



WASHINGTON LAWYERS' COMMITTEE
FOR CIVIL RIGHTS AND URBAN AFFAIRS

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Before the Council of the District of Columbia, Committee on the Judiciary and Public Safety and the Committee of the Whole

Concerning Special Police Officers in the District of Columbia and Proposed Legislation

February 17, 2022

For years, the Council has been aware of abuses by special police officers and the lack of any meaningful form of accountability, yet has failed to take action. Almost seven years ago, special police officers killed James McBride—a 74 year old man who posed no threat and whose only crime was failing to sign out of the hospital.² In response, the Council considered, but failed to pass legislation.³ Four years later, the “Special Police Officer Oversight Amendment Act of 2019” was introduced, but also failed to be enacted.⁴ The problems were again brought to the Council’s attention in February of last year, when the Jails and Justice Task Force issued findings and an implementation plan including recommendations to curb the abuses of special police officers in the District.⁵ Just two months later the D.C. Police Reform Commission submitted its report to this Council,⁶ also recommending a series of reforms regarding special police. A year has passed since the Task Forces’ recommendations, however, and the Council has again failed to act.

As a result, District residents continue to suffer wholly avoidable violence, intimidation and degradation by special police officers. The Committee urges the Council to act now to curb these abuses by disarming special police officers, eliminating their authority to arrest, increasing their training, and by expanding the Office of Police Complaints’ responsibilities to include the investigation of complaints regarding special police officers. To aid the Council, and attached to this testimony, is proposed legislation that can be adopted by the Council to address these abuses.

Special police officers are ubiquitous throughout the District. Over 7,500 special police officers patrol hospitals, grocery stores, housing properties, and everyday businesses.⁷ Their powers have evolved far beyond their original purpose, which was to patrol property as “watchmen.”⁸ Over

¹ The Washington Lawyers’ Committee for Civil Rights and Urban Affairs (WLC) is a non-profit civil rights organization that defends the rights of working people and addresses the interconnected issues of poverty, racism, and other forms of discrimination. More information on the organization can be found at <https://www.washlaw.org/>.

² https://www.washingtonpost.com/local/public-safety/death-of-man-who-died-after-being-restrained-at-medstar-washington-hospital-center-ruled-homicide/2016/01/04/8d99946c-b301-11e5-a76a-0b5145e8679a_story.html.

³ D.C. Council, B21-0529 - Special Police Officer Enhanced Security Amendment Act of 2015.

⁴ D.C. Council, B23-0320 – Special Police Officer Oversight Amendment Act of 2019.

⁵ Council for Court Excellence, *Jails & Justice: Our Transformation Starts Today Phase II Findings and Implementation Plan*, February 2021, pp. 42-43.

⁶ DC Police Reform Commission, *Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission*, April 1, 2021, p. 124.

⁷ See *Decentering Police to Improve Public Safety: A Report of the DC Police Reform Commission*, Page 124.

⁸ District of Columbia Appropriations Act of 1899, 30 Stat. 1045; 6-A DCMR § 1101.6.

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time, special police officers have been given authority normally reserved for the state, such as the ability to make arrests⁹ and carry firearms.¹⁰ Yet they undergo only minimal training¹¹—receiving 40 to 56 hours of training before being commissioned,¹² compared to the over 1,100 hours (28 weeks) of training received by Metropolitan Police Department recruits.¹³

The results of this lack of training and oversight have been tragic and well documented. In addition to three deaths over the past six years, there have been innumerable incidents of special police officers using powers normally reserved for the state to harass tenants and patrons at the properties they patrol.¹⁴ One case brought by the Committee reflects the common experience of too many District residents. Our client was visiting a life-long friend in Brookland Manor, an affordable housing complex in Brentwood. While sitting at the kitchen table in his friend's apartment, two special police officers broke down the door, seized him, struck him repeatedly, drug him from the apartment, sprayed him with mace, placed him in handcuffs and left him on a curb until Metropolitan Police arrived and determined that there was no basis to have arrested or detained him. District police did nothing to hold the special police officers accountable for the illegal and abusive conduct, there was no civilian complaint process, and the only remedy was to bring a civil rights suit.

