

**UNITED STATES DISTRICT COURT
EASTERN DIVISION OF WISCONSIN
MILWAUKEE DIVISION**

Charles Collins, *et al.*,

Plaintiff,

v.

The City of Milwaukee, *et al.*,

Defendants.

Case No. 17-CV-00234-JPS

Report of Margo L. Frasier, J.D.

February 20, 2018

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I. INTRODUCTION

My name is Margo Frasier. I have served as a criminal justice consultant since 1997. Previously, I served as the Police Monitor for the City of Austin, Texas, from 2011 to 2017. I served as the Sheriff of Travis County, Texas, from January 1, 1997 through December 31, 2004. I was the head of that agency, which employed over 1,300 employees and had a budget of over 90 million dollars, for the years 2004–2005. I previously served as the President of the Major County Sheriffs’ Association. My resume, which sets forth my education, professional experiences, and publications, is included as **Appendix A**.

II. ASSIGNMENT

A. *Collins v. City of Milwaukee*

I have been retained as an expert witness by the Plaintiffs in the matter of *Collins v. City of Milwaukee*, No. 17-CV-234-JPS, which was filed in the United States District Court for the Eastern District of Wisconsin. Plaintiffs allege in this action that the City of Milwaukee conducts an “unconstitutional, suspicionless stop and frisk program” through the Milwaukee Police Department (“MPD”), and has conducted this program since January 2008.¹ Plaintiffs claim that the City of Milwaukee has a policy, practice, and custom of subjecting people “to police stops without individualized, objective, and articulable reasonable suspicion of criminal activity, and frisking [people] without individualized, objective, and articulable reasonable suspicion that the person is armed and dangerous,” in violation of the Fourth Amendment to the U.S. Constitution.² Plaintiffs also claim that the City of Milwaukee has a policy, practice, and custom of conducting MPD stops and frisks that “results in significant racial and ethnic

¹ Amended Class Action Complaint at ¶ 1, *Collins v. City of Milwaukee*, No. 2:17-cv-00234-JPS (E.D. Wis. May 24, 2017), ECF No. 19.

² *Id.* at ¶ 300.

disparities and that is motivated by race and ethnicity,” in violation of the Fourteenth Amendment to the U.S. Constitution and Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq. (“Title VI”).³ Plaintiffs further claim that the City of Milwaukee has a policy, practice, and custom of conducting stops and frisks that involves “racial and ethnic profiling” of Black and Latino people, in violation of the Fourteenth Amendment and Title VI.⁴

The named plaintiffs (“Plaintiffs”)—Charles Collins; Tracy Adams, on behalf of her minor child D.A.; Caleb Roberts; Stephen Jansen; Gregory Chambers; Alicia Silvestre; David Crowley; Jeremy Brown; and Jerimiah Olivar—are Black and Latino people who allege that they were stopped, as pedestrians and/or drivers, without individualized, objective, and articulable reasonable suspicion of criminal activity.⁵ In addition, Ms. Adams, on behalf of her minor child D.A.; Mr. Crowley; Ms. Silvestre; and Mr. Olivar allege that they were frisked and/or searched under circumstances that did not give rise to reasonable suspicion that they were armed and dangerous.⁶ The Defendants in this matter are the City of Milwaukee (“Milwaukee”); the Milwaukee Fire and Police Commission (“FPC”), which oversees the Milwaukee Police Department (“MPD”); and Chief of Police for the MPD, Edward Flynn, acting in his official capacity as the chief law enforcement officer for Milwaukee.⁷

B. Assignment

Counsel for the Plaintiffs asked me to review documentation produced by Defendants about traffic and pedestrian stops (also referred to as “field interviews” or “subject stops” by

³ *Id.* at ¶ 313.

⁴ *Id.* at ¶¶ 313–314.

⁵ *Id.* at ¶¶ 18–26.

⁶ *Id.* at ¶ 8.

⁷ *Id.* at ¶¶ 27–29.

MPD) conducted by MPD officers and to determine whether the documentation is sufficient to demonstrate that officers had individualized, objective, and articulable reasonable suspicion that the people stopped were about to engage in, or had engaged in, criminal activity or a traffic or vehicle equipment violation, as required by the Fourth Amendment to the U.S. Constitution.

Counsel for the Plaintiffs also asked me to assess written Milwaukee Police Department policies, guidelines, and procedures concerning the conduct, documentation, and supervisory review of traffic stops, pedestrian stops, and frisks, as well as deposition testimony concerning the conduct, documentation, and supervisory review of MPD traffic stops, pedestrian stops, and frisks. Counsel requested that I determine, based on my 42 years of law enforcement experience, training, and education, whether MPD written policies and on-the-ground practices demonstrate that the MPD provides sufficient guidance, training, supervision, and monitoring to ensure that the conduct of traffic stops, pedestrian stops, and frisks comply with the requirements of the Fourth and Fourteenth Amendments to the U.S. Constitution. I have directed employees of Analysis Group, Inc., an economics research and consulting firm, to assist me in this assignment.

III. QUALIFICATIONS AND PROFESSIONAL EXPERIENCE

I have 42 years of law enforcement experience and have been an attorney licensed in the state of Texas since 1985. Presently, I serve as a criminal justice consultant for various entities.

From 2011 to 2017, I served as the Police Monitor for the City of Austin, Texas. My duties as Police Monitor included overseeing all the internal affairs investigations of the Austin Police Department (“APD”) and providing recommendations on how to improve the APD. As part of my job as Police Monitor, I reviewed APD policies and practices to determine if those policies, practices, or any related patterns of conduct violated the United States Constitution or federal or state law, or were contrary to acceptable law enforcement practices. Specifically, I oversaw an annual analysis of APD traffic stop and search data to determine if any racial or

ethnic group was being treated disparately. I also reviewed complaints regarding traffic stops and other directed law enforcement activities to determine if community policing efforts in Austin were being undermined by various law enforcement actions.

I also have significant experience working as a criminal justice consultant for law enforcement agencies, municipalities, and the United States Department of Justice, Civil Rights Division. In addition to having my own consulting firm since 1997, I was a Senior Associate with MGT of America, Inc., from 2008 to 2011, where I provided litigation support, expert witness services, and consulting on a variety of criminal justice issues. One type of consultation focused on assisting law enforcement agencies of varying sizes in the development of procedures and methods by which to increase accountability and public trust.

Prior to joining MGT, I was an Assistant Professor of Criminal Justice in the College of Criminal Justice at Sam Houston State University in Huntsville, Texas from January 2005 to July 2008.

Prior to joining the faculty at Sam Houston State University, I was the duly elected Sheriff of Travis County in Austin, Texas. I assumed office as Sheriff of Travis County, Texas, on January 1, 1997, and served as the Chief Law Enforcement Officer and Chief Corrections Officer of Travis County, Texas, until December 31, 2004. From 1985 until I assumed the office of Sheriff, I was an attorney who specialized in representation of governmental entities in civil rights and employment law cases.

A. Law Enforcement Experience

As the former Police Monitor of the City of Austin, Sheriff of Travis County, Texas, and Assistant Professor of Criminal Justice, I am extremely familiar with the generally accepted practices of police departments and sheriffs' offices, and the potential liability of law

enforcement agencies for the actions of their employees, especially those related to issues of training, supervision, search and seizure, and the duty to not discriminate.

As the Sheriff of Travis County, Texas, I was the head of an agency that employed over 1,300 people and had a 2004–2005 budget of over 90 million dollars. As the Chief Law Enforcement Officer and Chief Corrections Officer, I was directly responsible for the supervision of law enforcement officers patrolling, investigating, and enforcing criminal laws within Travis County. In this role, I was also ultimately responsible for the supervision of staff who collected data on various enforcement activities to assess possible racial profiling, and was directly responsible for the oversight of the employment and training practices of the Sheriff's Office to ensure compliance with best practices, state and federal statutes, and the United States Constitution. I also was responsible for supervision of the Travis County Jail.

During my time as Sheriff, I was a member of the Sheriffs' Association of Texas, National Sheriffs' Association, the Major County Sheriffs' Association, and the National Executive Institute Associates. I was elected to be the President of the Major County Sheriffs' Association by a vote of the membership and served as President during 2004. I was elected to be the Vice-President of the Major County Sheriffs' Association by a vote of the membership in 2002 and served as Vice-President through 2003. I was elected to the Board of Directors of the National Sheriffs' Association by a vote of the membership in 2002 and served through 2004. I was elected to be the Treasurer of the Major County Sheriffs' Association by a vote of the membership in 1999 and served as Treasurer through 2001. I was twice selected by the Combined Law Enforcement Associations of Texas as the Administrator of the Year for the State of Texas.

As Sheriff of Travis County, I developed and implemented policies and procedures that related to almost every aspect of law enforcement operations. I am extremely familiar with the statutes and case law of the United States which relate to the First, Fourth, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution. I am particularly familiar with the constitutional duties imposed on sheriffs and police chiefs and their deputies and officers. I have extensive experience in analyzing incidents and encounters between law enforcement officials and members of the public to determine whether officials acted in accordance with accepted procedures, consistent with competent law enforcement training, and in compliance with the laws and Constitution of the United States, or failed to enact any required policy or procedure or abused their discretion.

B. Corrections Experience

During my 42 years of law enforcement experience, I have gained experience with numerous correctional facilities. I worked at a state prison in Texas and in a number of different capacities within the Travis County Sheriff's Office. I also worked at and managed a county jail system and worked for the legislative committee that provided oversight of the jail and prison systems of the State of Florida. As an attorney, I represented numerous cities, counties, city officials and county officials in litigation related to corrections. I also served as Sheriff and Chief Corrections Officer of Travis County, Texas. Finally, I currently serve as the Lead Monitor appointed by the federal court to oversee the implementation of reforms of the Orleans Parish jail system.

C. Educational Background and Academic Experience

I graduated from Sam Houston State University with a Bachelor of Science degree, with honors in Criminology and Corrections, in 1974. I received 30 hours of credit towards a Master of Arts degree in Criminal Justice Management from Sam Houston State University. I received

my Juris Doctor, with high honors, from Florida State University College of Law in 1984. I am certified both as a peace officer and jail officer by the Texas Commission on Law Enforcement. I am licensed as an attorney in the State of Texas.

From 1997 to 2004, I was on the faculty at Saint Edward's University in Austin, Texas, where I taught courses on American Policing, Corrections, and Juvenile Justice. While on the faculty at Sam Houston State University from 2005 to 2008, I taught criminal justice courses including Criminal Law, Criminal Investigation, Professionalism and Ethics in Criminal Justice, Legal Aspects of Corrections, Seminar on Administration and Organization, and Legal Aspects of Criminal Justice Management. As part of the courses on the legal aspects of criminal justice management and corrections, I taught legal principles concerning the liability of criminal justice agencies for issues related to training, supervision, and the duty to not discriminate. I have also served as an instructor at the National Sheriffs' Institute on the topic of ethical leadership. I have provided instruction at numerous legal, law enforcement, and law enforcement oversight seminars on topics such as racial profiling, training, classification, security, duty to protect, search and seizure, supervision of staff, inmate rights, duty to not discriminate, and employee discipline.

IV. CONSULTANT SERVICES

A list of any cases in the past four years in which I provided testimony in court or by deposition is provided in **Appendix B**, which is attached to this report.

V. EXPERT COMPENSATION:

I am being compensated for my time at a rate of \$275.00 per hour. My compensation is not dependent on the results of my analysis or the outcome of this litigation.

VI. MATERIALS RELIED UPON

In arriving at my opinions, I reviewed the following information:

- Records of traffic stops, pedestrian stops, frisks, and searches that were conducted by MPD officers and documented in the Tiburon Records Management System (“RMS”) between 2016 and 2017 and the Traffic and Criminal Software Version 7 (“T7 TraCS”) between 2010 and 2017.⁸ In discovery in this matter, Plaintiffs requested that Defendants produce documentation about every traffic stop, pedestrian stop, and frisk conducted by MPD officers from January 1, 2008 to the present. Plaintiffs’ statistical expert, Professor David Abrams, provided me with the T7 TraCS data and a sample of the RMS data produced by Defendants in response to Plaintiffs’ request. My analysis of stop and frisk documentation was limited to Defendants’ documentation of the encounters selected for my review by Professor Abrams.⁹
- MPD written policies, procedures, and memoranda concerning the conduct, training, supervision, and monitoring of traffic stops, pedestrian stops, and frisks, including:
 - MPD Standard Operating Procedure (“SOP”) 001 – Fair and Impartial Policing (Feb. 8, 2013);
 - MPD SOP 085 – Citizen Contacts, Field Interviews, Search and Seizure (Nov. 11, 2016);

⁸ Although Defendants also produced records of stops documented in Traffic and Criminal Software Version 10, I did not analyze that data because a significant portion of the records is missing information, including the race and ethnicity of the stop subject. Thus, my analysis of TraCS data is limited to police-civilian encounters documented in T7 TraCS data.

⁹ I abide by the terms of the Confidentiality Agreement and supplemental Confidentiality Agreement governing the production of MPD in-vehicle recordings and RMS data in this case. I reviewed and signed both agreements before reviewing any information produced in discovery in this matter designated “Confidential Information” that falls within the scope of either agreement. Employees of Analysis Group, Inc. assisting me with this assignment have also reviewed and signed the general Confidentiality Agreement and the supplemental Confidentiality Agreement in force in this case, and have been instructed to abide by the terms of these agreements.

- MPD SOP 070 – Citation Procedures (Jan. 31, 2017);
 - Form PF-4 (Field Interview Card);
 - Office of Management and Planning Memorandum on Field Interviews, Consent Searches, Traffic Stop Data Collection & SSRS Reports (Dec. 18, 2015); and
 - Letter from Michael Crivello to Milwaukee Fire and Police Commission (May 5, 2016).
- In addition, I also reviewed the deposition testimony of MPD command staff and officers concerning the conduct, documentation, training, supervision, and monitoring of traffic stops, pedestrian stops, and frisks including:
 - Milwaukee Fire and Police Commission Executive Director Mary Nell Regan;
 - Former Police Chief Edward Flynn;
 - Former Assistant Chief James Harpole;
 - Former Assistant Chief Edith Hudson;
 - Director of the Milwaukee Police Department Office of Management and Planning Leslie Silletti;
 - Inspector Michael Brunson;
 - Inspector Terrence Gordon;
 - Inspector Jutiki Jackson;
 - Captain Shunta Boston-Smith;
 - Captain Nicole Davila;
 - Captain Timothy Heier;
 - Captain Diana Rowe;
 - Captain Boris Turcinovic;

- Captain Heather Wurth;
- Officer Matthew Brooks;
- Officer Andrew Farina;
- Officer Torrey Lea; and
- Officer Russell MacRae.

The opinions expressed in this report are based on my analysis of the information and materials available to me as of this date. I reserve the right to supplement my report in the event new information is produced in the case. A complete list of materials that I have relied upon for this particular assignment is included as **Appendix C**.

The opinions set forth in this report are also based on my experience as a police monitor, law enforcement administrator, law enforcement officer, and criminal justice educator; my legal education and training; my personal knowledge of the applicable amendments to the United States Constitution and the applicable provisions of the laws of the United States; and my understanding of the facts and circumstances concerning the roles of the various employees and officials of the MPD, evidenced by the materials I have examined and my personal training and experience, particularly in law enforcement.

Finally, my opinions are also based on my review and study of professional and scholarly literature regarding the duties and responsibilities of sheriffs, police chiefs, and law enforcement officers to comply with statutory and legal requirements and utilize common and best practices, the National Criminal Justice Reference Service, the Justice Quarterly, the Police Quarterly, the studies that are conducted by the Police Executive Research Forum (“PERF”), the Federal Civil Practice Bulletin, and publications of the National Sheriffs’ Association and the International Association of Chiefs of Police.

VII. SUMMARY OF CONCLUSIONS

My analyses of data on MPD police-civilian encounters and documents produced by the Defendants in this matter, as well as deposition testimony and other materials lead me to reach the following conclusions:

1. Even when substantial deference is given to the officers who conducted and recorded stops in T7 TraCS, 48 percent of traffic stop records and 59 percent of the pedestrian stop records fail to show that MPD officers conducting stops had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation. Overall, 49 percent of stop records in T7 TraCS, which corresponds to 353,045 traffic and pedestrian stops, failed to show that the stops were legally justified.
2. Even when substantial deference is given to the officers who conducted and recorded stops in RMS, based on my analysis of a sample of 2016–2017 records, 47 percent of pedestrian stop records and 15 percent of traffic stop records do not demonstrate that the MPD officer conducting the stop had individualized, objective, and articulable reasonable suspicion of criminal activity. Overall, 41 percent of stops documented in RMS fail to show that the stops were legally justified.
3. Based on my experience as a police monitor and law enforcement administrator, the findings that 49 percent of all stop records in T7 TraCS and 41 percent of all 2016–2017 stop records in RMS—the MPD’s principal stop documentation databases—fail to show legal justification for the stops demonstrates that MPD officers routinely conduct stops that are not supported by reasonable suspicion of criminal activity or a traffic or vehicle equipment violation, as required by the Fourth Amendment to the U.S. Constitution. Furthermore, based on my analysis of T7 TraCS and 2016–2017

RMS data, it is my opinion that MPD's routine conduct of unlawful stops extends to both traffic and pedestrian stops.

4. Based on the finding communicated to me by Professor David Abrams that 51 percent of all MPD police-civilian encounters recorded in RMS, including pedestrian and traffic stops, lack any information in the free response narrative about the reason for the encounter, I find that RMS records lacking any information about the reason for the stop fail to show that the stops were legally justified and demonstrates officers' routine failure to carry out their duty under MPD Standard Operating Procedure 085 to properly document pedestrian stops.
5. I further find that when officers fail to document any reason whatsoever for traffic and pedestrian stops in RMS, it is more likely than not that the officers lacked the individualized, objective, and articulable reasonable suspicion required by law to conduct the stop.
6. I also find that the high rate of MPD officers' failure to document the reasons for pedestrian and traffic stops recorded in RMS suggests that a significant portion of these improperly documented stops—if not the majority—were conducted without the individualized, objective, and articulable reasonable suspicion of criminal activity required by law.
7. Based on the finding communicated to me by Professor David Abrams that between one-half to one-third of MPD police-civilian encounters recorded from 2015 to 2017 in Traffic and Criminal Software Version 10 ("T10 TraCS") lack any information about the race or ethnicity of the stop subject, I find that MPD officers routinely fail to document race and ethnicity information about people subjected to traffic and

pedestrian stops recorded in T10 TraCS. Based on my experience as a police monitor and law enforcement administrator, I find that MPD supervisors fail to monitor whether officers complete the traffic stop documentation accurately and completely, and that this in turn demonstrates a failure by MPD leadership to ensure that stop documentation, analysis, and auditing are used to identify and correct patterns of unlawful stops.

- 8.** I also find that MPD does not provide its officers and supervisors with adequate guidance in the conduct, supervision, and monitoring of frisks to ensure that these encounters comply with constitutional standards. MPD policies, procedures, and guidelines do not require officers to document frisks or the reasons for conducting them. Professor David Abrams has found that frisks are documented sporadically, if at all, in RMS and T7 and T10 TraCS—MPD’s principal stop databases. Based on my experience as a police monitor and law enforcement administrator, I find that MPD command staff and supervisors fail to adequately supervise officers in the conduct of frisks and to ensure that frisk documentation, analysis, and auditing are used to identify and correct patterns of unlawful frisks.
- 9.** I find that the Milwaukee Police Department’s policies and practices concerning the conduct, documentation, supervision, training, and monitoring of pedestrian stops, traffic stops, and frisks fall below the generally accepted practices followed by law enforcement agencies of a comparable size and predictably lead to violations of the Fourth and Fourteenth Amendments to the U.S. Constitution.
- 10.** Finally, I find that the Milwaukee Fire and Police Commission has failed to adequately supervise and monitor the law enforcement activities of the Milwaukee

Police Department, as required by statute, including the conduct of stops and frisks, and the use of race or ethnicity as a basis for such stops and frisks.

