutional arrests results from its failure to have adequate policies, training, and supervision. MVPD does not have any operational procedures explaining what constitutes an arrest, the need for probable cause, and the criteria for a valid determination of such probable cause. Similarly, MVPD’s operational procedures fail to provide any guidance on when a stop of a vehicle occupant or a pedestrian becomes an arrest. Nor, as discussed below, does MVPD’s training fill these gaps. These significant omissions contribute to MVPD officers making arrests without valid probable cause and, at times, without any apparent understanding that they are in fact making an arrest. In our interviews, officers repeatedly described their actions as detaining persons or bringing them back to the station when they were, in fact, arresting those persons.

Similarly, MVPD fails to use effective measures to review arrests to identify and correct constitutional violations or provide counseling and guidance to its officers. MVPD

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<sup>14</sup> *People v. Williams*, 73 Misc. 3d 1226(A) (N.Y. City Ct. Mt. Vernon 2021).

<sup>15</sup> It is not clear that the officer had cause to enter the home without a warrant. See *Brigham City, Utah v. Stuart*, 547 U.S. 398, 403 (2006) (internal quotation marks omitted) (“It is a basic principle of Fourth Amendment law that searches and seizures inside a home without a warrant are presumptively unreasonable.”). While officers in “hot pursuit” of a fleeing suspect are granted an exigency exception to the general principle prohibiting a search of a home without a warrant, it is not clear that this qualifies as a “hot pursuit” where the officer had insufficient basis to believe the man had committed a specific crime, or that any other exigency existed here permitting the officer to enter the home. See *id.*

conducts minimal substantive review of the justification for particular arrests and does not collect and analyze sufficient data to identify problematic patterns in these activities. We found deficiencies throughout MVPD's review of officers' justifications for arrests. MVPD front line supervisors consistently sign off on incident reports describing the basis for warrantless arrests, even where the reports on their face describe egregious constitutional violations. Our review did not identify a single arrest questioned by a supervisor outside the context of the complaint or use of force review process. These practices do not ensure constitutional policing.

#### **4. MVPD's Vehicle Stops Raise Serious Concerns**

We have serious concerns that MVPD's vehicle stops may violate the Fourth Amendment, but, in part due to deficiencies in MVPD's recordkeeping practices for these stops and searches, we do not find a pattern or practice of constitutional violations at this time. The Fourth Amendment protects drivers and occupants of motor vehicles from unreasonable stops, searches, and seizures. "The law is settled that in Fourth Amendment terms a traffic stop entails a seizure of the driver even though the purpose of the stop is limited and the resulting detention quite brief," a principle that the Supreme Court has extended to vehicle passengers as well.<sup>16</sup> "An automobile stop is thus subject to the constitutional imperative that it not be 'unreasonable' under the circumstances."<sup>17</sup> The Second Circuit has held "that the reasonable suspicion of a traffic violation provides a sufficient basis under the Fourth Amendment for law enforcement officers to make a traffic stop."<sup>18</sup>

The full scope of MVPD's practices is difficult to determine because, other than minimal call-for-service data, MVPD does not document vehicle stops unless they result in an arrest or a ticket. Such an information deficit not only limited our review, but also impedes supervisory review by MVPD of stops that do not lead to arrests or citations—stops for which such review is imperative. The failure to document stops makes it impossible for either MVPD or DOJ to determine, for example: how often stops lead to the discovery of weapons or contraband; whether there is any disparity in who is stopped and how often the stops lead to searches or arrests; and the justification for stops that do not lead to citations or arrests. MVPD is thus unable to adequately audit its officers' activities and interactions with the public and to determine whether its officers are complying with MVPD's own policies.

Despite these limitations, we reviewed stops that *did* result in an arrest or a ticket—*i.e.*, incidents where officers presumably had stronger indicia of criminality to justify a stop. Our review suggests that MVPD officers frequently make motor vehicle stops based on limited or implausible explanations. Even those presumably more supportable stops raised serious constitutional concerns.

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<sup>16</sup> *Brendlin v. California*, 551 U.S. 249, 255, 256-59 (2007).

<sup>17</sup> *Whren v. United States*, 517 U.S. 806, 810 (1996).

<sup>18</sup> *United States v. Stewart*, 551 F.3d 187, 193 (2d Cir. 2009).

