



529 14th Street NW
Ste 722
Washington, DC 20045
(202) 457-0800
www.acludc.org

**Statement on behalf of the
American Civil Liberties Union of the District of Columbia
before the
D.C. Council Committee on the Judiciary & Public Safety
Performance Oversight Hearing for the
Metropolitan Police Department
By
Ahoefa Ananouko, Policy Associate
February 19, 2025**

Hello Chair Pinto and members of the Committee. My name is Ahoefa Ananouko, and I present the following testimony on behalf of the American Civil Liberties Union of the District of Columbia (ACLU-D.C.).

ACLU-D.C. urges the Metropolitan Police Department (MPD, the Department), the Committee on the Judiciary & Public Safety and the broader D.C. Council, and other District leaders to engage in necessary efforts to ensure officers are operating within the law and are not violating the constitutional rights of D.C. residents or visitors when conducting stops and frisks in the District. First, ACLU-D.C. recommends that the Council request MPD to publicly release the findings of the independent study on Equity in Traffic Stops from the University of Connecticut Institute for Municipal and Regional Policy, that the Department. MPD expects this report to be available in Fiscal Year 2025.¹ Second, ACLU-D.C. recommends that the Council request MPD to commission a similar study of non-traffic stops and publicly release those findings. Third, ACLU-D.C. requests that the Council direct MPD to implement the recommendations set forth by the Office of Police Complaints (OPC) related to stops and related to searches.² Lastly, ACLU-D.C. calls on the Council to require MPD to make public any other reports it has undertaken, or any plans to undertake any other reports, related to stops (traffic and non-traffic) and/or searches.

¹ Gilstrap, S. "New ACLU Findings Show Black People are Disproportionately Targeted by MPD During Stop-and-Frisk Encounters." WUSA9. Updated September 17, 2024. Available at <https://www.wusa9.com/article/news/police/report-reveals-racial-disparities-in-dc-stop-and-frisk-practices/65-b2226c40-3167-4601-83dd-10508ca1970a>.

² D.C. Office of Police Complaints. "Differentiating Field Contacts from Investigatory Stops." September 24, 2024. Available at <https://policecomplaints.dc.gov/node/1745366>. See also "Improved Guidance on Protective Pat Downs." Available at <https://policecomplaints.dc.gov/node/1745371>.

Background

Since MPD began collecting data on stops in 2019, pursuant to the NEAR Act,³ the data have shown that MPD officers are disproportionately stopping Black people in the District in relation to their demographic representation. As will be briefly discussed later in this testimony, research suggests that MPD's stop-and-frisk practices may be indicative of racial bias. Research also shows that unlawful stop-and-frisk practices, including non-consensual "consent" searches,⁴ contribute to community distrust of police⁵ and reflect negatively on the integrity of the police department.

OPC Reports & Recommendations

The ACLU-D.C. is not the only entity that has expressed concerns about MPD's stop-and-frisk practices. In 2017 the D.C. Police Complaints Board (PCB) issued a report on consent searches. In the report, the PCB found that consent searches were disproportionately used on Black people. Analysis of complaints received by OPC showed that 76 percent of all complainants were [Black].⁶ In the report the PCB noted that "disproportionate use of consent searches causes concern for the Police Complaints Board that the practice is undermining community trust in the police, especially in areas with substantial minority populations."⁷

In October of 2020, the PCB released a policy report following a review of MPD's 2019 stops data. Noting the significant racial disparities in stops, the PCB urged MPD to expedite its examination into the root causes of the appearance of racial bias in the stop data. At the time, over 70 percent of stops were of Black people, even though Black people only made up about

³ D.C. Law 21-125. "Neighborhood Engagement Achieves Results Amendment Act of 2016." Available at <https://code.dccouncil.gov/us/dc/council/laws/21-125#:~:text=To%20establish%20the%20Office%20of,Chapter%201%20of%20Title%205.>

⁴ 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. D.C. Code, § 23-526. Limitations on consent searches. Available at <https://code.dccouncil.gov/us/dc/council/code/sections/23-526.>

⁵ 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.>

⁶ Police Complaints Board Report on MPD's Consent Search Procedures. Published September 25, 2017. Available at <https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/Consent%20Search%20Report%20FINAL.pdf>

⁷ Ibid.

40 percent of the District’s population.⁸ Further, the PCB emphasized that “Until changes are made, officers will carry on effecting stops in the same ways. Meaning that possibly racially motivated stops or publicly perceived racially motivated stops can continue to occur.”⁹

What is Stop & Frisk?