VIII. ANALYSIS OF MILWAUKEE POLICE DEPARTMENT TRAFFIC AND PEDESTRIAN STOPS

As described above, I analyzed a sample of data on MPD officer encounters with civilians that were documented in the RMS and T7 TraCS and T10 data sets produced by Defendants to determine whether MPD officers conducting stops had individualized, objective, and articulable reasonable suspicion that the person stopped had engaged in, or was about to engage in, criminal activity or a traffic offense. Of the data produced by Defendants, I analyzed two sets of data on police-civilian encounters.

First, I analyzed police-civilian encounters documented in T7 TraCS data. T7 TraCS data consists of police-civilian encounters, including traffic and pedestrian stops, conducted from November 2010 through April 2017.

Second, I analyzed a sample of 800 police-civilian encounters from 2016 and 2017 that were documented in the RMS and T7 TraCS and T10 data produced by Defendants. In particular, Professor David Abrams produced a sample of 200 randomly selected encounters for each of four combination of race and year, with available narratives in the produced data.

A. Analysis of the Legal Sufficiency of Traffic and Pedestrian Stops Documented in T7 TraCS

1. Analysis of Stops Documented in T7 TraCS

The T7 TraCS data produced by Defendants consists of records on 823,186 police-civilian encounters. As summarized in **Exhibit 1**, information about the reason for a police-civilian encounter documented in T7 TraCS appears in at least one of four different fields: “Reason,” “Reason Detail,” “Other Reason,” and “Other Reason Detail.” Over 99 percent of all encounters recorded in T7 TraCS have information in the “Reason” field, and 95 percent have

information in both the “Reason” and “Reason Detail” fields. For the “Reason” and “Reason Detail” fields, officers must select options from a pre-defined list; for the “Other Reason” and “Other Reason Detail” fields, officers can input text of their choosing. Only 18 percent of encounters recorded in T7 TraCS have any textual information about the basis for the encounter.

Exhibit 2 shows how I determined which of the 823,186 police-civilian encounters in the T7 TraCS data were discretionary stops. A discretionary stop (whether a traffic or pedestrian stop) involves an officer’s exercise of discretion in the decision to initiate a stop. An officer exercising discretion to stop a pedestrian, cyclist, or driver must have individualized, objective, and articulable reasonable suspicion that the person has engaged in, is in the process of engaging in, or is about to engage in criminal activity or a traffic or vehicle equipment violation.¹⁰ In contrast, a non-discretionary police-civilian encounter results when an officer is given a directive to engage in an encounter with a member of the public for which the officer has no discretion in whether to comply. This is the case, for example, when an officer is directed to respond to a 911 call.

I determined whether a police-civilian encounter recorded in T7 TraCS data was a discretionary stop using information provided for the encounter in the “Reason” and “Reason Detail” fields. Specifically, if the main “Reason” given was “Traffic Stop,” “Field Interview,” or “Criminal Offense,” I considered the encounter to be a discretionary stop. I also considered the record to concern a discretionary stop if the main “Reason” given was “Dispatched Assignment,”

¹⁰ Most traffic violations and all vehicle equipment violations are civil infractions under Milwaukee ordinance. Some traffic violations are criminal offenses under Wisconsin statute or Milwaukee ordinance. Regardless of whether traffic and vehicle equipment violations are civil or criminal offenses, an officer may conduct a lawful traffic stop based on individualized, objective, and articulable reasonable suspicion of a traffic or vehicle equipment violation.

and the additional information in the “Reason Detail” field was anything other than “Burglary Investigation” or “Shooting Investigation.”¹¹ The alternate reasons for dispatched assignments signify discretionary stops because they involve an officer’s exercise of discretion in the decision to initiate the encounter with the civilian. By contrast, in my experience as a law enforcement officer and administrator, a dispatched assignment concerning a burglary investigation or shooting investigation would likely signify a non-discretionary police-civilian encounter. Finally, if the main “Reason” field did not designate the encounter as a “Traffic Stop,” “Field Interview,” “Criminal Offense,” “Dispatched Assignment,” or “Other,” I concluded, based on my experience as a law enforcement officer and administrator, that the encounter was non-discretionary.¹²

Through the process of applying these rules, I determined that 716,144 records in the T7 TraCS data involved discretionary traffic and pedestrian stops. I included these records in further analyses.

2. Methodology

I applied a set of rules and conducted a keyword search and a manual review of all discretionary stop records in the T7 TraCS data to determine whether the information documented about each stop demonstrates, or fails to demonstrate, that the MPD officer had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic offense when initiating the stop. **Exhibit 3A** summarizes each set of rules and procedures and how I applied them step-by-step. The rules I applied were such that I granted substantial deference to the officer who documented the stop, as described below.

¹¹ The alternate reasons that officers may select in the “Reason Detail” field are “Speed Violation,” “Vehicle Registration,” “Seat Belt,” “Impaired Driving,” “Vehicle Equipment Violation,” “Stolen Auto,” “Crash Investigation,” “Other Rules of the Road,” and “Special Patrol.”

¹² The other “Reason” field values are “Crash Investigation” and “Citizen Assist/Welfare Check.”

Rule #1: Stop Records Identifying “Speed Violation” or “Vehicle Registration” as a Stop Reason Demonstrate Reasonable Suspicion

The first rule I applied was to determine that any discretionary stop that an officer indicated was based on “Speed Violation” or “Vehicle Registration” demonstrated that the officer had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic violation. I made this determination regardless of whether the documentation for these stops provided any text describing the nature of the violation or confirming that the officer personally observed the alleged legal violation.

Based on this analysis alone, I found that documentation concerning 279,491 discretionary stops recorded in T7 TraCS data showed individualized, objective, and articulable reasonable suspicion, as summarized in **Exhibit 3A**. In other words, through application of the first rule, I found that records corresponding to 39 percent of all discretionary stops documented in the T7 TraCS data demonstrated that officers had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation for conducting the stops.

Rule #2: Stop Records Identifying “Vehicle Equipment Violation” as a Stop Reason Require Information About an Observable Equipment Violation to Demonstrate Reasonable Suspicion

The second rule I applied related to discretionary stops where the officer provided “Vehicle Equipment Violation” as the reason for the stop. By itself, the designation “Vehicle Equipment Violation” is not sufficient to demonstrate that the officer had individualized, objective, and articulable reasonable suspicion of a vehicle equipment violation prior to conducting a stop. For these records, I required that the officer include additional information specifying an observable equipment violation that would justify the initiation of a discretionary

stop.¹³ **Exhibit 3B** provides some examples of observable equipment violations that I determined, based on my experience as a law enforcement officer, law enforcement administrator, and lawyer, demonstrate that an officer has individualized, objective, and articulable reasonable suspicion of a vehicle equipment violation.

As illustrated by the examples identified in **Exhibit 3B**, when evaluating records identified with the reason “Vehicle Equipment Violation,” I granted substantial deference to the officer who documented the stop. For example, I determined that 5,497 records documenting vehicle equipment violation stops that specified “Brake Lights” or some variation thereof as the nature of the equipment violation demonstrated that the officer had individualized, objective, and articulable reasonable suspicion, based on the assumption that “Brake Lights” indicates one of several illegal stop lamp situations.¹⁴ Despite lacking specific and crucial details regarding the nature of the stop lamp infraction, I gave credit to the officer involved. I applied similar deference in favor of the officer when records documenting vehicle equipment violations included textual descriptions such as “Tinted Window,” “Muffler,” and “Blue Lights.” I credited all of these records as demonstrating that the officer had individualized, objective, and articulable reasonable suspicion before conducting the stop, regardless of whether there was additional information demonstrating a legal violation, such as specific information about the degree of window tint observed or measured by the officer.

¹³ As explained in **Exhibit 1**, officers may input text of their choosing about the basis for a stop in the “Other Reason” and “Other Reason Detail” fields. For records in which officers select “Vehicle Equipment Violation” for the “Reason Detail” field, officers can type in a description of an observable vehicle equipment violation in the “Other Reason” and “Other Reason Detail” fields.

¹⁴ Illegal stop lamp situations can include failure of one (or both) stop lamp(s) to illuminate, a non-red or amber stop lamp color, and stop lamps not visible from all distances up to 300 feet to the rear. *See* Wis. Stat. § 347.14 (“Stop lamps”).

When applying the second rule, I did not give officers credit for discretionary stops citing vehicle equipment violations that lacked even the sparse descriptions identified above and in **Exhibit 3B**. These include records concerning 162,839 vehicle equipment violation stops that had no textual information about the basis for the stop and 1,745 vehicle equipment violation stops that had textual information that failed to document that the officer had individualized, objective and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation. My determination that 1,745 vehicle equipment violation stop records with additional textual information failed to demonstrate the existence of reasonable suspicion was based on my manual review of the textual description provided for each stop and my experience as a law enforcement officer, law enforcement administrator, and lawyer.

Based on the second rule, I found that documentation concerning 16,654 discretionary stops recorded in T7 TraCS data showed individualized, objective, and articulable reasonable suspicion. In other words, through application of the second rule, I found that records corresponding to two percent of all discretionary stops documented in the T7 TraCS data demonstrated that officers had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation for conducting the stops as summarized in **Exhibit 3A**.

Rule #3: Grouping of Records with Common Words and Phrases to Determine Whether Text Demonstrates Reasonable Suspicion

The third rule related to common traffic violations that I encountered frequently in officers' descriptions of discretionary stops in the "Other Reason" and "Other Reason Detail" text entry fields. I applied the third rule to discretionary stop records that were not identified as "Speed Violation," "Vehicle Registration," or "Vehicle Equipment Violation," but did have free

text information about the reason for the stop.¹⁵ **Exhibit 3C** lists the most commonly encountered words and phrases in that free text, which include “no plates,” “stop sign,” and “red light.” Based on my experience as a law enforcement officer, law enforcement administrator, and lawyer, I determined that the inclusion of any of the words and phrases identified in **Exhibit 3C** was sufficient to show that the reporting officer had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation prior to making the stop. In doing so, I granted substantial deference to the officer because I did not require that the textual information also identify the particular legal violation observed or confirm that the officer personally observed the alleged violation before initiating the stop.

Through this analysis, I found that documentation concerning 23,811 discretionary stops demonstrated that the officer had individualized, objective, and articulable reasonable suspicion. In other words, through application of the third rule, I found that records corresponding to three percent of all discretionary stops documented in the T7 TraCS data demonstrated that officers had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation for conducting the stops. This information is summarized in **Exhibit 3A**.

Rule #4: Manual Analysis of Remaining Records to Determine Whether Textual Description of Reasons Demonstrate Reasonable Suspicion

I reviewed the remaining 54,801 discretionary stops manually. I grouped the records into broad topics based on the descriptions officers provided in the “Other Reason” and “Other Reason Detail” text entry fields. This facilitated my manual review by creating sets of records

¹⁵ These records include “Reason Detail” of “Seat Belt,” “Impaired Driving,” “Stolen Auto,” “Crash Investigation,” “Other Rules of the Road,” “Specialty Patrols,” and “None.” See **Exhibit 3A**.

that only differed by phrasing or misspelling, but were otherwise substantially similar. The topics I used are listed in **Exhibit 3D**.

In my manual review, I reviewed the reason and text descriptions provided by the reporting officer for each record. To count as demonstrating individual, articulable, and objective reasonable suspicion, the record needed to indicate that the reporting officer had information that legally justified the initiation of a stop, as opposed to information that would justify a stop but could only be known after a stop was initiated. For example, I determined that a record where the officer documented the reason as “Traffic Stop” and added the description “Driving Wrong Way in Traffic” demonstrates individualized, objective, and articulable reasonable suspicion. The additional detail provided for the traffic stop describes conduct observable prior to the initiation of the stop and identifies a specific legal violation that justifies a stop. On the other hand, a record where the officer recorded “Traffic Stop” as the reason and added the description “Narcotics investigation” did not meet that standard. The description “Narcotics investigation” does not indicate that the officer had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation to initiate the stop. Indeed, no suspected criminal activity is mentioned in the record.

As with my other determinations described above, I gave substantial deference to the reporting officer in my manual review of T7 TraCS stop records. I credited records with details such as “Driver Seatbelt” as showing individualized, objective, and articulable reasonable suspicion assuming the seatbelt infraction was observable to the reporting officer. Based on my experience as a law enforcement officer, however, seatbelt infractions generally are difficult to detect; and they are much more difficult to identify at night than during the day. Nevertheless, I credited records as showing that officers had individualized, objective, and articulable reasonable

suspicion if they indicated “Driver Seatbelt” as a basis for the stop, regardless of the time of day the encounter took place.

Overall, I determined that records relating to 43,143 discretionary stops subject to my manual review demonstrated that the officer had individualized, objective, and articulable reasonable suspicion. In other words, through application of the fourth rule, I found that records corresponding to six percent of all discretionary stops documented in the T7 TraCS data demonstrated that officers had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation for conducting the stops, as summarized in **Exhibit 3A**.

3. Findings

In total, based on the rules and procedures described above for analyzing information about the reasons given for traffic and pedestrian stops, I determined that 49 percent of all discretionary stops in T7 TraCS data—353,045 pedestrian and traffic stops—failed to demonstrate that officers had individualized, articulable, and objective reasonable suspicion of criminal activity or a traffic or vehicle equipment violation prior to initiating the stop. This information is summarized in **Exhibit 4**. These legally unsupported stops fall into two groups. The first group consists of 339,609 stops that were for general reasons other than a speeding violation or vehicle registration violation—“Seat Belt,” “Impaired Driving,” “Vehicle Equipment Violation,” “Stolen Auto,” “Crash Investigation,” “Other Rules of the Road,” “Special Patrol,” and/or “None”—but for which no further reason was given in the text fields. The second group consists of 13,436 stops that were for those same general reasons, but for which the additional information provided in the text fields was insufficient to show that the officer had individualized, objective, and articulable reasonable suspicion of criminal activity based upon my manual review and my experience as a law enforcement officer and administrator, as described above.

In order to disaggregate the number of legally unsupported traffic stops from the number of legally unsupported pedestrian stops, I separated discretionary stops into traffic and pedestrian stops by selecting as traffic stops all records for which the reporting officer provided “Traffic Stop” in the “Reason” field. All other discretionary stops were counted as pedestrian stops. As shown in the top panel of **Exhibit 5**, I determined that within the traffic stops documented in T7 TraCS, approximately 304,971 traffic stop records, or 48 percent, failed to provide information demonstrating that the officer had individualized, objective, and articulable reasonable suspicion of criminal activity prior to initiating the stop. As shown in the bottom panel of **Exhibit 5**, I determined that within the pedestrian stops documented in T7 TraCS, approximately 48,074 pedestrian stop records, or 59 percent, failed to provide information demonstrating that the officer had individualized, articulable, and reasonable suspicion of criminal activity prior to initiating the stop.

Based on my experience as a police monitor and law enforcement administrator, a finding that 49 percent of all stops recorded in T7 TraCS, one of MPD’s principal stop documentation databases, fail to show proof that officers had the required reasonable suspicion prior to conducting the stops is extraordinarily high. The T7 TraCS system provides officers four fields in which to describe the basis for a stop, yet almost half of all stop records documented in T7 TraCS, corresponding to 353,045 pedestrian and traffic stops, fail to show that officers were legally justified in making the stops documented. It is my opinion that this finding demonstrates that MPD officers routinely conduct stops that are not supported by reasonable suspicion of criminal activity or a traffic or vehicle equipment violation, as required by the Fourth Amendment to the U.S. Constitution, even if some of the 353,045 records correspond to stops that were, in fact, legally justified. Furthermore, it is my opinion that MPD’s routine conduct of

unlawful stops extends to both traffic and pedestrian stops based on my finding that 59 percent of all pedestrian stop records and 48 percent of all traffic stops records in T7 TraCS fail to show officers had the required reasonable suspicion prior to conducting the stops.

B. Analysis of the Legal Sufficiency of Traffic and Pedestrian Stops Documented in RMS

1. Overall RMS Data Produced by Defendants

As a threshold matter, Plaintiffs' statistical expert, Professor David Abrams, informed me that, of the 111,108 police-civilian encounters documented in the 2010–2017 RMS data produced by Defendants, 56,975 encounters had no record containing any description of the reason for the encounter, whether in the form of a code selected from a pre-defined list or a narrative description in free text. Based on this information, 51 percent of police-civilian encounters documented in RMS, including traffic and pedestrian stops, lack any information about the reason for the stop, which means that the officer who conducted the stop failed to demonstrate that he or she had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic of vehicle equipment violation before making the stop. Based on my experience as a police monitor and law enforcement administrator, I find that this is an extraordinarily high rate of failure to properly complete stop documentation as required by MPD policy. It is my opinion that the high rate of MPD officers' failure to document the reasons for pedestrian and traffic stops recorded in 2016–2017 RMS records demonstrates officers' routine failure to carry out their duty under MPD Standard Operating Procedure 085 to properly document pedestrian stops.

Moreover, based on my experience as a police monitor and law enforcement officer and administrator, I find that such a high rate of failure to provide any information about the circumstances giving rise to pedestrian and traffic stops documented in RMS raises serious concerns that a significant portion—if not the majority—of these improperly documented stops

were conducted without the individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment offense required by law. Based on my experience as a police monitor, law enforcement administrator, and law enforcement officer, when officers fail to document any reason for traffic and pedestrian stops despite a requirement to do so, it is more likely than not that the officers lacked the individualized, objective, and articulable reasonable suspicion required by law to conduct the stops.

2. RMS Sample of Police-Civilian Encounters

As mentioned above, I analyzed RMS data to determine the rate at which traffic and pedestrian stops documented in RMS fail to demonstrate that the officers conducting the stops had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment offense. Plaintiffs' statistical expert, Professor David Abrams, provided me with a sample of 800 police-civilian encounters from 2016 and 2017 from the RMS data produced by Defendants. The characteristics of the sample are summarized in **Exhibit 6**. I chose to evaluate police-civilian encounters documented in RMS in 2016 and 2017 because focusing on the most recent data allowed me to assess the current state of MPD's practices concerning stops documented in RMS.

Notably, the RMS data produced by Defendants identify stop subjects as "Black" or "white," but do not distinguish between "white" and "Latino" stop subjects. In other words, officers recording stops in RMS generally include Latino stop subjects in the "white" racial classification.¹⁶

¹⁶ See MILWAUKEE POLICE DEP'T, FIELD INTERVIEWS, CONSENT SEARCHES, TRAFFIC STOP DATA COLLECTION & SSRS REPORTS (Dec. 18, 2015) (MKE_0312367) ("Tiburon Field Interview Cards do not capture Hispanic ethnicity. Therefore, officers enter Hispanic individuals as White.").

The narrative descriptions associated with the 800 police-civilian encounters in the RMS data sample vary in length considerably: while some narratives only contain a few characters, others contain paragraphs of text describing the police-civilian encounter.

3. Methodology

I manually reviewed the narratives for each of the 800 police-civilian encounters in the RMS sample and applied the following methodology to evaluate the encounters. First, I determined whether a stop involved a single individual or multiple individuals, and limited the remainder of my analysis to 551 encounters that only involved a single individual in order to avoid ambiguity over which individual was the target of the stop.¹⁷ Second, based on the information provided about each encounter, I determined whether or not the encounter was a discretionary stop, and I limited the remainder of my analysis to those discretionary stops of single individuals. As shown in **Exhibit 6**, I concluded that there were 485 discretionary stops that involved a single subject. Third, I determined whether the discretionary stop concerned a traffic stop or a pedestrian stop. Based on my review, of the 485 discretionary stops, 388 were pedestrian stops and 97 were traffic stops. This information is summarized in **Exhibit 7**.

I reviewed all of the narrative information provided in data produced by Defendants for each of the 485 discretionary stops identified to determine whether the information demonstrated the officer had individualized, objective, and articulable reasonable suspicion that the individual stopped had engaged in, or was about to engage in, criminal activity or a traffic or vehicle equipment violation. As with my analysis of T7 TraCS, I required that the narratives in the RMS sample demonstrate that the officer had information that legally justified the initiation of a stop,

¹⁷ I also excluded two records that were exact duplicates of other records.

as opposed to information that would justify a stop but could only be known after a stop was initiated.

