



ACLU of D.C. Research Report

Bias at the Core?

Enduring Racial Disparities in D.C.
Metropolitan Police Department
Stop-and-Frisk Practices (2022-2023)

I. Introduction

This report, produced by the American Civil Liberties Union of the District of Columbia (ACLU-D.C.) and the American Civil Liberties Union (ACLU National), follows two previous reports that analyzed data on stops and frisks conducted by the Washington, D.C. (the District, D.C.) Metropolitan Police Department (MPD, the Department). MPD is required to collect data on all stops conducted by its officers pursuant to the Neighborhood Engagement Achieves Results (NEAR) Act.¹ Although the NEAR Act does not require MPD to publish its stops data, MPD leadership made a public commitment to releasing the data on a semi-annual basis.²

The data serves as a critical tool that provides the public with opportunities to engage in police accountability efforts. The data enables the public to examine the outcomes and potential impact of the practices of D.C. police officers. This report seeks to assist community members, advocates, members of the D.C. Council, the Mayor, and other stakeholders in exercising oversight and furthering the MPD's accountability.

This report covers data collected between January 1, 2022 and December 31, 2023. The data analyzed in this report indicates that the stark racial disparities present in the 2019 and 2020 stops data remain. MPD continues to disproportionately stop Black people in D.C.

Key Findings

1. Black people are being stopped at disproportionate rates in relation to their demographic representation in the District. Although Black people comprised just over 44% of the District's population in 2022 and 2023, they comprised 71.4% of the people stopped in 2022 and 70.6% of the people stopped in 2023.
2. MPD's data indicate that the stop-and-frisk tactic is not particularly effective at removing guns from the streets. The rate at which guns are seized is not significant enough to justify the overwhelming number of stops being conducted.

¹ The D.C. Council unanimously passed the Neighborhood Engagement Achieves Results (NEAR) Act in March 2016. The bill aimed to move D.C. away from failed "tough on crime" carceral approaches to public safety and to usher the District into an era of viewing crime and violence prevention through a public health lens. A major component of the bill was the requirement that MPD collect data on stops conducted by its officers. The data were to include, among other things, 1) the date, time, and location of stops; 2) the alleged violation that led to a stop; 3) whether a stop led to a search and, if so, the reason for the search; 4) whether the search was consensual or non-consensual; and 5) whether any contraband was recovered (e.g., weapons or drugs). The law also required that MPD indicate the result of a stop (i.e., warning, ticket, or arrest). B21-360, "Neighborhood Engagement Achieves Results Act of 2015." Enacted March 26, 2016. Available at <https://lims.dccouncil.gov/Legislation/B21-0360>.

² See ACLU-D.C. press release. Available at: <https://www.acludc.org/en/press-releases/after-mpd-overhauls-data-collection-practices-aclu-dc-agrees-dismiss-near-act-case>.

ACLU District of Columbia

- a. In 2022, there were 68,244 stops. Of these, only 0.9% resulted in the seizure of a gun.
- b. In 2023, there were 68,561 stops. Of these, only 1.2% resulted in the seizure of a gun.

The significant disproportionality across racial groups raises concerns about biased policing by MPD. Research on disproportionality and racial bias in other jurisdictions has concluded that racial disparities in stops and searches cannot be explained by crime or other non-race factors. Here, too, we advance the position that these disparities in MPD’s stop-and-frisk practices are consistent with racial bias.

Stop-and-frisk practices can be harmful to individuals and communities. There are both short- and long-term implications for people who are stopped and searched by the police—from health-related issues, such as significant psychological distress, to social implications, such as negative impacts with regard to educational and employment opportunities. Communities or groups of people who experience racially biased policing practices are additionally impacted. These communities and groups develop distrust of the police. For Black communities, the Department of Justice has noted that the “experience of disproportionately being subjected to stops and arrests in violation of the Fourth Amendment shapes black residents’ interactions with the [police], to the detriment of community trust,” and “makes the job of delivering police services ... more dangerous and less effective.”³

Summary of Previous Reports

The first ACLU stops report was published in June 2020 and analyzed stops conducted between July 22, 2019 and December 31, 2019.⁴ The second report was published in March 2021 and analyzed data on stops conducted between January 1, 2020 and December 31, 2020.⁵ Both reports found that stops of Black people in the District were not proportional to the population make-up. In 2021, we found that, although Black people made up roughly 46% of the D.C. population, they comprised 74.6% of the people stopped.⁶ The 2021 analysis also showed that, in 2020, non-Hispanic (white) people were the subjects of only 12.5% of stops despite comprising about 36.6% of D.C.’s population. These results were on par with the 2020 analysis,

³ See United States Department of Justice, Civil Rights Division and United States Attorney’s Office, District of New Jersey. “Investigation of the Newark Police Department.” July 22, 2014. Available at https://www.justice.gov/sites/default/files/crt/legacy/2014/07/22/newark_findings_7-22-14.pdf.

⁴ ACLU-D.C. and ACLU Analytics. “Racial Disparities in Stops by The D.C. Metropolitan Police Department: Review of Five Months of Data.” June 16, 2020. Available at <https://www.acludc.org/en/publications/racial-disparities-stops-metropolitan-police-department-review-five-months-data>.

⁵ ACLU-D.C. and ACLU Analytics. “Racial Disparities in Stops by The D.C. Metropolitan Police Department: Review of Five Months of Data.” March 10, 2021. Available at <https://www.acludc.org/en/racial-disparities-stops-metropolitan-police-department-2020-data-update>.