Although stop and frisk was used in policing long before, the practice is deeply tied to the Supreme Court’s 1968 decision in *Terry v. Ohio*.¹⁰ In that case the Supreme Court ruled that police could “stop” a person if they have “reasonable suspicion”¹¹ that the person has been, is, or is about to be engaged in criminal activity. This means an officer can briefly detain individuals “suspected of engaging in criminal activity” on the spot and without a warrant. This distinction departed from the “probable cause” standard that had typically been used up until that point.¹² The Court further held that police could “frisk” a person—or search them by conducting a pat down of the outside of their clothing—if officers had a reasonable suspicion that the individual was carrying a weapon.¹³

In D.C. a particularly menacing version of stop and frisk, known colloquially as a “Jump-out”, has been reported as being used by MPD officers. A “jump-out 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.”¹⁴

⁸ D.C. Police Complaints Board. Policy Report #21-1: Stop and Frisk Data Review.” Published October 2020. Available at https://policecomplaints.dc.gov/sites/default/files/dc/sites/office%20of%20police%20complaints/publication/attachments/StopFriskDataReview.FINAL_.pdf.

⁹ Ibid.

¹⁰ This is the reason the practice is also referred to as “Terry stops”. 7 *Terry v. Ohio*, 392 U.S. 1 (1968). See <https://supreme.justia.com/cases/federal/us/392/1/>.

¹¹ 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>.

¹² See NCJRS Virtual Library: <https://www.ojp.gov/ncjrs/virtual-library/abstracts/stop-and-friskhistorical-and-empirical-assessment-essays-theory>.

¹³ *Terry*, 392 U.S. at 21, 24.

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

What the Data & Research Show

Results from Analysis of 2022 and 2023 Stops Data

The ACLU-D.C.'s analysis of 2022 and 2023 stops data indicates that MPD officers are stopping Black people at disproportionate rates in relation to their demographic make-up in the District. Of the 68,244 stops that were conducted in 2022, Black people made up 48,700 (over 44%). Of the 68,561 stops conducted in 2023, Black people comprised 48,407 (70.6%). These figures are particularly stark when we consider the fact that Black people were only about 44 percent of the District's population in 2022 and 2023.¹⁵ On the other hand, white people were stopped at significantly lower rates in relation to their population make-up.

In 2022 and 2023, white people made up 39.6 percent of the D.C. population. However, they comprised only about 12.7 percent of stops in 2022 and 12 percent in 2023.¹⁶ These results were consistent with results from previous reports analyzing 2019 and 2020 stops data, which also showed that Black people were disproportionately stopped in the District.^{17,18} This year over year trend warrants a concerted effort to evaluate the cause(s) of the disproportionality in stops.

Research from Other Jurisdictions

Research in other jurisdictions has shown that the most plausible explanation for consistent disproportionality in police stops is racial bias. Looking at stop-and-frisk practices across racial groups, research indicates that disparities could not be explained by criminality or other non-race-related factors. This suggests that MPD's data, too, shows potential racial bias in how MPD officers conduct stops.

¹⁵ Population data 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/datatables.html>.

¹⁶ ACLU-D.C. & ACLU Technology. "Bias at the Core?: Enduring Racial Disparities in D.C. Metropolitan Police Department Stop-and-Frisk Practices (2022-2023)." September 16, 2024. Available at https://www.acludc.org/sites/default/files/field_documents/aclu-dc_2024_stop-and-frisk_report.pdf.

¹⁷ 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-departmentreview-five-months-data>.

¹⁸ 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>.

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 percent of police–civilian encounters.¹⁹ 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 experienced significantly more police encounters than their white and Asian counterparts.²⁰ 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.²¹ Additionally, 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.”

Newark, New Jersey

In 2014 the Department of Justice (DOJ) conducted an investigation of the Newark Police Department (NPD).²² The investigation was prompted by allegations of civil rights violations, including unwarranted stops and discriminatory police actions. One of the major findings of this investigation was that NPD officers were conducting stops and arrests in violation of the Fourth Amendment.²³ DOJ found that officers failed to articulate reasonable suspicion to justify stops in 75–93 percent of interactions included in the review. Further, in thousands of interactions, the investigation found that officers' justifications for stopping people were often not related to criminal activity. These included things like “milling,” or “wandering” in a “high crime area,” the perception that a person was being insubordinate or disrespectful to an officer, or a person having a negative reaction to police presence. This shows that a vast majority of stops were not meeting the constitutional requirement of reasonable suspicion.