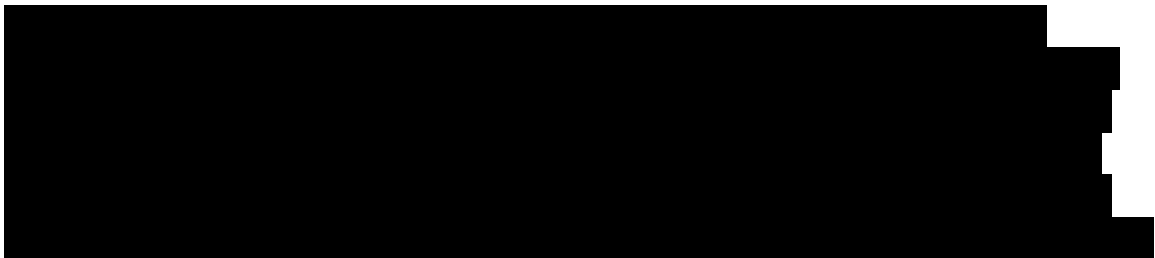
As an example, consider the following excerpt from an RMS narrative, which I conclude demonstrates the reporting officer had individualized, objective, and articulable reasonable suspicion for the stop:

A large rectangular area of text is completely redacted with black ink. The redaction covers the entire content of the paragraph it is intended to represent.

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Here, the reporting officer describes his observation of a license plate and stop lamp infraction that legally justified the initiation of the traffic stop. Other narrative descriptions that I determined were demonstrative of individualized, objective, and articulable reasonable suspicion include truancy reports, various traffic violations or rules of the road, illegal loitering at a specified location, and vehicle registration infractions, among others. In making determinations for each of these stops, I gave substantial deference to the reporting officer.

The following narrative, alternatively, is an example of an unjustified stop wherein the reporting officer failed to articulate that individualized, objective, and reasonable suspicion of criminal activity existed prior to the initiation of the stop:

A large rectangular area of text is completely redacted with black ink. The redaction covers the entire content of the paragraph it is intended to represent.

¹⁸ See MKE_0609290, Master Key Field 661543327041HPQGJS1 Report No 161150126.

In this case, the reporting officer conducted a field interview of a driver in a vehicle “running on at” a specific address, which the officer does not identify as the address of a commercial property. The mere fact that a driver is sitting in a vehicle with the engine running in front of a residential address is insufficient to support individualized, objective, and articulable reasonable suspicion that the driver was engaged in or is about to engage in criminal activity. The reporting officer found evidence of criminal activity, but only after initiating a field interview stop that lacked the reasonable suspicion required by law. Accordingly, I determined that this record and other similar records of stops in the RMS data did not demonstrate that the officer had legal justification to conduct the stop.

Other narratives included much less information and appear to be discretionary stops of civilians for which the officer failed to document any suspicion of illegal activity before or after initiating the stop. Consider the following brief narrative of a pedestrian stop in RMS, for which the record provides no indication that contraband was recovered or an arrest ensued: [REDACTED]

[REDACTED]²⁰ While loitering can be an infraction that justifies the initiation of a legal stop, this is only true when alleged loitering takes place in a particular location as specified by the ordinance. Here, the officer failed to document crucial details that would justify the stop, such as a specific location where loitering is prohibited. Furthermore, the inclusion of irrelevant personal information regarding the civilian demonstrates that the officer had the time and ability to document detailed information. The officer’s failure to document the appropriate and

¹⁹ See MKE_0609290, Master Key Field 664837221041HQMHJS1 Report No 161530178.

²⁰ See MKE_0601170, MAST_REL 683604982041693DFB2 CALL 170020846.

necessary details for a legal stop demonstrates a disregard for basic legal policing practices. Accordingly, I determine that this stop and others like it with similarly insufficient documentation fail to demonstrate that the reporting officer had the individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation necessary for the initiation of a legally justified stop.

4. Findings

Based on my analysis, I found that 197 of the 485 discretionary stops documented in a sample of 2016–2017 RMS data failed to demonstrate that the officer had individualized, objective, and articulable reasonable suspicion of criminal activity or a traffic or vehicle equipment violation prior to conducting the stop. Based on this finding, it is my opinion that approximately 41 percent of all stops documented in the 2016–2017 RMS sample fail to show that the stops were legally justified. As shown in **Exhibit 7**, within the set of discretionary traffic stops in the 2016–2017 RMS sample, approximately 15 percent did not have sufficient documentation to demonstrate the officer had individualized, objective, and articulable reasonable suspicion. Furthermore, within the set of discretionary pedestrian stops in 2016–2017 RMS sample, approximately 47 percent did not have sufficient documentation to demonstrate the officer had individualized, objective, and articulable reasonable suspicion.

Based on my experience as a police monitor and law enforcement administrator, a finding that approximately 41 percent of the RMS sample of stops I reviewed fail to show proof that officers had the required reasonable suspicion prior to conducting the stops is extraordinarily high.. The RMS system permits officers to provide a narrative description of the basis for the stop. Yet, based on an analysis of a sample of the most recent RMS records produced by Defendants, more than 40 percent of the stop records I reviewed fail to show that officers were legally justified in making the stops documented. It is my opinion that this finding demonstrates

that MPD officers routinely conduct stops that are not supported by reasonable suspicion of criminal activity or a traffic or vehicle equipment violation, as required by the Fourth Amendment to the U.S. Constitution, even if some of the records analyzed correspond to stops that were, in fact, legally justified. Furthermore, it is my opinion that MPD's routine conduct of unlawful stops extends to both traffic and pedestrian stops, based on my finding that 49 percent of all pedestrian stop records and 15 percent of all traffic stops records analyzed in the sample fail to show officers had the required reasonable suspicion prior to conducting the stops.

IX. ANALYSIS OF MILWAUKEE POLICE DEPARTMENT POLICIES AND PRACTICES

A. Methodology

In addition to analyzing the stop data described above, I reviewed MPD written policies, procedures, and memoranda, as well as deposition testimony by MPD command staff, captains, and officers concerning the conduct, training, supervision, and monitoring of traffic stops, pedestrian stops, and frisks by MPD officers. Based on my review of these materials and my own education, training, and experience as a police monitor, law enforcement administrator, and law enforcement officer, I evaluated whether the MPD provides adequate guidance, supervision, training, and monitoring to ensure that the conduct of traffic stops, pedestrian stops, and frisks are conducted in compliance with Fourth and Fourteenth Amendment requirements.

I conclude that the Milwaukee Police Department's policies and practices concerning the conduct, documentation, supervision, training, and monitoring of pedestrian stops, traffic stops, and frisks fall below the generally accepted practices followed by law enforcement agencies of a comparable size, and predictably lead to violations of the Fourth and Fourteenth Amendments to the U.S. Constitution.

B. Analysis

1. MPD officers are provided inadequate guidance, supervision, and training to ensure that traffic and pedestrian stops comply with constitutional standards.

A pedestrian stop occurs when a law enforcement officer stops an individual and detains the individual to question them about what they are doing and/or why they are in a particular place. A traffic stop occurs when a law enforcement officer stops an individual and detains them for the purpose of determining whether they have committed a traffic offense or a vehicle equipment violation, or to investigate a crime. It is imperative to recognize, however, that traffic and pedestrian stops of civilians by law enforcement officers, regardless of whether they are lawful, are intrusive encounters that can inspire fear and have a negative impact on the individual stopped. For this very reason, the Fourth Amendment to the U.S. Constitution permits an officer to conduct a traffic or pedestrian stop only when the officer has individualized, objective, and articulable reasonable suspicion that the person stopped has committed, or is about to commit, a crime or traffic or vehicle equipment violation.²¹

Due to the intrusive nature of stops, it is vital for law enforcement agencies to control the use of stops by providing guidance and training as to what constitutes individualized, objective, and articulable reasonable suspicion, how to overcome the effect of implicit bias when making the decision as to whether an individualized, objective, and articulable basis for reasonable suspicion exists, and circumstances that do not give rise to individualized, objective, and articulable reasonable suspicion.

Based on my experience as a police monitor and law enforcement administrator and officer, it is my opinion that MPD does not provide its officers and supervisors with adequate

²¹ An exception to the probable cause requirement contained in the Fourth Amendment is carved out for traffic stops and pedestrian stops because these encounters are for the specific purpose of determining whether the person stopped has committed, or is about to commit, a crime or traffic or vehicle equipment offense, and are to last only for a limited time.

guidance in the conduct, documentation, supervision, and monitoring of traffic and pedestrian stops to ensure that these encounters comply with constitutional standards. Specifically, I found that MPD officers are encouraged by their supervisors and top officials of MPD to engage in highly proactive traffic enforcement and pedestrian stops, which results in significant pressure on officers to increase stop numbers, but are not provided with adequate guidance as to how to execute those activities in compliance with constitutional law. Nor are officers provided sufficient guidance as to how to document the basis for the stops in a manner that allows for supervisory officers or command staff to determine whether stops are being conducted lawfully and in compliance with MPD policy. Moreover, I find that in the absence of such guidance, the pressure to increase stop numbers itself will lead to stops that are not supported by reasonable suspicion and/or are instead the result of racial or ethnic profiling.

2. Officers are pressured to conduct large numbers of traffic and pedestrian stops.

Based on my review of documents and deposition testimony below, I find that MPD officers face significant pressure from supervisors and command staff to conduct large numbers of traffic and pedestrian stops and that, over time, this pressure has developed into an informal quota system. In order for an informal quota system to exist, it is not necessary that there be a minimum number of stops mandated. An informal quota system can result from pressure from command staff or supervisors to increase the number of stops. I reviewed the May 5, 2016 letter from Milwaukee Police Association President Michael Crivello to the Defendant Milwaukee Fire and Police Commission protesting the imposition of an “absolute quota” requiring MPD officers to conduct at least two traffic stops per day.²² Mr. Crivello explained that this requirement was

²² Letter from Michael V. Crivello, President, Milwaukee Police Association to Fire and Police Commission, May 5, 2016, http://www.city.milwaukee.gov/ImageLibrary/Groups/cityFPC/agendas5/160728_III_D.pdf (“Crivello Letter”).

announced at a MPD CompStat meeting in March 2016 and that “[f]or those that did not comply, they could expect progressive discipline up to and including termination.”²³ Mr. Crivello’s letter raised concerns that the two-traffic-stops-per-day quota was harmful because “basically, stops must be made to preserve employment, rather than to facilitate public safety.”²⁴ Mr. Crivello’s letter noted that “Roll Call guidance specifically directed those who were not meeting the requirement should stop vehicles on the way to assignments,” and protested that “it is simply wrong, inappropriate, and without value to mandate quantity of stops over quality.”²⁵ In addition to a quota on traffic citations constituting a violation of state law, a quota often leads to officers making stops to meet the quota regardless of whether reasonable suspicion for the stop exists.

In my experience as a police monitor and law enforcement administrator and officer, I interpret Mr. Crivello’s letter to suggest that some MPD officers perceive there to be a quota, formal or informal, for traffic stops and pedestrian stops, and that officers will face unfavorable consequences for non-compliance. At the very least, it should raise a concern that the pressure placed on officers to increase the number of traffic stops and pedestrian stops is being interpreted as a quota. In my experience as a police monitor and law enforcement administrator and officer, this concern about the existence of an informal quota should have been investigated by MPD command staff and the Milwaukee Fire and Police Commission, which is charged with oversight of the MPD.

No such investigation ever took place. The member of the MPD command staff that

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

would conduct such an investigation, Inspector Michael Brunson, testified that he did not feel there was a need to investigate whether there was a quota or the perception of a quota and did not speak to officers or conduct a survey to determine the extent of the belief.²⁶ This failure to investigate was despite Inspector Brunson's admission that he was "sure . . . that there are officers who do believe there's a quota in place."²⁷ In my experience, this was an inadequate response to MPD officers and the head of the Milwaukee Police Association regarding an issue of serious concern that would promote the conduct of unlawful stops.

Deposition testimony by MPD command staff and officers substantiate Mr. Crivello's statement that that MPD command staff exerted significant pressure on officers to conduct large numbers of traffic and pedestrian stops. Testimony provided by Chief Flynn and other MPD command staff demonstrates that they encourage traffic stops as a method of suppressing non-traffic crime. It is the MPD's position that concentrating policing efforts in areas where there are a high number of automobile accidents and making visible traffic stops causes a decline in crimes, including robberies, stolen vehicles, and non-fatal shootings.²⁸ For example, an MPD captain testified, "Traffic stops serve other functions, in the fact that the visibility in a car that's being stopped with red lights, it deters crime So just the occupying of a street with bright lights proves that inhibits crime from happening, just based on visibility."²⁹ MPD policy itself also encourages highly visible traffic stops.³⁰ Command staff routinely review the number of

²⁶ Deposition of Michael Brunson, at 102:24–103:3; 103:8–12; 104:2–6.

²⁷ Deposition of Michael Brunson, at 103:17–19.

²⁸ See Deposition of Edward Flynn, at 56:23–57:2; 58:10–15; Deposition of James Harpole, at 77:3–16.

²⁹ Deposition of Timothy Heier, at 35:22–36:8.

³⁰ See MILWAUKEE POLICE DEP'T, STANDARD OPERATING PROCEDURE: 070 – CITATION PROCEDURES 070.10 (Jan. 31, 2017). ("Members are encouraged to initiate traffic enforcement activities as high visibility is the greatest

traffic stops that officers conduct and pressure officers to conduct more stops. A former captain of MPD District 2 testified that she would regularly look at an officer's "volume of traffic stops" given the "expectation [she] had of every officer [] that they would contribute in some fashion to the mission of the district and to the department."³¹

Indeed, Assistant Chief Harpole testified that he expected officers under his command to conduct traffic stops in order to show they were being productive and to "produce something for the pay they earn."³² Numerous supervisors and officers testified during depositions that the number of traffic stops and pedestrian stops was a recurring point of discussion at CompStat meetings and roll calls. One captain noted that he became aware of individual officers' low stop numbers through CompStat presentations, and that he would check in with officers a few weeks later to see if they were doing traffic stops with their unobligated time.³³ An MPD officer testified that a target number of stops to "shoot[] for" would be provided to officers "every period when the CompStat came out."³⁴ Similarly, one officer testified that the Anti-Gang Unit ("AGU") was told to get their traffic stop numbers up on numerous occasions.³⁵ That officer also testified that he remembered two conversations where he was spoken to by a supervisor about getting his numbers up, and he was told that if he did not do so, he would be taken off the AGU assignment and would go back to being an ordinary patrol officer.³⁶ Another officer

deterrent to traffic violations.").

³¹ Deposition of Heather Wurth, at 130:7–20.

³² Deposition of James Harpole, at 308:8–9.

³³ Deposition of Boris Turcinovic, at 145:18–146:19.

³⁴ Deposition of Matthew Brooks, at 85:4–11.

³⁵ Deposition of Matthew Brooks, at 83:5–7.

³⁶ Deposition of Matthew Brooks, at 84:10–24.

testified that he had once been told in an interview that “your field interviews are -- are down, so try to conduct more field interviews.”³⁷ That same officer stated that a discussion of numbers was a common part of his experience as a police officer, that those numbers came up in meetings with supervisors, and that some of his fellow officers had expressed feelings of being upset over their evaluations when they were told that their numbers were not good enough.³⁸

3. MPD officers are provided inadequate guidance and training to ensure that traffic and pedestrian stops comply with constitutional standards.

Based on my 42 years of law enforcement experience, traffic and pedestrian stops involve the exercise of a great deal of officer discretion and a high potential for abuse of that discretion. The likelihood of abuse is greater in jurisdictions where officers are pressured to increase stop numbers or are subject to quotas or performance metrics that evaluate them based on the numbers of stops. To ensure that officers do not abuse this discretion, the common and best practice is for the law enforcement agency to provide clear guidance to its officers as to how to conduct lawful traffic and pedestrian stops. For example, officers should receive guidance about when a traffic or pedestrian stop is legally justified, what circumstances alone do not justify subjecting an individual to a stop, and which traffic and non-traffic offenses more frequently lead to stops that are not justified under the law. Equally important, if not most important, is that guidance needs to address ways to ensure that stops are based on objective and individualized interpretations of behavior, as opposed to race or ethnicity.

Effective guidance normally comes in the form of written policy, directives, training, and ongoing supervision. MPD is deficient in this area.

³⁷ Deposition of Andrew Farina, at 49:17–19.

³⁸ Deposition of Andrew Farina, at 50:17–51:9.

MPD Standard Operating Procedure 085 - Citizen Contacts, Field Interviews, Search and Seizure (SOP 85) is the central policy that provides guidance to officers on the lawful conduct of traffic stops, pedestrian stops, and frisks, among other things. The policy indicates that pedestrian stops may only be conducted when an officer has “reasonable suspicion that the subject(s) has committed a crime, is in the process of the commission of a crime or may commit a crime.”³⁹ It further defines “reasonable suspicion” as “[a]rticulable facts that, within the totality of the circumstances, lead a police member to reasonably believe that criminal activity has been, is being, or is about to be committed.”⁴⁰ The policy does not, however, make clear that an officer must be able to articulate *individualized* and *objective* reasonable suspicion before conducting a pedestrian stop. These standards are important, however, because the measure is whether an officer had an objectively reasonable belief that the individual stopped had committed or was about to commit a crime due to that particular person’s actions. Because SOP 085 does not indicate that reasonable suspicion must be individualized and objective, it allows for different standards to be applied based on the individual officer and increases the potential that bias against a racial or ethnic group will influence the decision to conduct a pedestrian stop. This deficiency in SOP 085 leads to officer confusion about the correct standard for a pedestrian stop. For example, a patrol officer testified that he would conduct a pedestrian stop based on whether he “suspected that something was wrong, something didn’t look right to [him], [or there was] something that caused suspicion for [him].”⁴¹

³⁹ MILWAUKEE POLICE DEP’T, STANDARD OPERATING PROCEDURE: 085 – CITIZEN CONTACTS, FIELD INTERVIEWS, SEARCH AND SEIZURE at 085.20 (Nov. 11, 2016) [hereinafter SOP 085] .

⁴⁰ *Id.* at 085.05.

⁴¹ Deposition of Torrey Lea, 32:23–25.

SOP 085 also sets out the following exceptionally broad criteria for officers to use to determine who should be subjected to a pedestrian stop, without making clear that any of these factors alone may be insufficient to demonstrate individualized, objective, and articulable reasonable suspicion of criminal activity:

1. The appearance or demeanor of an individual suggests that he or she is part of a criminal enterprise or is engaged in a criminal act.
2. The actions of the subject suggest that he or she is engaged in a criminal activity.
3. The hour of day or night is inappropriate for the subject's presence in the area.
4. The subject's presence in a neighborhood or location is inappropriate.
5. The subject is carrying a suspicious object.
6. The subject's clothing bulges in a manner that suggests he or she is carrying a weapon.
7. The subject is located in proximate time and place to an alleged crime.
8. The police member has knowledge of the subject's prior criminal record or involvement in criminal activity.
9. The individual flees at the sight of law enforcement.⁴²

The specific criteria identified above are highly problematic because they are likely to lead to unlawful stops if any one of these factors alone is assumed to be enough to give rise to individualized, objective, and articulable reasonable suspicion. There was disagreement even among the MPD command staff about certain factors, such as the factor concerning an individual's "inappropriate" presence in a neighborhood or location. Assistant Chief Harpole testified that an officer's reliance on an individual's presence in a neighborhood alone could lead an officer to rely solely on the individual's race for reasonable suspicion.⁴³ Inspector Terrence Gordon testified that he did not understand why presence in neighborhood being inappropriate would even be a listed factor in SOP 085.⁴⁴ Inspector Michael Brunson testified that race alone, such as someone being of a different race than the majority of the neighborhood is not enough

⁴² SOP 085.20.

⁴³ Deposition of James Harpole, 204:20–24.