MVPD's policies and training for vehicle stops contribute to these questionable practices. MVPD's Motor Vehicle Stops Operational Procedure, for example, fails to provide sufficient guidance to officers about what constitutes a lawful basis for a vehicle stop. It suggests that a motor vehicle may be stopped "[i]n the investigation of a suspicious automobile and/or person(s)" where that suspicion is reasonable, without requiring that the reasonable suspicion relate to unlawful conduct. This is inconsistent with the Fourth Amendment, which requires that traffic stops "be justified by probable cause or a reasonable suspicion, based on specific and articulable facts, of *unlawful conduct*."<sup>19</sup>

Compounding the absence of clear policies, MVPD does not appear to offer any post-academy training on the law regarding the appropriate basis for vehicle stops, the permissible investigative steps in connection with a stop, or the point at which a stop becomes an arrest and the necessary justification. Officers appear to learn these practices on the job, which has entrenched questionable practices as the norm. Finally, as discussed below, MVPD's post-incident and complaint review processes are inadequate, with cursory review, frequent conflicts of interest, and inadequate training for reviewers.

## **5. MVPD's Evidentiary Practices Raise Serious Constitutional Concerns**

Although we do not make a finding that MVPD engages in a pattern or practice of falsifying evidence, MVPD's evidentiary practices raise serious Fourth Amendment concerns. Based upon interviews, civilian complaints, news reports, and video recordings—as well as an investigation by the Westchester County District Attorney's Office, resulting in dozens of dismissals of cases—we are concerned by numerous plausible allegations that MVPD falsely planted evidence and knowingly misidentified suspects.

An arrest based upon false evidence, to the extent the arresting officer otherwise lacks probable cause, violates the Fourth Amendment. Additionally, the use of false evidence beyond an initial arrest can create "deprivations of liberty that go hand in hand with criminal prosecutions" and result in a Fourth Amendment violation.<sup>20</sup>

We found a number of instances in which officers claimed to have found drugs on a person, but there is evidence that these claims were falsified. For example, one resident alleges that two officers searched him, found nothing, then went to a nearby flower bed where they found two balls of crack cocaine which they claimed were his. The man denied it and refused to plead guilty, and the case fell apart. The resident's allegation that the officers planted the drugs is corroborated by an MVPD officer's recording in

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<sup>19</sup> See *United States v. Scopo*, 19 F.3d 777, 781 (2d Cir. 1994) (quotation marks omitted) (emphasis added).

<sup>20</sup> *Albright v. Oliver*, 510 U.S. 266, 274 (1994) (plurality opinion); see also *Manuel v. City of Joliet*, 580 U.S. 357, 367 (2017) ("If the complaint is that a form of legal process resulted in pretrial detention unsupported by probable cause, then the right allegedly infringed lies in the Fourth Amendment.").

which an officer discusses the incident. In the recording, the officer notes that officers had wanted to arrest the man for some time and explains that the drugs recovered “probably wasn’t his [the person’s]” but that the officers “said it was [his] because they wanted to arrest him because they had been trying to get him for months.” From our interviews and review of civilian complaints, we found similar allegations stretching back years. While the record of what occurred in each of these incidents is not always clear, the striking similarity of the allegations raises significant concerns.

Additionally, several incidents indicate that some MVPD officers may be improperly misidentifying suspects. In one example, a resident was charged with selling drugs to an undercover officer in Mount Vernon but was in fact in North Carolina at the time of the alleged drug sale—a fact confirmed by the resident’s Instagram posts, bus receipts, and browser history. The WCDAO ultimately dropped the charge.

This was not the only incident that involved a problematic identification or discrepancies. The WCDAO’s Conviction Review Unit (CRU) announced in 2023 that it would seek to vacate the convictions and charges of 27 individuals for their alleged drug sales to an undercover officer during an MVPD operation.<sup>21</sup> The May 2023 CRU report noted “discrepancies, inconsistencies and contradictions in the undercover and MVPD reports detailing purported drug sales” and a lack of “corroborative evidence sufficient to overcome the identified inconsistencies and unreliability of the undercover and MVPD officer accounts and problematic identifications.”<sup>22</sup> MVPD’s practices around identification of suspects not only raise constitutional concerns, they also undermine MVPD’s ability to gather evidence that can be used to support criminal convictions and fight crime.