Similar types of abuses are routine and most frequently affect low-income communities of color. The Committee regularly receives complaints from individuals that special police officers have assaulted, illegally seized, improperly barred them from property, or interfered with their rights to assemble, just to name a few. Unsurprisingly, Black and Brown District residents suffer the brunt of these abuses and indignities

Further, unlike sworn police officers, there is no civilian oversight of special police officers.¹⁵ In fact, there is effectively no oversight at all. The DC regulations require the Chief of Police to report any conduct by special police officers requiring discipline directly to the Mayor.¹⁶ Doing so, however, is practically impossible. While the Department of Consumer and Regulatory

⁹ D.C. CODE § 23-582(a).

¹⁰ See, e.g., D.C. CODE § 7-2502.01.

¹¹ Also see; The U.S. Capitol Police requires a week of orientation, 12 weeks of intensive training at the Federal Law Enforcement Training Center, and 13 weeks of specialized training at the United States Capitol Police Training Academy. The U.S. Marshals Service require 21.5 hours of training at the Federal Law Enforcement Training Center. U.S. Park Police recruits undergo a week of orientation, 18 weeks of training at the Federal Law Enforcement Training Center, and a field training program in D.C.

¹² D.C. Mun. Regs. tit. 6(A) § 1100.7(g)-(i).

¹³ <https://joinmpd.dc.gov/career-position-2020/police-officer>.

¹⁴ See <https://www.justice.gov/usao-dc/pr/two-special-police-officers-indicted-grand-jury-involuntary-manslaughter-death-hospital>; See Special Officers Indicted for Death of MedStar Patient, WUSA, May 17, 2016, <https://www.wusa9.com/article/news/local/dc/special-police-officers-indicted-for-death-of-medstar-patient/65-199548044>; Body Camera Video of Alonzo Smith Death Released, WUSA 9 (Dec. 15, 2015, 11:24 PM), <https://www.wusa9.com/article/news/local/dc/body-camera-video-of-alonzo-smith-death-released/32252126>; See <https://www.justice.gov/usao-dc/pr/us-attorneys-office-concludes-investigation-death-alonzo-smith-southeast-washington>; See <https://twitter.com/DMVBlackLives/status/1302678454920523782?s=20>.

¹⁵ See Erik Salmi, *Allen Introduces Bill Moving Complaints and Investigations of Special Police Officers to Office of Police Complaints*, OFF. COUNCILMEMBER CHARLES ALLEN (June 4, 2019), http://www.charlesallenward6.com/allen_introduces_bill_moving_complaints_and_investigations_of_special_police_officers_to_office_of_police_complaints.

¹⁶ D.C. Mun. Regs. tit. 6A, § 1100.1.

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Affairs is responsible for licensing special police officers, that department stated in response to a FOIA request from the Committee that neither they, nor their Security Officers' Management Branch, process complaints regarding special police officers. This is directly contrary to Metropolitan Police General Order 308.7 which requires MPD officers to report criminal and serious traffic violations by special police officers to that very body. Instead, we were told that complaints about special police officers should be filed directly with MPD. While MPD's website does contain information about how to file a civilian complaint, it directs individuals to either the Office of Police Complaints or the Internal Affairs Bureau;¹⁷ neither of which has authority to hear complaints about special police officers.¹⁸ Thus, there appears to be no process for either MPD officers or civilians to file complaints regarding special police officers.

The Council can no longer refuse to act in the face of these well-known problems. The attached draft legislation includes amendments to the DC Code that would disarm special police, limit their arrest powers to those generally applicable to all citizens, increase training requirements, and provide the Office of Police Complaints with the authority to investigate complaints against special police officers. The Committee urges the Council to take affirmative steps to stop the abuses by special police officers by adopting the proposed legislation.

¹⁷ <https://mpdc.dc.gov/page/how-file-citizen-complaint-or-commendation> (last visited February 15, 2022).

¹⁸ The Office of Police Complaints only has authority to investigate complaints about MPD and Housing Authority officers. D.C. CODE § 5-1107(a) & (j)(Perm). Similarly, the Internal Affairs Bureau of MPD is tasked with investigating misconduct of MPD officers only. <https://mpdc.dc.gov/iab> (last visited February 15, 2022).

Special Police Officers Amendments of 2021

I. Amendments to D.C. Official Code Special Police Officer Authorizations

D.C. Official Code § 5–129.02. Property of individual or corporation; compensation and regulation.