⁴⁴ Deposition of Terrence Gordon, at 105:11–16.

alone to justify reasonable suspicion.⁴⁵ Captain Boris Turcinovic testified that an officer could have a “consensual contact” with someone who met a suspect description as a “black male[], medium build,” but “to sit there, stop and detain somebody, you need to have more than simply his or her race.”⁴⁶

SOP 085 also indicates that an MPD officer is permitted to conduct a traffic stop when the officer has “reasonable suspicion for a traffic or equipment violation,” “reasonable suspicion that a driver or passenger has committed, is committing, or is about to commit a crime,” or “probable cause to arrest a driver or passenger for a crime.” Again, SOP 085 fails to make clear that traffic stops must be based on “individualized,” “objective,” and “articulable” reasonable suspicion of criminal activity or a traffic or equipment violation. While the standard is fairly easy to satisfy when the traffic stop is being made due to an observable violation of the traffic or vehicle equipment statutes or ordinances (i.e., speeding, ran stop sign, broken taillight), the “individualized,” “objective,” and “articulable” components of reasonable suspicion are important when there is not an observable violation of those laws and the vehicle is being stopped to investigate whether the driver or occupants have committed, or are about to commit, an offense other than a traffic or vehicle equipment offense.

More significantly, SOP 085 explicitly encourages MPD officers to engage in pretextual traffic stops. These factors, combined with the pressure to increase stop numbers, can lead to stops that are not sufficiently supported by reasonable suspicion and/or stops that are based on racial or ethnic stereotypes or profiling. This emphasis on pretextual stops, coupled with the pressure from supervisors and command staff to increase stop numbers, has the strong potential

⁴⁵ Deposition of Michael Brunson, at 146:21–23.

⁴⁶ Deposition of Boris Turcinovic, at 259:17–24.

for resulting in situations where officers stop individuals without individualized, objective, and articulable reasonable suspicion—raising significant constitutional concerns.

As evidenced by the deposition testimony of various MPD command staff, including the chief, it is apparent that MPD officers do not receive adequate guidance or training on the factors that must be present for a traffic or pedestrian stop to be lawful. One officer testified that reasonable suspicion is less than probable cause, “more of like a hunch that criminal activity is afoot.”⁴⁷ Another officer indicated that he could not recall having ever received training on when something should be considered suspicious after his time in the training academy and could not recall having ever reviewed SOP 085. That same officer believed that it was appropriate to conduct a field interview of someone because he did not recognize that person, and that person was in a neighborhood that was familiar to the officer.⁴⁸ A third officer stated that he believed all *Terry* stops involved a frisk of the individual being stopped.⁴⁹ This same officer stated that the only difference between a field interview and a “casual encounter” was whether he exited his vehicle to talk to the individual.⁵⁰ A fourth officer testified that he did not believe all field interviews had to be justified by reasonable suspicion, and that he understood this to be department policy.⁵¹

Additionally, testimony from several MPD officers shows that officers routinely abuse the discretion given to them. One officer testified that, in deciding which vehicles to pull over

⁴⁷ Deposition of Matthew Brooks, 32:21–22.

⁴⁸ Deposition of Torrey Lea, at 79:3–17.

⁴⁹ Deposition of Russell MacRae, at 55:12–56:6.

⁵⁰ Deposition of Russell MacRae, at 34:17–24.

⁵¹ Deposition of Andrew Farina, at 118:4–16.

for a traffic stop, his decision “depends [on] if I want to pull them over or not,” because he “feel[s] like making a traffic stop because I’m, I don’t know, looking for something to do and I see someone violating state or city ordinance in front of me.”⁵² Because of the large number of potential ordinances that any individual driver might accidentally or briefly violate, it is easy for these officers to find a reason to stop someone if they have decided they would like to do so. An MPD captain testified, “[t]here is probably -- I’m not going to say hundreds, but there are a lot of different equipment violations which would be a reason anybody could stop a car.”⁵³ An officer testified that he could “[e]asily” find a reason to stop someone if he followed them for a short period of time because of the “[h]undreds of reasons” for which an officer may conduct a traffic stop.⁵⁴ Testimony from Chief Flynn supports the perception at all levels of MPD that “it’s easy to find those lawful violations and to justify a lawful stop” if an officer wants to do so.⁵⁵

When officers decide they want to stop a particular individual—regardless of whether they have objective, individualized, and articulable reasonable suspicion of criminal activity—and then look for a basis for the stop, the entire interaction has the potential to be tainted. The officer is more likely to view behavior that does not violate the law as a basis for a stop. Even more importantly, the officer is more likely to make stops which disparately impact groups or individuals due to implicit bias among officers.

Based on my experience as a police monitor, law enforcement administrator, and law enforcement officer, the lack of sufficient guidance and training for MPD officers on the conduct

⁵² Deposition of Russell MacRae, at 45:5–6, 12–16.

⁵³ Deposition of Timothy Heier, at 53:16–19.

⁵⁴ Deposition of Russell MacRae, at 156:5–10.

⁵⁵ Deposition of Edward Flynn, at 188:13–18.

of stops increases the possibility that officers will exercise discretion in a discriminatory manner. Professional literature in this area makes clear that, without guidance, bias, whether it be overt or implicit, is likely to influence a law enforcement officer's actions.⁵⁶ Officers who are told they need to increase stop numbers, and are not given sufficient guidance regarding actions to take in response to certain traffic offenses, are more likely to target someone for whom there is no individualized, objective, and articulable reasonable suspicion of wrongdoing, and/or someone against whom they are biased.

4. MPD officers fail to properly document the basis for traffic and pedestrian stops despite a clear requirement to do so.

a. Pedestrian Stops

SOP 085 requires officers to document every pedestrian stop that does not lead to an arrest or citation in an electronic system referred to as the "Tiburon FI module." An officer may enter information about the stop directly into the Tiburon FI module.⁵⁷ Alternatively, the officer may write information about the stop onto a "yellow FI card (form PF-4)," which is then submitted to a supervisor for review for completion and accuracy.⁵⁸ A copy of the FI card produced by Defendants is attached as **Appendix D** to this report. After supervisory review for accuracy and completion, information about the stop is entered into the Tiburon FI module within 72 hours.⁵⁹ According to SOP 085, supervisors who find FI forms to be "incomplete or inaccurate" are required to return the forms to the officer who completed them for correction and

⁵⁶ L. Song Richardson, *Arrest Efficiency and the Fourth Amendment*, 95 MINN. L. REV. 2035 (2011).

⁵⁷ SOP 085.

⁵⁸ *Id.* at 085.20.

⁵⁹ *Id.*

resubmission within 24 hours.⁶⁰

Despite the clear requirement in SOP 085 to document all pedestrian stops that do not lead to an arrest or citation, MPD reports and deposition testimony demonstrate that MPD officers have long failed to properly document information about pedestrian stops, including the ethnicity of the person stopped and the basis for the stop. Captain Terrance Gordon sent an email in 2013 which attached an analysis of the percentage of pedestrian stops that were being entered into the RMS Tiburon module.⁶¹ The percentages were extremely low and no district was completing entries at a rate higher than 10 percent.⁶² District 7's completion rate was six percent and District 5's completion rate was four percent.⁶³

b. Traffic Stops

Similarly, MPD policy requires that officers document information about traffic stops in the TraCS database.⁶⁴ The form used to collect the information seeks information about "Driver Race/Ethnicity" as well as the "Reason for Stop," "Detailed Reason," "Other Reason," and "Other Detailed Reason," as explained above in Section VIII.A. The form is excerpted below and is provided in **Appendix E**. The T10 TraCS manual discussing the current electronic form in use is provided in **Appendix F**.

⁶⁰ SOP 085 at 085.20.

⁶¹ E-mail from Terrence Gordon, Captain, Milwaukee Police Dep't to Thomas Stigler et al (June 22, 2013) (electronic attachment "District-FI Completion.pdf") (produced by Defendants) (MKE_0053231).

⁶² See Deposition of Michael Brunson, at 168:16–25; Deposition of Jutiki Jackson, at 149:13–21.

⁶³ See Deposition of Boris Turcinovic, at 238:5–17.

⁶⁴ "As of January 1, 2011, all self-initiated traffic stops conducted by sworn Law Enforcement require the completion of the new Traffic Stop Data Collection form in TraCS." Memorandum from Michael Massa, Captain, Central Records Div. to All DABS (January 4, 2011) (produced by Defendants) (MKE_000683); see Memorandum from Regina Howard, Captain, Office of Mgmt., Analysis and Planning (OMAP) to All Dep't Members (Nov. 25, 2013) (MKE_0006835)

WISCONSIN TRAFFIC STOP DATA COLLECTION FORM

TSDC01

| | | |
|------------------------------------|--|----------------------------------|
| Document Number 489742S1 | Police Number ENTER CAD NUMBR HERE | Report Date 05/28/2014 |
|------------------------------------|--|----------------------------------|

| | | | | | | |
|---|---------------------------|-------------------------------|----------------------------|--|----------------------------|------------------------|
| 3 - Date of Stop | | 4 - Time of Stop | | | | |
| 5 - County | | 6 - Municipality | | | | |
| 7 - On Hwy # | 7 - On Hwy Dir | 7 - On Street Name | | Est. Dist | Est. Dist. Dir | |
| 8 - From/At Highway # | 8 - From/At Hwy Dir | 8 - From/At Street Name | | | | |
| 9 - Roadway Type | | | | | | |
| 10 - Latitude | | | 11 - Longitude | | | |
| Agency Space | | | | | | |
| 12 - License Plate # | 13 - Plate Type | 14 - State | 15 - Expiration Year | 16 - Body Style | 17 - Color | 18 - Vehicle Year |
| 19 - Make Code | | 19 - Make Description | | 20 - Model Code | | 20 - Model Description |
| 21 - # Of Passengers Observed (Driver Excluded) | | Tot Pass Searched/Consent Req | | 22 - At Least One Non-White Passenger Observed | | |
| 23 - Driver Zip Code | 24 - Driver Date of Birth | Driver Age | 25 - Driver Sex | | 26 - Driver Race/Ethnicity | |
| 27 - Reason for Stop | | | 28 - Detailed Reason | | | |
| 27 - Other Reason for Stop | | | 28 - Other Detailed Reason | | | |
| 29 - Event Outcome | | | | 30 - Event Duration | | |

| | | |
|-----------------------|-------------------------------------|-------------------------|
| Vehicle Search | 31 - Consent Requested NO | 34 - Search Basis |
| | 32 - Consent Received NO | |
| | 33 - Search Conducted NO | 34 - Other Search Basis |
| | 35 - Contraband Found | |
| | 35 - Other Contraband | |
| Driver Search | 36 - Consent Requested NO | 39 - Search Basis |
| | 37 - Consent Received NO | |
| | 38 - Search Conducted NO | 39 - Other Search Basis |
| | 40 - Contraband Found | |
| | 40 - Other Contraband Found | |

Despite the clear requirement to document race and ethnicity information about traffic stops in TraCS, MPD officers routinely fail to do so. The current version of TraCS in use by the MPD is T10 TraCS. Defendants produced T10 TraCS data in response to Plaintiffs' discovery request in this case. Professor Abrams communicated to me that one-third to one-half of all traffic stops documented in T10 TraCS between 2015 and 2017 lack information about the race and ethnicity of the individual stopped. Based on my experience as the Police Monitor for the City of Austin, the large percentage of T10 TraCS data that lacks information about the race and ethnicity of the individual stopped indicates that MPD supervisors failed between 2015 and 2017 to monitor, and currently are not monitoring, whether officers complete the traffic stop documentation accurately and thoroughly. Furthermore, based on my experience as a police monitor, this failure to consistently document the race and ethnicity of traffic stop subjects also demonstrates that MPD command staff have not made accurate stop documentation a priority.

5. MPD supervisors provide inadequate supervision of officers who conduct traffic and pedestrian stops to ensure that stops comply with the law and are properly documented.

My review of the documents, data, and deposition testimony in this case lead me to conclude that MPD supervisors routinely fail to properly supervise officers who conduct traffic and pedestrian stops to ensure that stops are justified by individualized, objective, and articulable reasonable suspicion of criminal activity and are properly documented so as to permit supervisory review.

First, MPD supervisors do not ensure that pedestrian stops are properly documented. For example, there is no indication that MPD sergeants or lieutenants routinely review FI cards and instruct officers who submitted incomplete or inaccurate cards to make corrections and resubmit cards with complete information within 24 hours, despite the fact that such review and correction

is required by MPD SOP 085. A former MPD captain testified that in her role as a Lieutenant she did not review FI cards, and in her role as District 2 Captain she “may have occasionally looked at a field interview card just to ensure that it was entered.”⁶⁵ Another MPD supervisor noted that she regularly receives a form listing how many stops occurred and how many FI cards were submitted, and she only did “spot checks” on the FI cards to ensure they were entered into the system.⁶⁶ Rather, the record shows high rates of noncompliance with pedestrian stop documentation requirements. An MPD captain testified that as of 2013 the highest completion rate of FI cards in any MPD district was a mere six percent.⁶⁷ One patrol officer, who admitted to having a low completion rate of FI cards, testified that he could not recall ever having been spoken to by a supervisor for filling out an incomplete FI card or completely failing to submit an FI card.⁶⁸

Second, there is no indication that MPD supervisors ever review traffic stop data to ensure that traffic stops are properly documented and performed. There is no indication that supervisors seek to review stop documentation or have conversations with officers who conduct stops to determine whether those stops were conducted in compliance with the prohibition against the use of race or ethnicity absent an individual suspect description and the legal requirement for individualized, objective, and articulable reasonable suspicion of criminal activity. At most, MPD supervisors look at the number of traffic stops conducted by their subordinates, as opposed to whether individual stops were justified by reasonable suspicion or

⁶⁵ Deposition of Heather Wurth, at 182:6–13.

⁶⁶ Deposition of Shunta Boston-Smith, at 46:25–47:9.

⁶⁷ Deposition of Boris Turcinovic, at 238:5–17.

⁶⁸ Deposition of Torrey Lea, at 59:25–60:13.

whether there are any racial or ethnic disparities in the individuals stopped by a particular officer—or the Department as a whole—that would raise concerns.⁶⁹ This is despite the recognition that without training, oversight, and supervision, officers have a tendency to conduct stops even when they are not legally allowed to do so.⁷⁰ Similarly, MPD supervisors do not provide appropriate supervision to ensure that stop documentation is completed by officers who conduct stops. Line officers “continue to struggle” with filling out the required documentation for pedestrian stops, which is a problem that has persisted within MPD “for years.”⁷¹ Despite this lingering and recognized problem, Inspector Jackson acknowledged that he knew of no effort to correct the deficiency in the documentation of pedestrian stops nor any discipline which had been given to any individual officer for the failure to complete required stop documentation.⁷²

Third, the lack of proper, complete pedestrian and traffic stop documentation raises serious concerns about inadequate supervision to ensure that stops are conducted lawfully. According to MPD deposition testimony, the role of supervisors is to look for the legal sufficiency in the reports provided by individual officers. It is Chief Flynn’s opinion that determining reasonable suspicion for traffic stops is “fairly straight forward.”⁷³ The main problem with this approach is that if stops are not documented at all, or documented in a manner that fails to identify with sufficient detail the bases for stops and the demographic information on the individual stopped, it is impossible for the supervisor to ensure that the officer in fact had

⁶⁹ Deposition of Terrence Gordon, at 73:4–14.

⁷⁰ Deposition of Terrence Gordon, at 127:4–10.

⁷¹ Deposition of Michael Brunson, 170:15–18.

⁷² Deposition of Jutiki Jackson, at 153:16–25, 155:1–21.

⁷³ Deposition of Edward Flynn, at 304:13–15.

individualized, objective, and articulable reasonable suspicion, and for anyone to conduct analysis of stop data to identify patterns of unjustified stops or targeting of particular racial or ethnic groups for enforcement. For instance, a statement in an officer's report that there were "exigent circumstances" that justified a pedestrian stop without specific articulation of the exigent circumstances, or without articulation of why the circumstances gave rise to reasonable suspicion of criminal activity, the supervisor is unable to determine whether the stop was legally valid.

Fourth, there is no indication that MPD supervisors regularly accompany subordinate officers during foot or vehicle patrols to observe whether officers are conducting stops in compliance with the prohibition against the use of race or ethnicity absent an individual suspect description and the legal requirement for individualized, objective, and articulable reasonable suspicion of criminal activity.⁷⁴

Without any of these supervision practices—(1) supervisory review to ensure that stops are properly documented, (2) supervisory review to ensure that stop documentation demonstrates individualized, objective, and articulable reasonable suspicion of criminal activity, (3) regular discussions between supervisors and officers about the conduct of traffic and pedestrian stops, and (4) periodic accompaniment on foot or vehicle patrols to observe the conduct of stops—MPD supervisors are unable to identify subordinate officers who are conducting unlawful stops and need retraining or discipline.

6. MPD officers are provided inadequate guidance, supervision, and training to ensure that frisks comply with constitutional standards.

A frisk occurs when an officer pats down the outer clothing of an individual to determine

⁷⁴ See Deposition of Boris Turcinovic, at 81:1–5 (noting that he had only done so once and "[n]ot too many field training sergeants do that").

whether the individual is carrying a weapon. Frisks are even more intrusive encounters than traffic or pedestrian stops themselves because they involve direct physical contact between an officer and an individual, and require the individual to submit to the officer touching him/her. The Fourth Amendment permits an officer to conduct a frisk by patting down the outer garments of an individual who has been stopped only when the officer has an objective, individualized, and articulable reasonable suspicion that the person stopped is armed and dangerous.

Due to the intrusive nature of frisks, it is vital for law enforcement agencies to control the use of frisks by providing guidance and training as to what constitutes objective, individualized, and articulable reasonable suspicion that an individual is armed and dangerous, how to overcome the effect of implicit bias when making the decision as to whether an objective, individualized, and articulable basis for reasonable suspicion exists, and circumstances that do not give rise to objective, individualized, and articulable reasonable suspicion that a person is armed and dangerous.

It is my expert opinion that MPD does not provide its officers and supervisors with adequate guidance in the conduct, supervision, and monitoring of frisks to ensure that these encounters comply with constitutional standards. Specifically, I find that MPD officers are provided insufficient guidance as to the lawful basis for frisks. I also find that MPD policy does not require officers to document the basis for frisks, or whether a frisk occurred at all, which contributes to a complete lack of supervision of the conduct of frisks. Moreover, I find that in the absence of such guidance and supervision, and in a context in which officers face constant pressure to conduct stops, there is a high likelihood that officers are conducting frisks that are not supported by objective, individualized, and articulable reasonable suspicion that the person is armed and dangerous, or that are the result of racial and ethnic profiling.

7. MPD officers are provided inadequate guidance and training to ensure that frisks comply with constitutional standards.

SOP 085 provides that officers may consider the following factors before conducting a frisk, and indicates that more than one factor may be required to justify a frisk:

1. The type of crime suspected - particularly in crimes of violence where the use or threat of deadly weapons is involved.
2. Number of subjects vs. police members present.
3. Police member vs. subject factors (age and gender considerations).
4. Factors such as time of day, location or neighborhood (e.g., high crime area, known drug trafficking area) where the stop occurs.
5. Prior knowledge of the subject's use of force and/or propensity to carry deadly weapons.
6. The appearance and demeanor of the subject (e.g., a long trench coat being worn on a warm summer night).
7. Visual indications that suggest that the subject is carrying a firearm or other deadly weapon.⁷⁵

The problem with this approach is that several of these factors have nothing to do with whether a particular individual is armed and dangerous. For instance, with respect to factor number 3, the fact that the officer is a small-framed woman and the individual is a large-framed man does not make it any more likely that an individual subjected to a frisk is armed. Additional factors are needed to establish the existence of objective, individualized, and articulable reasonable suspicion that the individual is armed and dangerous. Similarly, with respect to factor number 2, whether the officer confronts one or ten individuals does not make it any more likely than any of the ten individuals is armed and dangerous.

In addition, without proper training, even factors that appear straightforward, such as factor number 7, which addresses visual indications that suggest that the subject is carrying a firearm or other deadly weapon, can be misconstrued and used to justify unlawful frisks. One

⁷⁵ SOP 085.25.