⁶ 2021 ACLU Stops Report.

which showed that white people were the subjects of only 14.1% of stops despite comprising just over 37% of the population. The current report thus reflects multi-year consistency in the data. With resources like this report, the ACLU-D.C. encourages stakeholders—whether community members, advocates, or decision-makers—to advance an approach to public safety that eliminates bias and increases trust in government within the most vulnerable communities.

II. What is Stop-and-Frisk?

The stop-and-frisk practice is deeply tied to the Supreme Court’s 1968 decision in *Terry v. Ohio*; this is the reason that the practice is also referred to as *Terry* stops.⁷ In *Terry*, the Supreme Court ruled that police could “stop” a person based on “reasonable suspicion”⁸ that the person has been, is, or is about to be engaged in criminal activity rather than probable cause.⁹ The Court further held that police could “frisk” a person—or search them by conducting a pat down of their outer clothing—if officers had a reasonable suspicion that the individual was carrying a weapon.¹⁰

Stop-and-frisk allows officers to briefly detain individuals “suspected of engaging in criminal activity” on the spot and without a warrant. During a *Terry* stop, officers can pat down or “frisk” the person if the police believe that person has a weapon. Evidence of a crime recovered during a constitutional stop-and-frisk is admissible in court regardless of whether the police had a warrant or whether the person stopped consented to the subsequent search.

If a person consents to being stopped and searched, the police officer(s) need not satisfy the constitutionality standard for *Terry* stops in order to allow for evidence discovered to be admissible in court. In a context where police wield extraordinary power compared to an average member of the public and where some communities

⁷ *Terry v. Ohio*, 392 U.S. 1 (1968). See <https://supreme.justia.com/cases/federal/us/392/1/>.

⁸ The U.S. Supreme Court defines reasonable suspicion as “the sort of common-sense conclusion about human behavior upon which practical people ... are entitled to rely.” Further, it has defined reasonable suspicion as requiring only something more than an “unarticulated hunch.” See Maricopa County “Probable Cause Versus Reasonable Suspicion.” Available at: <https://www.maricopa.gov/919/Probable-Cause-Versus-Reasonable-Suspici>.

Probable cause is a step above reasonable suspicion and is a higher standard to meet. This standard comes from the Fourth Amendment, which is supposed to grant people protection from unreasonable searches. Probable cause to search a person or property exists when facts and circumstances known to the law enforcement officer provide the basis for a reasonable person to believe that the person being searched committed a crime at the place to be searched or that evidence of a crime exists at the location. See <https://www.findlaw.com/criminal/criminal-rights/probable-cause.html>.

⁹ See NCJRS Virtual Library: <https://www.ojp.gov/ncjrs/virtual-library/abstracts/stop-and-frisk-historical-and-empirical-assessment-essays-theory>.

¹⁰ *Terry*, 392 U.S. at 21, 24.

have grown to fear and deeply distrust the police, consent is complicated. D.C. law seeks to ensure that consent is real, requiring police who seek to stop and search someone to explain to that person that consent is voluntary and that they can refuse to be searched. D.C. law requires officers to confirm that the person they wish to search actually understands their rights when consenting. Even if a person withholds consent, however, officers may have a lawful basis to initiate a search under *Terry* or other constitutional doctrines.¹¹

As discussed in more depth below, research into stop-and-frisk practices has shown them to be ineffective in making communities safer.^{12,13} Nevertheless, stop-and-frisk continues to be pervasively practiced by police departments nationwide.

III. Disproportionality in the MPD Data

Stops

MPD’s data indicate that officers are stopping Black people at disproportionate rates in relation to their demographic representation in the District. Although Black people made up just over 44% of the District’s population in 2022 and 2023,¹⁴ they were the subjects of 71.4% of stops in 2022 and 70.6% of stops in 2023.

For comparison, white people made up 39.6% of the District’s population in 2022 but were the subjects of only about 12.7% of stops that year and just under 12% of stops in 2023. Therefore, white people were stopped at significantly lower rates in relation to their population make-up. Table 1 shows a breakdown of all stops conducted in 2022 and 2023 by race/ethnicity.

Table 1: Overall Stops by Race/Ethnicity

Ethnicity	Number of Stops in 2022	Number of Stops in 2023	Percent of Stops in 2022	Percent of Stops in 2023
Black	48,700	48,407	71.4%	70.6%

¹¹ D.C. Code, § 23–526. Limitations on consent searches. Available at <https://code.dccouncil.gov/us/dc/council/code/sections/23-526>.

¹² Hunter, R. “We Know That Stop-and-Frisk is All Kinds of Horrible: So Why Is it Expanding Nationwide?” American Civil Liberties Union. September 24, 2013. Available at <https://www.aclu.org/news/smart-justice/we-know-stop-and-frisk-all-kinds-horrible-so-why-it-expanding>.

¹³ Lenehan, R. “What ‘Stop-and-Frisk’ Really Means: Discrimination & Use of Force.” Prison Policy Institute. August 17, 2017. Available at <https://www.prisonpolicy.org/reports/stopandfrisk.html>.

¹⁴ According to the most recent population data available, drawn from the 2022 American Community Survey (ACS)’s five-year estimates, which is administered by the Census Bureau. See <https://data.census.gov/table/ACSDP5Y2022.DP05?g=040XX00US11&tid=ACSDP5Y2022.DP05>. More data from the ACS can be accessed at <https://www.census.gov/programs-surveys/acs/data/data-tables.html>.

