



April 14, 2014

Chief Edward Flynn  
Milwaukee Police Department  
749 West State Street  
Milwaukee, WI 53233

Public Records Request – Certified Mail

Dear Chief Flynn,

The American Civil Liberties Union and the American Civil Liberties Union Foundation (collectively “ACLU”)<sup>1</sup> and the American Civil Liberties Union of Wisconsin (“ACLU-WI”)<sup>2</sup> submit this request under the Wisconsin public records law, Wis. Stat. § 19.31-39, for policies and data concerning the stop, frisk, search, and arrest practices of the Milwaukee Police Department (“MPD”), and records concerning its data collection and analysis.

The MPD’s practice of stopping, frisking, and searching pedestrians and motorists raises civil rights and civil liberties concerns. In 2011, Milwaukee police stopped 181,513 motorists and 61,201 pedestrians.<sup>3</sup> In 2012, traffic stops rose to 197,893, while pedestrian stops jumped to 71,839.<sup>4</sup> Analyses of the stops raise questions as to whether MPD stops, frisks, and searches comply with applicable constitutional protections. For instance, a December 2011 study by the Milwaukee Journal Sentinel found gross racial disparities in Milwaukee traffic stops based on an analysis of 46,000 incidents.<sup>5</sup> An MPD data analysis the following year confirmed racial disparities in traffic and pedestrian stops across

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<sup>1</sup> The American Civil Liberties Union Foundation is a 501(c)(3) organization that provides legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, educates the public about the civil rights and civil liberties implications of pending and proposed state and federal legislation, provides analyses of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators. The American Civil Liberties Union is a separate non-profit, 501(c)(4) membership organization that educates the public about the civil liberties implications of pending and proposed state and federal legislation, provides analysis of pending and proposed legislation, directly lobbies legislators, and mobilizes its members to lobby their legislators.

<sup>2</sup> The American Civil Liberties Union of Wisconsin is an ACLU affiliate and seeks to protect the civil liberties and civil rights of all Wisconsin residents.

<sup>3</sup> Ashley Luthern, *New Policy Will Govern How Milwaukee Police Treat Citizens*, Milwaukee Journal Sentinel, May 30, 2013, <http://www.jsonline.com/watchdog/watchdogreports/new-policy-will-help-milwaukee-police-track-searches-b9922470z1-209592461.html>.

<sup>4</sup> *Id.*

<sup>5</sup> Ben Poston, *A Journal Sentinel Watchdog Report: Racial Gaps Found in Traffic Stops in Milwaukee*, Milwaukee Journal Sentinel, Dec. 3, 2011, <http://www.jsonline.com/watchdog/watchdogreports/racial-gap-found-in-traffic-stops-in-milwaukee-ke1hsip-134977408.html>.

Milwaukee.<sup>6</sup> And a 2013 ACLU report determined that in 2010, African Americans in Milwaukee County were 4.7 times more likely to be arrested for marijuana possession than whites, which represents a 132.5% increase in the racial gap in marijuana arrests since 2001 and suggests that racial disparities in stops contribute to racial disparities in arrests.<sup>7</sup> Finally, in 2012, four Milwaukee police officers were criminally charged based on reports that they conducted illegal strip and rectal searches on dozens of drug suspects.<sup>8</sup>

The ACLU and ACLU of Wisconsin file this request to obtain documents that will shed light on issues of great public concern: whether the MPD's stop, frisk, and search policies and practices have led to illegal racial profiling and unlawful seizures and searches, in violation of the Fourth and Fourteenth Amendments to the United States Constitution. Public disclosure of records setting forth the MPD's stop, frisk, and search policies, the aggregate number of stops, frisks, and searches conducted in recent years, and data concerning individual stops, frisks, and searches will shed light on this important question.

### Requested Records

1. All records,<sup>9</sup> including training materials, manuals, protocols, procedures, regulations, and guidelines, created since January 1, 2008, setting forth the MPD's policies concerning:
  - a. the stop, frisk, search, and arrest of pedestrians;
  - b. the stop, frisk, search, and arrest of motorists;
  - c. racial profiling, bias, and implicit bias.
2. All records created since January 1, 2008, documenting the total number of:
  - a. stops, also known as "field interviews,"<sup>10</sup> conducted by the MPD between January 1, 2008 and the date of this request;

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<sup>6</sup> Milwaukee Police Department, *Crime, Traffic Stop and Subject Stop Data Analysis* (2012), [http://www.city.milwaukee.gov/ImageLibrary/Groups/cityFPC/agendas2/120517\\_PD\\_C.pdf](http://www.city.milwaukee.gov/ImageLibrary/Groups/cityFPC/agendas2/120517_PD_C.pdf).

<sup>7</sup> American Civil Liberties Union, *The War on Marijuana in Black and White* 62 (2013), <https://www.aclu.org/files/assets/1114413-mj-report-rfs-re11.pdf>.

<sup>8</sup> Bruce Vielmetti, *Ex-Milwaukee Officer Gets 26 Months in Prison for Strip, Cavity Searches*, Milwaukee Journal Sentinel, June 21, 2013, <http://www.jsonline.com/news/crime/ex-milwaukee-officer-gets-26-months-in-prison-for-strip-cavity-searches-b9938948z1-212486141.html>.