MPD officer testified that he felt justified in frisking an individual simply because the individual wore a bulky sweatshirt and the officer could not see if the individual was armed.⁷⁶ Such a response displays a lack of understanding as to the factors that give rise to objective, individualized, and articulable reasonable suspicion that a person is armed and dangerous, and is the predictable result of the deficiencies in the frisk standards articulated in SOP 085.

8. MPD policy does not require officers to document frisks and officers routinely fail to do so.

Neither SOP 085 nor any other written MPD policy requires officers to document frisks. This stands in clear contrast to the detailed procedures in SOP 085 requiring officers to document pedestrian stops.

In the pedestrian and traffic stop data I reviewed, frisks are infrequently and haphazardly documented. In the 823,186 police-civilian encounters documented in the T7 TraCS data provided to me, there are fewer than 100 records that contained any reference to “frisk” or “pat down.” Similarly, in the sample of 800 traffic and pedestrian stops documented in 2016–2017 RMS data provided to me, only 22 contained any reference to “frisk” or “pat down.” Even fewer of these traffic and pedestrian stops indicated the reason for the frisks documented.

Documenting frisks and the basis for frisks is standard law enforcement procedure in departments of comparable size to the Milwaukee Police Department. The law requires that officers have individualized, objective, and articulable reasonable suspicion that the particular individual is armed and dangerous in order to justify a frisk of the individual detained as the result of a stop. The failure of MPD policy to require officers to document frisks and the basis for frisks indicates a lack of interest in monitoring whether frisks are based on individualized,

⁷⁶ Deposition of Torrey Lea, at 43:2–10.

objective, and articulable reasonable suspicion that the particular individual is armed and dangerous, identifying officers who conduct unconstitutional frisks, and determining whether frisks actually lead to the recovery of weapons as intended.

The routine failure of officers to document frisks and the basis for frisks when they are conducted necessarily leads to unlawful frisks. The lack of a requirement to document frisks and the basis for individualized, objective, and articulable reasonable suspicion for believing the person is armed and dangerous indicates that MPD has chosen to not put in place the mechanisms for determining whether frisks are being conducted in a constitutional manner or even in compliance with the requirements of its own SOP 085.

9. MPD provides inadequate monitoring and oversight to identify individual officers who conduct unlawful stops and frisks and to provide them with retraining and/or discipline.

The need for monitoring and oversight of officers and their actions is at the heart of a well-functioning and accountable law enforcement agency. This is true because, as agents of law enforcement, the officers hold a tremendous amount of power, which places a great responsibility on the agency to ensure that their members are acting appropriately. Accordingly, law enforcement agencies must utilize effective review and accountability mechanisms to prevent, detect, and counsel officers who may be exercising their authority in violation of department policies or legal requirements. The International Association of Chiefs of Police (“IACP”) discussed this very issue in its *Best Practices Guide, Smaller Police Departments, Internal Affairs Report*.⁷⁷ IACP explained that an “internal affairs investigative process is meant

⁷⁷ Chief Beau Thurnauer, *Best Practices Guide, Internal Affairs: A Strategy for Smaller Departments*, International Association of Chiefs of Police, <http://www.theiacp.org/portals/0/pdfs/BP-InternalAffairs.pdf>. There is no comparable guide for larger departments.

to ensure that department policy and procedures are followed and that all department employees follow agency standards of professionalism.” Further, the IACP explained that “every police department large and small will sometime have to deal with a complaint concerning an officer’s conduct or behavior.”

Based on my law enforcement experience, it is my opinion that accountability measures are both possible and important at agencies such as MPD. Although the specific processes used vary between agencies of different sizes located in different parts of the country, it is imperative for agencies to use review and accountability mechanisms that are proven to work.

A recognized and critically important way to monitor officers for unlawful traffic stops, pedestrian stops, and frisks is through analysis of stop and frisk documentation by supervisors, higher-level officers, or internal or external auditors. This analysis can include review of paper documentation, database entries, and statistical analysis. As an initial step, first line supervisors should review stop and frisk documentation to ensure completion and accuracy and to conduct spot checks of their subordinates’ documentation for unjustified stops and frisks or patterns of targeting racial or ethnic minorities. But even if the MPD were to undertake such review, which it does not, it is not sufficient to have first line supervisors alone analyze the documentation of line officers who conduct stops and frisks. This is because the actions of the officers who conduct stops may reflect the attitude of the first line supervisor. For this reason, it is also necessary for higher-level officers and internal auditors, such as the police department’s inspection unit, and external auditors to analyze stop and frisk documentation for patterns of unlawful conduct. A logical external auditor in the case of the Milwaukee Police Department would be the Milwaukee Fire and Police Commission, which is charged with oversight over the MPD. If documentation is not required at all, however, as in the case of frisks, or is not

reviewed for completeness and accuracy, as in the case of traffic and pedestrian stops, an audit of value is impossible to perform. Such is the case in Milwaukee, where MPD supervisors and leadership fail to ensure that stop and frisk documentation required for audits is properly collected, and where supervisors, higher-level MPD officers and command staff, and the Milwaukee Fire and Police Commission fail to conduct audits to identify unlawful patterns of stops and frisks.

For example, the former Captain of District 2 testified that she did not know how many frisks took place and did not even know if that information was recorded anywhere.⁷⁸ The Captain of District 1 testified that she was not aware of any data regarding the proportion of stops that resulted in frisks ever presented at a CompStat meeting.⁷⁹ And the current Captain of District 3 testified that there is no requirement at all to document frisks and no database in which that information can be entered.⁸⁰

Based on my experience as a police monitor and law enforcement administrator, and my review of the documents, deposition testimony, and data in this case, I conclude that MPD and FPC fail to employ effective oversight mechanisms to prevent and detect constitutional violations. My opinion is based on at least the following findings:

First, I find that MPD fails to evaluate or supervise officers to determine whether traffic stops, pedestrian stops, and frisks are supported by the necessary legal justification, and sustains policies and practices that are likely to lead to stops that are not supported by reasonable suspicion and/or that lead to the targeting of Black and Latino residents for such stops because of

⁷⁸ Deposition of Heather Wurth, at 174:1–6.

⁷⁹ Deposition of Diana Rowe, at 145:1–9.

⁸⁰ Deposition of Shunta Boston-Smith, at 130:1–12.

their race or ethnicity.

Second, I find that MPD does not routinely (if at all) analyze documentation or data about traffic stops, pedestrian stops, or frisks to determine whether officers have the requisite individualized, objective, and articulable reasonable suspicion to conduct these encounters. As discussed above, officers routinely fail to document the basis for traffic stops, pedestrian stops, and frisks, leaving supervisors with no hard documentation they can review to determine whether the encounter was based on individualized, objective, and articulable reasonable suspicion. Without such vital information, MPD supervisors are unable to assess whether officers—individually or as a group—are engaging in unlawful stop and frisk practices. Given the substantial risk of such conduct in light of the evidence of the existence, or at least the perception, of a quota of two traffic stops per day, in addition to the overall pressure to conduct large numbers of traffic and pedestrian stops, such a deficiency in supervision is that much more troubling.

It is my opinion that absent monitoring of stops and frisks, for example through statistical analysis, there is a risk that officers will utilize stops and frisks in areas that disproportionately affect certain segments of the population, and that they will do so even absent individualized, objective, and articulable reasonable suspicion. Such an analysis would normally be assigned to the inspections or audit unit or an external civilian oversight group with the power to gain access to the data and conduct analyses. However, at MPD, there appears to be no oversight to determine whether officers repeatedly use pedestrian or traffic stops in the same location, to target the same individuals, or to disproportionately target certain segments of the population.

Third, based on the testimony of MPD command staff, I find that MPD does not examine the validity of the conduct of its officers, but rather relies exclusively on citizen complaints and

the judicial system to address wrongful behavior. This is contrary to not only generally accepted practices in law enforcement, but also to the basic premises of the Fourth Amendment to the U.S. Constitution. The sworn testimony of top MPD command staff reveal that MPD does not adequately review the basis for stops and frisks. Chief Flynn testified that he has never disciplined an officer for racial profiling.⁸¹ Inspector Jackson testified that he was not aware of a single time that an MPD officer exhibited explicit racial bias or of a single stop without reasonable suspicion.⁸² Assistant Chief Harpole explained that it would be “unreasonable,” “unwieldy,” and “too burdensome” for the MPD to undertake any type of comprehensive review to verify whether stops performed by officers were supported by reasonable suspicion, and that “nobody is disciplined” for performing stops without reasonable suspicion.⁸³

Chief Flynn testified that, if there was a problem, the MPD would hear about it from the citizens because the department was “keenly alert to our citizen complaint data” related to stop practices.⁸⁴ At the same time, later in his deposition, Chief Flynn rejected the notion that a conclusion could be drawn from the 26 percent increase in citizen complaints between January 2015 and April 2016.⁸⁵ Further, it appears that MPD pays little attention to what happens after an arrest—even though those subsequent actions raise at least the possibility of problems with the underlying stop. In my review of RMS data, I observed numerous instances in which the assistant district attorney who was screening the case had declined prosecution. There is no indication that MPD analyzes that data to determine whether the district attorney’s decision to

⁸¹ Deposition of Edward Flynn, at 95:23–25.

⁸² Deposition of Jutiki Jackson, at 124:15–125:3.

⁸³ Deposition of James Harpole, at 305:1–9.

⁸⁴ Deposition of Edward Flynn, at 154:7–25.

⁸⁵ Deposition of Edward Flynn, at 295:14–16.

decline prosecution was a result of an improper or unlawful stop by the arresting officer, and/or part of a larger pattern of problematic stops that could indicate deficiencies in MPD policy, procedure, training, and/or supervision.

Fourth, based on my review of the documents and deposition testimony in this case, I find that there appears to be an anti-accountability culture in the MPD. For example, when Chief Flynn was asked how he knew his officers were not stopping people based on race, he claimed he was being asked to “prov[e] a negative.”⁸⁶ Although he claimed that policies, training, procedures, and data analysis keep an eye out for problematic data, the data that MPD collects is not sufficient to perform the type of rigorous analysis required to ferret out biased policing. These statements from MPD command staff provide valuable insight into an agency that is flatly ignoring the reality that, without the proper processes in place, MPD has created an environment where unlawful and discriminatory stops and frisks are likely to take place and go undetected and, therefore, unaddressed.

Fifth, and finally, I find that because MPD officers do not document frisks—and are not required by MPD policy to do so—MPD conducts no review of frisks to determine “hit rates.” Hit rates are the percent of frisks that result in the finding of a weapon. While an officer should not be expected to be right 100 percent of the time, hit rate analysis determines whether the rate of weapons recovery is so low as to raise questions about whether frisks were supported by individualized, objective, and articulable reasonable suspicion that the subjects of those frisks were armed and dangerous, as required by law. Further, a careful hit rate analysis will provide valuable insight into whether frisks or searches vary by race of the person being searched or among officers. By making the affirmative decision not to require frisk documentation, MPD

⁸⁶ Deposition of Edward Flynn, 263:23–264:1.

leadership has made hit rate analysis impossible, even though it is a best practice used by law enforcement agencies of comparable size.⁸⁷

It is my opinion that the lack of any analysis of data on stops and frisks—much less routine analysis—demonstrates a failure to monitor and conduct oversight of these police-civilian encounters and a lack of care for the likelihood that stops and frisks may be legally unjustified or impermissibly motivated by race and ethnicity particularly due to the intense pressure on officers to conduct large numbers of stops.

In short, the position of MPD's leadership is that they are unaware of any stop that has ever been made by an MPD officer absent objective, individualized, and articulable reasonable suspicion that the person has committed or is about to commit a crime or traffic or vehicle equipment violation; nor are they aware of any frisk that has ever been conducted by an MPD officer absent objective, individualized, and articulable reasonable suspicion that the person was armed and dangerous. My experience in law enforcement is that this does not reflect reality, no matter how well run a law enforcement agency might be. What is accurate is that the MPD is not analyzing the legal sufficiency of stops and not even collecting the appropriate information to permit analysis of the legal sufficiency of frisks. MPD's failure to conduct any analysis of the legal sufficiency of its traffic stops, pedestrian stops, and frisks conflicts with generally accepted practice for law enforcement agencies, as well as the recognition of such analysis as a best practice by the Police Executive Research Forum (PERF).⁸⁸

At a minimum, an agency such as MPD should conduct random audits of officers' stops

⁸⁷ It is worth noting that MPD is not even conducting hit rate analysis on searches, which are documented in various MPD data systems, including RMS and TraCS, to determine whether searches are supported by probable cause.

⁸⁸ See Police Executive Research Forum, *Constitutional Policing as a Cornerstone of Community Policing*, 17 (2015), <https://ric-zai-inc.com/Publications/cops-p324-pub.pdf>.

to see if the video evidence supports the reasonable suspicion stated in the reports. But there is no indication that MPD undertakes even this minimal measure with any consistency so as to identify officers who conduct unlawful stops. MPD's failure to perform even rudimentary checks on the legality of traffic stops, pedestrian stops, and frisks creates a significant risk that officers will take unlawful actions with impunity.

10. MPD fails to protect against racial and ethnic profiling.

All law enforcement agencies should have clear and unequivocal departmental policies prohibiting racial profiling and promoting bias-free policing. Law enforcement agencies must embed the ideals of bias-free policing in their mission statements, training, accountability mechanisms, and community outreach.⁸⁹ This is particularly true when an agency relies on a high volume of traffic stops, pedestrian stops, and frisks as a general crime fighting tool. It is recognized that such an approach will most likely be used disproportionately against minorities.⁹⁰

11. MPD has a policy prohibiting racial and ethnic profiling, but mostly denies the existence of this problem.

MPD has a policy and directives that state that racial profiling and targeting individuals based on race or ethnicity is prohibited. As discussed in the sections above, my law enforcement experience and understanding of generally accepted law enforcement practices, however, lead me to find that if such a policy lacks methods to measure compliance, coupled with broad and unchecked discretion given to officers, an atmosphere and culture that fails to protect against

⁸⁹ See International Association of Chiefs of Police, *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement* xv (2006), http://www.theiacp.org/portals/0/pdfs/PCR_LdrshpGde_Part1.pdf.

⁹⁰ Police Executive Research Forum, *Constitutional Policing as a Cornerstone of Community Policing* 15–17 (2015). <https://ric-zai-inc.com/Publications/cops-p324-pub.pdf>.

racial and ethnic profiling and biased policing will develop nonetheless. Instead of performing the rigorous analysis required to ferret out biased policing and racial and ethnic profiling, Chief Flynn flatly rejected the need to conduct such an analysis as unnecessary and requiring him to “prov[e] a negative.”⁹¹ Assistant Chief Harpole contended that it would be “unreasonable,” “unwieldy,” and “too burdensome” for the MPD to undertake any type of comprehensive review to verify whether stops performed by officers were supported by reasonable suspicion.⁹² He further confirmed that “nobody is disciplined” for performing stops without reasonable suspicion.⁹³ Therefore, it is not surprising that Chief Flynn testified that there has never been an officer disciplined for racial profiling.⁹⁴ Inspector Jackson exhibited the same lack of recognition of the existence of racial profiling when he testified that he was not aware of a single time that an MPD officer exhibited explicit racial bias or a single stop without reasonable suspicion.⁹⁵

12. MPD conducts no review or analysis to determine whether racial or ethnic profiling takes places in the conduct of stops and frisks.

An agency must not only collect data, but it must make sure the data is accurate and analyzed. Specifically, it must ensure that all stops and frisks are being reported and that all of the information required for collection, including the basis for the encounter and the demographic information about the individual stopped and/or frisked, is accurately inputted into stop and frisks records. The law enforcement agency and/or its oversight agency must then

⁹¹ Deposition of Edward Flynn, 263:23–25.

⁹² Deposition of James Harpole, at 304:1–305:7.

⁹³ *Id.*, at 304:23–305-8.

⁹⁴ Deposition of Edward Flynn, at 95:23–25.

⁹⁵ Deposition of Jutiki Jackson, at 124:15–125:3.

analyze the data to determine whether there are disparities in the way different racial and ethnic groups are being treated in the conduct of stops and frisks. A law enforcement agency of a similar size to the MPD, whether or not it faces specific allegations of discrimination such as those at issue in this case, should conduct at least some level of analysis to help determine whether officers may be engaged in unlawful racial and ethnic profiling. Examples of analysis of police stop and frisk policies by police agencies and/or their oversight agencies include Boston, Austin, Minneapolis, Chicago, and Philadelphia.⁹⁶ The generally accepted practice is not only to collect and analyze the data, but to share it with the public, as is done in each of the aforementioned jurisdictions.

Contrary to this generally accepted practice of analyzing data to detect racial profiling and biased policing, MPD has failed to undertake an appropriate review. In my opinion, MPD should be analyzing data on stops and frisks as a routine matter.

It is not sufficient to look at raw data, or to focus on some data points to the exclusion of others. At least an elementary level of analysis must be performed to make the data useful for

⁹⁶ See *Boston Police Department Releases Latest Field Interrogation Observation Data*, BPDNews (May 23, 2017), <http://bpdnews.com/news/2017/5/23/boston-police-department-releases-latest-field-interrogation-observation-data>; Minneapolis Police Department Stop Information, https://tableau.minneapolismn.gov/views/MPDStopDataOpenData/MPDStopInformation?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay_count=no&%3AshowVizHome=no; City of Austin, Office of the Police Monitor Annual Report (2015), http://www.austintexas.gov/sites/default/files/files/OPM_Annual_Report_2015_FINAL2.pdf; Open Minneapolis, Police Stop Data (February 19, 2018), <http://opendata.minneapolismn.gov/datasets/police-stop-data?geometry=NaN%2CNaN%2CNaN%2CNaN>; Libor Jany, *Public will be able to track race, other data on people stopped by Minneapolis police*, Star Tribune (August 9, 2017, 6:23 PM), <http://www.startribune.com/public-will-be-able-to-track-race-other-data-on-people-stopped-by-minneapolis-police/439413293/>; see also Arlander Keys, The Consultant's First Semiannual Report on the Investigatory Stop and Protective Pat Down Agreement for the Period January 1, 2016–June 30, 2016 (2016), <https://www.aclu-il.org/en/publications/march-2017-stop-frisk-report%20>; Chicago Police Department, Investigatory Stop Reports—Contact Dates 01-JAN-2016 through 16-JAN-2018 (January 22, 2018), <https://home.chicagopolice.org/isr-data/>; American Civil Liberties Union of Pennsylvania, *Analysis of Philadelphia Police Stop-and-Frisk Data Shows Illegal Stops Continue With Limited Progress* (January 8, 2018), <https://www.aclupa.org/news/2018/01/08/analysis-philadelphia-police-stop-and-frisk-data-shows-illeg>; Open Data Philly, Vehicle and Pedestrian Investigations, <https://www.opendataphilly.org/dataset/vehicle-pedestrian-investigations>.

detecting racial and ethnic disparities. It is particularly troubling that MPD has conducted no analysis of stop or frisk data despite the longstanding public concern and numerous allegations of racial and ethnic bias in the conduct of stops and frisks leveled against MPD, including by community members who have raised the issue directly and litigation by the plaintiffs in this case. It is also troubling that MPD fails to require frisks to be documented, which reveals a basic rejection of the importance of monitoring the lawful use of a police tactic often experienced by members of the public as invasive and stigmatizing.

X. CONCLUSION

MPD prides itself on being a data-driven department. MPD has directed resources and effort toward analyzing crime data and utilizing that analysis as a basis for deployment of officers. There has been, however, a lack of resources and effort directed towards making sure that the consequence is not stops and frisks that are not based on individualized, objective, and articulable reasonable suspicion. There has been an outright refusal by the MPD to conduct the analysis necessary to ensure that racial and ethnic profiling is not taking place and to address racial and ethnic disparities and any disparate treatment of Black and Latino people by MPD.

