

Seventy-seven Percent of Auditor Recommendations In Place or In Progress

February 9, 2023

A report by the Office of the District of Columbia Auditor



Audit Team
Ruth Werner, Auditor in Charge
Julie Lebowitz, Deputy Auditor

February 9, 2023

The Hon. Phil Mendelson, Chairman
Council of the District of Columbia
The John A. Wilson Building
1350 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Chairman Mendelson:

I am pleased to share this report, *Seventy-Seven Percent of Auditor Recommendations In Place or In Progress*, providing the status of recommendations made by this office between October 2019 and December 2021. We hope this information is useful to the Council in conducting its 2023 performance and budget oversight hearings.

Background

The Office of the District of Columbia Auditor (ODCA) conducts audits, reviews programs, and issues recommendations to improve the effectiveness, efficiency, and accountability of District government operations. The benefit from our work is not in the recommendations made, but in their effective implementation by agency management, including the Council. In conducting our audits, we take steps to improve the likelihood that a recommendation will be appropriately implemented by providing sound and reasonable proposals and following up with agency management to determine the status of each agency's response.

Objective, Scope, and Methodology

The purpose of this report is to make public the implementation status of the recommendations we have made to District of Columbia government entities. From October 20, 2022 through December 31, 2022, we tracked 128 "open" recommendations—those that we had not been able to confirm as implemented, no longer applicable, or agency management responded that no action is intended; management accepts risk. The recommendations were from 17 reports that ODCA issued from October 1, 2019, through December 31, 2021, and includes Fiscal Years (FYs) 2020, 2021, and the first quarter of FY 2022.¹ These 17

¹ Due to the ending of the public emergency that was established by the District of Columbia to address COVID-19 (Mayor's Order 2022-043 extended the public emergency through April 16, 2022) and reporting now by the Centers for Disease Control and Prevention, ODCA did not include the November 23, 2020, report [The District's COVID-19 Data Reporting is Strong but Opportunities Exist for Improvement and Increased Transparency](#) in the list of reports we followed up on.

reports included audits conducted under Generally Accepted Government Auditing Standards (GAGAS) as well as other engagements that were performed by contractors or were otherwise consistent with policies and procedures published on ODCA's website.

We entered all the open recommendations into our tracking database.² For recommendations made to more than one agency, we entered the recommendation for each agency identified. We then followed up with agencies, asking them to report on the implementation status of all open recommendations made to them. For recommendations made to the Mayor or the Executive, we followed up with the relevant agency the recommendation would fall under. Recommendations reported as Implemented usually require documentary evidence showing what actions the agency took. We publish the recommendation compliance report annually and also follow up in meetings, through testimony, and other outreach.

ODCA identified the status of each open recommendation using the classifications found in Figure 1.

Figure 1: ODCA Recommendation Status Categories

Implemented	We reviewed information provided by the audited agency's management and agreed the recommendation was Implemented.
In progress	This status is assigned in two instances: <ul style="list-style-type: none"> • Recommendations that management reported as underway but not yet fully implemented; or • Recommendations that management reported as implemented but lacked documentary evidence supporting their claim.
No longer applicable	Circumstances have changed since the audit report was issued that render the recommendation no longer relevant.
No action intended; management accepts risk	Management does not agree with the recommendation and/or does not intend to implement it. In making this choice, agency management is accepting the risk that accompanies the associated finding.
Not started	Agency management reports that they have not yet begun to implement the recommendation.
No information available	The agency has not responded to our requests for information about this recommendation.

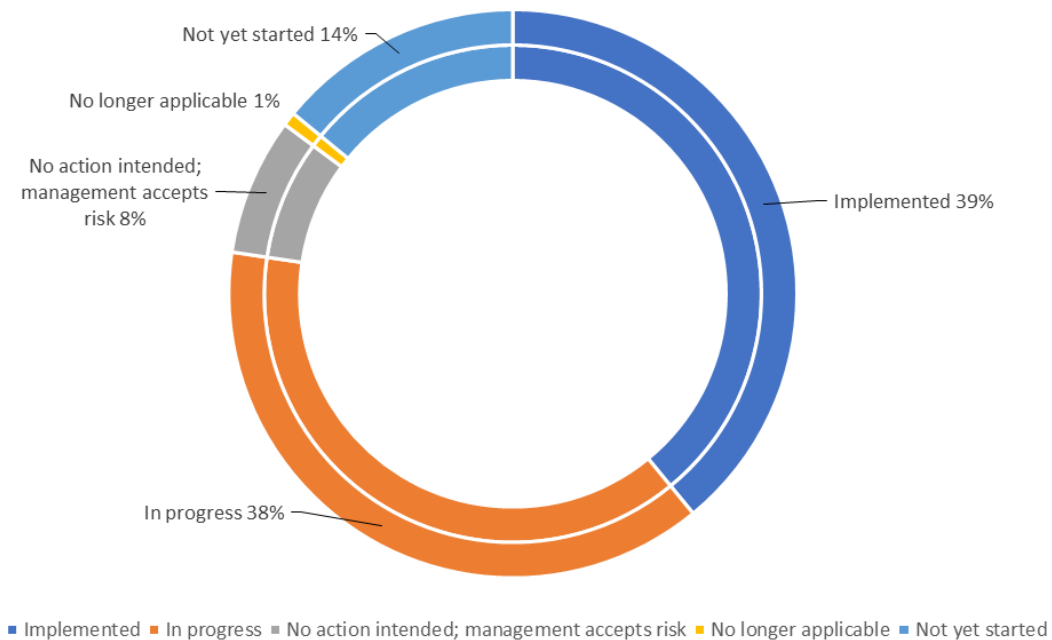
² ODCA contracted with The Bromwich Group to conduct follow-up and analysis for the Metropolitan Police Department (MPD) and United States Attorney's Office for the District of Columbia (USAO) on recommendations made in [The Metropolitan Police Department and the Use of Deadly Force: Four Case Studies 2018-2019](#), issued on March 23, 2021, and [The Metropolitan Police Department and the Use of Deadly Force: The Deon Kay Case](#), issued on May 25, 2021. ODCA contracted with the Council for Court Excellence (CCE) to conduct follow up and analysis for the Department of Behavioral Health (DBH) and Department of Corrections (DOC) on recommendations made in [Everything is Scattered...The Intersection of Substance Use Disorders and In-carcerations in the District](#), issued on August 25, 2020. For the purposes of tabulations, the recommendations to MPD, DBH and DOC are included in ODCA's report.

This report was drafted, reviewed, and approved in accordance with the standards outlined in ODCA’s Audit Policies and Procedures.

Results

We found that 39% of the recommendations had been Implemented, 38% were In progress, 14% had Not yet been started, 8% had No action intended (according to the responsible party), and 1% were No longer applicable (see Figure 2). We are pleased to note that we received responses from every D.C. agency to our request for the status of recommendations.³

Figure 2: Recommendation Implementation Status Summary



For purposes of future tracking, all recommendations confirmed as Implemented, No longer applicable, or No action intended; management accepts risk, will be considered closed and no additional follow-up will be conducted. All other recommendations are considered open and regular follow-up will continue until they are considered closed, which may occur for up to three years after the audit is completed. Figure 3 below shows the number of recommendations that remain open by agency and includes recommendations labeled above as In progress or Not started.

³ ODCA received responses from every District of Columbia agency that was contacted. We also reached out to relevant Chairpersons of D.C. Council committees for Council Period 24 and received responses from the Committee on Business and Economic Development, Committee on Government Operations and Facilities, and the Committee on Transportation and the Environment. We received responses from all committees except the Committee of the Whole. ODCA conducted research to determine the status of the recommendations made to the Committee of the Whole.

Figure 3: Open Recommendations by Agency as of December 31, 2022⁴

Entity	Number of Recommendations In progress or Not started ⁵
D.C. Council	12
Department of Behavioral Health	9
Department of Corrections	6
Department of General Services	5
District of Columbia Housing Authority	5
District of Columbia Public Schools	5
Metropolitan Police Department	5
Real Property Tax Appeals Commission	5
Department of Energy and Environment	4
Executive Office of the Mayor ⁶	4
Department of Small and Local Business Development	3
Office of the State Superintendent for Education	3
Office of Risk Management	2
Office of the Advisory Neighborhood Commissions	2
District of Columbia Board of Elections	1
Office of the Attorney General	1
Office of the Chief Financial Officer	1
Office of Lottery and Gaming	1
United States Attorney's Office for the District of Columbia ⁷	1

Note: Recommendations that are shaded were sent to all identified agencies for a response but are only listed once in this chart.

Appendix A provides a full list of the 76 recommendations that ODCA followed up on for this report and their status. **Appendix B** provides a full list of the recommendations that The Bromwich Group followed up on. **Appendix C** provides a full list of the recommendations that the Council for Court Excellence (CCE) followed up on.

Successes and Challenges in Recommendations Made

Despite the continued global COVID-19 pandemic, the District of Columbia has remained resilient in adjusting where necessary to continue to maintain government functions and operate daily. The attention and commitment to respond in a timely manner to our inquiries on the status of recommendations made

4 Agencies listed include those followed up with by ODCA as well as contractors for MPD, DBH, and DOC.

5 Recommendations made to more than one entity are counted for each entity in this chart.

6 For recommendations directed to the Mayor, ODCA asked the relevant District agency for a response. This included the Deputy Mayor for Education, Department of Energy and Environment, Office of the City Administrator, and Office of Risk Management.

7 The United States Attorney's Office for the District of Columbia is not a District of Columbia agency.

in our audit reports is greatly appreciated. This reinforces the common goal we share to improve the effectiveness, efficiency, and accountability of the District government.

For this report, ODCA contracted with The Bromwich Group to conduct follow-up and analysis on recommendations made in two Metropolitan Police Department (MPD) reports; their review and analyses are included as Appendix B. The report also includes a summary of actions taken and not taken since ODCA's two-volume education data audit published in 2021, covering recommendations directed to the D.C. Council and to OSSE. ODCA also contracted with the Council for Court Excellence to conduct follow-up and analysis for the Department of Behavioral Health (DBH) and Department of Corrections (DOC) on recommendations made in [Everything is Scattered...The Intersection of Substance Use Disorders and Incarcerations in the District](#); their reviews and analyses are included as Appendix C. The report concludes with a discussion on two reports related to the Office of Lottery and Gaming (OLG).

Status: MPD Use of Force reports

ODCA produced two reports in 2021⁸ as part of a series of case studies of the MPD investigations of officer-involved fatalities and examining the use of force at the MPD. The continuation of this series of reports builds upon a review of the Department's policies and practices on use of force prepared by The Bromwich Group for ODCA in 2016. ODCA again used The Bromwich Group to conduct follow-up and analyze the status of MPD's implementation of recommendations made in these two reports for this recommendation compliance review. ODCA is encouraged to report that based on The Bromwich Group assessment, MPD has implemented many of the recommendations made in the series of reports. As noted in the May 2021 report, MPD Chief Robert J. Contee III pledged to adopt and implement the recommendations made in both reports including ensuring that investigations by the MPD Internal Affairs Division (IAD) and oversight by the Use of Force Review Board are far more comprehensive, and that MPD develops policies governing foot chases and defining the purpose and function of the Crime Suppression Teams. As noted in the analysis conducted by the Bromwich Group for ODCA (Appendix B), IAD has broadened its investigation and analysis of Use of Force incidents, and MPD has reinstated the Force Investigation Team (FIT) and published and updated MPD General Order (GO) on Use of Force, and a new FIT manual in 2022. MPD made a commitment to begin publicly releasing investigative reports by the end of November 2022, and as of November 30, 2022, had published nine summary releases regarding events occurring in 2022 and added additional summary releases in January 2023 on their website.⁹ Recommendation Number 6 in Appendix B also includes a response from the U.S. Attorney's Office for the District of Columbia explaining their policy of issuing a press release rather than a more detailed report when declining to prosecute an officer in a fatality case. We consider this recommendation to be In progress.