The CRU report is consistent with one of the undercover recordings, which suggests that MVPD officers have at times planted evidence. While a separate WCDAO investigation found insufficient evidence to bring criminal charges against the MVPD officers identified in those recordings,<sup>23</sup> the issues were nevertheless sufficient to vacate numerous charges and convictions. These allegations suggest serious violations of the Fourth Amendment. MVPD must improve oversight of its evidentiary practices, including its documentation and review of the seizure of evidence and identification of suspects, to ensure that these practices meet constitutional standards.

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<sup>21</sup> See Conviction Review Unit, *Report on the Review of Convictions Stemming from a 2017 Mount Vernon Undercover Narcotics Operation* (May 10, 2023), <https://www.westchesterda.net/images/stories/pdfs/2023/cruvacaturesreport.pdf> [<https://perma.cc/D2NW-6ZLW>].

<sup>22</sup> *Id.* at 2.

<sup>23</sup> See Law Enforcement Integrity Bureau, *Report on the Criminal Investigation into the Mount Vernon Police Department’s Narcotics Division* (May 10, 2023), <https://www.westchesterda.net/images/stories/pdfs/2023/leibcriminalinvestigationr.pdf> [<https://perma.cc/LB4W-CUQ7>].



## **6. We Have Serious Concerns that Some MVPD Officers Discriminate Against Black People, Targeting Them for Arrests**

We find serious cause for concern that MVPD engages in a pattern or practice of discriminatory policing against Black people in violation of Title VI of the Civil Rights Act of 1964 and the Omnibus Crime Control and Safe Streets Act of 1968. These laws forbid police conduct with an unjustified disparate impact based on race. Here, we have found evidence that MVPD disproportionately targets Black people for arrest, together with repeated reports of MVPD officers using racial slurs. However, because MVPD does not adequately document many of its interactions with citizens—and, in some cases, does not document them at all—we do not have the information needed to reach a finding at this time.

The information MVPD does record allowed us to perform regression analyses that tested whether MVPD officers are more likely to make arrests in predominantly Black neighborhoods. We found that MVPD officers are significantly more likely to make an arrest when responding to the same types of complaints (40% more likely) or during the same types of traffic stops (56% more likely) in predominantly Black neighborhoods.

Our concerns are heightened by the numerous reports we heard from Mount Vernon residents alleging that MVPD officers use racial epithets. These allegations go back many years, and even former MVPD officers have stated that some officers target Black people for excessive force.

MVPD does not maintain many of the records needed to directly and comprehensively assess the Department's treatment of Black people. For instance, MVPD officers often fail to document significant interactions with people—including, in particular, MVPD officers' use of force, as well as searches that do not find contraband. In addition, MVPD officers often fail to record the race of individuals with whom they interact when those interactions do not lead to an arrest, such as pedestrian stops. This failure kept us from analyzing search records for evidence of racial discrimination, just as it prevents MVPD from conducting such a review itself. Without this information, neither we nor MVPD can directly compare MVPD officers' treatment of Black people with the treatment people of other races. MVPD's almost complete inability to assess the impact of its policing practices on Black people, by itself, gives us serious concern.

The sparse records MVPD does keep reinforce our concerns about MVPD's policing practices. MVPD records are sufficient to analyze the arrest rates during the same types of traffic stops and 911 calls in predominantly Black neighborhoods (more than 75% Black according to census data) as compared with neighborhoods that are less than 50% Black. These analyses show that MVPD officers are 56% more likely to make an arrest during a traffic stop in predominantly Black neighborhoods than they are in neighborhoods that are less than 50% Black. That means that for every three people arrested during a traffic stop in predominantly Black neighborhoods, only two are arrested in neighborhoods that are less than 50% Black. Similarly, even when responding to similar types of calls, MVPD officers are 40% more likely to make an arrest in predominantly Black neighborhoods.