<sup>9</sup> The term "records" as used herein includes all records or communications preserved in electronic or written form, including but not limited to, correspondence, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

<sup>10</sup> Milwaukee Police Department, Standard Operating Procedure 085 – Citizen Contacts, Field Interviews, Search and Seizure, §§ 085.05, 085.20, May 29, 2013.

- b. frisks conducted by the MPD between January 1, 2008 and the date of this request, and the number of such frisks that resulted in the recovery of contraband disaggregated by contraband type (e.g., weapon, type of suspected stolen property, type of controlled substance);
  - c. non-strip searches conducted by the MPD without subject consent between January 1, 2008 and the date of this request, and the number of such searches that resulted in the recovery of contraband disaggregated by contraband type;
  - d. strip searches conducted by the MPD without subject consent between January 1, 2008 and the date of this request, and the number of such strip searches that resulted in the recovery of contraband disaggregated by contraband type;
  - e. consent searches conducted by the MPD between January 1, 2008 and the date of this request, and the number of such consent searches that resulted in the recovery of contraband disaggregated by contraband type;
  - f. arrests, disaggregated by age, race, and gender, made by the MPD between January 1, 2008 and the date of this request, and the offense(s) for which each arrest was made.
3. The most recent (2013) Annual Report to Milwaukee's Common Council on MPD's traffic stop data collection practices.
4. All records,<sup>11</sup> including, but not limited to, Field Interview cards (Form PF-4), Strip Search Authorization Reports (Form PS), Consent to Search Authorization forms (Form PF-3), and records of the Tiburon Records Management System, TRACS Citizen Contact database, TRACS Traffic Stop Data Collection database, Automated Reporting System, AIMS Database, and the Computer Aided Dispatch System, created since January 1, 2008, collecting information about each stop, frisk, and search conducted by the MPD, including records identifying the following information for each incident:
  - a. the location or address of the stop, frisk, and/or search;
  - b. the date of the stop, frisk, and/or search;

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<sup>11</sup> To the extent that these records are available in electronic form, we request that they be provided in an electronic storage medium, such as a delimited text file, csv (comma separated values) file, or Excel file.

- c. the duration of the stop, frisk, and/or search, or in the alternative, the time that the stop, frisk, and/or search was initiated and the time that it concluded;
  - d. the race, ethnicity, gender, national origin, and/or age of the individual(s) stopped;
  - e. the basis for the stop, including any description of the circumstances leading to the stop;
  - f. whether any frisk was conducted and the basis for the frisk, including any description of the circumstances leading to the frisk;
  - g. whether any frisk resulted in the recovery of contraband, and the nature of any contraband recovered (e.g., weapon, type and amount of suspected stolen property, type and approximate quantity of controlled substance (marijuana, cocaine, heroin, etc.), money seized for forfeiture);
  - h. whether any search was conducted and the basis for the search, including any description of the circumstances leading to the search;
  - i. whether any search resulted in the recovery of contraband, and the nature of any contraband recovered;
  - j. whether the stop resulted in an arrest, citation, or no further action, and the basis for any resulting arrest or citation;
  - k. the badge number (or other unique identifier) and jurisdiction of the law enforcement officer(s) who completed the form.<sup>12</sup>
5. All records created since January 1, 2008, setting forth the process by which deployment decisions are made within the MPD, including but not limited to the purpose of such deployments, the number of officers used for such deployments, the law enforcement actions taken during such deployments, whether the deployments resulted in an arrest, citation, or no further action, the bases for any resulting arrest or citation, and the offense(s) for which each arrest was made.
  6. All training materials, manuals, protocols, procedures, regulations, guidelines, and analyses, created since January 1, 2008, regarding the use

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<sup>12</sup> If the MPD retains a single, complete, electronic database of information collected about each stop, frisk, and search conducted by the MPD since January 1, 2008, disclosure of the entire database in electronic form will satisfy paragraph 4 of the Request.

of “predictive policing” or other data-driven law enforcement programs, including but not limited to, policies related to the purpose and use of such programs, studies or reports on the effectiveness of such programs, the date of acquisition and initial use of such programs, and any vendor information.

We expressly exclude from the requested records any individually identifiable information, or other private individual information, including the name of the person stopped.

### **Public Interest Fee Waiver**

We request a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records and a fee waiver is in the public interest. *See Wis. Stat. § 19.35(3)(e).*

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As discussed above, numerous news accounts and data analyses reflect considerable public interest in the requested records. In light of the ongoing and widespread media attention on whether the MPD’s stop, frisk, and search policies and practices lead to illegal racial profiling and/or unlawful stops and searches in violation of the Fourth and Fourteenth Amendments to the U.S. Constitution, disclosure of the requested records will significantly contribute to public understanding of these issues. Moreover, a fee waiver would itself further the public interest because the ACLU and ACLU-WI do not seek the requested records for commercial use and plan to disseminate information disclosed as a result of this Request to the public at no cost.

\* \* \*

Please provide copies of the requested records as soon as practicable and without delay. *See Wis. Stat. § 19.35(4)(a).* Please furnish all applicable records to:

Nusrat Choudhury  
Jason Williamson  
American Civil Liberties Union  
125 Broad Street, 18th Floor  
New York, NY 10004

Thank you for your prompt attention to this matter.

Sincerely,



Nusrat Choudhury  
Jason Williamson  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor

New York, NY 10004  
Tel. 212-519-7876

Christopher Ahmuty  
Executive Director  
ACLU of Wisconsin  
207 E. Buffalo Street, Suite 325  
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cc: MPD Records Section  
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