There will be a final report in this series of officer-involved fatality reviews following the December 21, 2022, criminal conviction of two members of MPD in the 2020 death of Karon Hylton-Brown. As has been

8 [The Metropolitan Police Department and the Use of Deadly Force: Four Case Studies 2018-2019](#), March 23, 2021; and [The Metropolitan Police Department and the Use of Deadly Force: The Deon Kay Case](#), May 25, 2021.

9 <https://mpdc.dc.gov/node/1632671>

the case in the previous two reports, The Bromwich Group will evaluate MPD’s administrative review and the work of the Use of Force Review Board.

Status: Measuring What Matters: More and Better Data Needed to Improve D.C. Public Schools

ODCA published a two-volume education data audit, [Measuring What Matters: More and Better Data Needed to Improve D.C. Public Schools](#) (March 10, 2021), as required by legislation approved by the D.C. Council in December 2018¹⁰ that authorized a new Education Research Practice Partnership. The audit’s overall finding was that the District is not yet collecting and effectively using data on a range of key education topics including attendance, enrollment, discipline, courses, teachers, and student-teacher links.

The audit made recommendations to the D.C. Council and to the Office of the State Superintendent of Education (OSSE) including enacting legislation requiring collection, use and effective governance over a comprehensive data collection. We report on the status in brief in Appendix A and provide additional background on D.C. Council and OSSE actions below.

D.C. Council recommendations

The data audit directed four recommendations to the D.C. Council, whose Committee of the Whole has oversight responsibility for public schools, including the Office of the State Superintendent of Education. The first two recommendations were that the Council enact legislation requiring the collection of a comprehensive set of data as recommended by the U.S. Department of Education, and to require both a governance structure for the data collection and use, and the engagement of stakeholders in the community to help ensure that data is collected and used. On March 19, 2021, Councilmember Mary Cheh introduced legislation, the School Data Governance Amendment Act of 2021, Bill 24-157, that largely reflected these recommendations. The Committee of the Whole did not hold a hearing on the comprehensive Cheh legislation, though the Committee did hold a hearing on a more modest bill requested by the State Board of Education¹¹ that would have required additional data collection on teacher retention. Despite the hearing, the committee did not move that bill forward either. The third recommendation to the Council called for regular monitoring on the data legislation once it was enacted in order to help ensure its effective implementation and success. The final recommendation to the Council on the data audit required Council monitoring of the District’s progress on education data system development during performance and budget hearings. Because those hearings in 2022 did include some discussion of education data we consider this recommendation to be In progress.

10 DC Law 22-268 District of Columbia Education Research Practice Partnership Establishment and Audit Act of 2018, effective March 28, 2019 (66 DCR 3984).

11 Bill 24-355, the Statewide Data Warehouse Amendment Act of 2021.

In August 2021 following the audit’s publication the Council did approve legislation in the Fiscal Year 2022 Budget Support Act essentially encouraging but not requiring specific steps to improve data collection and use as would be mandated in the Cheh bill.¹² This followed briefings on data issues by ODCA that Chairman Phil Mendelson requested. The Committee of the Whole added a subtitle to the Budget Support Act requiring a report from the Office of the State Superintendent of Education with a plan to implement a standardized course-coding system to include courses, grades and credits; a plan to develop and implement an early warning system using statewide data to identify students at risk of disengagement or dropping out of high school; and plans to improve statewide data system capacities overall consistent with the National Forum for Education Statistics plus the estimated costs for the three initiatives.

OSSE published the report in April 2022¹³ including a commitment to move forward on the course-coding system. The report said that with a course code collection in place “OSSE will be able to better monitor credit attainment to ensure that students are earning the appropriate credits to meet statewide graduation requirements” and that “This collection can strengthen OSSE’s oversight of local education agencies and identify those that require more support and intervention.” It noted that OSSE allocated \$1.63 million in federal Elementary and Secondary School Emergency Relief funding to plan for the course code collection implementation but that completing the work would require additional resources –specifically, \$1.78 million in FY 2023 and FY 2024 primarily for staffing to build out the data model and work closely with LEAs on implementation. Ongoing support in subsequent fiscal years was estimated at \$1.48 million. ODCA recommended that Council provide the \$1.78M from redesignating ARPA funds but Council did not take this action.

On the early warning system (EWS) OSSE acknowledged it is important “to identify students needing support and intervention” and claimed that “two-thirds of LEAs already have an early warning data system or are building one.” For individual schools rather than the state to create a system does not address the purpose of early warning systems, particularly in a jurisdiction like the District with a high degree of student mobility among charter schools and between individual charters and DCPS. An EWS requires historical, longitudinal student data covering at least all standardized testing grades through high school graduation to make accurate predictions regarding how current students may progress to graduation. OSSE expressed a willingness to continue considering a statewide EWS if funding is provided and suggested \$900,000 per year in ongoing costs.

In the section of OSSE’s report on improving statewide data system capacity, OSSE indicates some new initiatives are planned or underway but in comparison with what is needed and possible and already in place in other jurisdictions, a great deal more effort is needed.

12 Subtitle IV (Q) of Law 24-45 (68 DCR 12567).

13 [New Frontiers for Educational Data](#) report to the D.C. Council transmitted on April 20, 2022 (RC 24-162).

OSSE recommendations

The audit shared concerns regarding the District compliance with certain federal and District education laws. We recommended that OSSE review compliance on data collection and reporting with special attention to discipline and attendance and the federal Individuals with Disabilities Education Act (IDEA) and the District’s Student Fair Access to School Act and School Attendance Clarification Amendment Act and issue a privacy policy consistent with federal privacy protections for student data.

OSSE’s response to follow-up for this report said this recommendation had been implemented but we are categorizing compliance as In progress. We also recommended that OSSE implement a quality control process and provide explanations of limitations in currently collected and published data. OSSE reported both of these recommendations as implemented and we characterize them also as In progress. The data audit recommended issuance of a data privacy policy “to ensure compliance with the [federal] Family Educational Right to Privacy Act” and OSSE issued such a policy while the audit was in draft form, as noted in the final published report. The policy that was implemented, while welcome, has been implemented conservatively which could lead to data suppression not explicitly required by the federal law. Too restrictive a policy can obscure transparency and limit usefulness so monitoring and possibly amending the policy would be warranted.

One of the recommendations—urging review of compliance with federal law and acknowledging limitations on data use—made specific reference to collection and reporting of discipline data. OSSE’s latest discipline report issued in March 2022 on school year 2020-2021¹⁴ described steps taken in response to the ODCA data audit which “highlighted ways OSSE could improve the discipline data collection.” OSSE continued:

At the beginning of the 2021–2022 school year, OSSE made improvements to the discipline data collection in response to the report’s findings and for the purpose of ensuring data quality. First, LEAs no longer submit the Discipline Data Certification Form and must use the Discipline Data Collection Template in order to meet reporting requirements. Second, charter LEAs now submit their data directly to OSSE, not through the Public Charter School Board (PCSB), so that OSSE can independently ensure the quality and validity of charter school discipline data. Third, OSSE now collects discipline data on a rolling basis throughout the school year via a new Integrated Data Submission (IDS) tool, and the data is ushered through the Unified Data Error (UDE) Report process to ensure LEAs are submitting complete and accurate data. In the coming years, LEAs will be able to use the IDS tool to submit data instead of uploading the template OSSE has historically used.

Moving to a direct collection of data from charter schools is particularly noteworthy and could be improved with additional steps outlined in the audit.

As noted in the ODCA audit, to be in compliance with IDEA, OSSE must collect and submit valid total discipline incidents for use as denominators in disproportionality calculations to ensure students with disabilities are not disproportionately disciplined. As it had done in prior years, OSSE reported that it

14 [State of Discipline, 2020-2021 School Year](#), March 2022.

failed to collect discipline data from all local education agencies (LEAs).¹⁵ Some charter school LEAs continue to not report discipline data to OSSE while others are permitted to submit unlikely values, including zeros. We note this is a pattern across multiple years, pre-pandemic to now, which indicates the missing data does not seem to be pandemic related. In the audit, we recommended that OSSE collect discipline data via the Automated Data Transfer (ADT) system rather than a separate system or forms to ensure better quality data and lessen the discrepancies that they continue to have across collections (as noted in the annual State of Discipline Report).

In addition, Indicator 2 of the Individuals with Disabilities Education Act Annual Performance Report (IDEA APR) and the Adjusted Cohort Graduation Rate (ACGR) federal reporting requirements require valid and complete exit data. As documented in the audit and in more recent OSSE publications, end of year exit data remains incomplete. OSSE's own exit data guidance asserts that complete exit data is needed to meet these federal reporting requirements. In addition, as noted on page 124 of the audit, D.C. Code requires reporting in-school and out-of-school suspensions to OSSE. D.C. Code requires the collection of all discipline data.

Regarding attendance, D.C. Code includes a definition of chronic absenteeism¹⁶ and requires that OSSE report on student absenteeism in an annual attendance publication.¹⁷ As noted in the audit, the two absenteeism metrics recorded for many PCS schools preclude the creation of a fully accurate and valid chronic absenteeism metric as the law requires. Current OSSE attendance data collection templates continue to allow for different default attendance settings by LEA which will continue to lead to unreliable data across LEAs. Annual attendance reporting is not disaggregated by sector, nor does OSSE conduct longitudinal analyses that track students over time and across sector to ensure that variation by reporting unit does not impact data quality.

ODCA recommended a quality control process to ensure the integrity of education data. OSSE reported this recommendation as Implemented, but we consider it to be In progress. The audit highlighted four data categories that needed immediate quality control steps to ensure data integrity: student enrollment and exits, course data, faculty and staff data, and college enrollment data. We note OSSE has made progress toward improving the quality of student enrollment and exit data by adding new adult education exit codes. All non-diploma granting programs, including any alternative programs or tracks that are non-diploma granting, need their own enrollment and exit codes, so this is a step in the right direction, while additional codes are needed to continue this work.

As noted below, OSSE has begun the process to pilot a course data collection. Faculty and staff data transparency have improved but complete information on educator certification and experience are not yet available on the DC School Report Card website.

College enrollment data is now available via downloadable spreadsheets¹⁸ representing real progress and OSSE is to be commended for taking this step to make these data available. We encourage further use

15 Appendix F: [State of Discipline, 2020-2021 School Year](#), March 2022.

16 D.C. Code § 38-201(1A).

17 D.C. Code § 38-203(k).

18 [DC School Report Card Resource Library](#).

of postsecondary enrollment data including college persistence and graduation and interactive website accessibility.

Finally, as noted in the audit and as evidenced in recent OSSE documentation¹⁹ OSSE maintains data validation processes that actually add a risk of error to its reporting by allowing LEAs to view OSSE data and calculations (using what should be finalized state level data) prior to publication and to submit requests for changes. In addition to adding risk of error, these processes also add unnecessary burden for LEAs that more typical data collection and validation processes would resolve, as noted in many federal State Longitudinal Data System Grant Program technical resources.