**In predominantly Black neighborhoods, MVPD officers are 56% more likely to make an arrest during a traffic stop than they are in neighborhoods less than 50% Black.**

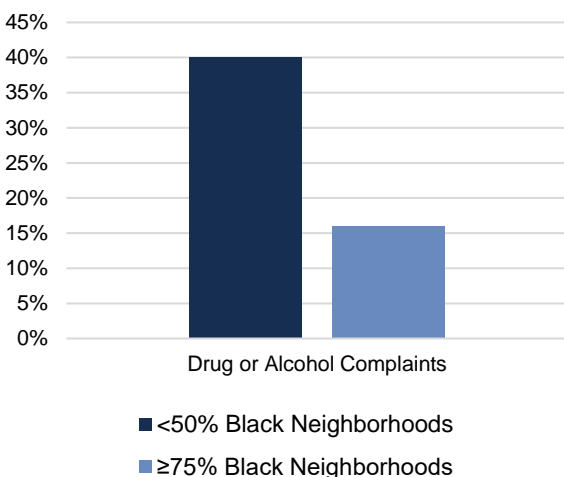
We analyzed more than 350,000 MVPD police blotter entries of officer activity from 2015 through 2022. Nearly 200,000 of these entries contained sufficient information to determine the location to which the officer responded. After geocoding these blotter entries, we categorized those entries based on whether they occurred within a Census Block Group that was less than half Black, 50% to 75% Black, or more than 75% Black, according to the 2020 U.S. Census. Within that subset of approximately 200,000 police blotter entries, we identified 911 calls and other citizen requests for service, which totaled more than 80,000. For about 10% of calls, MVPD did not use sufficiently specific labels (e.g., "Police Service Call" and "Investigations") to enable us to determine that similar calls were being compared, so these were removed from the analysis. We categorized the remaining calls for services into fifteen different types—e.g., a report of disorder, a domestic dispute, a property crime, a complaint concerning drugs or alcohol, or a report of violence. We also identified traffic stops within the geocoded blotter entries, totaling just under 30,000. Finally, we linked these calls for service and traffic stops to MVPD records reflecting an arrest.

With this data, we then conducted regression analyses to determine whether, when responding to (a) traffic stops or (b) calls for service of the same type, MVPD officers are more likely to make an arrest when those stops or calls occur in predominantly Black neighborhoods as compared with neighborhoods that are less than 50% Black. These regression analyses found large and statistically significant differences between the rates at which MVPD officers make arrests in predominantly Black neighborhoods, as compared with neighborhoods that are less than 50% Black, when we controlled for the type of call to which officers were responding.

With respect to traffic stops, these analyses showed that MVPD officers are 56% more likely to make an arrest in predominantly Black neighborhoods than they are in neighborhoods that are less than 50% Black. Similarly, our regression analyses of MVPD responses to calls for service found that, after controlling for the type of

### Share of Drug or Alcohol Complaints Not Leading to an Arrest

By Neighborhood Composition



complaint, MVPD officers are 44% more likely to make an arrest in predominantly Black neighborhoods. For instance, when MVPD officers respond to calls about drugs and alcohol, they are 39% more likely to make an arrest in predominantly Black neighborhoods as compared with neighborhoods that are less than 50% Black. More tellingly, in neighborhoods that are less than 50% Black, MVPD officers are two-and-a-half times more likely to not make an arrest when responding to a drug or alcohol complaint. Stated differently, MVPD officers make no arrest in just 16% of their responses to drug or alcohol calls in predominantly Black neighborhoods, but in neighborhoods that are less than 50% Black, MVPD officers make no arrest in 40% of responses.

These analyses raise significant concerns that at least MVPD's arrest practices have an unwarranted disparate impact on Black people in Mount Vernon. Combined with allegations we received that MVPD officers use racial epithets when performing enforcement activities involving Black people, and MVPD officers' own statements that other officers in MVPD target Black people for unlawful conduct,<sup>24</sup> these analyses demonstrate that MVPD must improve its data collection and analysis to ensure that discriminatory policing is not taking place.

## B. SYSTEMIC DEFICIENCIES IN MVPD'S PRACTICES LEAD TO CONSTITUTIONAL VIOLATIONS

The incidents, patterns, and practices described above do not arise in isolation. MVPD does not have adequate policies in place to guide officer action, and it does not adequately train its officers in constitutional policing, including with respect to use of force, strip searches, and arrests. When such incidents are reviewed, that review is often cursory and rarely results in discipline or even counseling. And when complaints arise, the investigation of those complaints is similarly lacking. As a result, officers are

<sup>24</sup> See, e.g., George Joseph, *A Black Cop Says His Boss Called Him a Rat for Exposing Corruption. Here Are His Secret Recordings*, GOTHAMIST, Nov. 25, 2019, <https://gothamist.com/news/black-cop-says-his-boss-called-him-rat-exposing-corruption-here-are-his-secret-recordings> [<https://perma.cc/MR49-4L44>].

instructed neither before nor after their actions cross the line. All of these organizational failures contribute to the pattern or practice of constitutional violations we found.