White	8,664	8,154	12.7%	11.9%
Hispanic	5,216	5,014	7.6%	7.3%
Other/Unknown	4,209	5,532	6.2%	8.1%
Asian	1,034	888	1.5%	1.3%
Multi-ethnic¹⁵	421	566	0.6%	0.8%
Total	68,244	68,561	100.0%	100.0%

IV. MPD’s Stop-and-Frisk Practices are Consistent with Racial Bias

Research on racial bias in the criminal justice system, including in policing, outlines the ways in which bias can interfere with every decision point, interaction, and related outcome between an individual and the criminal justice system. Decisions about where to patrol and how, whom to monitor or surveil and why, whom to stop, whom to search, et cetera, can be influenced by explicit or implicit bias. Additionally, D.C.-specific case law and MPD’s “A Cultural Assessment of the MPD Workplace” report completed in 2023 raise significant concerns about bias in MPD’s policing practices. Research in other jurisdictions has shown that the most plausible explanation for consistent disproportionality is racial bias. This research concluded that neither criminality nor any other non-race factor could explain the disparities in stop-and-frisk rates across racial groups. The trends in other jurisdictions, coupled with the disparities here and D.C.-specific anecdotal and contextual evidence, are suggestive of bias in MPD’s stop-and-frisk practices.

Boston, Massachusetts

An independent report by researchers from Columbia, Rutgers, and the University of Massachusetts found that, although Black people made up less than one quarter of Boston’s population during the time period analyzed, they were the subjects of 63.3% of police–civilian encounters.¹⁶ In the data analyzed, racial disparities remained even after controlling for arrest/criminal history, actual or perceived gang membership, and other social factors. Black and Latine people had experienced significantly more police encounters than their white and Asian counterparts.¹⁷

¹⁵ A note on the multi-ethnic category: Given that the multi-ethnic grouping of ethnicity has so few observations, the results for that group should be interpreted with some caution. In other words, because the “multi-ethnic” category represents such a small sample, results are skewed for that category.

¹⁶ Fagan, J. et. al. “An Analysis of Race and Ethnicity Patterns in Boston Police Department Field Interrogation, Observation, Frisk, and/or Search Reports.” June 15, 2015. Available at <https://s3.amazonaws.com/s3.documentcloud.org/documents/2158964/full-boston-police-analysis-on-race-and-ethnicity.pdf>.

¹⁷ Id. 12.

The Boston study also found that Black and Latine people were more likely to be frisked or searched during a police encounter—again controlling for non-racial factors. Black people were 12.4% more likely than white people to be frisked or searched, and Latine people were 4.5% more likely than white people to be frisked or searched.¹⁸ Although the report did not determine individual officer-level patterns of bias, the report found that police activity was more likely to be concentrated in neighborhoods with higher Black and Latine populations and neighborhoods characterized as “high crime.”

Chicago, Illinois

An analysis of the Chicago Police Department (CPD) found that CPD officers were engaging in unlawful stop-and-frisk practices.¹⁹ The report found that CPD officers were conducting a remarkably high number of stops, many of which did not lead to arrests. Generally, there were more stops per capita in districts where the population was predominantly comprised of people of color (POC). For example, there were 266 stops per 1,000 people in the Englewood district, which is predominantly inhabited by POC, while there were only 42 stops per 1,000 people in the mostly white Lincoln/Foster district.²⁰ Even in majority-white districts, POC were stopped at rates disproportionate to their population make-up. Over the time period analyzed, Black Chicagoans were the subjects of 72% of all stops, although they only made up 32% of the city’s population.²¹

Newark, New Jersey

An investigation of the Newark Police Department (NPD) by the Department of Justice’s Civil Rights Division (DOJ) found similar trends to those observed in Boston and Chicago.²² The investigation found that there was reasonable cause to believe that the NPD was engaged in patterns or practices of 1) effecting stops and arrests in violation of the Fourth Amendment; 2) policing resulting in disproportionate stops and arrests of Newark’s Black residents; 3) retaliating against individuals who questioned police actions; 4) using unjustified and excessive force in violation of the

¹⁸ Id. 13.

¹⁹ ACLU of Illinois. “Stop And Frisk in Chicago.” March 2015. Available at https://www.aclu-il.org/sites/default/files/wp-content/uploads/2015/03/ACLU_StopandFrisk_6.pdf.

²⁰ Id. 9

²¹ Ibid.

²² The investigation was initiated after the DOJ received serious allegations of civil rights violations by the NPD, including that the NPD subjects Newark residents to excessive force, unwarranted stops and arrests, and discriminatory police actions. See United States Department of Justice, Civil Rights Division and United States Attorney’s Office, District of New Jersey. “Investigation of the Newark Police Department.” July 22, 2014. Available at https://www.justice.gov/sites/default/files/crt/legacy/2014/07/22/newark_findings_7-22-14.pdf.

Fourth Amendment;²³ and 5) subjecting individuals to theft by NPD officers in violation of the Fourth and Fourteenth Amendments.