(a) The Mayor, on application of any corporation or individual, or in his own discretion, may appoint special police officers and security officers in connection with the property of, or under the charge of, such corporation or individual, provided, that:

- (1) The special police officers and security officers be paid wholly by the corporation or person on whose account their appointments are made;
- (2) The special polices officer and security officers are prohibited from carrying, brandishing, or using a firearm, conducted energy weapon, or other less lethal weapon in the course of their duties;
- (3) The special polices officer and security officers may detain a suspect only so long as is otherwise permitted by law and necessary for a sworn Metropolitan Police Officer to arrive;
- (4) The special police officers and security officers may use force only to the extent that it is necessary to protect themselves or others from grievous bodily harm and only where no non-force option, such as retreat, was possible.
- (5) The special police officers and security officers be provided and required to complete eighty (80) hours of pre-training and sixteen (16) hours of yearly in-service training which includes:
 1. Training on the limits of special police officer and security officers' powers;
 2. Training on use of force, including avoidance practices, tactical retreat, de-escalation, avoiding escalation, and the prohibition on the use of neck restraints;
 3. The risks associated with the use of force during an arrest, including prolonged pressure on an individual's back, positional asphyxia and other risks associated with the use of force during an arrest;
 4. Bias free policing, including linguistic and cultural competency;
 - ~~5. By-stander intervention;~~
 6. Mental health, behavioral health, and developmental awareness including how to engage with and transport individuals in crisis in a manner that physically protects them, minimizes further trauma, and preserves their dignity;
 7. Sexual harassment;
 8. Limits on officer conducted stops and searches;
 9. Emergency procedures including evacuations, first aid, cardio pulmonary resuscitation (CPR), and automated external defibrillator (AED) training;

10. Human relations, community policing, and ethics;
 11. Reporting requirements;
 12. Civil rights law; and
 13. DC Criminal Code and Practice.
- (6) The special police officers and security officers shall submit a report for every use of force to the Metropolitan Police Department and the Department will review the force using the same policies and practices and the same standards as if the force was used by a sworn police officer, and any improper use of force will immediately result in the de-certification of the special police officer or security officer;
- (7) Special police officers and security officers will wear body worn cameras and operate them in compliance with the policies of the Metropolitan Police Department's policies for the use of body-worn cameras by a sworn officer;
- (8) The employer of a special police officer or security officer shall collect and publicly report data pursuant to the requirements of the NEAR ACT, District of Columbia Official Code § 5-113.
- (9) **[If officers are permitted to carry, brandish, and use a firearm or have the authority to arrest, paragraph (2) and (5) above and subsection (b) below should be deleted and this subsection added]** The special police officers and security officers be provided and required to complete pre-training and yearly in-service training comparable in hours and scope to that provided to MPD officers, which includes:
1. Training on the limits of special police officer and security officers' powers;
 2. Training on use of force, including avoidance practices, tactical retreat, de-escalation, avoiding escalation, and the prohibition on the use of neck restraints;
 3. The risks associated with the use of force during an arrest, including prolonged pressure on an individual's back, positional asphyxia and other risks associated with the use of force during an arrest;
 4. Bias free policing, including linguistic and cultural competency;
 5. By-stander intervention;
 6. Scenario-based training on use of force, including all weapons and non-weapons authorized force practices;
 7. Mental health, behavioral health, and developmental awareness, including how to engage with and transport individuals in crisis in a manner that physically protects them, minimizes further trauma, and preserves their dignity;
 8. Limits on officer conducted stops, searches and arrests;
 9. Sexual harassment;
 10. Emergency procedures including evacuations, first aid, cardio pulmonary resuscitation (CPR), and automated external defibrillator (AED) training;
 11. Human relations, community policing, and ethics;
 12. Reporting requirements;
 13. Civil rights law; and

14. DC Criminal Code and Practice.

- (10) **[If officers are permitted to carry, brandish, and use a firearm or have the authority to arrest, this subsection should also be added]** Special police officers and security officers shall be required to comply with the General Orders, Special Orders, Circulars, Standard Operating Procedures, and Bureau or Division Orders of the Metropolitan Police Department regarding stops and searches, arrests, and use of force;

~~(b) Special police officers and security officers, but not campus police officers, shall be required to complete minimum levels of pre-assignment, on the job, and in-service training.~~

(c) The Mayor, pursuant to subchapter I of chapter 5 of Title 2, may shall issue rules governing special police officers and security officers within 120 days of the enactment of this statute. The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 45-day review period, the proposed rules shall be deemed approved.