When between 41 percent and 49 percent of all traffic and pedestrian stops documented in the MPD's principal repositories of stop records fail to show that officers had individualized, objective, and articulable reasonable suspicion to conduct the stops, it is apparent that MPD officers are not being trained as to the appropriate legal standard to apply and how to document the basis of their decision to stop an individual. When frisks are not being required to be recorded at all, it is an invitation to officers to engage in unlawful conduct that will go undetected and unaddressed.

These deficiencies are capable of being remedied, but it starts with clear policies and procedures that require the documentation of the necessary data by which to monitor and

supervise the officers. And it requires follow-up to ensure that such documentation is, in fact, carried out, that data is analyzed to identify patterns of unlawful conduct, and that this information is used to correct and deter such unlawful conduct from happening again. It is my opinion that MPD has failed to engage in such follow-up, analysis and corrective action to the detriment of Milwaukee's Black and Latino communities.

Sincerely,

A handwritten signature in black ink that reads "Margo L. Frasier". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Margo L. Frasier, J.D., C.P.O.

Exhibit 1
Fields Containing Information on Reason for Police-Civilian Encounters
T7 TraCS
2010–2017

| Field | | | Frequency | |
|---|--|---|----------------|-------------|
| Reason ^[1] (pre-defined list) | Reason Detail ^[1] (pre-defined list) | Other Reason or Other Reason Detail ^[1] (free text) | Total | Percent |
| ✓ | Not populated | Not populated | 12,908 | 1.568% |
| ✓ | ✓ | Not populated | 663,977 | 80.659% |
| ✓ | Not populated | ✓ | 29,252 | 3.554% |
| ✓ | ✓ | ✓ | 117,030 | 14.217% |
| Not populated | Not populated | Not populated | 19 | 0.002% |
| Total Records | | | 823,186 | 100% |

Note:

[1] For the "Reason" and "Reason Detail" fields, officers can select options from a pre-defined list. For the "Other Reason" and "Other Reason Detail" fields, officers can input text of their choosing.

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 2
Rules for Determination of Whether a Police-Civilian Encounter is a Discretionary Stop^[1]
T7 TraCS
2010–2017

| Rules ^[2] | Total | Percent of Total Records |
|--|----------------|--------------------------|
| "Reason" field includes "Traffic Stop" | 635,043 | 77.1% |
| "Reason" field includes "Field Interview" | 71,616 | 8.7% |
| "Reason" field includes "Criminal Offense" | 483 | 0.1% |
| "Reason" field includes "Dispatched Assignment" and "Reason Detail" field includes ^[3] | 2,225 | |
| <i>"Speed Violation"</i> | 124 | <0.1% |
| <i>"Vehicle Registration"</i> | 127 | <0.1% |
| <i>"Seat Belt"</i> | 1,415 | 0.2% |
| <i>"Impaired Driving"</i> | 184 | <0.1% |
| <i>"Vehicle Equipment Violation"</i> | 80 | <0.1% |
| <i>"Stolen Auto"</i> | 3 | <0.1% |
| <i>"Crash Investigation"</i> | 259 | <0.1% |
| <i>"Other Rules of the Road"</i> | 33 | <0.1% |
| <i>"Special Patrol"</i> | 0 | <0.1% |
| | | |
| "Reason" field includes "Other" | 6,777 | 0.8% |
| Total Records Classified as Discretionary Stops | 716,144 | 87.0% |
| Records not Classified as Discretionary Stops^[4] | 107,042 | 13.0% |
| Total Records | 823,186 | 100% |

Notes:

[1] Whether a T7 TraCS record is a discretionary stop is determined using only "Reason" and "Reason Detail" pre-defined lists.

[2] Records can have multiple "Reason" and "Reason Detail" entries. The rules for determining whether a record is a discretionary stop are applied in the sequence described above. For example, a record with both "Traffic Stop" and "Citizen Assist/Welfare Check" in the "Reason" field would count as a discretionary stop because it is designated a "Traffic Stop."

[3] The "Reason Detail" selections of "Burglary Investigation" and "Shooting Investigation" are the only selections from the pre-defined list not included as discretionary stops.

[4] There are two sets of records that are not classified as discretionary stops, totaling 107,042 records: (1) records that are determined to be discretionary stops based on the rules applied to the "Reason" and "Reason Detail" fields but that contained information in "Other Reason" or "Other Reason Detail" that indicated the record was not a stop, e.g., "entered in error" or "void-duplicate" (42 records); (2) all remaining records that were not classified as discretionary stops after applying the rules above (107,000 records).

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 3A

Process for Determining Whether a Discretionary Stop Record Demonstrates Individualized, Objective, and Articulable Reasonable Suspicion ("IOARS")

**T7 TraCS
2010–2017**

| Rules | Discretionary Stop Records | Percent of Total Discretionary Stops |
|---|---------------------------------------|---|
| [1] Determination of IOARS Based on "Reason Detail" | | |
| [1.a] "Reason Detail" includes "Speed Violation" | 75,246 | 11% |
| [1.b] "Reason Detail" includes "Vehicle Registration" | 204,245 | 29% |
| Total | 279,491 | 39% |
| [2] Determination of IOARS Based on "Reason Detail" value of "Vehicle Equipment Violation" and Review of Text in "Other Reason" and/or "Other Reason Detail" | | |
| | 16,654 | 2% |
| Determination of IOARS Based on Review of Text in "Other Reason" and/or "Other Reason Detail" for Remaining Records. | | |
| These records include "Reason Detail" of "Seat Belt," "Impaired Driving," "Stolen Auto," "Crash Investigation," "Other Rules of the Road," "Specialty Patrols," and "None." | | |
| [3] Keyword search | 23,811 | 3% |
| [4] Manual Review | 43,143 | 6% |
| Total Discretionary Stops with IOARS ([1]+[2]+[3]) | 363,099 | 51% |
| Total Discretionary Stops for which Documentation Fails to Demonstrate IOARS^[5] | 353,045 | 49% |
| Total Stops | 716,144 | 100% |

Notes:

[1] All records in which "Reason Detail" includes "Speed Violation" and/or "Vehicle Registration" are determined to have IOARS using rule [1].

[2] Records in which the text in "Other Reason" and/or "Other Reason Detail" provides information specifying the nature of the violation (e.g., broken head lamp) are determined to have IOARS using rule [2]. For all other records in which "Reason Detail" includes "Vehicle Equipment Violation," (i.e., those with no textual information available or those in which the textual information does not specify the type of vehicle equipment violation), the record fails to demonstrate IOARS. See Exhibit 3B for further details.

[3] If the text in "Other Reason" or "Other Reason Detail" contains one or more of the keywords summarized in Exhibit 3C, the record is determined to have IOARS under rule [3].

[4] A manual review was conducted in which each record was reviewed and either determined to have IOARS or to fail to demonstrate IOARS based on the unique combination of entries from the pre-defined lists and text from the four fields. A total of 43,143 records were determined to demonstrate IOARS under rule [4]. See Exhibit 3D for further details.

[5] Any records not classified as having IOARS using rules [1] through [4] fail to demonstrate IOARS.

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 3B

**Discretionary Stop Records Based on "Vehicle Equipment Violation"
Textual Information Contributing to Individualized, Objective, and Articulable Reasonable Suspicion ("IOARS")
T7 TraCS
2010–2017**

| Text | Total Records Demonstrating IOARS | Cumulative Percent of Total Records |
|---|--|--|
| Brake Lights | 5,497 | 33% |
| Headlights | 5,211 | 64% |
| Plates | 2,191 | 77% |
| Tinted Window | 942 | 83% |
| Registration Lamp | 461 | 86% |
| No Lights | 409 | 88% |
| Muffler | 168 | 89% |
| Operating Without License | 157 | 90% |
| Loud Music | 54 | 91% |
| Blue Lights | 38 | 91% |
| All Other Topics | 1,526 | 100% |
| Total Records Classified Based on "Vehicle Equipment Violation" and Review of Text | 16,654 | 100% |

Note:

[1] The remaining 1,745 records for which "Reason Detail" includes "Vehicle Equipment Violation" and in which "Other Reason" and/or "Other Reason Detail" contain text fail to demonstrate IOARS.

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 3C

Keyword or Phrases Contributing to Determination that a Discretionary Stop Record Demonstrates Individualized, Objective, and Articulate Reasonable Suspicion ("IOARS")

**T7 TraCS
2010–2017**

| Keywords or Phrases Contributing to IOARS | Number of IOARS Records with Keywords or Phrases | Cumulative Percent of Total Records |
|---|---|--|
| no plates | 6,467 | 27% |
| no front plate | 4,569 | 46% |
| stop sign | 3,279 | 60% |
| improper display | 2,869 | 72% |
| speed | 1,808 | 80% |
| red light | 1,529 | 86% |
| no plate | 460 | 88% |
| speeding | 388 | 90% |
| no license plates | 258 | 91% |
| red signal | 242 | 92% |
| rolling stop | 178 | 93% |
| missing plate | 161 | 93% |
| bicycle lane | 146 | 94% |
| improperly displayed | 139 | 94% |
| owl ^[1] | 133 | 95% |
| All Other Keywords or Phrases Contributing to IOARS ^[2] | 1,185 | 100% |
| Total Records Classified by Keyword or Phrase Search^[3] | 23,811 | 100% |

Notes:

[1] "owl" is an abbreviation for "operating without license."

[2] There are an additional 62 keywords or phrases that appeared at a lower frequency that account for 1,185 records.

[3] Keyword or phrase searches were based on exact full-word matches, e.g., "no plate" is distinct from "no plates."

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 3D

Topics for Organizing Manual Review for Determination of Whether a Discretionary Stop Record Demonstrates Individualized, Objective, and Articulate Reasonable Suspicion ("IOARS")

**T7 TraCS
2010–2017**

| Topic^[1] | Example Text in "Other Reason" or "Other Reason Detail" | Number of Records Found to Show IOARS Based on Manual Review^[2] | Percent of 54,801 Records Reviewed Manually |
|--|--|---|--|
| Suspicion | "Stolen Vehicle" "Loitering" | 2,854 | 5.21% |
| Other | "Passenger Riding Illegally on Vehicle" "Open Intoxicants" | 2,389 | 4.36% |
| Disturbance | "Excessive Noise" "Squealing Tires" | 1,419 | 2.59% |
| Registration | "Registration Expired" "No Registration" | 16,466 | 30.05% |
| Driving | "Blocking Alley" "Driving Wrong Way in Traffic" | 8,829 | 16.11% |
| Plates | "No Front Plate" "Counterfeit Plate" | 8,846 | 16.14% |
| Equipment | "Altered Suspension" "Defective Brake light" | 2,209 | 4.03% |
| Seatbelt | "Child Not In Restraint System" "Driver Seatbelt" | 18 | 0.03% |
| Tint | "12.2% Tint" "Dark Window Tint" | 113 | 0.21% |
| Total Records in Manual Review Found to Demonstrate | | 43,143 | 79% |
| Total Records Reviewed Manually | | 54,801 | 100% |

Notes:

[1] Topics were created using the text in "Other Reason" and/or "Other Reason Detail" fields.

[2] Topic frequencies are determined sequentially. For example, if a record had both "Stolen Vehicle" and "Driver Seatbelt" in the "Other Reason" or "Other Reason Detail" field, it would be included in the "Suspicion" topic and not the "Seatbelt" topic.

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 4
Rules for Determination of Discretionary Stops Records for which Documentation Fails to Demonstrate
Individualized, Objective, and Articulate Reasonable Suspicion ("IOARS")
T7 TraCS
2010–2017

| Rules | Discretionary Stop Records | Percent of Total Discretionary Stops |
|---|---------------------------------------|---|
| Discretionary Stops for which Documentation Fails to Demonstrate IOARS | | |
| "Reason Detail" does not include "Speed Violation" or "Vehicle Registration" and there is no text in "Other Reason" or "Other Reason Detail" ^[1] | 339,609 | 47% |
| "Reason Detail" does not include "Speed Violation" or "Vehicle Registration" and the text in "Other Reason" or "Other Reason Detail" fails to demonstrate IOARS | 13,436 | 2% |
| Total Discretionary Stops for which Documentation Fails to Demonstrate IOARS | 353,045 | 49% |
| Total Discretionary Stops with IOARS | 363,099 | 51% |
| Total Stops | 716,144 | 100% |

Note:

[1] The "Reason Detail" values for these records include "Seat Belt," "Impaired Driving," "Vehicle Equipment Violation," "Stolen Auto," "Crash Investigation," "Other Rules of the Road," "Special Patrol," and/or "None."

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 5
Statistics on the Number of Discretionary Stop Records Determined to
Demonstrate Individualized, Objective, and Articulate Reasonable Suspicion
("IOARS")
T7 TraCS
2010–2017

| | <u>Total</u> | <u>Percent</u> |
|------------------------------------|----------------|----------------|
| <u>Traffic Stops</u> | | |
| Stops Determined to have IOARS | 330,072 | 52% |
| Stops Failing to Demonstrate IOARS | 304,971 | 48% |
| Subtotal Traffic Stops | 635,043 | 100% |
| <u>Pedestrian Stops</u> | | |
| Stops Determined to have IOARS | 33,027 | 41% |
| Stops Failing to Demonstrate IOARS | 48,074 | 59% |
| Subtotal Pedestrian Stops | 81,101 | 100% |
| <u>All Stops</u> | | |
| Stops Determined to have IOARS | 363,099 | 51% |
| Stops Failing to Demonstrate IOARS | 353,045 | 49% |
| Total | 716,144 | 100% |

Source:

[1] T7 TraCS police-civilian encounter data, 2010–2017

Exhibit 6
Sample RMS Data
2016–2017

| | |
|--|------------|
| Total Police-Civilian Encounters Reviewed, 2016–2017 | 800 |
| Unique police-civilian encounters ^[1] | 798 |
| Police-civilian encounters involving a single subject ^[2] | 551 |
| Police-civilian encounters identified as Discretionary Stops | 485 |
| <hr/> | |
| Total Police-Civilian Encounters Included in the Analysis^{[3],[4]} | 485 |

Notes:

[1] Two records were exact duplicates and were excluded.

[2] Police-civilian encounters with multiple subjects were excluded due to ambiguity over the primary subject involved.

[3] Police-civilian encounters were determined to be discretionary stops based on a manual review of the encounter's narrative.

[4] Discretionary stops include both traffic and pedestrian stops.

Sources:

[1] RMS Narrative data 2016–2017

[2] RMS Field Interview data 2016–2017

[3] CAD Calls for Service data 2016–2017

[4] T7 and T10 TraCS Citizen Contact data 2016–2017

[5] T7 and T10 TraCS Non-Traffic Citation data 2016–2017

Exhibit 7
**Determination of Discretionary Stop Records Demonstrating Individualized,
Objective, and Articulate Reasonable Suspicion ("IOARS")**
Sample RMS Data
2016–2017

| | Total | Percent |
|---------------------------------------|--------------|----------------|
| <u>Traffic Stops</u> | | |
| Stops Determined to Demonstrate IOARS | 82 | 85% |
| Stops Failing to Demonstrate IOARS | 15 | 15% |
| Subtotal Traffic Stops | 97 | 100% |
| <u>Pedestrian Stops</u> | | |
| Stops Determined to Demonstrate IOARS | 206 | 53% |
| Stops Failing to Demonstrate IOARS | 182 | 47% |
| Subtotal Pedestrian Stops | 388 | 100% |
| <u>All Stops</u> | | |
| Stops Determined to Demonstrate IOARS | 288 | 59% |
| Stops Failing to Demonstrate IOARS | 197 | 41% |
| Total | 485 | 100% |

Sources:

- [1] RMS Narrative data 2016–2017
- [2] RMS Field Interview data 2016–2017
- [3] CAD Calls for Service data 2016–2017
- [4] T7 and T10 TraCS Citizen Contact data 2016–2017
- [5] T7 and T10 TraCS Non-Traffic Citation data 2016–2017

Appendix A

**MARGO FRASIER
3300 PLOVER RAIN WAY
PFLUGERVILLE, TEXAS
512-565-0464**

RANGE OF EXPERIENCE

Margo Frasier has over 40 years of experience in the criminal justice field. Ms. Frasier is a criminal justice consultant and provides litigation support. Ms. Frasier serves as a subject matter expert in law enforcement and corrections for the Special Litigation Section of the United States Department of Justice. In addition, she serves as the Lead Monitor overseeing implementation of the provisions of the Consent Judgment for the jail system in Orleans Parish, Louisiana.

Ms. Frasier served as the elected sheriff of Travis County, Texas from 1997 through 2004; the first woman to hold the office where she started as deputy more than two decades earlier. As sheriff, she oversaw 1,350 deputies and other employees with a budget of more than \$90 million. She earned praise for her leadership in improving the jail system and the implementation of community policing. Since leaving office, Ms. Frasier worked as an assistant professor in the College of Criminal Justice at Sam Houston State University in Huntsville, Texas, a Senior Associate for MGT of America, Inc., and as the Police Monitor for the City of Austin. Over the years, as a consultant and an attorney, she has provided expert testimony in matters involving criminal justice including civil rights, employment law, law enforcement practices, and corrections practices.

Ms. Frasier is on the board of the National Association of Civilian Oversight of Law Enforcement (NACOLE) where she serves as Vice-President. Ms. Frasier served as treasurer, vice-president, and president of the Major County Sheriffs' Association. She also served on the boards of the National Sheriff's Association, National Center for Women and Policing, Texas Institute for Public Problem Solving, and the Children's Advocacy Center of Central Texas. In addition, she was recognized twice by the Combined Law Enforcement Association of Texas as Administrator of the Year. She also received a Lifetime Achievement Award from the National Center on Women in Policing.

PROFESSIONAL AND BUSINESS HISTORY

Margo L. Frasier, J.D., Consultant, January 1997 – Present.

City of Austin, Police Monitor, January 2011—January 2017.

MGT of America, Inc., Senior Associate, July 2008 – January 2011.

Sam Houston State University, Assistant Professor, January 2005 – July 2008.

Travis County Sheriff's Office, Sheriff, January 1997 – December 2004.

St. Edward's University, Assistant Professor (Part-time), January 1997 – December 2004.

Bickerstaff, Heath, LLP, Partner, January 1991 – December 1996.

Brown Maroney (Now Brown McCarroll), Associate, January 1985 – December 1991.

U.S. District Court, Tallahassee, Florida, Law Clerk (Intern), September 1984 – December 1984.

Florida Senate Committee on Criminal Justice, Legislative Analyst, August 1983 – July 1984.

Travis County Sheriff's Office, Austin, Texas, Captain, October 1975 – August 1982.

Austin Community College, Austin, Texas, Instructor, September 1980 – May 1982.

Texas Department of Corrections, Huntsville, Texas, Corrections Officer, May 1974 – May 1975.

**YEARS OF
EXPERIENCE:**
40+ in criminal justice

EDUCATION:

Bachelor of Science in
Criminology &
Corrections, Graduated
with Honors, Sam
Houston State University,
1974

Juris Doctor, Graduated
with High Honors, Florida
State University College
of Law Tallahassee,
Florida, 1984

PROFESSIONAL AND BUSINESS EXPERIENCE

Consultant in litigation matters involving law enforcement and corrections related to civil rights, employment law, law enforcement practices, and corrections practices.

Subject matter expert for the Special Litigation Section of the United States Department of Justice.

Court appointed lead monitor of the consent judgment in Orleans Parish, Louisiana.

Police Monitor for the City of Austin which assesses citizen complaints, monitors internal affairs investigations, and monitors and makes recommendations on policies, procedures, and discipline.

Consultant at MGT of America, Inc., in criminal justice regarding law enforcement agencies and correctional facilities.

Assistant Professor in the College of Criminal Justice at Sam Houston State University. Undergraduate courses taught include Fundamentals of Criminal Law, Legal Aspects of Corrections, Professionalism and Ethics, and Criminal Investigation. Graduate courses taught include Seminar in Organization and Administration and Legal Aspects of Criminal Justice Management.

Sheriff of Travis County, Texas. Assumed office as the first female sheriff in Travis County history in January 1997. Served as the Chief Law Enforcement Officer and Chief Corrections Officer of Travis

County. The Travis County Sheriff's Office is an agency of over 1,350 employees with a 2004 budget of over \$90 million. It is a full-service sheriff's office which patrols over 700 square miles and operates a jail system which houses over 2,400 inmates.