¹⁹ 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-onrace-and-ethnicity.pdf>.

²⁰ Id. 12.

²¹ 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.

²² 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.

²³ The 4th Amendment protects against arbitrary arrests and unreasonable searches and seizures by the government.

The investigation found that Black Newark residents were at least 2.5 times more likely to be subjected to a pedestrian stop or be arrested than white people. About 80 percent of the NPD's stops and arrests involved Black individuals, even though Black people made up only about 54 percent of Newark's population. White people, who comprised 26.4 percent of the population, were the subjects of only 15.5 percent of stops.

Other examples of jurisdictions where police departments have been found to engage in racially-biased policing, including stops that violate constitutional rights, are Chicago, IL²⁴ and New York City.²⁵ These examples 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 and further degradation of the relationship between police and communities.

The Harms of Stop and Frisk

Research has shown that there are both short- and long-term negative implications of harmful stop-and-frisk practices. This is particularly true for individuals and communities that experience racially biased policing practices. 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."²⁶

People who experience regular or increased interactions with police and persistent harm associated with harmful tactics like stop and frisk experience a wide range of adverse effects that impact both their personal and civic lives. Constant interaction with police effects people's economic wellbeing (e.g., the ability to obtain/maintain 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.²⁷

²⁴ ACLU of Illinois. "Stop And Frisk in Chicago." March 2015. Available at https://www.acluill.org/sites/default/files/wp-content/uploads/2015/03/ACLU_StopandFrisk_6.pdf.

²⁵ 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-friskbloomberg.html>. See also 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/>.

²⁶ DOJ Investigation, 2014.

²⁷ 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>.

Young people, especially, are susceptible to developing the inability to self-regulate their behaviors; heightened emotional distress; and symptoms of post-traumatic stress, such as a rapid heart rate, sweaty palms, uncontrollable thoughts, and a decrease in quality sleep²⁸—all factors that not only impact their engagement and performance²⁹ in school and how they behave in other areas of their lives,³⁰ but have implications for their development, economic mobility, and racial equity.³¹

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^{32,33}—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.

Communities and/or populations who are more frequently subjected to police encounters are less likely to report a crime even if they, themselves, are the victim. This is especially true for Black, Indigenous, and other people of color, and those in the LGBTQ+ community.³⁴ Communities that experience continual police interactions are also more reluctant to come forward and help police with investigations. A 2023 Police Executive Research Forum (PERF) MPD culture assessment of MPD revealed that this was a sentiment shared by D.C. community members.³⁵

²⁸ 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-RiskYouth-Repercussions-for-Mental-Health.pdf>.

²⁹ 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>.

³⁰ 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. Black boys, aged 13-15 especially, were more likely to have reduced attendance and significantly reduced test scores. 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>.

³¹ Ibid.

³² 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-CrimeControl-with-Community-Relations.PDF>.

³³ 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-newyork-city-police>.

³⁴ La Vigne, et. al. 2014.

³⁵ Participants reported being “unlikely to report crime, share information, and support MPD if

OPC Reports

Last September, OPC released a set of policy recommendations for MPD, to help improve community relations and trust between the Department and the community. Policy Report #24-3 focused on field contacts and stops.³⁶ During a review of complaints, examiners sustained more than ten allegations of unlawful stops. While questioning officers related to complaints, it became clear that MPD officers were often confused about the distinction between a field contact and a stop. This led to officers designating encounters that turned into stops as field contacts. One implication of this confusion is that there could be discrepancies in MPD's stops data—the actual number of stops officers are making is likely significantly higher than what is being reported. In the examples discussed in the report, officers sometimes acknowledged that the person they made contact with was not engaged in any criminal or suspicious activity.³⁷

OPC recommended that MPD incorporate additional guidance differentiating between field contacts and stops to the Department's General Order 304.10, to include recent case law which outline factors that should be evaluated when determining whether a police encounter is a field contact or stop. OPC further recommended that MPD train officers on the updated guidance.³⁸

A second report focused on protective pat downs (also known as frisks), Policy Report #24-4, found that MPD officers were violating complainants' constitutional rights, due in part to MPD failing to provide officers with adequate training on the conditions that must be met to engage in a stop and frisk. In multiple complaints, OPC examiners found that officers were "stopping individuals based on a mere hunch that citizens are carrying guns, rather than their reasonable suspicion that a crime is occurring, has occurred, or is about to occur."³⁹ Furthermore, stops rapidly escalated to frisks. According to the report, "the rapid, often unlawful progression from

officers don't treat them with respect and dignity, take the time to explain their actions, and listen to what they have to say—in other words, to act in accordance with the principles of procedural justice." 3 Police Executive Research Forum (PERF). "A Cultural Assessment of the MPD Workplace." March 2023. Available at <https://mpdc.dc.gov/publication/perf-cultural-assessment-report-and-mpd-response>.