II. Amendments to NEAR Act [alternative if officers maintain the authority to arrest]

D.C. Official Code § 5–113.01. Records — Required.

(a) The Mayor of the District of Columbia shall cause the Metropolitan Police force to keep the following records for all MPD officers and special police officers as defined in D.C Official Code § 47-2839.01(a)(5):

- (1) General complaint files, in which shall be entered every complaint preferred upon personal knowledge of the circumstances thereof, with the name and residence of the complainant;
- (2) Records of lost, missing, or stolen property;
- (3) A personnel record ~~of each member of the Metropolitan Police force~~, which shall contain ~~his~~ their name and residence; ~~the~~ date and place of ~~his~~ birth; ~~his~~ marital status; the date ~~he~~ they became a citizen, if foreign born; ~~his~~ age; ~~his~~ former occupation; and the dates of ~~his~~ appointment and separation from office, together with the cause of the latter;

[No further amendments to this section recommended]

D.C. Official Code § 7–2502.01. Registration requirements.

(a) Except as otherwise provided in this unit, no person or organization in the District of Columbia (“District”) shall receive, possess, control, transfer, offer for sale, sell, give, or deliver any destructive device, and no person or organization in the District shall possess or control any firearm, unless the person or organization holds a valid registration certificate for the firearm. A registration certificate may be issued:

- (1) To an organization if:

~~(A) The organization employs at least 1 commissioned special police officer or employee licensed to carry a firearm whom the organization arms during the employee's duty hours; and~~

[No further amendments to this section recommended]

D.C. Official Code § 7–2502.02. Registration of certain firearms prohibited.

(a) A registration certificate shall not be issued for a:

(1) Sawed-off shotgun;

(2) Machine gun;

(3) Short-barreled rifle;

(4) Pistol not validly registered to the current registrant in the District prior to September 24, 1976, except that the prohibition on registering a pistol shall not apply to:

~~(A) Any organization that employs at least one commissioned special police officer or other employee licensed to carry a firearm and that arms the employee with a firearm during the employee's duty hours;~~

[No further amendments to this section recommended]

D.C. Official Code § 22–4505. Exceptions to § 22-4504.

(a) The provisions of §§ 22-4504(a) and 22-4504(a-1) shall not apply to:

~~(2) Special police officers and e-Campus police officers who carry a firearm in accordance with D.C. Official Code § 5-129.02, and rules promulgated pursuant to that section;~~

[No further amendments to this section recommended]

D.C. Official Code § 23–582. Arrests without warrant by other persons.

~~(a) A special policeman shall have the same powers as a law enforcement officer to arrest without warrant for offenses committed within premises to which his jurisdiction extends, and may arrest outside the premises on fresh pursuit for offenses committed on the premises.~~

[No further amendments to this section recommended]

III. Amendments to Office of Police Complaints Enacting Code (D.C. Official Code § 5-1100)

D.C. Official Code § 5-1103. Definitions.

For purposes of this subchapter, the term:

(1) “Board” means the Police Complaints Board.

(2) “Complaint examiner” means the person designated by the Executive Director to determine the merits of a complaint.

(2B) “Designated agency principal” means the Chief of the Metropolitan Police Department, for cases in which the subject police officer or employee is a member of the MPD or is special police officer, and shall mean the Executive Director of the District of Columbia Housing Authority for cases in which the subject police officer works for the housing authority.”

(3) “Executive Director” means the head of the Office of Police Complaints.

(3A) "Gender identity or expression" shall have the same meaning as provided in § 2-1401.02(12A).

(4) "Office" means the Office of Police Complaints.

(5) "Police Officer" or "officer" means a member of the Metropolitan Police Department, a member of the District of Columbia Housing Authority Police Department, or a special police officer as defined in D.C Official Code § 47-2839.01(a)(5).

D.C. Official Code § 5–1104(Perm). Police Complaints Board.