Assistant Professor in the College of Behavioral Sciences at St. Edward's University on a part-time basis. Courses taught included American Policing and Corrections.

Partner at the law firm of Bickerstaff, Heath LLP. Primary practice involved the representation of local government clients, including school districts, police departments, and sheriff's offices in civil rights and employment law matters.

Associate at the law firm of Brown Maroney (Now Husch Blackwell). Primary practice was general litigation with an emphasis in litigation involving representation of local government clients, including school districts, police departments, and sheriff's offices in civil rights and employment law matters.

Interned as a law clerk for U.S. District Judge Maurice Paul.

Interned as a legislative analyst for the Florida Senate Committee on Criminal Justice. Drafted and analyzed legislation in the area of criminal justice.

Served as Captain for the Travis County Sheriff's Office, Texas. Progressed through the ranks from deputy sheriff/corrections officer to captain with five years of service as captain. Main duties included management of jail system and coordination with Commissioners' Court.

Adjunct Instructor at Austin Community College. Adjunct Instructor in criminal justice on a part-time basis. Classes taught included Introduction to Criminal Justice and Corrections.

Corrections officer for the Texas Department of Corrections. Duties included maintenance of security and supervision of inmates in a maximum-security prison.

AWARDS

Lifetime Achievement Award, National Center on Women in Policing, 2003

Community Service Award, NAACP, Austin Chapter, 1999 and 2000

Recognition for Being Outstanding Role Model, Austin Area Urban League, 2000

Breaking the Glass Ceiling Award, National Center on Women in Policing, 1999

Administrator of the Year, Combined Law Enforcement Association of Texas, 1998

Bridge Builder of the 21st Century, National Women of Achievement, Inc., 1997

Administrator of the Year, Combined Law Enforcement Association of Texas, 1997

Correctional Officer of the Year, National Jail Association, 1981

PROFESSIONAL ACCOMPLISHMENTS

National Association of Civilian Oversight of Law Enforcement (NACOLE) (Board member 2016-Present; Vice-President 2017-Present; Treasurer 2016-2017)

Major County Sheriffs' Association (President, 2004; Vice-President, 2002-2003; Treasurer, 1998-2001)

National Sheriff's Association (Board of Directors, 2002-2004)

SafePlace Foundation, Board of Trustees (1997-2004)

Big Brothers/Big Sisters of Central Texas, Board Member (2000-2004)

Children's Advocacy Center of Central Texas, Advisory Board Member (1997-2004)

National Center for Women and Policing, Board Member (1998-2008)

Texas Institute for Public Problem Solving, Executive Board Member (1998-2004)

PUBLICATIONS

Frasier, Margo L., The Use of Conducted Energy Devices (Tasers), *Telemasp Bulletin*, Texas Law Enforcement Management and Administrative Statistics Program, (2005) Vol. 12, No. 6, pp. 1-11.

Frasier, Margo L., Search and Seizure, *Suing and Defending Governmental Entities Seminar 2005*, Texas Bar CLE, Vol. 17, Chapter 12, pp. 1-8.

Frasier, Margo L., Use of Force Training, *Suing and Defending Governmental Entities Seminar 2010*, Texas Bar CLE, Vol. 22, Chapter 9, pp. 1-22.

Frasier, Margo L., Law Enforcement Update: What the Courts and the Legislature Have Been Up to in 2010-2011, *Suing and Defending Governmental Entities Seminar 2011*, Texas Bar CLE, Vol. 23, Chapter 17, pp. 1-4.

Frasier, Margo L., Hot Topics in Jail Administration, *Advanced Government Law 2015*, Texas Bar CLE, Vol. 27.

CONFERENCE PRESENTATIONS

New County Judges and Commissioners School, LBJ School of Public Affairs, University of Texas at Austin, Austin, Texas, January 2005. Presentation on Jail and Law Enforcement Liability

American Jail Association, Annual Conference, Kansas City, Kansas, May 2005. Presentation of paper entitled: Legal Consequences of Prison Rape

17th Annual Suing and Defending Government Entities Seminar, San Antonio, Texas, July 2005
Presentation of paper entitled: Search and Seizure

Oregon Jail Managers' Association, Ontario, Oregon, August 2005. Two day presentation on the Prison Rape Elimination Act; sponsored by the National Institute of Corrections

South Dakota Jail Administrators' Association, October 2005. Two day presentation on the Prison Rape Elimination Act; sponsored by the National Institute of Corrections

Oregon Sheriffs' Association, December 2005. Presentation on the Prison Rape Elimination Act; sponsored by the National Institute of Corrections

Women in Criminal Justice Seminar, Corrections Management Institute of Texas, Dallas, Texas, April 2006. Presentation on "Managing and Being Managed"

American Jail Association, Annual Conference, Salt Lake City, Utah, May, 2006. Presentation of paper entitled: Prison Rape Elimination Act, Investigating Sexual Assault Allegations in Jail Settings

Utah Sheriff's Association, Annual Conference, Salt Lake City, Utah, September 2006. Presentation on the Prison Rape Elimination Act; sponsored by the National Institute of Corrections

Virginia Sheriff's Association, Annual Conference, Virginia Beach, Virginia, April 2007. Presentation on the Prison Rape Elimination Act; sponsored by the National Institute of Corrections

Michigan Sheriff's Association, Annual Conference, Thompsonville, Michigan, June 2007. Presentation on the Prison Rape Elimination Act; sponsored by the National Institute of Corrections

National Sheriffs' Association, Annual Conference, Salt Lake City, Utah, June 2007. Participation on panel of experts on the Prison Rape Elimination Act

Women in Criminal Justice Seminar, Corrections Management Institute of Texas, San Antonio, Texas, May 2008. Presentation on "Women as Leaders"

Texas Association of Counties' Leadership Reunion, Bandera, Texas, May 2008. Presentation on "Leading with Ethics"

22nd Annual Suing and Defending Government Entities Seminar, San Antonio, Texas, July 2010, Presentation of paper entitled: "Use of Force Training"

Texas Municipal League Attorneys' Workshop, Austin, Texas, September 2010, Presentation of paper entitled: "Use of Force Training"

Texas Association of Counties, 2010 Annual Seminar, September 2010, Presentation on jail overcrowding and possible solutions

23rd Annual Suing and Defending Government Entities Seminar, Austin, Texas, July 2011, Presentation of paper entitled: "Law Enforcement Update"

Legal Training for Travis County Constables, March 2012, Presentation entitled "Law Enforcement Perspective: Working with a Diverse Population"

25th Annual Corrections Accreditation Managers' Association, Austin, Texas, April 2012, Presentation entitled "Accountability"

National Sheriffs' Association, Annual Conference, Nashville, Tennessee, June 2012, Presentation entitled "Implementing the Prison Rape Elimination Standards"

National Association of Women Law Enforcement Executive, Annual Conference, Austin, Texas, August 2012, Presentation entitled "Executive Response to Critical Incidents"

Sheriffs' Association of Texas, New Sheriffs' Management School, Austin, Texas, December, 2012, Presentation entitled "Ten Things to Know as a New Sheriff"

27th Annual Advanced Government Law Seminar, Austin, Texas, July 2015, Presentation of paper entitled: "Hot Topics in Jail Administration"

Pathways to Strengthening Civilian Oversight of Baltimore Police, Baltimore, Maryland, October 2016. Presentation on panel regarding different oversight models

International Hispanic Network, Annual Conference, Austin, Texas, November 2016. Presentation on "Local Law Enforcement, Race and Community"

Investigating Physical and Sexual Abuse in Institutional Settings, November 2016, New York Department of Corrections and Community Supervision

29th Annual Advanced Government Law Seminar, Austin, Texas, July 2017, Presentation on "Jail Liability"

(revised 12/08/17)

Appendix B

CASES IN WHICH MARGO L. FRASIER HAS TESTIFIED

(revised February 4, 2018)

Annette Aguilera, Individually, and as Next Friend of Susie Aguilera, A Minor v. Maverick County, et al., Cause No. 06-09-21974-MCV, 293rd District Court of Maverick County, Texas (retained by defense counsel, Rodney Handel) (gave testimony at trial)

Solomon Oludamisi Ajibade, et al. v. John Wilcher, et al., Civil Action No. 4:16-CV-82-WTM-GRS, United States District Court, Southern District of Georgia, Savannah Division (retained by plaintiff counsel, Cameron Kuhlman) (gave testimony by deposition)

Justin Borum, et al. v. Swisher County, Civil Action No. 2:14-CV-00127, United States District Court, Northern District of Texas, Amarillo Division (retained by defense counsel Malerie Anderson) (gave testimony by deposition and at trial)

Jennifer Kaye Byers v. Navarro County, et al., Civil Action No. 3:09-CV-01792-D, United States District Court, Northern District of Texas, Dallas Division (retained by defense counsel, Eric Magee) (gave testimony by deposition)

Jose Manuel De Leo, Jr. v. Michael Rosales, et al., Cause No. C-0396-15-H, 389th Judicial District of Hidalgo County, Texas (retained by defense counsel, Eileen Leeds) (gave testimony by deposition)

Leland Craig v. Sheriff Joe Pollock, et al., Cause No. A-07-CA-306-SS, United States District Court, Western District of Texas, Austin Division (retained by defense counsel, Bob Bass) (gave testimony at trial)

Zackary Kegan Cruz v. City of Brownfield Police Department Officer Joshua Coronado, et al., Civil Action No. 5:12-CV-00123-C, United States District Court, Northern District of Texas, Lubbock Division (retained by defense counsel, Matt Matzner) (gave testimony at trial)

Chet Driver v. Stephen Godfrey, Civil Action No. 9:16-CV-00010, United States District Court for the Eastern District of Texas, Lufkin Division (retained by defense counsel, Robert Davis) (gave testimony by deposition)

Donna Davis, Individually and on behalf of the Estate of Richard Davis and minors Cody Davis, Katherine Davis and Megan Davis v. Montgomery County, et al., Civil Action No. 4:07-CV-00505, United States District Court, Southern District of Texas, Houston Division (retained by plaintiffs' counsel, Lanny Ray) (gave testimony by deposition)

Charles Deckard, et al. v. Nacodoghes County, Texas, et al., Civil Action No. 9:13-CV-00294-RC, United States District Court, Eastern District of Texas, Lufkin Division (retained by defense counsel, Robert Davis) (gave testimony by deposition)

Nichole DeShazo, Special Administrator of the Estate of Charles DeShazo, deceased v.

Elvis Baneski, et al., Civil Action No. 14-CV-1575. United States District Court, Northern District of Illinois, Western Division (retained by defense counsel, Dominic Lanzito) (gave testimony by deposition)

Robert de la Garza v. Kirby Brumby, Individually and in His Official Capacity as Sheriff of Goliad County, Texas, , Civil Action No. 6:11-CV-00037, United States District Court, Southern District of Texas, Victoria Division (retained by defense counsel, Casey Cullen) (gave testimony by deposition)

Sarah Dill, Individually and as Next Friend and Legal Guardian of Joshawa A. Curlee v. Bell County, Texas, Civil Action No. A-03-CA-070-SS, United States District Court, Western District of Texas, Austin Division (retained by defense counsel, Charles S. Figerio) (gave testimony at trial)

Dumas Towing, LLC v. Sheriff J.E. (Bo) DeArmond and Scott Higginbotham, Civil Action No. 2:11-CV-121-J, in the United States District Court, Northern District of Texas, Amarillo Division (retained by defense counsel, Matt Matzner) (gave testimony by deposition)

Mario Del Refugio Escamilla, et al. v. Webb County, et al., Civil Action No. 5:11-CV-13, in the United States District Court, Southern District of Texas, Laredo Division (retained by defense counsel, Charles Frigerio) (gave testimony by deposition)

Lawrence Faulkenberry v. Caldwell County, Texas, et al., Civil Action No. 1:15-CV-01089, in the United States District Court, Western District of Texas, Austin Division (retained by defense counsel, Eric Magee) (gave testimony by deposition at trial)

Chad Forbes v. Caldwell County, et al., Civil Action No. A-08-CA-532-LY, United States District Court, Western District of Texas, Austin Division (retained by defense counsel, Bob Bass) (gave testimony by deposition)

Jose Luis Garza, et al. v. City of Donna, Texas, et al., Civil Action No. 7:16-CV-00558, United States District Court, Southern District of Texas, McAllen Division (retained by defense counsel, J. Arnold Aguilar) (gave testimony by deposition)

Maria Garcia, Individually and as Next Friend of Minor, J.G. v. Navasota Independent School District, et al., Civil Action No. 4:09-cv-03892, United States District Court, Southern District of Texas, Houston Division (retained by defense counsel, Todd Clark) (gave testimony by deposition)

Monica Garcia, Individually, et al. v. LCS Correction Services, Inc., et al., Civil Action No. 2:11-CV-00004, United States District Court, Southern District of Texas, Corpus Christi Division (retained by defense counsel, Myra Morris) (gave testimony by deposition and at trial)

Estate of Andres L. Gutierrez, Deceased, et al. v. Frio County Sheriff's Deputy Roger

Salinas, Individually and Officially, et al., Civil Action No. 5:10-CV-00735-OLG, United States District Court, Western District of Texas, San Antonio Division (retained by defense counsel, Eileen Leeds) (gave testimony at trial)

Bradley R. Ham v. Weldon Tucker, Civil Action No. 01-CA-0837-RF, United States District Court, Western District of Texas, San Antonio Division (retained by defense counsel, Robert Bass) (gave testimony by deposition and at trial)

Florida Harris v. Polk County, et al., Civil Action No. 6:13-CV-00412, United States District Court, Eastern District of Texas, Tyler Division (retained by defense counsel, Eric Magee) (gave testimony at trial)

Marie Hicks-Fields, et al. v. Christopher Pool, et al.; Civil Action No. 4:12-CV-3650, United States District Court, Southern District of Texas, Houston Division (retained by defense counsel, Lisa Hulsey) (gave testimony by deposition)

James Adison Holmes, Jr. v. John Doe Scouts, et al., Civil Action No. C-09-273, United States District Court, Southern District of Texas, Corpus Christi Division, (retained by defense counsel, Kevin Cullen) (gave testimony at trial)

Tylon Hudson, et al. v. Toni Preckwinkle, et al., Civil Action No. 13-CV-8752, United States District Court, Northern District of Illinois, Eastern Division (retained by defense counsel, Paul McGrady) (gave testimony by deposition and at trial)

Mosevelt Jackson, Jr. and Linda Jackson v. Washington County, et al.; Civil Action No. A-09-CA-878, United States District Court, Western District of Texas, Austin Division (retained by defense counsel, Eric Magee) (gave testimony at trial)

Peggy Johnson, et al. v. Johnson County, Civil Action No. 3:04-CV-2066-D, United States District Court, Northern District of Texas, Dallas Division (retained by defense counsel, Stephen Henninger) (gave testimony by deposition)

Vicky Johnson v. Victor Hall, et al., Civil Action No. W-98-CA-151, United States District Court, Western District of Texas, Waco Division (retained by plaintiff's counsel, Sara Leon) (gave testimony by deposition and at trial)

Kent Krueger v. Raymond Chapa, Civil Action No. SA-01-CA-0101-FB, United States District Court, Western District of Texas, San Antonio Division (retained by defense counsel, Michael Shaunessy) (gave testimony at trial)

Elizabeth Lawson v. City of Jefferson, et al., Civil Action No. 2:13-CV-00105, United States District Court, Eastern District of Texas, Marshall Division (retained by defense counsel, Darren Coleman) (gave testimony by deposition and at trial)

Michelle Martinez, et al. v. Maverick County, et al., Civil Action No. DR-08-CA-077,

United States District Court, Western District of Texas, Del Rio Division (retained by defense counsel, Norman Giles) (gave testimony by deposition)

John Mascheck, et al. v. Jim Wells County, et al., Civil Action No. 2:05-CV-00291, United States District Court, Southern District of Texas, Corpus Christi Division (retained by defense counsel, Myra K. Morris) (gave testimony by deposition and at trial)

Joanna Mays, et al. v. Johnson County, Texas, Civil Action No. 3-08-CV-1207-P, United States District Court, Northern District of Texas, Dallas Division (retained by defense counsel, Greg Blaies) (gave testimony by deposition)

Cindy Moreno, et al. v. The City of Brownsville, et al., Civil Action No. 1:08-CV-504, United States District Court, Southern District of Texas, Brownsville Division (retained by defense counsel, Eileen Leeds) (gave testimony by deposition)

Rosemary Monzon, et al. v. Randy Geries, Parmer County Sheriff, et al., Civil Action No. 2:06-CV-039, United States District Court, Northern District of Texas, Amarillo Division (retained by defense counsel, Charlotte Bingham) (gave testimony by deposition)

Jay Anthony Nottingham v. Joel Finsterwald, Sheriff of Wheeler County, Carrie Gaines, Wheeler County Jail Administrator, and Wheeler County, Texas, Civil Action No. 2:10-CV-0023-J, United States District Court, Northern District of Texas, Amarillo Division (retained by defense counsel, Matt Matzner) (gave testimony at trial)

Pascual Q. Olibas and Cheryl Olibas, Individually and d/b/a Freedom Bail Bonds v. Ronny Dodson, Individually and in his Official Capacity as Sheriff of Brewster County and Brewster County, Civil Action No. 4:11-CV-00094-RAJ, United States District Court, Western District of Texas, Pecos Division (retained by defense counsel, Greg Hudson) (gave testimony by deposition)

Yotarsha Oliver v. Allen Clark, et al., Civil Action No. 2:11-CV-227-TJW-CE, United States District Court, Eastern District of Texas, Marshall Division (retained by defense counsel, David Iglesias)

Michelle Sheffield v. John Doe I, Individually and in his Official Capacity, Williamson County and the Williamson County Sheriff's Department, Civil Action No. A-11-CA-300-LY, United States District Court, Western District of Texas, Austin Division (retained by defense counsel, Charles Frigerio) (gave testimony at trial)

Shawna Fleweger Shelton, et al. v. Fayette County, et al., Civil Action No. 4:16-CV-01500, United States District Court, Southern District of Texas, Houston Division (retained by defense counsel, Joanna Salinas) (gave testimony at trial)

Harold Shields v. Carol L. Twiss, et al., Civil Action No. SA-01-CA-0289-HG, United States District Court, Western District of Texas, San Antonio Division (retained by defense counsel, Dawn Carmody) (gave testimony by deposition)

Robert Shreve, et al. v. Franklin County, Ohio, et al., Cause No. 2:10-CV-244, United States District Court, Southern District of Ohio, Eastern Division (retained by intervenor's counsel, Aaron Fleisher, U. S. Department of Justice) (gave testimony by deposition)

Jorge Sifuentes, et al.v. The City of Corsicana, Navarro County, et al., Civil Action No. 3-04-CV-2307-K, United States District Court, Northern District of Texas, Dallas Division (retained by defense counsel, Portia Bosse) (gave testimony by deposition)

Jacqueline Smith v. Harris County, Texas, Civil Action No. 4:15-CV-02226, United States District Court, Southern District of Texas, Houston Division (retained by defense counsel, Laura Hedge) (gave testimony by deposition)

Sylvia Torres, et al. v. Hidalgo County, et al., Civil Action No. M-06-332-D, United States District Court, Southern District of Texas, McAllen Division (retained by defense counsel, Myra Morris) (gave testimony by deposition)

Lynda Denise Tucker v. Corey Ridings and Jimmy Russell, Sheriff of Taney County, Missouri; Cause No. 15-3175, United States District Court, Western District of Missouri, Southern Division (retained by plaintiff's counsel, Mark Kempton) (gave testimony by deposition)

T.W. v. Llano County, et al., Civil Action No. A-97-CA-887-SS, United States District Court, Western District of Texas, Austin Division (retained by defense counsel, Michael Shaunessy) (gave testimony by deposition and at trial)

United States of America v. Terry S. Johnson, in his official capacity as Alamance County Sheriff, Civil Action No. 1:12-CV-1349, United States District Court, Middle District of North Carolina (retained by plaintiff counsel Michael Songer, United States Department of Justice) (gave testimony by deposition and at trial)

United States of America v. Maricopa County, Arizona, et al., Civil Action No. 2:12-CV-00981-LOA, United States District Court for the District of Arizona (retained by plaintiff counsel Jennifer Mondino, United States Department of Justice) (gave testimony by deposition)

Rodney J. Watt v. City of Highland Park, Illinois, et al., Civil Action No. 01-C-6230, United States District Court, Northern District of Illinois, Eastern Division (retained by plaintiff counsel, Tom Marzewski) (gave testimony by deposition)

Appendix C

Materials Relied Upon

COURT DOCUMENTS

Amended Class Action Complaint for Declaratory and Injunctive Relief, Collins v. City of Milwaukee, No. 2:17-cv-00234-JPS (E.D. Wis. May 24, 2017), ECF No. 19.