We note that OSSE better disaggregated 8th grade math proficiency by type of test in the most recent assessment data available.²⁰ This is important progress, and we continue to recommend that any time math scores that combine different underlying assessments are aggregated a caveat should be added to explain that they are fundamentally not comparable across tests and sector to ensure that variation by reporting unit is no longer impacting data quality.

Actions taken by the Executive and the Council since publication of the ODCA education data audit show progress toward more comprehensive collection and use of data, particularly in the course code collection and issuance of a privacy policy. New policies and procedures on discipline data are welcome and the next OSSE discipline report will presumably reflect the improved reporting. Additional work remains in order to better measure and understand where data can be most useful in meeting the stated goal of elected officials to significantly improve academic achievement.

Status: Everything is Scattered...The Intersection of Substance Use Disorders and Incarcerations in the District

We enlisted CCE for follow up on 17 recommendations from [Everything is Scattered...The Intersection of Substance Use Disorders and Incarcerations in the District](#) (August 25, 2020). As CCE notes, the Department of Behavioral Health (DBH) and the Department of Corrections (DOC) have taken some steps to address the issues identified in the report, however it is evident that additional work is necessary to achieve our shared goal. For a full list of recommendations and status see Appendix C.

Status: Office of Lottery and Gaming reports

Also of note, ODCA followed up with the Office of Lottery and Gaming (OLG) on recommendations included in two audit reports issued in 2021. For [D.C. Lottery Needs Standard Procedures to Improve Operations](#) (March 9, 2021), ODCA made five recommendations regarding evaluating or implementing agency policies as well as standard operating procedures. As noted in Appendix A, OLG responded No action intended, agency management is accepting the risk that accompanies the associated finding on

¹⁹ [OSSE Data Validation Deadline Policy: 2022-23 School Year.](#)

²⁰ [2021-22 PARC and MSAA Results and Resources.](#)

four of the recommendations.²¹ While we appreciate the response, as ODCA noted in the Response to Agency Comments of the report,²² written policies and procedures serve as a guide for employees to meet organizational objectives and provide high-quality services and products to the public. ODCA will remain hopeful that OLG will develop and implement formal policies and procedures.

For [Weakness Cited in Monitoring Lottery Contract CBEs](#) (July 7, 2021), ODCA made two recommendations to OLG ensuring the contracting officer technical representative (COTR) is able to review all invoices and work performed by contractors. While OLG did make improvements to their process by requiring the COTR to approve all invoices, we were not provided evidence that OLG is receiving and reviewing monthly invoices for all Certified Business Enterprises (CBEs) including work that is not for reimbursable costs on the contract.

Conclusion

Details on responses to all report recommendations followed up by ODCA can be found in Appendix A, MPD analysis performed by The Bromwich Group can be found in Appendix B, and DOC and DBH analysis performed by the Council for Court Excellence can be found in Appendix C. Additionally, a sortable and searchable version of this information is also available on the ODCA website.

We are encouraged that in recent years, the Council has included a requirement for a program performance report to include the status of efforts to comply with the reports of the District of Columbia Auditor as a part of the budget submission requirements resolution,²³ and that several D.C. Council Committees, as part of the annual performance oversight review process, ask agencies questions based on ODCA reports including status of ongoing audits, recommendations implemented, and ways to improve agency operations in general. These actions support D.C. Code requirements for the Mayor to inform the Council what action has been taken to effectuate the recommendations made by the Auditor in reports issued.²⁴ Additionally, over the past year the D.C. Council held public oversight roundtables on topics directly related to ODCA reports. We welcome the continued opportunity to work collaboratively, without duplicating efforts, to monitor and review recommendations made with the continued collaborative goal of improving city government operations and accountability.

ODCA would like to thank former ODCA Education Research Director Erin Roth for her contributions on the education data audit, and the Bromwich Group and the Council for Court Excellence for their assistance and analysis on this report. From the CCE team, thank you to Adam Bernbaum, Hannah Bingham, Ted Howard, Kelly Laughin, and Lisa Rechden.

21 OLG did implement our recommendation to establish and communicate licensing requirements for prospective retailers.

22 [D.C. Lottery Needs Standard Procedures to Improve Operations](#), issued March 9, 2021, Response to Agency Comments, page 20.

23 Section 3(D)(iv) of Resolution R24-703, the Fiscal Year 2024 Budget Submission Requirements Resolution of 2022, and section 3(D)(iv) of Resolution R24-311, the Fiscal Year 2023 Budget Submission Requirements Resolution of 2021 (013776 DCR 12/24/2021).

24 D.C. Code § 1-204.55(f).

We hope this update on our previous work and all the details that follow will be useful to Councilmembers and to the public.

Thank you.

Sincerely yours,



Kathleen Patterson
District of Columbia Auditor

cc: D.C. Councilmembers

Appendix A

Results of ODCA Analysis of Open Recommendations

Status of Audit Recommendations by the Office of the D.C. Auditor, as of December 31, 2022
Listed Chronologically, by Date of Report Publication

Note: Recommendations that are shaded were sent to all identified agencies for a response but are only listed once in this chart

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
1	Enrollment Projections in D.C. Public Schools: Controls Needed to Ensure Funding Equity (January 9, 2020)	2	The Mayor and Council should adjust enrollment projection methodology to accommodate mid-year student mobility.	No action intended; management accepts risk	
		3	The Mayor and Council should ensure equitable funding for schools serving the largest percentages of students classified by the District as at-risk and those experiencing high levels of student mobility.	In progress	The Deputy Mayor for Education reported this recommendation as Implemented, however we believe it is in progress.

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
2	2008 Clean Energy Law Spurs Progress But District Can Do More to Cut Emissions (February 27, 2020)	6	The D.C. Council should amend §34-1434(d) to create a clearly enforceable requirement and monitor its enforcement or repeal this provision of the law.	Not started	
		8	To more effectively align District regulatory policy with its climate goals, the Mayor and Council should consider establishing a zero-carbon electricity standard which would provide a technology-neutral mechanism for encouraging new investments in carbon-free electricity generation.	Implemented	While DOEE on behalf of the Mayor responded no action will be taken; management accepts risk; the D.C. Council Committee on Transportation and the Environment reported this recommendation as Implemented, two new laws went into effect in October, 2022 (L24-176 and L24-177).
		10	The D.C. Council should consider incentives or requirements for submetering of nonresidential buildings, and changes to District law to allow residential submetering.	Not started	
		12	To reduce GHG emissions from passenger and commercial vehicles, the Mayor and the D.C. Council should establish a congestion pricing program assuming DOEE and DDOT studies substantiate its value to meet District climate goals. DOEE should also study various options to require ride-hailing fleets to operate electric and hybrid-electric vehicles in the District.	In progress	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
3	Are ANC's Given Great Weight? (April 24, 2020)	1	OANC should develop written guidelines and provide training for all ANC's on the requirements of the ANC great weight Code provisions, including formally documenting meetings held to consider proposed District action and proper record retention. The guidelines should be maintained on the anc. dc.gov website.	In progress	
		2	OANC should design and implement policies and procedures to maintain both electronic and hard copy notices received, and maintain all notices received in accordance with the policy developed.	In progress	
		5	DDOT should design and implement policies and procedures to comply with the great weight requirements of the law including, consideration of ANC issues/concerns and issuing a written final decision to the ANC based on recommendations provided.	Implemented	
		6	The D.C. Council should amend D.C. Code § 1-309.10 (b) and (c) to identify a limited and manageable number of specific government actions that must be the subject of notice to the ANC's and on which ANC views are to be given great weight.	Not started	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
4	OST Provides Programs for D.C. Youths But Grant Oversight Needs Improvement (May 26, 2020)	7	The D.C. Council should amend the D.C. Code to move the due date for the Annual Grant Report to January 31 or later as requested by OST and the Mayor in the Fiscal Year 2020 Budget Support Act of 2019 and require that the report include total funds spent by subgrantees, how much funding was unspent at the end of the grant term, and how carryover grant funds from the prior year were expended.	Not started	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
5	RPTAC Should Continue Work to Protect Against Conflicts & Improve Transparency, Timeliness, & Data Quality (June 30, 2020)	2	RPTAC should implement stronger policies and procedures to reduce the risk of Commissioners hearing an appeal on which they have a conflict of interest.	Not started	
		3	RPTAC should determine which hearings can be open to the public without violating confidentiality statutes, such as hearings regarding single-family residential properties, and open them to the public.	In progress	
		4	RPTAC should recommend statutory changes where open hearings on appeals and confidentiality statutes are in conflict.	Not started	
		5	As long as RPTAC's statute requires open hearings, RPTAC should request an advisory opinion from the Office of Open Government on how to conduct a hearing in which confidential information is required to be discussed privately with the panel during hearings (in camera).	Not started	RPTAC reported this recommendation as In progress stating plans to contact the Office of Open Government in November 2022.
		7	RPTAC should ensure that its data system includes additional fields to record all relevant rehearing data separately from original RPTAC hearing data.	Implemented	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		8	RPTAC should ensure adequate supervision of its data entry personnel and train them as necessary.	In progress	
		9	RPTAC should develop and implement a system to monitor the status of decisions by authoring Commissioner and use it to help appropriately manage Commissioners and their workloads.	Implemented	
6	Improvements to School Modernization Contract Administration Could Save District Money (October 19, 2020)	1	During final project accounting and closeout, we recommend DGS require the CM to provide the listing of subcontractors covered by the SDI policy and the amounts being covered for each subcontractor.	In progress	
		2	The General Conditions included transactions for disallowed costs (\$14,000) and transactions without records to show that they were related to the project (\$919). DGS should request a credit of \$14,919 for the unsupported and unrelated staff training costs.	Implemented	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		3	DGS incorporate steps to perform a reconciliation of the craft labor costs submitted with the pay applications and the certified payroll records. This can be achieved through a sampling process or through examination of the full population of labor costs and certified payroll documents.	Not started	
		4	In future projects, DGS should require the construction manager (CM) to obtain written pre-approval before billing for items that are not included in the contract documents.	Implemented	
		5	In future projects, DGS [should] include contract language to better define composition of “fully burdened” staff rates, and to delineate between fringe costs allowed as a cost of work versus those considered disallowed.	In progress	
		6	The Department of Employment Services (DOES) should verify DGS’s reconciliation of local labor at the end of the project to validate the workforce achieved 51% of local labor.	Not started	DGS reported they will engage with the DOES First Source Team to develop a closeout process.
		7	During the final reconciliation, DGS [should] validate that the contingency transferred for use was fully billed, or identify opportunities for additional savings where the CM did not use all the contingency approved.	In progress	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
7	More Urgency Needed to Fix Lead-Based Paint Hazards (November 18, 2020)	3	DCHA should comply with Lead Safe Housing Rule (LSHR) requirement to stabilize any reported deteriorated paint within 30 days, document use of lead safe work practices, and supply clearance reports when required.	In progress	DHCD reported this recommendation as Implemented, however SOPs should be finalized.
		4	The DCHA Property Management Office should develop and implement a plan to reduce the backlog of work orders, including work orders related to lead-based paint.	In progress	DCHA reported this recommendation as Implemented, however DCHA continues to work through a backlog of work orders.
		5	The DCHA Property Management Office should develop comprehensive internal policies and procedures for the work order process, including a requirement to maintain all work order related documentation, from DCHA-managed properties and privately managed properties in a centralized location.	In progress	DCHA reported this recommendation as Implemented and referenced sections of the agency Policy and Procedure Manual, however specific information regarding privately managed properties in a centralized location was not included.
		6	DCHA Property Management Operations (PMO) should enforce Lead Safe Housing Rule (24 CFR 35 Section 35.1355 (a) (2)) requirements to conduct visual assessments every 12 months.	In progress	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		7	DCHA should provide to its tenants with household members considered at risk (children under age six or pregnant women) a clearance report issued within the previous 12 months in compliance with DC Lead Hazard Prevention and Elimination Act.	Implemented	
		8	The DCHA Office of Audit and Compliance (OAC) should implement a quality control process for inspections conducted by Property Management Operations (PMO) for compliance with the Lead Safe Housing Rule, 24 CFR Part 35.1355 (a)(2).	In progress	
		9	DOEE should continue to advocate for the D.C. Council to expand the definition of "owner" to include the District government and its independent agencies like DCHA within its enforcement powers.	In progress	
		11	DOEE should establish deadlines for each step and team involved in the enforcement process and add an indicator to the PAR that gives information on the percentage of cases in which lead hazards are remediated in a given amount of time.	In progress	DOEE reported this recommendation as Implemented with the exception of adding an indicator to the performance and accountability reporting (PAR).