(d) The Board shall conduct periodic reviews of the citizen complaint review process, and shall make recommendations, where appropriate, to the Mayor, the Council, the Chief of the Metropolitan Police Department ("Police Chief"), and the Director of the District of Columbia Housing Authority ("DCHA Director") concerning the status and the improvement of the citizen complaint process. The Board shall, where appropriate, make recommendations to the above-named entities concerning those elements of management of ~~the MPD~~ police officers affecting the incidence of police misconduct, such as the recruitment, training, evaluation, discipline, and supervision of police officers.

~~(d-2)~~(1) The Board shall review, with respect to ~~the MPD~~ police officers:

(A) The number, type, and disposition of citizen complaints received, investigated, sustained, or otherwise resolved;

(B) The race, national origin, gender, and age of the complainant and the subject officer or officers;

(C) The proposed discipline and the actual discipline imposed on a police officer as a result of any sustained citizen complaint;

(D) All use of force incidents, serious use of force incidents, and serious physical injury incidents as defined in MPD General Order 907.07; and

(E) Any in-custody death.

D.C. Official Code § 5–1106. Police Complaints Board.

(a) The Executive Director shall employ qualified persons or utilize the services of qualified volunteers, as necessary, to perform the work of the Office, including the investigation of complaints. The Executive Director may employ persons on a full-time or part-time basis, or retain the services of contractors for the purpose of resolving a particular case or cases, as may be determined by the Executive Director, except that complaint investigators may not be persons currently or formerly employed by the MPD the DCHA, the DCRA, or as a special police officer. Chapter 6 of Title 1 shall apply to the Executive Director and other employees of the Office.

(c) Subject to approval of the Board, the Executive Director shall establish a pool of qualified persons who shall be assigned by the Executive Director to carry out the mediation and complaint determination functions set forth in this chapter. In selecting a person to be a member of this pool, the Executive Director shall take into consideration each person's education, work experience, competence to perform the functions required

of a dispute mediator or complaint hearing examiner, and general reputation for competence, impartiality, and integrity in the discharge of his responsibilities. No member of the pool shall be a current or former employee of the MPD, the DCHA, the DCRA, or as a special police officer. For their services, the members of this pool shall be entitled to such compensation as the Executive Director, with the approval of the Board, shall determine, provided that the compensation shall be on a per-case basis, not a per-hour, basis.

D.C. Official Code § 5–1107(Perm). Authority of the Office and processing of complaint.

(a) The MPD and the Office shall have the authority to receive a citizen complaint against member of members of the MPD, special police officers, and any other agency pursuant to subsection (j) of this section that alleges abuse or misuse of police powers by such member or members, or commissioned special police officer, including:

D.C. Official Code § 5–1111. Complaint investigation, findings, and determination.

(d) Employees of the MPD, DCHA police department, and all commissioned special police officers shall cooperate fully with the Office in the investigation and adjudication of a complaint. Upon notification by the Executive Director that an MPD employee has not cooperated as requested, the Police Chief shall cause appropriate disciplinary action to be instituted against the employee, and shall notify the Executive Director of the outcome of such action. ~~An employee of the MPD~~ a police officer shall not retaliate, directly or indirectly, against a person who files a complaint under this chapter. If a complaint of retaliation is sustained under this chapter, the subject police officer or employee shall be subject to appropriate penalty, including dismissal. Such disciplinary action shall not be taken with respect to an employee's invocation of the Fifth Amendment privilege against self-incrimination.

(h) Upon review of the investigative file and the evidence adduced at any evidentiary hearing, and in the absence of the resolution of the complaint by conciliation or mediation, the complaint examiner shall make written findings of fact regarding all material issues of fact, and shall determine whether the facts found sustain or do not sustain each allegation of misconduct. In making that determination, the complaint examiner may consider any MPD, DCHA, or special police regulation, policy, or order that prescribes standards of conduct for police officers. For purposes of this chapter, these written findings of fact and determinations by the complaint examiner (collectively, the "merits determination") may not be rejected unless they clearly misapprehend the record before the complaint examiner and are not supported by substantial, reliable, and probative evidence in that record.

(i) If the complaint examiner determines that one or more allegations in the complaint is sustained, the Executive Director shall transmit the entire complaint file, including the merits determination of the complaint examiner, to the ~~Police Chief~~ Designated Agency Principal for appropriate action. If the complaint examiner determines that no allegation in the complaint is sustained, the Executive Director shall dismiss the complaint and notify the parties and the Police Chief or Executive Director of DCHA in writing of such dismissal with a copy of the merits determination.