MILWAUKEE POLICE DEPARTMENT DOCUMENTS

MILWAUKEE POLICE DEP'T, STANDARD OPERATING PROCEDURE: 001 – FAIR AND IMPARTIAL POLICING (Feb. 8, 2013).

MILWAUKEE POLICE DEP'T, STANDARD OPERATING PROCEDURE: 070 – CITATION PROCEDURES (Jan. 31, 2017).

MILWAUKEE POLICE DEP'T, STANDARD OPERATING PROCEDURE: 085 – CITIZEN CONTACTS, FIELD INTERVIEWS, SEARCH AND SEIZURE (Nov. 11, 2016).

MILWAUKEE POLICE DEP'T, FIELD INTERVIEWS, CONSENT SEARCHES, TRAFFIC STOP DATA COLLECTION & SSRS REPORTS (Dec. 18, 2015) (MKE_0312367).

WISDOT, BADGER TRACS: DATA-ENTRY AND FORMS REFERENCE MANUAL (Jan. 6, 2011).

WISDOT, BADGER TRACS: USER GUIDE (Apr. 25, 2017).

Wisconsin Traffic Stop Data Collection Form TSDC01 (produced by Defendants) (MKE_0028205).

Milwaukee Police Dep't, District 7 Field Interview Cards (Form PF-4 Rev. June 2013) (produced by Defendants on Oct. 26, 2017) (MKE_0609291).

E-mail from Heather Wurth, Milwaukee Police Dep't (March 15, 2016 9:34:27 PM) (produced by Defendants) (MKE_0469649).

E-mail from Terrence Gordon, Captain, Milwaukee Police Dep't to Thomas Stigler et al. (June 22, 2013) (electronic attachment "District-FI Completion.pdf") (produced by Defendants) (MKE_0053231).

Memorandum from Michael Massa, Captain, Central Records Div. to All DABS (January 4, 2011) (produced by Defendants) (MKE_000683).

Memorandum from Regina Howard, Captain, Office of Mgmt., Analysis and Planning (OMAP) to All Dep't Members (Nov. 25, 2013) (MKE_0006835).

DEPOSITION TRANSCRIPTS

Deposition of MaryNell Regan.

Deposition of Edward Flynn.

Deposition of James Harpole.

Deposition of Edith Hudson.

Deposition of Leslie Silletti.

Deposition of Michael Brunson.

Deposition of Terrence Gordon.

Deposition of Jutiki Jackson.

Deposition of Shunta Boston-Smith.

Deposition of Nicole Davila.

Deposition of Timothy Heier.
Deposition of Diana Rowe.
Deposition of Boris Turcinovic.
Deposition of Heather Wurth.
Deposition of Matthew Brooks.
Deposition of Andrew Farina.
Deposition of Torrey Lea.
Deposition of Russell MacRae.

DATA

Codes - Status.csv (produced by Defendants) (MKE_0066947).
Codes - TSContraband.csv (produced by Defendants) (MKE_0066948).
Codes - TSOOutcome.csv (produced by Defendants) (MKE_0066949).
Codes - TSReason.csv (produced by Defendants) (MKE_0066950).
Codes - TSReasonDetail.csv (produced by Defendants) (MKE_0066951).
Codes - TSSearchBasis.csv (produced by Defendants) (MKE_0066952).
CodeTables.xlsx (produced by Defendants) (MKE_0013181).
Contraband.csv (produced by Defendants) (MKE_0066953).
FieldInterview-ConsentSearch-Contraband2013-2015.xlsx (produced by Defendants) (MKE_0601169).
FieldInterview-ConsentSearch-Contraband2016-9.19.2017.xlsx (produced by Defendants) (MKE_0601170).
Outcome.csv (produced by Defendants) (MKE_0066958).
ReasonContact.csv (produced by Defendants) (MKE_0066960).
ReasonDetail.csv (produced by Defendants) (MKE_0066961).
RMS_INCIDENTS_RELATED_TO_CALLS_FOR_SERVICE_FI_PERSON_pipe.txt (produced by Defendants) (MKE_0096271).
RMS_INCIDENTS_RELATED_TO_CALLS_FOR_SERVICE_FI_VEHICLE_pipe.txt (produced by Defendants) (MKE_0096272).
RMS_INCIDENTS_RELATED_TO_CALLS_FOR_SERVICE_PERSONS (produced by Defendants) (MKE_0013312).
RMS_INCIDENTS_RELATED_TO_CALLS_FOR_SERVICE_VEHICLE (produced by Defendants) (C0000011).
RMS_NARRATIVES_TRAFFIC_STOP_2008_to_10_7_2016_PIPE.txt (produced by Defendants) (MKE_0609290).
SearchBasis.csv (produced by Defendants) (MKE_0066967).
Status.csv (produced by Defendants) (MKE_0066968).

T10_CitizenContact_All_pipe.csv (produced by Defendants) (MKE_0096273).
T10_NTC_2014_through_2015_pipe (produced by Defendants) (MKE_0013321).
T10_NTC_2016_through_2017_pipe (produced by Defendants) (MKE_0013322).
T7_CitizenContact_All_pipe.csv (produced by Defendants) (MKE_0096274).
T7_NTC_2008_through_2012_pipe.csv (produced by Defendants) (MKE_0066975).
T7_NTC_2013_through_2017_pipe.csv (produced by Defendants) (MKE_0066976).
T7_TrafficStop_2008_through_2011_pipe (produced by Defendants) (MKE_0013332).
T7_TrafficStop_2012_through_2014_pipe (produced by Defendants) (MKE_0013333).
T7_TrafficStop_2015_through_2017_pipe.xlsx (produced by Defendants) (C0000022).
CAD_Inc_Related_To_Calls_For_Service_2016_1.csv (produced by Defendants) (MKE_0066942).
CAD_Inc_Related_To_Calls_For_Service_2016_2.csv (produced by Defendants) (MKE_0066943).
CAD_Inc_Related_To_Calls_For_Service_2017_1.csv (produced by Defendants) (MKE_0066944).
CAD_Inc_Related_To_Calls_For_Service_2017_2.csv (produced by Defendants) (MKE_0066945).

STATUTES & ORDINANCES

WIS. STAT. § 347.14 (“Stop lamps”).

MILWAUKEE, WIS., CODE OF ORDINANCES ch. 106 (2016) (“Morals and Welfare”).

MILWAUKEE, WIS., CODE OF ORDINANCES ch. 314 (2016) (“Board of Fire and Police Commissioners”).

OTHER

L. SONG RICHARDSON, *Arrest Efficiency and the Fourth Amendment*, 95 MINN. L. REV. 2035 (2011).

BEAU THURNAUER, INT’L ASS’N OF CHIEFS OF POLICE, INTERNAL AFFAIRS: A STRATEGY FOR SMALLER DEPARTMENTS, <http://www.theiacp.org/portals/0/pdfs/BP-InternalAffairs.pdf> (last visited Feb. 19, 2018).

INT’L ASS’N OF CHIEFS OF POLICE, PROTECTING CIVIL RIGHTS: A LEADERSHIP GUIDE FOR STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT (Sept. 2006), http://www.theiacp.org/portals/0/pdfs/PCR_LdrshpGde_Part1.pdf.

POLICE EXEC. RESEARCH FORUM, CONSTITUTIONAL POLICING AS A CORNERSTONE OF COMMUNITY POLICING (Apr. 2015), <https://ric-zai-inc.com/Publications/cops-p324-pub.pdf>.

Letter from Michael V. Crivello, President, Milwaukee Police Ass’n to Fire and Police Commission (May 5, 2016), http://www.city.milwaukee.gov/ImageLibrary/Groups/cityFPC/agendas5/160728_III_D.pdf.

Boston Police Department Releases Latest Field Interrogation Observation Data, BPDNEWS (May 23, 2017), <http://bpdnews.com/news/2017/5/23/boston-police-department-releases-latest-field-interrogation-observation-data>.

Minneapolis Police Department Stop Information,

MINNEAPOLISMN.GOV https://tableau.minneapolismn.gov/views/MPDStopDataOpenData/MPDStopInformation?%3Aembed=y&%3AshowAppBanner=false&%3AshowShareOptions=true&%3Adisplay_count=no&%3AshowVizHome=no (last visited Feb. 19, 2018).

Open Minneapolis, *Police Stop Data*, MINNEAPOLISMN.GOV (February 19, 2018), <http://opendata.minneapolismn.gov/datasets/police-stop-data?geometry=NaN%2CNaN%2CNaN%2CNaN>.

CITY OF AUSTIN, OFFICE OF THE POLICE MONITOR, 2015 ANNUAL REPORT (2015), http://www.austintexas.gov/sites/default/files/files/OPM_Annual_Report_2015_FINAL2.pdf.

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Appendix D

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OFFICE OF
CITY ATTORNEY

| | | | | | | | | |
|------------------------------------|-------------------------|---|--|---|---|--------------------------------|-----------|------------|
| Date | Time | Reason | FI # | of | | | | |
| Location | | | Zip Code | | | | | |
| CAD Number | Consent Search Involved | | | <input type="checkbox"/> Y <input type="checkbox"/> N | | | | |
| Gang Act? | Gang Affiliation | <input type="checkbox"/> Admits Membership | <input type="checkbox"/> ID'd by Informant | <input type="checkbox"/> Has Gang Tattoo | <input type="checkbox"/> Under 18/Id'd by Parent | | | |
| | | <input type="checkbox"/> Arrested more than once w/other member | | | <input type="checkbox"/> Stopped more than 4x w/known Gang member | <input type="checkbox"/> Other | | |
| Officer 1 Employee I.D.# (6 digit) | Location | Officer 2 Employee I.D.# (6 digit) | Location | | | | | |
| Text | | | | | | | | |
| Name | | | | | | | | |
| Race | Sex | DOB | Age | Height | Weight | Hair Color | Eye Color | Skin Color |
| Address | | | | | | | | |
| City | | | State | Zip Code | | | | |

| | | | | | | | | |
|--------------------------------|-------------------|------------------|-------------|---------|--|-------|-------|------------------------|
| DL # | Phone | Alias | | | | | | |
| Marks, Tattoos, Other Oddities | | | | | | | | |
| Gen Appearance | Build | Hair Description | Facial Hair | Speech | Demeanor | | | |
| Clothing Description | | | | | PROPAR <input type="checkbox"/> Y <input type="checkbox"/> N | | | |
| Employer/School | Address | | | Phone # | | | | |
| Associates W/Subject | Race | Sex | DOB | | | | | |
| Address | | | | | | | | |
| Associates W/Subject | Race | Sex | DOB | | | | | |
| Address | | | | | | | | |
| Lic. Type | License Plate No. | State | Exp. | Year | Vehicle Make | Model | Style | Color |
| VIN Number | | | | | | | | MPD PF-4 Rev. 06/13 |

Appendix E

WISCONSIN TRAFFIC STOP DATA COLLECTION FORM

TSDC01

| | | |
|------------------------------------|--|----------------------------------|
| Document Number 489742S1 | Police Number ENTER CAD NUMBR HERE | Report Date 05/28/2014 |
|------------------------------------|--|----------------------------------|

| | | | | | | |
|---|---------------------------|-------------------------------|----------------------------|--|----------------------------|------------------------|
| 3 - Date of Stop | | 4 - Time of Stop | | | | |
| 5 - County | | 6 - Municipality | | | | |
| 7 - On Hwy # | 7 - On Hwy Dir | 7 - On Street Name | | Est. Dist | Est. Dist. Dir | |
| 8 - From/At Highway # | 8 - From/At Hwy Dir | 8 - From/At Street Name | | | | |
| 9 - Roadway Type | | | | | | |
| 10 - Latitude | | | 11 - Longitude | | | |
| Agency Space | | | | | | |
| 12 - License Plate # | 13 - Plate Type | 14 - State | 15 - Expiration Year | 16 - Body Style | 17 - Color | 18 - Vehicle Year |
| 19 - Make Code | | 19 - Make Description | | 20 - Model Code | | 20 - Model Description |
| 21 - # Of Passengers Observed (Driver Excluded) | | Tot Pass Searched/Consent Req | | 22 - At Least One Non-White Passenger Observed | | |
| 23 - Driver Zip Code | 24 - Driver Date of Birth | Driver Age | 25 - Driver Sex | | 26 - Driver Race/Ethnicity | |
| 27 - Reason for Stop | | | 28 - Detailed Reason | | | |
| 27 - Other Reason for Stop | | | 28 - Other Detailed Reason | | | |
| 29 - Event Outcome | | | | 30 - Event Duration | | |

| | | |
|-----------------------|-------------------------------------|-------------------------|
| Vehicle Search | 31 - Consent Requested NO | 34 - Search Basis |
| | 32 - Consent Received NO | |
| | 33 - Search Conducted NO | 34 - Other Search Basis |
| | 35 - Contraband Found | |
| | 35 - Other Contraband | |
| Driver Search | 36 - Consent Requested NO | 39 - Search Basis |
| | 37 - Consent Received NO | |
| | 38 - Search Conducted NO | 39 - Other Search Basis |
| | 40 - Contraband Found | |
| | 40 - Other Contraband Found | |

| | | |
|------------------------------------|--|----------------------------------|
| Document Number 489742S1 | Police Number ENTER CAD NUMBR HERE | Report Date 05/28/2014 |
|------------------------------------|--|----------------------------------|

| | | | | | |
|---|---|----------------------------|---|-------------------------------|----------------------------|
| Passenger Search 001 | 41 - Consent Requested | 44 - Search Basis | | | |
| | 42 - Consent Received | | | | |
| | 43 - Search Conducted | 44 - Other Search Basis | | | |
| | 45 - Contraband Found | | | | |
| | 45 - Other Contraband Found | | | 46 - Passenger Race/Ethnicity | |
| Last Name MULOCK | | First Name PETER | | Middle Name J | Officer ID 07027 |
| LEA Number 36 | Law Enforcement Agency Jurisdiction MILWAUKEE | | Law Enforcement Agency type CITY-POLICE | | |
| Law Enforcement Agency Name MILWAUKEE POLICE DEPARTMENT | | | | | |
| Law Enforcement Agency Street Address 749 WEST STATE STREET | | | | | |
| Law Enforcement Agency City MILWAUKEE | | LEA State WI | Law Enforcement Agency Zip Code 53233 | | |
| Law Enforcement Agency Phone Number (414) 933-4444 EXT. | | | | User ID 07027 | |

Appendix F



User Guide

Revision date: April 25, 2017

WisDOT

CONTACT SUMMARY FORM

Contact Summary Form

This form doesn't get transmitted outside your agency.

The Contact Summary form contains 8 groups:

1. Document
2. Summary
3. Location
4. Unit
5. Individual
6. Law Enforcement Agency

Document Group

Each Contact Summary form contains one Document group. The fields within the group are shown in the figure below.

CONTACT SUMMARY

| | | | | | |
|-------------------|----------------------|----------------------|----------------------|----------------|------------------|
| 0D40TQT5KB | Form Version # CS | Version Date 0112 | Baseline 10.06.35 | Pack 000000 | Machine # 626 |
| Police Number | | | Tags | | |

Summary Group

Each Contact Summary form contains one Summary group. The fields within the group are shown in the figure below.

Summary

| | | | | |
|---------------|---------------|---------------------------|--|-------------------------------------|
| Date Occurred | Time Occurred | Report Date 03/14/2017 | <input type="checkbox"/> Officer Initiated | <input type="checkbox"/> Videotaped |
| Reason | | Detailed Reason | | |
| Other Reason | | Other Detailed Reason | | |
| Outcome | | | | |

Location Group

Each Contact Summary form contains one Location group. The fields within the group are shown in the figure below.

CONTACT SUMMARY FORM

The primary way to populate the location group is to use the TraCS Location Tool (TLT). If TLT can't be used, type Override in the Map field. This will enable all the location group fields thus allowing manual entry of information.

| Location | | | | | | | |
|--------------------------------------|----------------|-----------------|-----------------------------|------------------------|--|--------------|-----------------------------------|
| Map | DMV County | | | DMV Municipality | | | |
| On Hwy Type | On Hwy # | On Hwy Dir | On Street Name | | | | |
| Estimated Distance From Intersection | | | Direction From Intersection | | | | |
| From/At Hwy Type | From/At Hwy # | From/At Hwy Dir | From/At Street Name | | | | |
| Structure Type | | | Structure Number | | | | |
| Latitude | | Longitude | | X Coordinate | | Y Coordinate | |
| Muni Type | On Roadway ID# | | | On Roadway Link Offset | | | Override <input type="checkbox"/> |
| Add Next Unit | | | | | | | |

Unit Group

Each Contact Summary form can contain multiple Unit groups. The fields within the group are shown in the figure below.

| Unit | | | | | | | |
|-------------|--|--------|-------------------------------------|---------------------------|---|------------|---------------|
| | Lic Plate # | V Year | Motor Vehicle Make | Recreational Vehicle Make | Model | Body Style | Vehicle Color |
| | # Of Passengers Observed (Driver Excluded) | | Tot Pass Searched/Consent Requested | | <input type="checkbox"/> At Least One Non-White Passenger Observed | | |
| Unit | Consent Requested NO | | Search Basis | | | | |
| | Consent Received NO | | | | | | |
| | Search Conducted NO | | Other Search Basis | | | | |
| | Contraband Found | | | | | | |
| | Other Contraband | | | | | | |

CONTACT SUMMARY FORM

Individual Group

Each Contact Summary form can contain multiple Individual groups. The fields within the group are shown in the figure below.

| Individual | | | | | | |
|-------------------------|--------------|---------------|-----|------|--|------------|
| Role | ZipCode | Date of Birth | Sex | Race | <input type="checkbox"/> Probation/ Parole | TraCS Link |
| Consent Requested NO | Search Basis | | | | | |
| Consent Received NO | | | | | | |
| Search Conducted NO | | | | | | |
| Other Search Basis | | | | | | |
| Contraband Found | | | | | | |
| Other Contraband Found | | | | | | |

Law Enforcement Agency

Each Contact Summary form contains one Law Enforcement Agency group. The fields within the group are shown in the figure below. Agency Space field max 200 characters.

| Law Enforcement Agency | | | |
|--|---|---|----------------------------|
| Agency Space | | | |
| Officer Rank A-CHF | Officer Last Name WILLIAMS | Officer First Name FRANCES | Officer Middle Name L |
| DOT Officer ID 3333 | DNR Officer ID | Officer Badge Number B333 | |
| Local Agency Number | Law Enforcement Agency Jurisdiction TRACS TEST | Law Enforcement Agency type OTHER | |
| Law Enforcement Agency Name TEST POLICE DEPARTMENT | | TAS Agency Name TEST POLICE DEPARTMENT | |
| Law Enforcement Agency Street Address PO BOX 7919 | | | |
| Law Enforcement Agency City MADISON | LEA State WI | Law Enforcement Agency Zip Code 53707 | |
| Law Enforcement Agency Phone Number (608) 267-1847 EXT. | ORI Number WITEST000 | BFUNC Agency TEST | TraCS Agency Number 012 |

The Law Enforcement Agency section is populated based off of tables and user accounts. Contact your TraCS Administrator if incorrect.