With regard to the first finding, the DOJ investigation found that officers failed to articulate reasonable suspicion to justify stops in 75%–93% of interactions included in the review.²⁴ In thousands of interactions, the investigation found that officers’ justifications for stopping people were often not related to criminal activity and therefore did not meet constitutional requirements. The report explained:

[T]housands of the stops—all of which were at least long enough to run warrant checks—involved individuals who were described merely as “milling,” “loitering,” or “wandering,” without any indication of criminal activity or suspicion. Some of those were augmented with a notation that the “milling,” “loitering,” or “wandering” was taking place in high-crime areas, high narcotics areas, or high-gang activity areas. Officers also routinely stopped and ran warrant checks for individuals solely for being present in high-crime areas, near scenes of suspected or reported crimes, or simply “in areas.” Without any indicator of criminal activity or suspicion of an intent to engage in criminal activity, these reasons do not constitute reasonable suspicion to detain an individual, and are therefore constitutionally deficient. Yet, the [stops] reports demonstrate that these have been the most common type of pedestrian stops made by NPD officers.²⁵

According to the DOJ investigation, NPD officers were also stopping people for impermissible reasons—for example, a person simply having a negative reaction to police presence without any indication they were engaged in any criminal activity. NPD officers also often justified stops based on information or evidence gathered *after* a stop was initiated, but the law requires the reasonable suspicion criteria be met *before* or *at the time* of the stop. Additionally, DOJ found that NPD officers had a pattern of making unconstitutional arrests that were based on the perception that a person was being insubordinate or disrespectful to an officer rather than the person being engaged in any criminal activity.²⁶

Newark’s Black residents bore the brunt of these interactions. The investigation found that about 80% of the NPD’s stops and arrests involved Black individuals, even though Black people made up only about 54% of Newark’s population. White people were the subjects of 15.5% of stops while making up 26.4% of the population. Black Newark residents were at least 2.5 times more likely to be subjected to a pedestrian

²³ The Fourth Amendment not only limits when officers can initiate a search or seizure but also how they conduct a search or seizure, barring police from using excessive force in either context. See *Mwimanzi v. Wilson*, 590 F. Supp. 3d 231, 254 (D.D.C. 2022).

²⁴ DOJ Investigation, 2014. 9. The reason for the range is that the main analysis excluded about 16% of reports where officers did not record any justification for the stop.

²⁵ *Ibid.*

²⁶ *Id.* 10.

stop or to be arrested than white individuals. Black Newark residents were also 2.7 times more likely than their white counterparts to be searched and 3.1 times more likely to be frisked. The disparity was consistent throughout the city regardless of whether an area had higher or lower concentrations of Black residents.²⁷

The investigation found that, out of 1,500 cases where an officer's reason for the stop was "suspicious person" with no other supporting evidence of reasonable suspicion, 85% of the people stopped were identified as Black.²⁸

New York City, New York

At one point, New York City was the "poster child" for stop-and-frisk and other zero-tolerance practices, such as broken windows policing,²⁹ particularly during the Giuliani (1994–2001) and Bloomberg (2002–2013) administrations. New York City has become a cautionary tale for the lasting impacts of stop-and-frisk.³⁰

Between 2004 and 2012, the New York Police Department (NYPD) made 4.4 million stops under its citywide policy. More than 80% of the people stopped were Black and Latine. At the peak in 2011, about 685,724 people were stopped in a year, with nearly 88% found to be innocent.³¹ A 2014 report by the New York Civil Liberties Union found that Black and Latine males aged 14–24 were the subjects of 41% of stops between 2003 and 2013.³²

In 1999, Black and Latine people made up 50% of New York City's population but were the subjects of 84% of police stops.³³ In April 1999, the subjects of all stop-and-frisk reports registered by the NYPD's Street Crime Unit (SCU) were 64.5% Black, 20.7% Latine, 6.3% white, and 0.5% Asian.³⁴ The issue of the NYPD's stop-and-frisk

²⁷ Id. 16 and 19.

²⁸ Id. 19.

²⁹ A now-debunked theory, broken windows policing posited that graffiti, abandoned buildings, panhandling, and other "signs of disorder" in neighborhoods create an environment that leads people to commit more crimes. Therefore, in order to deter present and future crime, these elements and the people interacting with them should be met with constant surveillance and aggressive policing. See O'Brien, D.T., et. al. "Looking Through Broken Windows: The Impact of Neighborhood Disorder on Aggression and Fear of Crime Is an Artifact of Research Design." *Annual Review of Criminology*, Vol. 2, 2019. Available at <https://www.annualreviews.org/content/journals/10.1146/annurev-criminol-011518-024638>.

³⁰ Badger, E. "The Lasting Effects of Stop-and-Frisk in Bloomberg's New York." *The New York Times*. March 2, 2020. Available at <https://www.nytimes.com/2020/03/02/upshot/stop-and-frisk-bloomberg.html>.

³¹ The Bridge Initiative Team. "Factsheet: NYPD Stop and Frisk Policy." June 5, 2020. Available at <https://bridge.georgetown.edu/research/factsheet-nypd-stop-and-frisk-policy/>.

³² See NYCLU briefing, "Stop-and-Frisk During the Bloomberg Administration (2002–2013)." August 2014. Available at https://assets.nyclu.org/publications/stopandfrisk_briefer_2002-2013_final.pdf.

³³ See Bridge Team Fact Sheet, 2020.

³⁴ Ibid.

practices generated particularly significant scrutiny after a four-member team of the SCU killed Amadou Diallo, an unarmed Black man who was sitting in front of his apartment building, with a barrage of 41 bullets.³⁵ The tragedy ignited outrage and demonstrations across the city.

That same year, the Center for Constitutional Rights (CCR) filed a class action lawsuit³⁶ challenging the NYPD's policy of conducting stops and frisks without reasonable suspicion of criminal activity, as required by the Fourth Amendment. Additionally, the plaintiffs alleged that officers selectively targeted them on the basis of their race and national origin in violation of the Equal Protection Clause of the Fourteenth Amendment. During this case, the SCU was disbanded.^{37,38}

The settlement agreement in this case required the NYPD to maintain a written racial profiling policy that complies with the United States' and New York State's constitutions and to provide data on stops and frisks to CCR on a quarterly basis from 2003 through 2007. An analysis of the data showed that the NYPD had continued engaging in racially biased pretextual stops and frisks without reasonable suspicion. Consequently, CCR filed another case.³⁹ That case led to a 2013 ruling by a federal judge that held NYPD liable for a pattern and practice of racial profiling and unconstitutional stops.