### **1. MVPD's Policies and Policy Development Are Inadequate**

MVPD's policies provide insufficient guidance to officers on constitutional requirements. As discussed above, MVPD does not have any policies to guide officer action on numerous topics, including what constitutes an arrest or when a stop or detention converts into an arrest. When policies do exist, they frequently misstate the law or provide such wide discretion that an officer may comply with the policy and still violate the Constitution. And those policies are not updated regularly to ensure they comply with current constitutional standards—indeed, until October 2022, MVPD had not updated its policy on strip and cavity searches since it had been issued in 1993.

MVPD must develop a comprehensive, current set of policies and procedures to provide officers with sufficient guidance to police within the bounds of the Constitution. It also must develop a system to update its policies to ensure they reflect current legal requirements.

### **2. MVPD Fails to Adequately Train Its Officers**

To evaluate MVPD's training practices, we reviewed the Department's training policies and all training material provided to officers since 2011, interviewed training staff and officers throughout the Department, and toured the Department's training facilities. The training that MVPD officers receive is inadequate in many respects, contributing to the repeated constitutional violations outlined above. Appropriate training is necessary to advance safe and constitutional policing. Indeed, throughout our investigation, officers acknowledged that gaps in training have caused problems within the Department. As one officer told us, "[T]raining would probably prevent a lot of problems that you're looking at[.]" We found that inadequate development and execution of training programs jeopardizes both officer safety and public safety, and leaves officers unprepared to safely and effectively police the Mount Vernon community.

MVPD has failed to prioritize and support officer training, resulting in a lack of standardized training across the Department. MVPD does not have a full-time training officer, nor are the supervisors responsible for front-line training sufficiently experienced and trained themselves. Compounding the problem, and partly due to high rates of turnover, MVPD does not have sufficiently qualified field training officers to train incoming officers. As a result, inexperienced officers are tasked with training new officers.

The Department's failure to invest in training staff and develop training priorities and goals has created an uncoordinated and ineffective training regimen. For example, MVPD's Training Unit offers five "mandatory" days of in-service training to officers each year, although officers may miss several of these trainings. While MVPD does schedule "makeup" trainings for officers who miss a day of in-service training, the only training sessions that MVPD requires officers to make up are the firearms and use of force

trainings. Thus, the only training MVPD officers consistently receive are trainings in firearms and use of force.

In addition, supervisors do not receive standardized and consistent supervisory or managerial training from MVPD. MVPD supervisory staff have expressly acknowledged that there is “irregularity” in the training for lieutenants and command staff, and that the lack of such training is a concern. As one command staff member noted, the Department does not provide any training to officers after they become sergeants: “everything else [is] the school of hard knocks.”

MVPD’s failure to provide adequate training programs and curricula on constitutional doctrines governing policing has directly contributed to the unlawful conduct we uncovered in our investigation.

### **3. MVPD Fails to Adequately Supervise Its Officers**

During our investigation, we saw multiple deficiencies in how MVPD supervisors guided and reviewed the work of its subordinates. This failure to supervise directly contributes to the constitutional violations we found. Many of those deficiencies stemmed from a lack of effective training for MVPD supervisors. Although there is state-mandated training for supervisors, the training does not focus on specific issues unique to Mount Vernon. Additionally, the training does not focus on developing leadership skills as supervisors. One high-ranking officer told us, “Everybody identifies that you don’t really get any [training] after sergeant and you kinda have to figure it out.” As a result, we saw situations where supervisors should have taken action but did not.

We also saw supervisors reviewing use of force reports for incidents in which they were personally involved. In one example, a sergeant and a lieutenant used force against an individual who damaged a police cruiser. When the sergeant and lieutenant grabbed the individual’s arms to arrest him, he pulled his arms away and locked them so he could not be handcuffed. Because the sergeant and lieutenant were having difficulty arresting the person, additional officers arrived on the scene to assist. One of the arriving officers hit the individual with a closed fist on his thigh multiple times “in an attempt to gain compliance.” Another officer, at the direction of the lieutenant, “drive stunned” the individual with his Taser. After being tased by the officer four times, the individual allowed the officers to handcuff him without further incident. The lieutenant then ordered the sergeant to have the arriving officers complete use of force reports on the Taser use and fist strikes. The sergeant did so, and reviewed and approved the officer’s use of the Taser and the other officer’s use of strikes. The report was approved throughout the chain of command, and the sergeant was depicted as a witness to the use of force, instead of as an involved officer. No one in the chain of command asked the force review to be assigned to an independent supervisor, and no one in the chain of command asked the sergeant or lieutenant to submit a report for their own uses of force.