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		14	DOEE should use additional authority granted in the law to include remediating lead hazards and issuing a lien on the owner's property, denying rental permits to owners to ensure lead hazards are remediated, issuing multiday fines, and collaborating with other agencies as needed to use this authority. DOEE should establish internal policies as necessary guiding how and when this authority will be applied.	In progress	
8	D.C. Lacked Unified System to Track, Reduce Settlements & Judgments (December 7, 2020)	1	The Executive should ensure that ORM has the support, resources, and data system(s) needed to identify, analyze, and prioritize S&Js and risks throughout District government including policies and procedures requiring all executive branch agencies to timely report their settlements and judgments to ORM and to use standard terms to describe claim types. This also will allow the Executive to meet the statutory requirement to present a settlements report to Congress.	In progress	
		4	The OCFO should amend its Policies and Procedures Manual to address the need for consistency in recording settlement and judgment payments in SOAR and train current OCFO staff, including AFOs, on the requirements.	Implemented	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		5	<p>ORM should collect and assess comprehensive S&J information for risk mitigation by agencies and present the annual risk report to the D.C. Council. ORM should use existing information systems to support risk assessments until its new enterprise risk management system (ERisk) S&J component is online. As ORM implements ERisk, it should ensure that all agencies are reporting all S&Js within ERisk regularly by conducting reconciliations to the District’s financial system and other monitoring activities.</p>	In progress	
		6	<p>ORM, OCFO, and OAG should jointly implement SOPs with clear agency responsibilities as needed to govern the processing, handling, and reporting of S&Js from the S&J Fund to facilitate compliance with the statutory requirements of D.C. Code § 2-402 and strengthen critical information sharing. This includes procedures for reclassifying expenditures when the S&J Fund is used for unanticipated expenditures.</p>	In progress	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
9	D.C. Lottery Needs Standard Procedures to Improve Operations (March 9, 2021)	1	OLG should reevaluate their NSF policy to ensure retailers face monetary penalties for reoccurring NSFs.	No action intended; management accepts risk	
		2	OLG should develop standard operating procedures for when payment is not provided during the weekly electronic funds transfer sweep, which should include acceptable methods of payment.	No action intended; management accepts risk	
		3	OLG should develop, implement, and monitor adherence to an official policy regarding oversight of the revenue reconciliation process. This policy should include a requirement for OLG to review and approve corrective actions taken, as identified within the incident reports.	No action intended; management accepts risk	
		4	OLG should develop SOPs for the timely recording of instant tickets in the BOS.	No action intended; management accepts risk	
		5	OLG should establish and communicate uniform licensing requirements for prospective Lottery retailers.	Implemented	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
10	Measuring What Matters: More and Better Data Needed to Improve D.C. Public Schools (March 10, 2021)	1	OSSE should: Review compliance with federal and District law on data collection and reporting with specific attention to data collections on discipline and attendance related to the federal Individuals with Disabilities Education Act, the District's Student Fair Access to School Act, the School Attendance Clarification Amendment Act, and Issue a data privacy policy to ensure compliance with the Family Educational Right to Privacy Act.	In progress	OSSE reported this recommendation as Implemented, but OSSE is not collecting data from all LEAs. OSSE issued a data privacy policy to ensure compliance with the Family Educational Right to Privacy Act.
		2	OSSE create and implement a quality control process to ensure the integrity of education data.	In progress	OSSE reported this recommendation as Implemented. Of the four data categories highlighted as needing improvement in the audit report progress has been made toward improving the quality of student enrollment and exit data; a pilot for course data collection has been started; made improvements on faculty and staff data; and college enrollment data is now available.

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		3	OSSE provide clear explanations of data limitations in current state education reports to provide full transparency until data integrity is improved and assured.	In progress	OSSE reported this recommendation as Implemented. ODCA notes progress has been made, however critical data limitations recommended in the audit have not been added to state education reports.
		4	The D.C. Council enact legislation requiring the District to collect data included in the US Department of Education’s definition of a student longitudinal data system (student demographics, student special programs, student assessments, student enrollment: school entry and exit, student enrollment: school program type, student attendance, student discipline, student supports (i.e., school climate surveys), student courses, student-teacher links, teacher/Staff FTE, role, school, teacher demographics, teacher qualifications, teacher personnel (mobility, salary, etc.), data beyond enrollment for PreK, CTE, Adult Ed, postsecondary data, workforce data).	Not started	
		5	The D.C. Council enact legislation that requires data governance and stakeholder engagement practices to help assure the District’s education data system is successful and sustainable.	Not started	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		6	The D.C. Council enact legislation to provide for regular monitoring and reports on each step to ensure success.	Not started	
		7	The D.C. Council monitors the District’s progress on education data system development during performance and budget hearings.	Implemented	
11	Weakness Cited in Monitoring Lottery Contract CBEs (July 7, 2021)	1	The D.C Council should amend the law to clearly define “managerial functions” and “independently controlled owned and operated” with language that is measurable and verifiable.	In progress	
		2	DSLBD should clearly identify in DCMR and SOPs how each relevant section of the D.C. Code is examined and reviewed and what supporting documentation is necessary to determine if the business meets the criteria for certification.	In progress	
		3	DSLBD should ensure that sufficient resources are allocated to the Certification Division and Compliance Division so that same-day self-recertifications eligibility can be checked within the timeframe DSLBD establishes.	Implemented	
		4	The D.C. Council should amend the D.C. Code to clearly state what is required when reporting a material change.	In progress	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		5	DSLBD should clearly identify in the DCMR what is required for recertification if the business has a material change to report.	In progress	
		6	The D.C. Council should amend the law to delineate the responsibility of the contracting agency and the responsibility of DSLBD to ensure CBEs are performing the work.	In progress	
		7	DSLBD should update the DCMR and finalize their Compliance Division SOPs to include responsibilities for reviewing and monitoring CBE participation on D.C. government contracts.	In progress	DSLBD reported this recommendation as Implemented and In progress. DSLBD finalized SOPs and is working to update the DCMR.
		8	DSLBD should ensure contract beneficiaries pay CBEs from their own business account, and only award credit toward the 35% CBE goal for payments made by the beneficiary.	No action intended; Management accepts risk	DSLBD reported this is Not applicable.
		9	OLG should comply with contract terms and the appointment of duties memo from the CO to the COTR and not approve invoices without supporting documentation for all work performed, including work performed by CBEs.	In progress	OLG reported this recommendation as implemented and provided additional back-up documentation received with invoices; however, it does not appear invoices for all CBEs associated with the contract are being received and reviewed.

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		10	OLG should require the assigned COTR to ensure adherence to terms of the contract or appoint personnel best suited to fulfill COTR duties.	No action intended; management accepts risk	
		1	DCPS should develop policies and procedures to ensure information provided in proposals is accurate by verifying it through external sources.	In progress	
12	DCPS Failed to Effectively Monitor Title I Contract (July 14, 2021)	2	DCPS should update its policies and procedures (SOPs) to require the submission of supporting documentation prior to payment approval and instruct staff how to detect billing errors during invoice review. DCPS should provide training to staff on updated SOPs.	Implemented	
		3	DCPS should ensure that equipment purchases are supported by invoices and reported on equipment logs. Equipment logs should be reconciled periodically.	In progress	DCPS reported this recommendation as Implemented. DCPS provided an updated policy and equipment log retention policy, however we believe more regular and targeted reconciliation of equipment logs is needed.

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		4	DCPS should develop policies and procedures (SOPs) to ensure contracted Title I teachers obtain cleared criminal background checks prior to, and throughout the duration of, issuing direct educational services.	In progress	DCPS reported this recommendation as Implemented. DCPS has a tracking sheet, but it had not been updated in several months, and essential information, including dates of clearances and clearance expiration dates, was missing from the document.
		5	DCPS should develop policies and procedures to ensure all contracted teachers obtain the required CFSA Mandated Reporter Training certificates annually and prior to issuing direct educational services.	Implemented	
		6	DCPS should include a CBE checkbox in its correspondence to the contractor, as well as its renewal policies, to ensure that the contractor is an active CBE or the contractor is going to subcontract to an active CBE, and then follow-up with monitoring and verification.	Not started	
		7	DCPS's contract administrator should regularly monitor compliance with the First Source program to ensure the contractor complies with the 51% requirement by the end of the contract term.	Not started	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
13	National COVID-19 Data Quality Audit: District of Columbia (August 16, 2021)	1	The Mayor/Office of the City Administrator should clarify who is responsible for publishing death data and publish the additional information contained in the internal OCME COVID-19 related deaths report, including comorbidity data, on the data pages of the coronavirus website.	No longer applicable	
		2	The Mayor should initiate a comprehensive review of the COVID-19 pandemic response culminating in a public report with DC Health, OCME, HSEMA, and any other key agencies to determine what worked and what should be done differently in the face of a similar health emergency including any recommended updates to the District's Emergency Response Plan.	In progress	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
14	District of Columbia 2020 Election Administration (November 16, 2021)	1	DCBOE should be coordinating with the DC Council to ensure that its overall funding, from both District and federal resources, covers its full mission. DCBOE should consider how it can demonstrate the impact of both its federal and local—including evidence-based reporting—as part of its efforts to ensure its operations have the resources they need to succeed.	In progress	
		2	The DCBOE should audit the content and usability of the website to ensure it meets voters’ needs including (1) clear information on what actions voters must take to “cure” their ballot if there is an issue that might prevent it from being counted; (2) showing voters which locations are closest or most convenient for them and updating the mapping feature with wait times on Election Day; (3) allocating staff to actively monitor and respond to any inaccurate posts to provide correct information.	Implemented	
		3	DCBOE should coordinate with community leaders and other stakeholders well ahead of elections, soliciting feedback in planning communication and outreach.	Implemented	
		4	DCBOE should invest in IT infrastructure and ensure sufficient time and resources to develop, implement and test new applications.	Implemented	

Ref. No.	Report Title	Rec. No.	Recommendation	Status	Notes
		5	DCBOE should send periodic address confirmation mailings to all voters with adequate time for response and follow-up.	No action intended; management accepts risk	
		6	DCBOE should work with all voter registration agencies (VRA) to ensure they are effectively fulfilling their obligations to inform voters about registration opportunities and assist in looking for ways to integrate agency systems into the District's registration system.	Implemented	
		7	DCBOE should work with other stakeholders to expand opportunities to register to vote and update voter registration including agencies and community organizations that residents regularly interact with and work with community leaders well ahead of elections to inform and update voters on the voting process. This should include for areas with low voting rates, and low rates of by-mail voting, gathering information about the barriers that prevent residents from using vote-by-mail options and addressing those.	Implemented	