Under Mayor Eric Adams's administration, which began in 2022, New Yorkers are experiencing the largest number of stops since 2015, with the number of stops continuing to trend upwards. Of the nearly 17,000 stops conducted in 2023, 59% were of Black people, 30% were of Latine people, and only 6% were of white people. These rates were consistent with 2022 rates.⁴⁰ An April report by the NYPD Monitor⁴¹ found that while NYPD officers are stopping fewer people than a decade ago, similar trends

³⁵ Red, Christian. "Years Before Black Lives Matter, 41 Shots Killed Him." The New York Times. July 19, 2019. Available at <https://www.nytimes.com/2019/07/19/nyregion/amadou-diallo-mother-eric-garner.html>.

³⁶ See *Daniels, et al. v. the City of New York*. Available at <https://clearinghouse.net/case/12023/>.

³⁷ Center for Constitutional Rights. "Daniels, et al. v. the City of New York." Available at <https://ccrjustice.org/home/what-we-do/our-cases/daniels-et-al-v-city-new-york>.

³⁸ In 2015, under then Mayor de Blasio, the SCU was reinstated under the NYPD's Strategic Response Group as the "City Wide Anti-Crime Unit" and has continued under Mayor Adams. See Wikipedia. "New York City Police Department Street Crime Unit." Updated May 27, 2024. Available at https://en.wikipedia.org/wiki/New_York_City_Police_Department_Street_Crime_Unit.

³⁹ *Floyd, et al. v. City of New York, et al.* See <https://ccrjustice.org/home/what-we-do/our-cases/floyd-et-al-v-city-new-york-et-al>.

⁴⁰ ACLU of New York. "Stop-and-Frisk Data." March 14, 2019. Available at <https://www.nyclu.org/report/stop-and-frisk-de-blasio-era-2019>

⁴¹ The NYPD Monitor was established as a result of the CCR lawsuits and a third class action lawsuit *Ligon v. City of New York*. See The Bronx Defenders. Available at <https://www.bronxdefenders.org/ligon-v-city-of-new-york/>.

continue. Black and Latine people continue to experience more stops than their white counterparts, and the former are also more likely to undergo frisks and searches.⁴²

D.C. Case Law and MPD 2023 Culture Report

Washington, D.C. case law and MPD’s “A Cultural Assessment of the MPD Workplace” report (Cultural Assessment Report, Assessment) are suggestive of bias in the application of police practices in D.C.⁴³ Commissioned by then Police Chief Contee, the Cultural Assessment Report, published in March 2023, was the culmination of a nearly two-year effort to provide MPD leadership with insights about the organization’s strengths and weaknesses. Conducted by the Police Executive Research Forum (PERF) in June 2021, the assessment reviewed and analyzed MPD’s internal practices and determined what improvements could be made to policies and procedures.

Among the Assessment’s findings related to internal practices that raise concerns about bias in MPD police practices are the following: 1) lack of consistency and irregularity in recruitment data that limits the ability to analyze and control for the risk of subjectivity and bias in hiring and recruitment⁴⁴; 2) case summaries that used language that was insufficiently neutral, raising the possibility that officers were attempting to justify their behavior in a way that case summaries that were purely factual might not justify⁴⁵; 3) incomplete data provided to PERF by the Equal Employment Opportunity Office, making the tasks of interpretation and analysis of this data difficult in a context where there were outstanding serious allegations (pending adjudication at the time of the report’s finalization) of discrimination, disparate treatment in relation to promotional opportunities and career advancement, and retaliation⁴⁶; 4) under-representation among leadership staff (sergeants, lieutenants, and command staff) of Black and Latine people and of women, in light of their proportionate share of sworn personnel⁴⁷; 5) gender and racial disparities among personnel assigned to various specialized units⁴⁸; and 6) adverse action against Black males at a level above their representation in the department.⁴⁹

⁴² Dinnerstein, M. “Racial Disparities in NYPD Stop, Question, and Frisk Practices: An Analysis of 2013 to 2022 Stop Reports.” NYPD Monitor, Twentieth Report of the Independent Monitor. April 11, 2024. Available at <https://www.nypdmonitor.org/wp-content/uploads/2024/04/2024.04.11-927-1-Twentieth-Report.pdf>.

⁴³ Police Executive Research Forum (PERF). “A Cultural Assessment of the MPD Workplace.” March 2023. Available at https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/PERF%20MPD%20Cultural%20Assessment_032923.pdf.

⁴⁴ Id. 38.

⁴⁵ Id. 29.

⁴⁶ Id. 147.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id. 112.