MVPD must improve its supervision practices to ensure that its officers stay within constitutional limits. It must provide sufficient training to supervisors throughout the chain of command to do their jobs effectively and hold their subordinates accountable to

MVPD's policies and procedures. And MVPD must have systems in place to ensure that supervision is routine and proactive, identifying officers and supervisors who are not fulfilling their duties.

#### **4. MVPD Fails to Hold Officers Accountable for Misconduct**

MVPD has inadequate systems to hold officers accountable for misconduct, which allow the pattern or practice of constitutional violations described above to go unchecked. MVPD has inadequate policies and training for misconduct investigations, resulting in investigations that are neither objective nor thorough. When discipline is imposed, which is rare, the sanctions are ineffective at deterring future officer misconduct.

##### **a. MVPD's Policies, Training, and Accountability Systems Are Inadequate**

MVPD's policies governing misconduct investigations are vague and do not provide proper guidance for classifying or investigating complaints. The policy categorizes only a limited number of allegations, such as allegations of criminal activity, as falling within IA's jurisdiction. All other allegations of misconduct not specifically assigned to IA by policy—including civilian complaints, complaints received internally from other officers, and those alleging egregious but non-criminal conduct—are typically investigated by the officer's immediate supervisor. This results in inadequate investigation and the failure to hold officers accountable for serious misconduct.

MVPD's policies also provide little guidance on how to conduct misconduct investigations, and training on investigations is lacking. There is no manual that specifies how IA investigators are to interview officers or witnesses, obtain and analyze evidence, assess credibility, or make a recommended finding. Similarly, MVPD has no policy for supervisor investigations. The Department's training for both IA investigators and supervisors is inadequate. Supervisors typically learn on the job from other supervisors how to conduct investigations. While IA investigators receive an initial two-week training, they do not consistently receive ongoing training to keep up their skills.

MVPD similarly fails to adequately track complaints. MVPD's electronic system for tracking complaints is not sufficiently functional, since due to software lapses, it does not include cases prior to 2022. As described below, MVPD deficiencies in policy, training, and oversight result in investigations that are incomplete and allow misconduct to go unchecked.

##### **b. Misconduct Investigations Are Not Objective or Thorough**

Whether conducted by IA investigators or by an officer's immediate supervisor, MVPD misconduct investigations are routinely inadequate. Our review indicated that IA investigators frequently failed to complete basic steps when conducting their investigations, including, in many cases, failing to interview complainants or civilian witnesses. And investigators fail to ask crucial questions of officers—in fact, officers are rarely, if ever, personally interviewed. The standard practice at MVPD is for officers to simply submit a statement. When officers submit statements, investigators fail to ask

follow-up questions regarding the statement, leaving unaddressed gaps, inconsistencies, and omissions in the officers' version of events.

In one high-profile case involving unlawful body cavity searches of several individuals, IA did not open an investigation until three years after the incident occurred. The decision to open the investigation was not prompted by MVPD's own internal accountability processes, but rather by a lengthy media article about the searches, complete with video recordings. The IA investigation took less than two months to complete, and the investigator did not interview the officers, subjects of the search, or witnesses. Although the IA investigator reviewed the videos at issue, the report contains virtually no analysis of the videos or other evidence, nor does it even identify the applicable MVPD policy that may have been violated. The findings section of the report is a single conclusory sentence, in which the IA investigator states that the actions of the officers were reasonable given that they were executing a search warrant and narcotics were discovered. Despite the brevity of the report, the IA investigator's failure to interview anyone connected with the incident, and the utter lack of analysis of the evidence or applicable policies and laws, the Deputy Commissioner nevertheless approved the IA investigator's recommendation to exonerate all four officers involved in the search.