Appendix B

Analysis of Open Recommendations Provided by The Bromwich Group

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

The Metropolitan Police Department and the Use of Deadly Force: Four Case Studies 2018-2019 Published March 23, 2021

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>1. IAD Should Broaden Its Investigation and Analysis of Use of Force Incidents.</p> <p>This includes investigating and presenting to the UFRB risk management issues, the adequacy of training, and analysis of the events leading up to, and following, the incident.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22.</p>
<p>2. IAD Should Enhance the Training of IAD Investigators who Handle Serious Use of Force Cases.</p> <p>MPD should restructure IAD so that it contains specialists in conducting use of force investigations. MPD should provide the use of force specialists with comprehensive, specialized training similar to the training that was provided to Force Investigation Team (FIT) when it was formed in 1999.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD re-instituted the Force Investigation Team on June 15, 2021. Prior to that, the new FIT agents received specialized training on conducting serious use of force investigations. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22, and a new FIT Manual was published on 1/10/22.</p> <p>The 2022 FIT Manual was developed by IAD. The test will be whether the reconstituted FIT Team produces investigations that achieve the consistently high quality of the original FIT team.</p>
<p>3. The UFRB Should Conduct a More Thorough Decision Point Analysis as Part of Its Review.</p> <p>UFRB should carefully scrutinize the various decision points faced by the officers involved in the incident.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that the UFRB implemented this recommendation in the fall of 2021, and the recommendation was incorporated in GO 901.07 (Use of Force), which was published on 1/1/22.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>4. The UFRB Should Provide Specific Recommendations Related to Training, Policy, and Best Practices.</p> <p>Even where the UFRB does not believe a formal “tactical improvement opportunity” classification is warranted, UFRB should still make a practice of providing soft feedback and training recommendations where warranted (i.e., remind officers of best practices). Even in cases where there is no clear violations of policy or training by MPD members, it is critical that the UFRB identify breakdowns in communications, process, and tactics to MPD leadership, the MPA, and OUC to ensure it does not happen again.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>In July 2021, the UFRB added a notetaker to document the Board’s feedback. Additionally, the Board developed a model memorandum designed to capture any feedback or recommendations related to the case. The memo is required to be sent to the Chief of Police after each hearing (if there is any feedback or recommendations).</p>
<p>5. IAD Should Designate and Train Force Investigation Specialists.</p> <p>We recommend that MPD provide intensive, specialized training to a select group of IAD investigators who can serve as the lead investigator in all serious use of force incidents. IAD should craft training (and re-training) programs for all investigators assigned to use of force incidents that includes conducting a thorough tactical analysis; reviewing the decisions that led to the use of force, not merely the use of force itself; and analyzing policy, training, and equipment issues in each incident.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD re-instituted the Force Investigation Team on June 15, 2021. See the status report in #2 above</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>6. The US Attorney’s Office Should Issue Detailed Declination Letters.</p>	<p>U. S. Attorney Matthew Graves included the following explanation of the Office’s current practice and rationale in in an email exchange with Michael R. Bromwich December 2, 2022: “...our Office has a practice of issuing a press release when we decline prosecution in investigations of use-of-force incidents resulting in death. The press release provides a high-level understanding of the relevant facts that ultimately led to the conclusion. The facts are intended to come from sources that do not implicate Rule 6(e) or other non-disclosure requirements and are usually a matter of public record. We understand the rationale behind the report’s recommendation that detailed declination letters be issued in all matters. In addition to implicating Rule 6(e) and other non-disclosure requirements, issuing such reports would be inconsistent with how we generally handle declinations, and I would note that it is not uncommon for our Office to decline to prosecute matters of substantial public concern that relate to the conduct of government officials. For a variety of reasons, we do not think it defensible to have a practice of issuing declination reports for officer-involved fatalities. If there are extraordinary cases like we have seen in a handful of instances across the country over the last 15 years, we may consider whether such a report is warranted. In general, though, we believe that our current practice strikes the right balance between giving the community some visibility into our decision-making while guarding against the considerations that weigh against disclosure.”</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>7. MPD Should Release IAD’s Final Investigative Report and the UFRB’s Conclusions to the Public.</p> <p>We recommend that MPD make its own Internal Affairs Division Final Investigative Report, as well as the document setting forth the UFRB’s conclusions, public in some form. We recognize that this raises sensitive issues for MPD, particularly given the comprehensive analysis we advise in our other recommendations. Nevertheless, at present, there is no public disclosure of the details or findings of the investigation. This information gap leads to a lack of public confidence in MPD’s investigations, and can lead to public speculation and erroneous allegations of misconduct.</p> <p>(Target: Dec. 2021)</p>	<p>IN PROGRESS</p> <p>GO 901.07 (Use of Force), which was published on 1/1/22, requires the release of the final investigative report, and the UFRB’s conclusions, to the public. Accordingly, the requirement applies to incidents that have occurred during calendar year 2022 or later, and that have made their way through the Use of Force Review Board.</p> <p>As of November 8, 2022, MPD stated that 10 cases from calendar year 2022 had made their way through the UFRB. MPD plans to publish the first investigative reports by the end of November 2022.</p> <p>The Bromwich Group raised concerns with MPD regarding the usability and clarity of the MPD website, such that members of the public might have difficulty finding the final investigative reports once they are released. The Bromwich Group also questioned MPD regarding the disparity between the assertion on MPD’s “Use of Force” page that “MPD will release use of force data on an annual basis beginning with calendar year 2020” and the fact that, as of October 2022, the MPD “Use of Force” page contained only the 2020 Annual Use of Force data.</p> <p>In response, MPD committed to meet with the webmaster to discuss potential improvements on navigating use of force information. MPD also explained there is an extensive lag time between the end of the calendar year and the publication of the Annual Use of Force report: the 2020 Annual Use of Force data was posted in February 2022, and MPD stated that it expected to post the 2021 data before the end of 2022. MPD stated it was working to shorten the timeframe for posting annual data going forward.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>8. Improve UFRB's Use of Force Classifications. MPD Should Require the UFRB to Make Five Findings in all Serious Use of Force Cases.</p> <p>The findings are: 1) Identify the allegations of use of force with specificity and classify them as: “Supported by the Preponderance of the Evidence” or “Not Supported by the Preponderance of the Evidence.” 2) Determine whether the use of force was justified—i.e., whether the actions of the officer were objectively reasonable in the circumstances. 3) Determine whether the use of force incident (and the events surrounding it) were consistent with MPD policy. 4) Determine whether the officer requires “tactical improvement endeavors” or more formal re-training. 5) Provide additional recommendations related to: (a) areas for policy and training improvements; (b) risk management issues; (c) equipment concerns; and (d) areas for officer improvement that do not require formal re-training.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>This recommendation was incorporated, in part, into GO 901.07 (Use of Force), which was published on 1/1/22.</p> <p>While MPD has substantially incorporated this recommendation into GO 901.07, the Order continues to use terminology that we believe can be misleading to the public. For example, the public might read the term “unfounded” when an allegation of force is not supported by the preponderance of the evidence (GO 901.07 Section II.H) and believe that the allegation was entirely baseless and perhaps even fabricated. This sends the wrong message to the public because it could suggest that a plausible allegation with some evidence to support it—but that does not meet the preponderance standard—was deemed baseless by MPD. This could have a chilling effect on the willingness of members of the public to make allegations of excessive force and other misconduct. We continue to believe the term “Not Supported by the Preponderance of the Evidence” is a more accurate and less misleading term.</p>
<p>9. Scope of IAD Investigations.</p> <p>IAD investigators should be provided guidance that the scope of their investigations is broader than the actions of the officer at the point serious or deadly force is used. The actions, tactics, and decisions of all participants in the event, from the call taker to the responding supervisors, should be assessed against MPD policy requirements and best practices.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22.</p>
<p>10. Document De-escalation in Investigations.</p> <p>IAD investigators should explore the possibilities for de-escalation in every investigation and in every interview of an officer engaged in a serious use of force.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>11. Involvement of Academy Personnel in Tactical Review.</p> <p>In all serious use of force cases, the lead investigator should seek assistance from MPA staff responsible for tactical and physical skills training when conducting the investigation’s tactical analysis. IAD should also consider tactical review by Emergency Response Team (ERT) supervisory personnel when there is an attempted high-risk entry.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22.</p>
<p>12. Decision Point Analysis.</p> <p>The Decision Point Analysis Matrix should provide a meaningful independent analysis of the decision points faced by all participants in the event, including, but not limited to, call takers, dispatchers, assisting officers, and the officer or group of officers using force. The analysis should address not only the decisions made by the officer who used force, but the decisions made by any officer that is relevant to the use of force. Where appropriate, the analysis should identify any policy, training, equipment, or tactical concerns raised by the actions of participants.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that UFRB implemented this recommendation in the fall of 2021, and the recommendation was added to GO 901.07 (Use of Force), which was published on 1/1/22.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>13. Follow-up Interviews.</p> <p>IAD agents should conduct follow-up interviews with important witnesses after the agents have had the opportunity to evaluate initial interviews, BWC footage, and other evidence.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into the FIT Manual, which was published on 1/10/22.</p> <p>While we agree the recommendation was implemented through the revised order, the actual language permitting follow-up interviews to be held “when necessary” may undercut the policy. We believe that follow-up interviews after reviewing all the relevant evidence will generally be necessary.</p> <p>The Bromwich Group reviewed summaries of the 10 investigations that have made their way through the UFRB as of November 2022. In many of the cases, IAD conducted multiple interviews with the involved officers, and IAD conducted follow-up interviews with non-involved members in every case where they were witnesses. Of the six investigations involving civilian witnesses, follow-up interviews were conducted, or attempted, in three of the cases.</p>
<p>14. More Rigorous Review and Oversight of Investigations.</p> <p>The UFRB and supervisors in IAD must more carefully scrutinize the recommendations and conclusions of the IAD investigator, and if necessary return the investigation to IAD for additional work. The IAD supervisor should periodically (weekly or bi-weekly) review the investigative file and document each review in writing. The log of reviews should be included as part of the completed investigation file.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>The recommendation was added to GO 901.07 (Use of Force), which was published on 1/1/22.</p> <p>Actual rigorous review and oversight is a matter of practice more than policy.</p>
<p>15. No Leading Questions.</p> <p>IAD supervisors should caution investigators not to use leading questions during interviews of civilian or sworn witnesses of the involved officers. That is especially important when addressing state of mind issues.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force) which was published on 1/1/22 and the FIT Manual, which was published on 1/10/22.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>16. Transcription of All Interviews.</p> <p>In serious use of force incidents, all statements from involved officers, witness officers, and civilians should be recorded, transcribed, and included in the investigative file, as required by MPD policy.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was also included in GO 901.07 (Use of Force), which was published on 1/1/22, and the FIT Manual, which was published on 1/10/22.</p>
<p>17. Check Vital Signs.</p> <p>MPD should remind officers of the requirement that they check vital signs of people who have been subjected to uses of force, especially deadly force, whenever an officer can safely do so.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>The recommendation was incorporated into GO 901.07 (Use of Force) and GO 901.04 (Less-Lethal Weapons), which were published on 1/1/22.</p>
<p>18. No Group Interviews.</p> <p>Whenever possible, group interviews should be avoided. If a group interview is unavoidable, the investigator should attempt to supplement the interview with subsequent individual interviews whenever possible.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22, and the FIT Manual, which was published on 1/10/22.</p> <p>MPD states that no group interviews have been conducted since the Force Investigation Team was re-instituted in June 2021.</p>
<p>19. Examine All Uses of Force in Incident.</p> <p>Even in cases when an initial use of force is justified, investigators should carefully examine whether subsequent uses of force are also justified and in conformance with MPD policy.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22, and the FIT Manual, which was published on 1/10/22.</p>
<p>20. Immediate Reporting.</p> <p>MPD should reinforce as part of in-service training the responsibility of officers and supervisors to report use of force incidents immediately in the aftermath of a serious use of force incident. The training should emphasize the importance of timeliness, as well as incident scene and evidence preservation.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that its use of force training that is delivered two times each year as part of semi-annual pistol requalification has been modified to include an emphasis on reporting force immediately and scene and evidence preservation.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>21. More Complete UFRB Documentation.</p> <p>The UFRB should keep a more detailed record of its deliberations in each case. The record should reflect the specific issues discussed by the Board and their specific findings.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>In July 2021, the UFRB added a scribe to take notes and document the board’s feedback. See response to #4 above. This recommendation was also added to GO 901.07 (Use of Force), published 1/1/22.</p>
<p>22. Clarify Definition of Vehicular Pursuit.</p> <p>MPD should re-visit its definition of “vehicular pursuit” and establish easy to understand, objective criteria for when a pursuit occurs. The definition should not be contingent on factors such as whether the officer activates emergency equipment or whether the officer has an adequate basis to pursue the individual.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>GO 301.03 (Vehicle Pursuit) was published on 12/30/21.</p> <p>Investigations of pursuits/crashes with non-fatal but serious injury are assigned to either IAD or the chain of command based on IAD’s review of the circumstances of the event.</p>
<p>23. Clarify Responsibilities of Off-Duty Officers.</p> <p>MPD should consider whether it has in place adequate policies governing what its officers can and should do when confronted with criminal activity when they are in off-duty status. Its policy on this important issue has not been updated since 2004. In particular, MPD should clarify in policy and training the full applicability of its use of force principles, including de-escalation, when MPD members are off duty.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>EO-21-032 (Off-Duty Service Firearms and Police Action) was published on 12/30/21.</p>
<p>24. Barricades.</p> <p>MPD should consider enacting or clarifying its policy related to circumstances when a barricade should be ordered and ERT (or other tactical support) should be contacted.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>EO-21-033 (Barricaded Subjects/Hostage Situations and Other Unusual Incidents) was published on 12/30/21.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Four Case Studies	Status of Recommendation
<p>25. Deployment of Ballistic Shields.</p> <p>MPD should review its policy on deployment of ballistic shields and consider adding requirements that when an officer requests a shield: (1) a supervisor be notified and (2) the supervisor should respond to the scene of the incident to assess the conditions and decide if ERT should be called.</p> <p>(Target: Dec. 2021)</p>	<p>IMPLEMENTED</p> <p>EO 22-002 (Ballistic Shield Deployment) was published on February 16, 2022.</p>
<p>26. Training on Use of Ballistic Shields.</p> <p>MPD should ensure that all officers are adequately trained on how to use the ballistic shield, including how the deploying officer is to handle his pistol while holding the shield and the tactical formations to be employed when a shield is being used.</p> <p>(Target: Dec. 2021)</p>	<p>IN PROGRESS</p> <p>MPD reports that training on the use of ballistic shields will be included as part of CY 2022 Professional Development Training (PDT). The training will be scenario-based and take place at MPD’s Tactical Training Center. The lesson plan has been finalized, and 2022 PDT training is scheduled to begin in December 2022.</p>
<p>27. Training on Breaching Doors.</p> <p>MPD should review training on how to breach a door, including training on when and how to do so, and the proper equipment to use. Training should be provided on each relevant breaching device available to the officer before the officer is authorized to use it.</p> <p>(Target: Dec. 2021)</p>	<p>IN PROGRESS</p> <p>MPD reports that training on breaching doors will be included as part of CY 2022 PDT. The training will be scenario-based and take place at MPD’s Tactical Training Center. Lesson plans are currently being finalized. The lesson plan has been finalized, and 2022 PDT training is scheduled to begin in December 2022.</p>
<p>28. Dealing with Armed Subjects within Buildings.</p> <p>MPD should provide and reinforce tactical training at regular intervals to relevant MPD personnel on how to approach a location where entry is contemplated and there is indication that an armed subject is within the premises to be entered. The training should address being in the line of fire, stacking, the “fatal funnel,” and seeking cover.</p> <p>(Target: Dec. 2021)</p>	<p>IN PROGRESS</p> <p>MPD reports that training on dealing with armed subjects in buildings will be included as part of CY 2022 PDT. The training will be scenario-based and take place at MPD’s Tactical Training Center. The lesson plan has been finalized, and 2022 PDT training is scheduled to begin in December 2022.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