Other findings of the Cultural Assessment Report that raise concerns about bias in MPD police practices are the following findings related to themes emerging from focus group discussions with community members regarding how community members experience interactions with MPD: 1) participants from majority-Black Wards 7 and 8 noted historically experiencing a style of over-policing that was aggressive in nature and disrespectful in ways not seen in other wards⁵⁰; 2) clergy focus-group members noted that experiences with MPD were different if they occurred within the auspices of their religious office or status, with fewer positive interactions taking place when they were in their private settings⁵¹; and 3) variances in policing practices when neighborhoods were in the process of gentrifying.⁵²

Case law also provides evidence of police practices that are consistent with over-policing and potential bias. In *United States v. Gibson*,⁵³ officers stopped a Black individual and said, “Let me see your waistband,” prompting the individual to raise his hands so that the officers could see his waistband.⁵⁴ The court held that a reasonable person in this situation would believe he was free to leave. It further held that the MPD had unconstitutionally seized Mr. Gibson.⁵⁵

In *United States v. Hood*,⁵⁶ members of MPD’s Gun Recovery Unit (GRU) approached Mr. Hood and ordered him to “Hold on a sec.” The court held that this command initiated a seizure and that the seizure was unconstitutional because the officers acted based solely on the fact that Mr. Hood was walking in a high-crime neighborhood and put his hands up when the officers approached.⁵⁷ The court further described this policing practice as consistent with the GRU’s *modus operandi* of not “rely[ing] upon particularized suspicions in the first instance” and instead engaging in a form of policing whereby “the District maximizes its odds of illegal firearm recovery by patrolling high crime neighborhoods ‘looking for guns,’ or more accurately, looking for people likely to have guns.”⁵⁸ While the record of this case does not provide information on the race of the defendant, it does raise the issue of subjective decision-making and the potential influence of racial bias in the decisions of individual officers and their perception of who is a person “likely to have guns.” The examples shared above underscore the importance of the need for a thorough examination of stop-and-frisk as a viable means to community safety—especially when the tradeoff is people’s constitutional rights.

⁵⁰ Id. 196.

⁵¹ Id. 195.

⁵² Id. 197.

⁵³ 366 F. Supp. 3d 14, 21 (D.D.C. 2018). See <https://casetext.com/case/united-states-v-gibson-250>.

⁵⁴ Id. at 25, 28.

⁵⁵ Id. at 28, 31.

⁵⁶ 435 F. Supp. 3d 1 (D.D.C. 2020). See <https://casetext.com/case/united-states-v-hood-71>.

⁵⁷ Id. 7-8.

⁵⁸ Ibid. 435 F.Supp.3d. at 7 (quoting *U.S. v. Gross*), 784 F.3d 784, 789 (D.C. Cir. 2015) (Brown, J. concurring).

V. Stop-and-Frisk is Ineffective and Harmful

MPD Gun Recovery

Stop-and-frisk practices are often justified as an effective means of getting guns off the street,⁵⁹ but the data tells a different story. In 2022, MPD officers found guns in fewer than 1% (0.9%) of stops; in 2023, MPD police found guns in only 1.2% of stops. This low ratio of stops leading to gun recoveries calls into question the use of stop-and-frisk as an effective practice for getting guns off the streets. Data from a 2015 report published by the ACLU of Massachusetts raises the same concern. In that report, researchers found that the Boston Police Department's stop-and-frisk practices led to the recovery of contraband in only 2.5% of encounters.⁶⁰

⁵⁹ Soderberg, B. "Let Me See That Waistband." The Appeal. April 14, 2021. Available at <https://theappeal.org/dc-gru/>.

⁶⁰ ACLU of Massachusetts. "Ending Racist Stop and Frisk." Available at <https://www.aclum.org/en/ending-racist-stop-and-frisk>.

How Stop-and-frisk Harms Individuals and Communities

Research has shown that being stopped and frisked can have adverse effects on both individuals and communities. These negative impacts may ultimately cause individuals and communities to be worse off because they can perpetuate cycles of crime and violence, further degrade trust among communities and police, and make it harder for the police and the criminal justice system to do their jobs.

As illustrated by the studies from other jurisdictions mentioned above, there is a higher prevalence of stop-and-frisk incidents in some populations than others. Black and Latine people, in particular, as well as people who identify as LGBTQ+ and certain immigrant groups, are among these disproportionately impacted groups. In D.C., initiatives such as MPD's gang database^{61,62,63} and the hyperpresence of police in predominantly Black and Brown neighborhoods increase the likelihood of police interactions.

Harm to Individuals

There is a wide range of negative implications for people who experience regular or increased interactions with police and persistent harm associated with tactics such as stop-and-frisk. Constant interaction with police impacts people's economic wellbeing (e.g., losing a job) and educational attainment and outcomes (e.g., stunted development, not obtaining high school diploma, and/or lower likelihood of attending college). Persistent interaction with police also impacts people's civic and social engagement, as well as their physical and psychological health.⁶⁴ For young people, this can manifest as an inability to self-regulate their behaviors; heightened emotional distress; and symptoms of post-traumatic stress, such as a rapid heart rate,

⁶¹ Started in 2009, the gang database keeps track of people MPD thinks are associated with street gangs. MPD's policies give officers wide discretion to use racially biased, overly broad, and vague criteria to justify surveillance of Black and Latine people in the District. Such criteria include what people wear, who they are related to, where they live, or whether they are identified as a gang member by "an unproven informant." See Geraldi, C. "Hacked Emails Give Unfiltered View Into the D.C. Police Gang Database." *The Intercept*. June 18, 2021. Available at <https://theintercept.com/2021/06/18/dc-police-gang-database-hacked-emails/>.

⁶² Washington Lawyers Committee for Civil Rights and Urban Affairs, et. al. "Targeted, Labeled, and Criminalized: Early Findings on the District of Columbia's Gang Database. January 2024. Available at <https://www.washlaw.org/wp-content/uploads/2024/01/Edited-TARGETED%5EJ-LABELED%5EJ-CRIMINALIZED-Final-Conforming-Edits-01-11-24.pdf>

⁶³ In the study of Boston's police department, researchers found that classification as a member of a gang was a significant predictor of individuals experiencing repeated stops, frisks, and searches. People who were considered part of a gang were more intensely surveilled. Black people were more likely to be suspected of being part of a gang and, therefore, more likely to experience higher rates of repeated interactions.