³⁶ A field contact is when an officer makes a brief/momentary contact with a member of the community. The person being stopped must be informed that they have the right to refuse or leave (and must feel they are free to go.) MPD's General Order 304.10 states that officer "may initiate a field contact with an individual in any place the member has a right to be." A field contact may turn into a stop if the officer determines the situation meets the "reasonable suspicion" standard under *Terry* (that the has committed, is committing, or is about to commit any crime). A field contact can also turn into a stop if the person stopped does not feel that they can leave. See https://go.mpdconline.com/GO/GO_304_10.pdf. See also, OPC Policy Report #24-3.

³⁷ OPC Policy Report #24-3, 5-7.

³⁸ Policy Report #24-3, September 2024.

³⁹ OPC Policy Report #24-4. 3.

stops to frisks has contributed to contentious interactions with members of the public that negatively affect community trust.”⁴⁰

OPC issued two recommendations related to frisks. The first was that MPD “provide additional guidance to its members on General Order 304.10, specifically that members do not have the legal authority to perform a protective pat down merely because an individual is stopped.” And that “MPD should reinforce that officers must have reasonable suspicion that the individual is armed and presently dangerous before conducting a frisk.” The second was that MPD enforce to members that officers must remove bags that are immediately separable from an individual before performing a frisk.

ACLU-D.C. Recommendations

ACLU-D.C. offers the following recommendations for improving accountability, transparency, and the way police interact with community members.

1. **Implement the recommendations in the two 2024 Reports from the Office of Police Complaints:** Implementation of these recommendation could shed further light on the number of stops MPD officers are actually conducting and what occurs during stops.
2. **MPD publicly release independent study on traffic stops:** In its September 16, 2024 response to the ACLU stop and frisk report,⁴¹ MPD noted that the department was supporting an independent study on Equity in Traffic stops which was being conducted by the University of Connecticut Institute for Municipal and Regional Policy. ACLU-D.C. recommends that the Council request MPD to publicly release the findings this study, which MPD expects will be available in Fiscal Year 2025.
3. **Conduct Report on Stops:** ACLU-D.C. also recommends that the Council require MPD to make public any other reports it has undertaken, or any plans to undertake any other reports, related to stops (traffic and non-traffic) and/or searches.

⁴⁰ Id. 1.

⁴¹ Bourque, K. “DC Police Responds to ACLU Report on Racial Disparities in Stop-and-Frisks.” Updated September 17, 2024. ABC 7. Available at <https://wjla.com/news/local/police-bias-stop-and-frisk-aclu-dc-report-mpd-metropolitan-police-department-washington-dc-crime-black-people-pat-down-illegal-gun-seizure-arrests-bias-at-the-core-enduring-racial-disparities-in-dc-metropolitan-police-department-stop-and-frisk-practice>.



529 14th Street NW
Ste 722
Washington, DC 20045
(202) 457-0800
www.acludc.org

Conclusion

Every year tens of thousands of District residents are stopped by officers. When interacting with police, each and every person should have a reasonable expectation of being treated with dignity, respect, and without bias. Person's interacting with the police should also have the reasonable expectation that their constitutional rights will not be violated. MPD's data show that Black people, in particular, are disproportionately stopped and frisked in D.C. The negative impacts of harmful stop-and frisk practices ultimately cause individuals and communities to be worse off, because distrust in the police can perpetuate cycles of crime and violence. Loss of trust between communities and police and make it harder for the police and the criminal legal system to do their jobs.

While ACLU-D.C. acknowledges the important role of MPD in enforcing laws, preventing crime, and reducing firearms in our community, their work must be done in adherence with people's constitutional rights. Community safety and police accountability go together. We hope police practices and accountability continue to be top priorities for this Committee and that it exercises its oversight duties to ensure all District residents feel safe and protected under the law.