The Metropolitan Police Department and the Use of Deadly Force: The Deon Kay Case

Published May 25, 2021

ODCA Recommendations – Deon Kay Report	Status of Recommendation
<p>1. Revise Use of Force Policy and Broaden IAD Investigations.</p> <p>Revise the MPD use of force investigations policy to ensure that Internal Affairs Division (IAD) investigations are sufficiently comprehensive to allow the Use of Force Review Board (UFRB) to meet its mandate.</p> <p>(Target: Sept. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force) that was published on 1/1/22. The cases will reflect whether the revisions are being applied in practice.</p>
<p>2. IAD interview all involved officers at least twice and record walk-throughs.</p> <p>IAD should mandate that, in every case involving the use of deadly force, interviews of involved officers be conducted at least twice and walkthroughs with involved officers should be recorded.</p> <p>(Target: Sept. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that IAD implemented in practice during the summer of 2021. The recommendation was incorporated into GO 901.07 (Use of Force), which was published on 1/1/22 and the FIT Manual which was published on 1/10/22.</p> <p>MPD noted that the “when necessary” language was added for second interviews because they may not always be necessary. The agent responsible for the investigation will determine if second interviews are necessary, supervised by the IAD chain of command. Leaving so much discretion to the individual investigator may be problematic, but the Bromwich Group reviewed summaries of the 10 investigations that have made their way through the UFRB as of November 2022 and found that, in many of the cases, IAD conducted multiple interviews with the involved officers, and conducted follow-up interviews with non-involved members in every case where they were witnesses. Of the six investigations involving civilian witnesses, follow-up interviews were conducted, or attempted, in three of the cases.</p>
<p>3. CST Policy.</p> <p>MPD should create a policy that defines the purpose and function of Crime Suppression Teams.</p> <p>(Target: Sept. 2021)</p>	<p>IMPLEMENTED</p> <p>GO 301.02 (Patrol Specialized Mission Units) published on October 15, 2021.</p> <p>MPD reports that each district has its own CST, and the order is written broadly to cover specialized units that have names other than “CST”.</p>

ODCA 2021 Use of Force Reports: Fall 2022 Status of Recommendations

ODCA Recommendations – Deon Kay Report	Status of Recommendation
<p>4. CST Training.</p> <p>CST officials should receive specialized training in management and leadership principles, as well as risk assessment, planning, and leadership. CST members should be trained, and retrained at regular intervals, on matters relevant to their assignments and should “embrace the principles of working with the community, reducing bias, and improving cultural competency.”</p> <p>(Target: Oct. 2021)</p>	<p>IMPLEMENTED</p> <p>MPD reports that CSTs received mandatory training in June of 2021 on topics including Active Bystandership for Law Enforcement (ABLE), the Fourth and Fifth Amendments, discretion, and procedural justice. As part of the department’s 2021 professional development training, all officials, including those assigned to CSTs, received training on management and leadership.</p> <p>MPD reports that beginning in 2022, the Metropolitan Police Academy (MPA) implemented ongoing training for CST officers and officials as outlined in GO 301.02 (Patrol Special Mission Units). The 2022 CST training plan is being finalized as of November 2022, and the 2022 training has not yet been scheduled.</p>
<p>5. Social Media Policy.</p> <p>MPD should create a policy on the use of social media in conducting criminal investigations.</p> <p>(Target: Sept. 2021)</p>	<p>IMPLEMENTED</p> <p>EO-21-024 (Social Media for Investigative and Intelligence-Gathering Purposes) was published on October 15, 2021 and updated as EO-21-025 (Social Media for Investigative and Intelligence-Gathering Purposes) on November 8, 2021 in response to member feedback.</p>
<p>6. Foot Pursuit Policy.</p> <p>MPD should develop a policy on foot pursuits.</p> <p>(Target: Sept. 2021)</p>	<p>IMPLEMENTED</p> <p>GO-SPT-302-01 (Calls for Service) was published on February 16, 2022 and includes a section dedicated to foot pursuits.</p>
<p>7. Improve UFRB Documentation.</p> <p>The UFRB findings should improve how Board feedback is memorialized by including more detailed findings of fact, more detailed “soft feedback” on how the officers could have improved tactically, and more specific recommendations related to MPD training and policy.</p> <p>(Target: Oct. 2021)</p>	<p>IMPLEMENTED</p> <p>In July 2021, the UFRB added a scribe to take notes and document the Board’s feedback. See the response in #4 above.</p>

Appendix C

Analysis of Open Recommendations Provided by the Council for Court Excellence



To: Office of the District of Columbia Auditor
From: Council for Court Excellence
Date: December 23, 2022
Re: Summary of Implementation Status of Select Recommendations from 2020 Report, *Everything is Scattered: The Intersection of Substance Use Disorders and Justice-Involvement in the District*

The purpose of this memo is to support the Office of the D.C. Auditor's (ODCA) efforts to make public the implementation status of select recommendations made to the Department of Corrections (DOC) and the Department of Behavioral Health (DBH) in the August 25, 2020 report, *Everything is Scattered: The Intersection of Substance Use Disorders and Justice-Involvement in the District*.¹ The report covered an audit period of January 1, 2015, through September 30, 2018 and was prepared by the Council for Court Excellence (CCE) on behalf of ODCA.

The *Everything is Scattered* report outlined seven findings related to substance use disorders (SUDs) in the justice-involved community:

- 1) An enhanced Pre-Arrest Diversion (PAD) program in the District would provide opportunities for substantial improvement in outcomes for people with substance use disorders who are at risk of justice involvement.
- 2) DOC is failing to identify all individuals with substance use disorders who may benefit from treatment while in custody or connection to care during reentry.
- 3) DOC is a leader in the delivery of Medication-Assisted Treatment (MAT) in a correctional setting, but needs to improve the availability of other types of substance use disorder services, reentry planning, and Medicaid reconnection support for people leaving custody.
- 4) DBH requires people seeking substance use disorder services to be assessed in-person at an intake location with limited availability; there are delays between referrals and care; and DBH does not follow up to ensure people connect to treatment.
- 5) The District and federal governments do not adequately share, utilize, or analyze information about D.C.'s justice-involved substance use disorder client population across agencies.
- 6) DBH does not have clear strategic priorities, goals, and benchmarks that guide its delivery of substance use disorder services in the District generally, or for justice-involved individuals in particular, and it has not consistently used the same benchmarks annually to evaluate performance.
- 7) DBH has not established adequate communication channels with critical substance use disorder stakeholders, including providers and members of the public.