⁶⁴ Stag off-Belfort, A. et al. "The Social Costs of Policing." Vera Institute of Justice. November 2022. Available at <https://www.vera.org/downloads/publications/the-social-costs-of-policing.pdf>.

sweaty palms, uncontrollable thoughts, and a decrease in quality sleep⁶⁵—all issues that can impact their engagement and performance⁶⁶ in school and how they behave in other areas of their lives.

The findings of a study of adolescents in New York City, for example, indicated that over-policing can lower educational performance and perpetuate racial inequalities in educational outcomes.⁶⁷ The study found that Black boys, especially those aged 13–15, who experienced persistent police interactions were more likely to have reduced attendance and significantly reduced test scores. The report noted that the impact of over-policing practices has implications for child development, economic mobility, and racial equality.⁶⁸

People in communities that experience disproportionate stops and searches by the police may also lose personal agency. The power imbalance between officers and members of the public, as well as the high-risk and stress-inducing nature of such encounters, has led many Black and Brown people to believe they cannot actually decline searches.⁶⁹ In D.C., where jump-outs,⁷⁰ a more insidious version of stop-and-frisk, are quite familiar to majority-Black neighborhoods, some residents have developed a visceral reaction to seeing police and will simply raise their shirt to show their waistband unprompted.⁷¹

⁶⁵ Jackson, D. B., et. al. “Police Stops Among At-Risk Youth: Repercussions for Mental Health.” *Journal of Adolescent Health*, Vol. 65, Issue 5, pp. 627–632. November 2019. Available at <https://www.amostbeautifulthing.com/wp-content/uploads/2020/01/Police-Stops-Among-At-Risk-Youth-Repercussions-for-Mental-Health.pdf>.

⁶⁶ Del Toro, J., et. al. “The Policing Paradox: Police Stops Predict Youth’s School Disengagement Via Elevated Psychological Distress.” *Journal of Developmental Psychology*, Vol. 58, No. 7, pp. 1402–1412. 2022. Available at <https://psycnet.apa.org/doiLanding?doi=10.1037%2Fdev0001361>.

⁶⁷ Legewie, J. and Fagan, J. “Aggressive Policing and the Educational Performance of Minority Youth.” *American Sociological Review*, Vol. 84, Issue 2. 2019. Available at <https://journals.sagepub.com/doi/full/10.1177/0003122419826020>.

⁶⁸ Ibid.

⁶⁹ Sommers, R. and Bohns, K. V. “The Voluntariness of Voluntary Consent: Consent Searches and the Psychology of Compliance.” Revised May 25, 2021. Available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3369844.

⁷⁰ “Jump-outs” is a colloquial term used to describe a particularly intimidating form of stop and frisk practiced by MPD officers. It is a paramilitary technique whereby police drive up, jump out, and quickly start searching people without probable cause or consent. Officers who conduct jump-outs typically ride in unmarked vehicles and wear plain clothing that may or may not indicate that they are police officers. They usually target Black and Brown men, sometimes approaching them with guns drawn, and demand that they show their waistbands. See Kutner, M. ““Jump-Outs”: D.C.’s Scarier Version of ‘Stop-and-Frisk’”. *Newsweek*. Updated March 13, 2016. Available at <https://www.newsweek.com/jump-outs-dcs-scarier-version-stop-and-frisk-300151>.

⁷¹ Ibid.

Harm to Communities

Beyond the immediate individual impact of being stopped and frisked due to racial profiling, racially biased police practices erode trust between communities and the police^{72,73}—especially for communities that have a well-founded fear of police abuse of power. Therefore, these practices are counterproductive to the espoused rationale for the practice itself: improving public safety and making communities safer. In this way, racially biased policing undermines the legitimacy of the stop-and-frisk tactic specifically and policing more broadly. This issue was also emphasized in the DOJ's investigation of the NPD.⁷⁴

As part of the 2023 PERF MPD Cultural Assessment, District residents were asked to score their level of trust in police on a scale of 0–10. The largest gap was observed between Policing District 2 (2D), with the highest average score of 7.3, and Policing District 7 (7D), with the lowest average score of 4.8. The report concluded that this gap was likely due to differences in race and socio-economic status. 2D is mostly (82%) white (and presumably more affluent) and 7D is mostly (93%) Black (and presumably less affluent).⁷⁵ Participants in the majority-Black Wards 7 and 8 also reported experiencing a more disrespectful style of policing than that observed in other wards.⁷⁶

Groups of people, communities, and/or populations, such as Black, Indigenous, and other POC or LGBTQ+ people who are more frequently subjected to police encounters either because of purposeful and unconstitutional targeting or because of systemic bias are less likely to report a crime even if they, themselves, are the victim.⁷⁷ Communities that experience continual police interactions are also more reluctant to come forward and help police with investigations—an issue members of the D.C. Council have raised as a barrier to solving crimes.⁷⁸ And, according to the 2023 PERF MPD Cultural Assessment mentioned above, this is indeed true in D.C. Participants reported being “unlikely to report crime, share information, and support MPD if officers don't treat them with respect and dignity, take the time to explain their

⁷² La Vigne, N.G., et. al. “Stop and Frisk: Balancing Crime Control with Community Relations.” D.C. Office of Community Oriented Policing Services. Published 2014. Available at <https://www.urban.org/sites/default/files/publication/33661/413258-Stop-and-Frisk-Balancing-Crime-Control-with-Community-Relations.PDF>.