D.C. Official Code § 5–1112. Action by the Metropolitan Police Department.

(a) Upon receipt of a complaint file in which one or more allegations in a complaint has been sustained, the ~~Police Chief~~ Designated Agency Principal shall cause the file to be reviewed within 5 working days after receiving the complaint file. This review shall not be conducted by persons from the same organizational unit as the subject police officer or officers. All persons conducting the review shall be senior in grade or rank to the subject police officer or officers.

(b) The review of the complaint file shall include a review of the personnel file of the subject officer or officers, including any record of prior misconduct by the subject police officer or officers. Within 15 working days after receiving the complaint file from the ~~Police Chief~~ Designated Agency Principal, the reviewing officers shall make a written recommendation, with supporting reasons, to the ~~Police Chief~~ Designated Agency Principal regarding an appropriate penalty from the Table of Penalties Guide in General Order 1202.1 (Disciplinary Procedures and Processes). This recommendation may include a proposal for any additional action by the ~~Police Chief~~ Designated Agency Principal not inconsistent with the intent and purpose of the citizen complaint review process.

(c) The review may include a proposal that the ~~Police Chief~~ Designated Agency Principal return the merits determination to the Executive Director for review by a final review panel as set forth in subsection (g) of this section, if those charged with the review conclude, with supporting reasons, that, insofar as it sustains one or more allegations in the complaint, the merits determination clearly misapprehends the record before the complaint examiner and is not supported by substantial, reliable, and probative evidence in that record. The staff recommendation may not propose the supplementation of the evidentiary record before the complaint examiner.

(d) Within 5 working days after receiving the staff recommendation, the ~~Police Chief~~ Designated Agency Principal shall notify the complainant and the subject police officer or officers in writing of the staff recommendation, and shall afford the complainant and the subject police officer or officers an opportunity to file ~~with the Police Chief~~, within a reasonable time period ~~set by the Police Chief~~, a written response to the staff recommendation. The ~~Police Chief~~ Designated Agency Principal shall give full

consideration to the written responses received from the complainant and the subject police officer or officers before taking final action with regard to the complaint.

(e) Within 15 working days after receiving the written responses of the complainant and the subject officer or officers, or within 15 working days of the deadline set for receipt of such responses, whichever is earlier, the ~~Police Chief~~ Designated Agency Principal shall issue a decision as to the imposition of discipline upon the subject police officer or officers. The decision of the ~~Police Chief~~ Designated Agency Principal shall be in writing and shall set forth a concise statement of the reasons therefor. The ~~Police Chief~~ Designated Agency Principal may not reject the merits determination, in whole or in part, unless the ~~Police Chief~~ Designated Agency Principal concludes, with supporting reasons, that the merits determination clearly misapprehends the record before the complaint examiner and is not supported by substantial, reliable, and probative evidence in the record before the complaint examiner. The ~~Police Chief~~ Designated Agency Principal may not supplement the evidentiary record.

(f) The ~~Police Chief~~ Designated Agency Principal shall notify the Executive Director, the complainant, and the subject police officer or officers in writing of the action taken by the ~~Police Chief~~ Designated Agency Principal within 10 business days after the action is taken, and shall include in such notice a copy of the decision.

(g) The decision of the ~~Police Chief~~ Designated Agency Principal shall be a final decision with no further right of administrative review, other than as provided in § 5-1114(f), except in the following circumstances:

(1) The ~~Police Chief~~ Designated Agency Principal may reopen any closed matter in the interests of fairness and justice; or