Supervisor investigations of complaints are even more inadequate than those conducted by IA. In one incident, the complainant alleged that he was stopped and searched by two detectives for no reason, and that the two detectives acted unprofessionally. The supervisor who investigated the complaint did not interview the detectives, but relied instead on statements they submitted in response to the complaint. In the statements, the detectives asserted that they stopped the complainant because he had a plastic bag containing a can of beer sticking out of his pants pocket. They then conducted a pat down of the complainant for "officer safety." The supervisor found that the detectives never filed a report documenting the stop, as required by MVPD policy. Even though the detectives did not demonstrate, or even articulate, that they had reasonable suspicion to believe that the man was armed and dangerous in their statement, the supervisor determined that the pat down did not violate the law or MVPD policy. The supervisor only recommended counseling for the detectives' failure to record the stop.

Two examples highlight the problems with supervisors investigating misconduct complaints involving officers they manage, and the supervisory bias that taints these investigations. In the first, an apartment tenant filed a complaint with MVPD, alleging that officers unlawfully and forcibly entered his home without a search warrant. The officers' patrol supervisor, who was on duty and involved in the matter, investigated the incident and cleared the officers of any misconduct, stating that the officers were required to make a forced entry to further investigate. Regardless of whether this conclusion is correct, the supervisor's involvement in the forced entry with a warrant undermines the credibility of the conclusion, because the supervisor himself had an interest in the outcome.

In the second case, the complainant alleged that as he was standing near a building listening to music, two detectives stopped him, took him to the police station, and strip

searched him for no reason. The complaint was assigned to the detectives' immediate supervisor for investigation. The supervisor interviewed the complainant by phone and did not ask the complainant about the strip search allegation. Additionally, although the arrest report submitted by one of the officers stated that the officers performed a search incident to arrest at the police station, in their statements to the investigating supervisor, the officers never mentioned whether they conducted any type of search. Instead of probing the inconsistencies between the officers' statements and the arrest report and following up with the complainant, the supervisor simply concluded in his report—without any evidence to support his determination—that the officers did not conduct a strip search.

These failures in misconduct investigations by both IA investigators and officers' direct supervisors undermine an effective accountability system. Troublingly, in a number of the examples given above, the chain of command and the public safety commissioner reviewed the recommendations of IA investigators and supervisors, without any request for further investigation. These failures in MVPD's accountability system contributed to the pattern or practice of constitutional violations we describe above.

### **c. MVPD Does Not Impose Effective Discipline**

MVPD's accountability system for misconduct violations is further undermined by the ineffective imposition of discipline. As an initial matter, MVPD lacks systems to ensure consistency in its imposition of discipline. Although MVPD does have a disciplinary matrix, it is vague and rarely used.<sup>25</sup> Even if MVPD did use the matrix, however, in the vast majority of cases we reviewed, MVPD did not impose any discipline. Out of all the misconduct files reviewed, we found disciplinary penalties imposed in only eight percent of cases, which included no terminations, and only one unpaid suspension. There, the officer received a two-week suspension for posting a racist meme on Instagram. The most serious discipline imposed in the other cases was 40 hours of forfeited leave. Despite troubling incidents with constitutional violations, supervisor recommendations including no discipline or minor discipline were adopted by the chain of command, including the police chief and public safety commissioner, often with a simple "concur."

Although the City has made some attempt to address accountability issues within the Department by hiring an outside attorney to assist the police chief and IA, this effort has largely been ineffective. The attorney reviews IA investigations involving possible criminal conduct to determine whether the case should be referred to the Westchester County District Attorney's Office for prosecution. The attorney also reviews completed IA investigations and determines what disciplinary penalties should be imposed against the officer. If the officer disagrees with the penalty, the case is heard by a hearing officer, and the attorney administratively prosecutes the case against the officer at the

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<sup>25</sup> A disciplinary matrix "specifies the nature of offenses or policy violations and associates them with specific penalty options or ranges of discipline." U.S. Department of Justice, Community Oriented Policing Services, *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice* 53 (2009), <https://portal.cops.usdoj.gov/resourcecenter/RIC/Publications/cops-p164-pub.pdf> [<https://perma.cc/8URA-6N3A>]. It helps to ensure fairness and consistency in the imposition of discipline. *Id.*



hearing. The attorney's impact on how IA functions appears to be negligible, however. Although the City informed us that the attorney has been providing advice and counsel to the police chief and IA since early 2021, during initial interviews with City Council, the police chief and executive staff, and the head of IA, the attorney was never mentioned. Instead of helping improve public trust in the police department and ensure that IA investigations for serious misconduct are fair, comprehensive, and free from conflicts of interest, a good deal of the attorney's efforts have been skirmishes with the Westchester County District Attorney's Office about its perceived failure to definitively identify problem officers within the Department and its reticence to put certain MVPD officers on the stand due to integrity issues.