⁷³ Fratello, J., et. al. “Coming of Age with Stop and Frisk: Experiences, Perceptions, and Public Safety Implications.” Vera Institute of Justice. September 2013. Available at <https://www.vera.org/newsroom/study-reveals-stop-and-frisk-significantly-impacts-trust-in-new-york-city-police>.

⁷⁴ DOJ Investigation, 2014. 2.

⁷⁵ PERF Cultural MPD Cultural Assessment, 204.

⁷⁶ *Ibid.*

⁷⁷ *Fratello.*

⁷⁸ In 2023, Chairman Mendelson noted in both his pre-legislative press briefing and the Council's July 11 Legislative meeting that one of the barriers to closure rates for homicides is people not coming forward. See https://dc.granicus.com/MediaPlayer.php?view_id=3&clip_id=8387.

actions, and listen to what they have to say—in other words, to act in accordance with the principles of procedural justice.”⁷⁹

Unconstitutional stops and frisks also create a barrier to accountability by making it harder to prosecute people who commit certain crimes. For example, courts can preclude prosecutors from using evidence in a criminal trial if the police acquired the evidence through an unlawful stop-and-frisk (i.e., the stop was initiated without reasonable suspicion). Over the past few years, there have been ongoing reports of D.C. courts throwing out gun possession cases due to unconstitutional stops, stemming from practices such as jump-outs.^{80,81}

Put together, the above issues perpetuate cycles of harm and violence—ultimately making D.C. communities less safe with practices espoused to make these same communities, and all of us, safer. Instead, these issues foment distrust in the police and their practices.

VI. Conclusion and Call to Action

As this report has outlined, MPD’s data for the past two years has shown that racial disproportionality persists in the Department’s stop-and-frisk practices. Black and Latine people in D.C. are more likely to be stopped. In other jurisdictions where the levels of disproportionality are this high, racial bias has been identified as the culprit. Here, too, we find the disproportionality consistent with bias. Unfortunately, the compounding disproportionality intensifies the negative individual and community impacts of these practices for some communities over others.

Stop-and-frisk is lauded as a policing practice that can enhance community safety. However, MPD’s low gun recovery rates make it difficult to justify the high number of stops being conducted. When coupled with the potential harm to individuals being stopped and the collective harm to some communities, MPD should well consider other approaches to community safety that stand to have a far more significant positive impact on District residents.

This report shows that there is much work to be done to ensure that officers of the Metropolitan Police Department are adhering to constitutional principles while performing their duties. Stakeholders, from everyday community members to

⁷⁹ PERF MPD Cultural Assessment, 196.

⁸⁰ Koma, A. “D.C. Judges Keep Tossing MPD Gun Seizures Out of Court. Have Cops Changed Their Ways?” Washington City Paper. June 25, 2024. Available at <https://washingtoncitypaper.com/article/722768/d-c-judges-keep-tossing-mpd-gun-seizures-out-of-court-have-cops-changed-their-ways/>.

⁸¹ Koma, A. and Ryals, M. “Nineteen D.C. Police Officers Are Under Criminal Investigation for Questionable Gun Seizures, According to Court Records.” Washington City Paper. July 14, 2023. Available at <https://washingtoncitypaper.com/article/614552/nineteen-d-c-police-officers-are-under-criminal-investigation-for-questionable-gun-seizures-according-to-court-records/>.

decision-makers at the highest levels, must support and push for the advancement of community and public safety approaches that are not biased or disproportionate, do not cause harm, adhere to constitutional requirements, and increase trust in government among the most vulnerable communities.

APPENDIX

Methodology

This report analyzes police stops data available to the public on the MPD website.⁸² The data include information relating to stops conducted from January 1, 2022 to December 31, 2023. The report also includes demographic data from the Census Bureau’s 2022 American Community Survey five-year estimates.

Classifying Traffic Stops

Beginning with the 2022 dataset, MPD stops data include a field that identifies whether stops were traffic-related or not traffic-related.⁸³ In prior reports on MPD stops, the ACLU National team created its own definition for traffic and non-traffic stops based on the available fields. Those prior reports explain that definition, which is not significantly different from the definition MPD now provides.⁸⁴

Census Data

The report uses data from the Census Bureau’s 2022 American Community Survey to get racial demographic information for police districts. The ACLU National team used the Census data to get population estimates at the Census-tract level.⁸⁵ The team assigned each tract to a police district based on its geographic center and then aggregated the tract-level population estimates at the police district level for the analysis.

⁸² See <https://mpdc.dc.gov/stopdata>.

⁸³ The MPD data dictionary defines the “traffic_involved variable as: ‘any stop where stop_type = Ticket Only or Ticket and Non-Ticket; any stop ending in an arrest where at least one charge is a traffic violation; and/or any stop where the Stop Reason is Observed Moving Violation, Observed Equipment Violation, Response to Crash, and/or Traffic Violation.’” See <https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/Stop%20Data%20Dictionary%202023%20Data.pdf>.

⁸⁴ See footnote 41 for the link to the MPD data dictionary for stop data.

⁸⁵ A Census tract is a geographic unit that is a small subdivision of a county. Census tracts are useful because they do not change as frequently as other geographies, such as districts, and are small enough that we could aggregate them to approximate police district boundaries. More details on how tracts are defined can be found at <https://www2.census.gov/geo/pdfs/education/CensusTracts.pdf>.

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