(2) If the ~~Police Chief~~ Designated Agency Principal concludes on the basis of a staff recommendation under subsection (c) of this section, or otherwise, that insofar as it sustains one or more allegations of the complaint, the merits determination clearly misapprehends the record before the complaint examiner, and is not supported by substantial, reliable, and probative evidence in the record, the ~~Police Chief~~ Designated Agency Principal shall return the merits determination to the Executive Director for review by a final review panel comprised of 3 complaint examiners (not including the complaint examiner who prepared the merits determination) selected by the Executive Director. Upon review of the record, and without taking any additional evidence, the final review panel shall issue a written decision, with supporting reasons, regarding the correctness of the merits determination to the extent that the ~~Police Chief~~ Designated Agency Principal has concluded that it erroneously sustained one or more allegations of the complaint. The final review panel shall uphold the merits determination as to any allegation of the complaint that the determination was sustained, unless the panel concludes that the determination regarding the allegation clearly misapprehends the record before the original complaint examiner and is not supported by substantial,

reliable, and probative evidence in that record. A copy of the decision of the final review panel shall be transmitted to the Executive Director, the complainant, the subject police officer or officers, and the ~~Police Chief~~ Designated Agency Principal.

(h) If the final review panel concludes that the merits determination sustaining one or more allegations of the complaint should be reversed in its entirety, the Executive Director shall dismiss the complaint, and notify the parties and the ~~Police Chief~~ Designated Agency Principal in writing of such dismissal. If the final review panel concludes that the merits determination should be upheld as to any allegation of the complaint that the determination has sustained, the ~~Police Chief~~ Designated Agency Principal, within 15 working days of receipt of the panel's decision, shall issue a supplemental decision as to the imposition of discipline upon the subject officer or officers that is fully consistent with the panel's decision. The supplemental decision of the ~~Police Chief~~ Designated Agency Principal shall be in writing and shall set forth a concise statement of the reasons therefor. The ~~Police Chief~~ Designated Agency Principal shall notify the Executive Director, the complainant, and the subject police officer or officers in writing of the action taken by the ~~Police Chief~~ Designated Agency Principal, and shall include in such notice a copy of the supplemental decision. The supplemental decision of the ~~Police Chief~~ Designated Agency Principal shall be a final decision with no further right of administrative review, other than as provided in subsection (g) of this section and § 5-1114(f).

D.C. Official Code § 5-1114. Metropolitan Police Department disciplinary authority.

(a) The ~~MPD~~ Designated Agency Principal shall have full authority, under the procedures established pursuant to § 5-133.06, to initiate disciplinary proceedings against an officer ~~of the MPD~~ with respect to a charge of misconduct within the scope of § 5-1107 prior to the timely filing of a complaint with the Office.

(b) If the ~~MPD~~ Designated Agency Principal has initiated disciplinary proceedings against an officer for alleged misconduct, the subsequent timely filing with the Office of a complaint against the same officer or officers, alleging the same misconduct, shall not preclude the ~~MPD~~ Designated Agency Principal from proceeding with its own disciplinary process. Nor shall the fact that the ~~MPD~~ Designated Agency Principal has initiated disciplinary proceedings against a police officer for alleged misconduct preclude the Office from processing a complaint that was timely filed against the same officer and alleging the same misconduct, except that the Designated Agency Principal may not punish the same officer more than once for the same act or omission that constitutes misconduct.

(c) When the ~~MPD~~ Designated Agency Principal has not initiated a disciplinary proceeding against a police officer prior to the timely filing of a complaint with the

Office, the ~~MPD~~ Designated Agency Principal shall not initiate a disciplinary proceeding against the subject police officer or officers with regard to misconduct alleged in such complaint until the Office disposes of the complaint.

(d) A merits determination by a complaint examiner, on the basis of an evidentiary hearing, that no allegation of misconduct in the complaint is sustained, as well as a decision of a final review panel that reverses in its entirety a merits determination that sustained one or more allegations of the complaint, precludes the ~~MPD~~ Designated Agency Principal from imposing discipline on the subject police officer or officers with respect to any allegation of misconduct contained in the complaint.

(e) A merits determination by a complaint examiner, on the basis of an evidentiary hearing, or a later decision of a final review panel, if any, shall be binding on the subject police officer or officers and on the ~~Police Chief~~ Designated Agency Principal in all subsequent proceedings as to all essential facts determined and all violations found.

(f) If the complaint examiner has not held an evidentiary hearing and the ~~Police Chief~~ Designated Agency Principal imposes termination as a disciplinary action, the affected police officer shall be entitled to a post-termination administrative proceeding as provided by law. A police officer disciplined by the ~~Police Chief~~ Designated Agency Principal, whether by termination or otherwise, shall be entitled to whatever administrative disciplinary proceeding is afforded under any applicable collective bargaining agreement.