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36 Fired MPD Officers Reinstated, Receive \$14M in Back Pay
Audit finds 36 fired officers returned to force within 5.5 years with back pay,
often by arbitrators claiming firing was excessive

October 6, 2022 (WASHINGTON) -- For every three police officers terminated by the Metropolitan Police Department (MPD), two have been returned to the force primarily because independent arbitrators believed firing was too severe a punishment or the department missed deadlines, overstepped its authority, or provided insufficient evidence, according to a new audit by the Office of the District of Columbia Auditor (ODCA).

The review found MPD reinstated 37 officers who were fired for a variety of offenses—including several whose behavior was categorized by ODCA as a “threat to safety”—and paid 36 of them millions in back pay following lengthy, complicated, and costly reinstatement cases.

The audit was prompted by an earlier audit of settlements paid by the District government that showed that over an 18-month period, millions in backpay was awarded to 10 MPD officers who were fired and then got their jobs back by appealing the termination.

“What we found is consistent with concerns raised by the Police Reform Commission,” said D.C. Auditor Kathy Patterson. “We’re recommending legislation to put elected officials in the driver’s seat on what is and is not behavior that merits termination from MPD.”

The most common reason an MPD termination was overturned was because a third-party reviewer (an arbitrator) thought termination was an excessive punishment for the officer’s misconduct especially in comparison with past decisions. MPD’s failure to meet deadlines, follow procedures, and provide adequate evidence were also factors. As of September 2022, 15 of the 37 reinstated officers reviewed by ODCA were employed at MPD, including three who were terminated for misconduct that ODCA classified as a “threat to safety.”

On average the reinstatement cases reviewed by ODCA lasted almost eight years. MPD and the Fraternal Order of Police, who appealed most of the termination cases, had no time limit to move forward on cases. For most cases, it took an average of 5.8 years just to complete the first step of an appeal. The arbitration process has been authorized in police collective bargaining agreements but emergency and temporary legislation by the D.C. Council starting in 2020 has essentially precluded arbitration by removing discipline from the union agreements.

The audit recommends that when the Council acts on permanent legislation to codify the removal of discipline from collective bargaining (as approved most recently in the Comprehensive Policing and Justice Reform Congressional Review Emergency Amendment Act of 2022), it should make clear in D.C. Code or

—more—

report language that the action eliminates arbitration and assigns additional responsibilities to the Office of Employee Appeals.

The report's recommendations include:

- To minimize subjectivity over the severity of discipline for misconduct and ensure discipline decisions reflect current policy, the D.C. Council should codify the MPD table of penalties.
- The Mayor and Council should direct the review and amendment of MPD General Order GO-120, 6 DCMR § 1001.5, and/or D.C. Code § 5–133.06 to address the inconsistency between General Orders and D.C. Code that has resulted in overturned terminations.
- MPD should comply with statutory requirements on timely action in discipline matters, provide evidence sufficient to support any MPD appeals, and recommend clarification to the requirements to the extent needed.

The report includes snapshots of the 37 reinstatement cases divided into two broad categories, “threat to safety” and “administrative.” Threat to safety cases included:

- Two officers who failed to make an arrest under domestic violence statutes.
- An officer who was terminated three separate times, two prior to the audit's scope, and had been arrested for assault with a dangerous weapon.
- An officer who had been found guilty in D.C. Superior Court for simple assault.

Reinstatement cases described as “administrative” included

- An officer who demanded free passage on an Amtrak train from Baltimore to New York City.
- A married couple, both officers, who falsified home addresses in order to enroll children in a D.C. public charter school.

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