¹ <https://dauditor.org/report/everything-is-scattered-the-intersection-of-substance-use-disorders-and-incarcerations-in-the-district/>



The original report outlined 39 recommendations for the District to address these seven findings. For this progress report, we selected a subset of eight of the recommendations for DOC and eleven recommendations for DBH to evaluate overall progress. We then requested information from DBH and DOC, asking each to report on the implementation status of the subset of recommendations relevant to their agency. We also made second requests for additional information from each agency, asking for clarification on certain recommendations. We received responses from both agencies following our initial information requests, and a supplemental response from DOC following the second request for clarifying information. It is from those responses that we summarize or quote the agencies' reported status on the different recommendations.

We identified the status of each recommendation using the classifications described in Figure 1.

Figure 1: ODCA Recommendation Status Categories

Implemented	We reviewed information provided by the audited agency's management and agreed the recommendation was implemented.
In progress	This status is assigned in two instances: Recommendations that management reported as underway but not yet fully implemented; or Recommendations that management reported as implemented but lacked documentary evidence supporting their claim.
No longer applicable	Circumstances have changed since the audit report was issued that render the recommendation no longer relevant.
Will not be implemented; management accepts risk	Management does not agree with the recommendation and/or does not intend to implement it. In making this choice, agency management is accepting the risk that accompanies the associated finding.
Not started	Agency management reports that they have not yet begun to implement the recommendation.

Results

We found that, of the recommendations we reviewed for DOC, one is “Implemented,” six are “In progress,” and one “Will not be implemented.” Of the recommendations we reviewed for DBH, one was “Implemented,” five are “In progress,” four were “Not started,” and one “Will not be implemented.”

Figure 2: Open Recommendations by Agency as of December 20, 2022

Agency	Number of Recommendations “In progress” or “Not started”
Department of Corrections	6
Department of Behavioral Health	9



The appendix provides a list of the subset of 19 recommendations from *Everything is Scattered* that we selected for follow up in this progress report and their respective statuses. We are encouraged that DBH and DOC have taken some steps to effectively address the issues identified in *Everything is Scattered*. However, it is evident that additional work is necessary to achieve our shared goal of adequately addressing the District's substance abuse crisis in the justice-involved community.

Successes and Challenges in Select Recommendations for the Department of Behavioral Health

The eleven selected DBH recommendations focused on increasing access to treatment for SUD clients and improving the flow of information between D.C. government agencies and substance use treatment providers. In particular, we recommended legally sharing information about SUD clients between agencies and community-based SUD providers to improve care rates and prioritize reentry. We confirmed one instance where DBH has fully implemented the policy initiative recommended and five instances where the recommendations are in progress.

Recommendation 5.3 in *Everything is Scattered* called on DBH, DOC, and Department of Health Care Finance (DHCF) to establish a protocol for the real-time sharing of clients' authorized SUD information. DBH states that with the recent roll out of the Chesapeake Regional Information Systems For Our Patients Inc. (CRISP) SUD Consent Tool, participating D.C. providers will be able to utilize the CRISP Health Information Exchange to share information electronically and improve care continuity. DBH is in the process of entering into an agreement with CRISP DC which will allow DBH access to its SUD portal. While DBH did not provide a timeline for the finalizing the agreement, we recognize the meaningful progress on this recommendation ultimately designed to improve service provision for people with SUDs.

Additionally, DBH has implemented recommendation 7.4 to establish procedures by which people and organizations can alert the agency to violations of client rights. DBH notes the methods to provide reports, and that upon receipt of grievances or complaints, they investigate and take appropriate follow up action.

However, most of the selected DBH recommendations reviewed for this report were either not yet started or still in progress. For example, in recommendation 1.1, we encouraged the District to continue to offer pre-arrest diversion (PAD) that built upon the elements of the 2018 PAD pilot program between DBH and the Metropolitan Police Department. The PAD program is no longer considered an independent initiative, and instead DBH reports that it has been folded into their Community Response Team program. DBH noted that the program operates in all eight wards and has response teams available 24 hours a day, seven days a week. We requested additional information from DBH to confirm which aspects of the PAD program are in effect, including the role and training of law enforcement officers, and to determine any community feedback, as recommended. DBH did not provide any response to these follow-up inquiries, citing insufficient time to respond. With this consolidation, it is unclear the extent to which the



PAD goals and requirements in the Neighborhood Engagement Achieves Results Amendment Act of 2016 (NEAR Act) are being met or whether all aspects of the pilot program remain in effect or are being tracked.

DBH has not yet implemented recommendation 6.4, which calls for revision of D.C. Municipal Regulations so that certain SUD clients are eligible for DBH’s Home First subsidy. DBH provides housing support for SUD clients using other programs and resources and utilizes the Home First program to prioritize housing for people with serious mental illness. DBH expressed a commitment to “[look] for ways to implement the recommendation and otherwise expand housing options for SUD clients,” but did not specify a timeframe or any specific actions it plans to take.

Finally, in response to recommendation 4.2, DBH reports that it has not yet started to track the time in between referrals and care initiation in the “no wrong door” system.² DBH also reports that some services – e.g., withdrawal management and residential treatment services – are same-day services and therefore have no wait times. However, in *Everything is Scattered*, our analysis of Medicaid records revealed many cases in which prospective clients appeared to wait longer than a day between assessment and initiation of withdrawal management. Similarly, although regulations stipulate that wait time for outpatient services should be no more than seven days, outpatient services took a median of 14 days in 2018, the last year the report covered. DBH has not indicated when it will begin collecting the relevant information from providers and compiling and tracking this data to demonstrate current wait times, if any.

Successes and Challenges in Select Recommendations for the Department of Corrections

DOC has made progress toward implementing the eight selected recommendations from *Everything is Scattered* and asserts that the bulk of recommendations had already been in place by DOC. However, the agency’s official policies or interagency agreements have not yet been formally changed to reflect any changed practices, and do not address each element of concern raised in the original audit report. We confirmed one instance where DOC has fully implemented the policy initiative recommended and six instances where the recommendations are in progress.

DOC implemented recommendation 3.1, reporting that a Women’s SUD therapeutic housing unit opened in August 2021 and a Men’s SUD therapeutic housing unit opened in July 2022.³ DOC also offers supportive therapeutic programs on-site, such as Alcoholics Anonymous and Narcotics Anonymous programs.

In response to recommendation 2.1, DOC reports that its medical provider has adopted the Substance Abuse and Mental Health Services Administration’s (SAMHSA) best-practice

² “DBH should track the time between referrals and care initiation in the new “no wrong door” system, and set goals to decrease any wait times, particularly for people with SUDs suffering withdrawal.”

³ “DOC should offer group and individual therapeutic programming, in addition to existing chemical dependency care, that will address the interest in and need for SUD treatment for DOC Residents that Residential Substance Abuse Treatment (RSAT) cannot fulfill in light of its capacity limitations, eligibility criteria, and abstinence requirement.”



National Institute on Drug Abuse (NIDA) Quick Screen for SUDs at intake.⁴ Residents typically receive the NIDA SUD screen within an hour after they enter a DOC facility. DOC also re-screens all Residents in the Intake Housing Unit within 5-7 days who have not been identified with NIDA at intake. This is a positive development, but DOC has not yet updated its internal policy to require such screening. DOC reports that it is in the process of doing so, with an expected revision completion date of December 31, 2022.

In response to recommendation 2.2, DOC began referring its Residents found with drugs while in custody to urgent care for assessment and to a SUD team.⁵ This practice began in November 2022 and the relevant program statements are anticipated to be revised to reflect the practice by December 2022. DOC also notes that the Electronic Medical Records (“EMR”) of Residents are reviewed at intake by medical staff for previous SUD issues. The medical team is expected to note SUD issues in the “Health Concerns and Past Medical History” sections of the electronic chart and those notes are referenced when referring Residents for SUD treatment.

Regarding recommendation 3.4, DOC noted its focus on re-entry planning that has been in place since 2009, and work that is currently in progress to facilitate connections between DOC and community-based SUD providers and create a tracking system to evaluate connection to care rates.⁶ Specifically, DOC is in ongoing communications with Court Services and Offender Supervision Agency (CSOSA), SAMHSA and local judges to prevent gaps in care upon discharge. DOC also indicates it is in communication with DHCF to create a tracking system. However, DOC’s medical provider does not regularly notify community-based providers about the incarceration status of Residents with SUDs, as encouraged in recommendation 3.5.⁷ DOC reported that they do not do this due to privacy considerations. However, this claim is in tension with the simultaneous assertion that an interagency data-sharing agreement is unnecessary because all relevant information can already be shared through informed consent as authorized under federal regulation.⁸

⁴ “DOC should use a best practice screening protocol for SUDs at intake, and revise its internal policy (PS 6000.1H) to require such screening.”

⁵ “In addition to self-reporting by Residents, DOC should use collateral information to supplement SUD screenings to identify individuals with Active SUDs in its custody. Specifically, DOC should refer a Resident for a full SUD assessment, regardless of the outcome of their intake screening, if they: a. Have any history in DOC’s own medical records of a SUD diagnosis or treatment from a prior period of custody; or b. Have a positive drug test or are found guilty of a substance-related disciplinary violation while in DOC custody, which requires revision of DOC Program Statements 6050.2G and 5300.1H.”

⁶ “DOC and DBH should prioritize reentry planning and data collection for people with Active SUD flags. This should include the facilitation of connections between SUD providers in DOC to community-based SUD providers, and tracking systems that will allow DOC and DBH to evaluate connection to care rates.”

⁷ “DOC should use the Uniform Consent Form with Residents with Active SUD flags so that: a. If a Resident has a community-based SUD provider, DOC can inform that provider when its client has been taken into custody and when the client is scheduled for release; and b. The provider can share information with DOC about the SUD client’s level and type of care.”

⁸ See the Notes section of recommendation 2.4 in Appendix A.



Appendix A

Status of *Everything is Scattered* Audit Selected Recommendations, as of December 20, 2022

Rec. No.⁹	Recommendation	Agency	Status	Notes
1.1	The District should continue to offer Pre-Arrest Diversion (PAD), building on the successes of the PAD pilot.	DBH	In progress.	The pre-arrest diversion program (PAD) is no longer considered an independent initiative, and instead DBH reports that it has been folded into their Community Response Team and expanded to be 24/7 in all eight wards. With this consolidation, it is unclear the extent to which the PAD goals and requirements in the NEAR Act are being met or whether all aspects of the pilot program remain in effect or are being tracked.
2.1	DOC should use a best practice screening protocol for SUDs at intake, and revise its internal policy (PS 6000.1H) to require such screening is accomplished.	DOC	In progress.	DOC's medical provider has adopted the use of SAMHA's NIDA Quick Screen at the time of intake. Additionally, to identify Residents who may benefit from SUD services, DOC also re-screens all Residents in the Intake Housing Unit within 5-7 days who have not been identified with NIDA at Intake. No DOC policies have been changed to reflect or formalize these processes.
2.2	In addition to self-reporting by Residents, DOC should use collateral information to supplement SUD screenings to identify individuals with Active SUDs in its custody. Specifically, DOC should refer a Resident for a full SUD assessment, regardless of the outcome of their intake screening, if they: a. Have any history in DOC's own medical records of a SUD diagnosis or treatment from a prior period of custody; or	DOC	In progress.	The intake team at DOC reviews medical records from previous DOC incarcerations as far back as can be tracked, along with other sources of information. As of November 2022, Residents found with drugs are sent to DOC's medical provider for evaluation(s). DOC reports that its relevant program statement will be updated by the end of 2022.