## **5. MVPD Fails to Equip Officers Appropriately and Deploy Resources Effectively**

The lack of resources, along with the Department's inefficient management of resources, are major factors contributing to unlawful policing and low morale. It lacks adequate body-worn camera systems, training facilities, Taser cartridges, and numerous other resources that are necessary to oversee its officers and equip and train them adequately. MVPD also lacks the resources to compete with neighboring jurisdictions as it seeks to hire police officers. As noted earlier in this report, the starting salaries of MVPD officers are significantly less than those of officers employed in neighboring towns.

These challenges—mismanaged resources and a history of financial challenges—have prompted large numbers of officers to leave, including senior officers. One officer noted that some of the officers training others had been with the Department for only two years. This misuse of resources, and its attendant undermining of morale, contributes to MVPD's lack of effective and constitutional policing.

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MVPD's lack of resources and equipment due to financial mismanagement, outdated policies and inadequate training, and ineffective systems of supervision, accountability, and discipline, all contribute to the pattern or practice of unconstitutional policing we found. These practices are not only unconstitutional, they also breed community distrust, undermining effective policing, which is built on a healthy relationship between the police and the community it serves.

## RECOMMENDED REMEDIAL MEASURES

The recommended remedial measures below provide a framework for the changes that the City and MVPD must adopt to restore public faith in the police department and instill constitutional and effective policing.

**1. Enhance Use-of-Force Policies, Training, and Reporting Systems.** MVPD should revise all policies and training materials on use of force and de-escalation tactics to provide officers and supervisors with clear guidance on when force is appropriate and decrease the need for officers to resort to force. MVPD should ensure that officers report uses of force with sufficient detail to determine the appropriateness of the force and whether de-escalation tactics were used.

**2. Ensure Adequate Supervision and Accountability of Strip Searches.** MVPD should put accountability measures in place to ensure that unconstitutional strip and body cavity searches do not take place, such as auditing of search reports, regular review of complaints related to strip searches, and review of body-worn camera footage to determine whether these practices continue.

**3. Conduct Lawful Arrests and Detentions.** MVPD should implement policies, training, and practices that will ensure that arrests and detentions are constitutional and supported by probable cause, and that arrests are not made in retaliation for individuals engaging in protected activity.

**4. Develop Policies and Training Related to Vehicle Stops.** MVPD should provide policies and training regarding the appropriate basis for vehicle stops, the investigative steps that may be taken in connection with a stop, and when a stop becomes an arrest and how it must be justified.

**5. Collect and Analyze Data Related to Stops, Searches, and Arrests.** MVPD should collect data on all stops (including those that do not result in a citation or arrest), searches, citations, arrests, uses of force, and investigative activities, and maintain such data in a manner that allows for analysis of racial disparities. Where MVPD finds racial disparities in its enforcement practices, it should implement changes to policies, training, supervision, tactics, or enforcement strategies to address those disparities.

**6. Increase Oversight of Evidentiary Practices.** MVPD should improve its documentation and review of the seizure of evidence and identification of suspects, including improved data collection and analysis, training, and supervision.

**7. Improve Training for Supervisors.** MVPD should ensure that supervisors at all levels receive supervisory or leadership training appropriate for their rank that provides them with the skills to do their jobs effectively and hold subordinates accountable.

**8. Adopt More Stringent Accountability Measures.** MVPD should ensure that IA conducts timely, objective, and thorough investigations of complaints and interview all witnesses and officers connected with the incident. MVPD should create a clear and specific process for classifying, assigning, and investigating complaints and disciplining

officers for violations of policy. MVPD should hold supervisors accountable for failing to report or address misconduct.

**9. Improve Technology Infrastructure.** The City should devote resources to ensuring that MVPD's technology infrastructure is capable of effectively monitoring officer activity by collecting and analyzing data.

**10. Enhance Officer Safety and Wellness.** The City and MVPD should build on the resources they have already invested to ensure that officers are provided with the equipment required to perform their jobs effectively and constitutionally. The City and MVPD should develop effective strategies for recruitment, retention, and staffing.