⁹ Refers to the recommendation numbers in the August 25, 2020 report, *Everything is Scattered: The Intersection of Substance Use Disorders and Justice-Involvement in the District*. Each recommendation is organized by its corresponding Finding number, e.g., Finding 1 has 5 associated recommendations (1.1, 1.2, 1.3 and so on).



	b. Have a positive drug test or are found guilty of a substance-related disciplinary violation while in DOC custody, which requires revision of DOC Program Statements 6050.2G and 5300.1H.			
2.3	DOC should establish a protocol to request informed consent from all Residents at intake to allow their community-based SUD providers and DBH to share SUD information with DOC, and to allow DOC to share information and communicate with DBH and their community-based SUD providers.	DOC	In progress.	DOC reported several steps that are regularly used to obtain Resident consent and to communicate with community-based providers about their SUD treatment (especially for those with opioid use disorders) but did not reference any specific protocol or policy that is memorialized or can have its compliance tracked. DOC reports that since 2020 its medical provider reviews Residents' records with a DBH liaison shortly after intake to determine any prior history with DBH.
2.4	DBH and DHCF should provide DOC's medical provider limited access to SUD records and claims databases, through an MOU [Memorandum of Understanding], for the purposes of accessing the SUD histories of patients in DOC custody who provide informed consent.	DBH	Will not be implemented.	DBH provides DOC with SUD information when authorized by a written consent form, but it is unclear how often this happens in practice. Contrary to the audit recommendation, the agencies express the opinion that an MOU provides no additional legal authority to disclose SUD information than what is already permitted under 42 CFR Part 2. ¹⁰
3.1	DOC should offer group and individual therapeutic programming, in addition to existing chemical dependency care, that will address the interest in and need for SUD treatment for DOC Residents that Residential Substance Abuse Treatment (RSAT) cannot fulfill in light of its capacity limitations, eligibility criteria, and abstinence requirement.	DOC	Implemented.	DOC reports that Residents with SUDs, particularly those with opioid and stimulant use, are assessed for suitability for Medication Assisted Treatment and DOC's new men's and women's therapeutic housing units, depending on space available. DOC did not specify the placement rate for those Residents eligible for or interested in the care and special programming provided in these units, so it remains unclear if all Residents with SUDs have access to some form of treatment or therapeutic

¹⁰ Code of Federal Regulations. Part 2 – Confidentiality of Substance Use Disorder Patient Records. <https://www.ecfr.gov/current/title-42/chapter-I/subchapter-A/part-2>.



				programming (assuming that they are in DOC custody long enough to be evaluated and/or participate).
3.4	DOC and DBH should prioritize reentry planning and data collection for people with Active SUD flags. This should include the facilitation of connections between SUD providers in DOC to community-based SUD providers, and tracking systems that will allow DOC and DBH to evaluate connection to care rates.	DBH	In progress.	DBH engages with the Resource to Empower and Develop You Center (the READY Center) to help DOC Residents leaving custody by providing referrals to community-based mental health and/or SUD services. DBH reports that eligible returning citizens can be linked to Core Service Agencies (CSAs) by DBH and are provided intake appointments within 30 days of their release from DOC custody. DBH reports that it tracks the number of returning citizens who have been contacted and linked by DBH staff for intake appointments to CSAs monthly. It is unclear whether DBH provides clinical assessments and referrals for SUD clients or directs SUD clients to other providers to receive assessment and referral services, or if it is capturing connection to care rates.
3.4	DOC and DBH should prioritize reentry planning and data collection for people with Active SUD flags. This should include the facilitation of connections between SUD providers in DOC to community-based SUD providers, and tracking systems that will allow DOC and DBH to evaluate connection to care rates.	DOC	In progress.	DOC reports that its discharge planning process begins at Intake and that they are “consistently” connecting Residents with opioid use disorders (OUDs) back to their clinics or providers in the community. For Residents with other SUDs, DOC reports that their medical provider makes follow up appointments with primary care providers, includes support from peer navigators, and sometimes “warm-handoffs” or bed-to-bed transfers to community-based providers. DOC also referenced at least one meeting with CSOSA and local judges to further coordinate discharge planning so that Residents with OUDs can access methadone when released on weekends, and to ensure that appropriate placements are ordered. DBH and DOC are also working with the Department of Health Care Finance to create a database to track claims information so DBH can better track when/if



				Residents receive follow-up care in the community, but this database is not yet operational and no timeline for its completion was provided.
3.5	DOC should use the Uniform Consent Form [for the Release of Protected Health Information] with Residents with Active SUD flags so that: <ul style="list-style-type: none"> a. If a Resident has a community-based SUD provider, DOC can inform that provider when its client has been taken into custody and when the client is scheduled for release. b. The provider can share information with DOC about the SUD client’s level and type of care. 	DOC	Will not be implemented.	DOC’s medical provider does not notify community-based providers of a patient’s incarceration. DOC reported that they do not do this due to privacy considerations. However, this claim is in tension with the simultaneous assertion that a data-sharing MOU is unnecessary because all relevant information can already be shared through informed consent as authorized by 42 CFR Part 2.
4.1	DBH should increase access to its services by: <ul style="list-style-type: none"> a. Adopting the proposed revision to D.C.M.R Chapter 22-A to allow any SUD provider to conduct assessments and referrals; b. Amending D.C.M.R Chapter 22-A to remove the requirement that initial SUD assessments be conducted in person; and, c. Expanding days and hours of access for the initial assessments, ensuring that at least one SUD provider is open, 24 hours a day, 7 days a week to assess and accept clients into each level of care and to serve individuals in acute withdrawal. 	DBH	In progress.	DBH reported that since October 2020, all SUD providers have been required to conduct assessments and referrals, but that in-person initial assessments are crucial to do a complete bio-psychosocial assessment and ensure quality SUD service delivery. This does not comport with the recommendation, as the District’s general telehealth guidance allows in-person or virtual provision of the same service so long as standard of care can be achieved. DBH now contracts with a certified provider for 24/7 initial assessments for withdrawal management. DBH reports that a 24/7 stabilization and sobering center will open in spring 2023, which will also provide SUD assessments. ODCA plans to follow up on this recommendation again next year.
4.2	DBH should track the time between referrals and care initiation in the new “no wrong door” system, and set goals to decrease any wait times, particularly for people with SUDs suffering withdrawal.	DBH	Not started.	Although DBH reports that there is no wait time for withdrawal management or residential treatment as these are same day services, it does not have a mechanism in place to track wait times between referral and care initiation for these services. DBH noted that it is setting up a



				workflow to capture provider performance information, but it did not clarify when it will be able to report this data.
5.3	DOC, DBH, and DHCF should establish a protocol for the real-time sharing of clients' authorized SUD information – both electronically and through other forms of communication [with informed consent] – between community-based SUD providers and the agencies as is appropriate and necessary to ensure care-continuity for people entering and leaving DOC custody.	DBH	In progress.	DBH stated that with the recent roll out of the CRISP DC SUD Consent Tool, participating providers will be able to utilize the CRISP Health Information Exchange to share information electronically and improve care continuity. DBH is in the process of entering into Qualified Service Agreement with CRISP DC which will allow DBH access to the CRISP DC SUD portal, however no expected date for finalization of the agreement was indicated.
5.3	DOC, DBH, and DHCF should establish a protocol for the real-time sharing of clients' authorized SUD information – both electronically and through other forms of communication [with informed consent] – between community-based SUD providers and the agencies as is appropriate and necessary to ensure care-continuity for people entering and leaving DOC custody.	DOC	In progress.	DOC reports that the DBH-DOC data sharing process already exists and that a dialogue is underway with SAMHSA, DOC, and DBH to establish a protocol to track care continuity upon release through DC's Health Information Exchange. DOC noted that the Exchange is in the process of establishing an eConsent platform to allow for the sharing of health information among multiple organizations. No timetable was provided for the completion of these data-sharing projects.
5.4	D.C. should establish an inter-agency agreement to facilitate data sharing between all agencies that regularly come into contact with justice-involved SUD consumers. The agreement should create a process for agencies, on an ongoing and permanent basis, to combine their person-level data into a single, anonymized dataset that includes all variables relevant to a person's	DOC	In progress.	See Rec. No. 5.3 (DOC) for relevant note.



	behavioral health needs and service consumption and justice involvement in the District of Columbia.			
6.4	DBH should revise D.C. Mun. Regs. 22-A § 2204.1(a) to make SUD-only clients who do not receive care at a Core Services Agency (CSA) eligible for DBH’s Home First subsidy.	DBH	Not started.	DBH reports that as part of its legal obligations to treat individuals in the least restrictive setting, it utilizes the Home First Program to prioritize housing for individuals with serious mental illness who are most at risk of long-term hospitalization and restrictive settings. DBH further reported that it currently provides “housing support” for some SUD clients (including some “Oxford model” recovery housing, reentry housing, and Environmental Stability Services temporary housing), but noted that it is reviewing this recommendation as well as other ways to expand housing options for people with SUDs.
6.6	DBH should also update Policies 511.1 and 511.2 to reflect the agency merger and explicitly make SUD-only clients eligible for housing services.	DBH	Not started.	DBH reported that it offers housing services and supports for SUD-only clients and that it is examining rules and policies that may need to be updated to reflect the merger. It has not provided a timeline for implementing these changes.
7.4	DBH should issue a policy establishing clear procedures for organizations, or people who are not themselves SUD clients, to alert DBH of alleged violations of client rights at DBH certified SUD providers.	DBH	Implemented.	DBH’s current policies allow for any client, representative, or advocate to inform DBH of suspected instances where client’s rights are being abused or a provider is not adhering to DBH certification policies. Upon receipt of grievances or complaints via phone or email, DBH claims that it investigates the allegation and takes appropriate follow-up action.
7.5	DBH should amend its regulations, D.C. Mun. Regs. 22-A §3 and §6319, to align with DBH Policy 515.3, Consumer Rights (August 15, 2017), formally merging the grievance procedures for mental health consumers and SUD clients.	DBH	Not started.	DBH has not yet amended its grievance procedures to bring the mental health and SUD standards into alignment, although they agree amendment is necessary. DBH did not specify when this amendment will take place.
7.6	DBH should maintain its	DBH	In progress.	DBH maintains a list of SUD



	<p>public list of SUD providers and update it as SUD providers are certified and decertified.</p>			<p>providers on its website to reflect when providers receive certification, as well as when providers are decertified. However, DBH did not clarify how often the list was updated and what procedures (if any) are in place to ensure the list remains current, which was the focus of the recommendation.</p>
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About ODCA

The mission of the Office of the District of Columbia Auditor (ODCA) is to support the Council of the District of Columbia by making sound recommendations that improve the effectiveness, efficiency, and accountability of the District government.

To fulfill our mission, we conduct performance audits, non-audit reviews, and revenue certifications. The residents of the District of Columbia are one of our primary customers and we strive to keep the residents of the District of Columbia informed on how their government is operating and how their tax money is being spent.

Office of the District of Columbia Auditor

1331 Pennsylvania Avenue, N.W.

Suite 800 South

Washington, DC 20004

Call us: 202-727-3600

Email us: odca.mail@dc.gov

Tweet us: https://twitter.com/ODCA_DC

Visit us: www.dcauditor.org



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