
Investigation of the Memphis Police Department and the City of Memphis



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and

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EXECUTIVE SUMMARY

On July 27, 2023, the Department of Justice opened a pattern or practice investigation into the Memphis Police Department (MPD) and the City of Memphis (City). After an extensive investigation, the Department of Justice has reasonable cause to believe that MPD and the City engage in a pattern or practice of conduct that deprives people of their rights under the Constitution and federal law.

FINDINGS

- **MPD uses excessive force.**
- **MPD conducts unlawful stops, searches, and arrests.**
- **MPD unlawfully discriminates against Black people in its enforcement activities.**
- **The City and MPD unlawfully discriminate in their response to people with behavioral health disabilities.**

Memphis has relied on traffic stops to address violent crime. The police department has encouraged officers in specialized units, task forces, and patrol to prioritize street enforcement. Officers and community members have described this approach as “saturation,” or flooding neighborhoods with traffic stops. This strategy involves frequent contact with the public and gives wide discretion to officers, which requires close supervision and clear rules to direct officers’ activity. But MPD does not ensure that officers conduct themselves in a lawful manner.

MPD’s traffic stops sometimes have tragic consequences. On January 7, 2023, officers in one of MPD’s specialized units kicked, punched, tased, and pepper sprayed Tyre Nichols, a 29-year-old Black man, during a traffic stop. When officers caught up to Mr. Nichols, they beat him as he cried out for help and for his mother, who lived just a block away. Mr. Nichols died three days later.¹

¹ In September 2023, the Department of Justice charged five MPD officers with federal crimes related to Tyre Nichols’ death. Two officers pleaded guilty to civil rights and conspiracy charges. In October 2024, the other three officers were convicted of federal crimes after a four-week trial. The investigation described in this report is civil, not criminal. This report does not examine the circumstances of Mr. Nichols’ death.

Memphis police officers regularly violate the rights of the people they are sworn to serve. Our investigation found that officers use force to punish and retaliate against people who do not immediately do as they say. They rapidly escalate encounters, including traffic stops, and use excessive force even when people are already handcuffed or restrained. They resort to intimidation and threats. They have put themselves and others in harm's way—officers have unlawfully fired at moving cars and accidentally pepper sprayed and fired Tasers at each other.

The lack of supervision has also contributed to officers stopping and detaining large numbers of drivers for minor infractions without legal justification. In a city of about 630,000 people, MPD officers reported making 866,164 traffic stops between January 2018 and August 2023. The number of stops may be even greater. They cited or arrested drivers in at least 296,685 cases, predominantly for minor infractions.

These practices are intrusive and routinely violate the law. Prosecutors and judges told us that officers do not understand the constitutional limits on their authority. Officers stop and detain people without adequate justification, and they conduct invasive searches of people and cars. These practices undermine public safety. They erode trust in law enforcement and result in cases getting dismissed by courts or dropped by prosecutors.

Memphis is a majority-Black city, but Black people in Memphis disproportionately experience these violations. MPD has never assessed its practices for evidence of discrimination. We found that officers treat Black people more harshly than white people who engage in similar conduct. Racial disparities in Memphis are driven by the police department's unsupervised enforcement of low-level, discretionary offenses without proper review and controls. Other strategies, like improved violent crime investigations and community-based violence prevention programs, would more directly serve MPD's and the City's public safety mission without resulting in unnecessary disparities.

Each year, police officers in Memphis respond to thousands of calls involving behavioral health issues. Dispatchers code most of these calls as "nonviolent," but the City sends police officers anyway. While other cities have developed programs to send an appropriate response to behavioral health calls, Memphis has left the responsibility to police. Memphis is widely known as the originator of the Crisis Intervention Team model, in which specially trained police officers respond to behavioral health calls. Yet while MPD officers handle some behavioral health calls properly, we identified many incidents in which officers—including officers on the Crisis Intervention Team—mistreated and used excessive force against people with behavioral health disabilities, including children. And just as MPD has not assessed its traffic enforcement practices for racial disparities or effectiveness, it has failed to regularly evaluate the Crisis Intervention Team program—despite evidence that the City's police-only approach is leading to harmful and unnecessary interactions.

These violations have a corrosive effect on the Memphis community—including children, who have experienced aggressive and frightening encounters with officers. The pattern or practice of unlawful conduct in Memphis stems from systemic deficiencies in policies, training, supervision, and accountability.

The people of Memphis want the best for their City. MPD officers, call-takers, and dispatchers work hard every day to keep Memphians safe. During our investigation, we met officers who responded to high-risk calls and de-escalated tense encounters. The City and MPD cooperated with our investigation, and both Mayor Young and Chief Davis agree on the need for a more comprehensive approach to public safety, including strategies that have worked in other cities. MPD and the City can reduce violent crime and protect people's rights. We look forward to working with the City, MPD, and the community to end the violations and implement durable remedies to ensure lawful public safety practices in Memphis.

BACKGROUND

Memphis is a diverse city with a rich cultural heritage. It is famed for its barbecue and for being one of the birthplaces of rhythm and blues, soul, gospel, and rock'n'roll. Visitors come to Memphis from across the country to see its cultural and historical attractions, from Graceland to the National Civil Rights Museum at the former Lorraine Motel, where Martin Luther King, Jr. was assassinated in 1968. Memphis is also home to colleges and universities, businesses large and small, and many community groups and nonprofit organizations. It is the second-most populous city in Tennessee after Nashville, with a population of about 630,000. Memphis is 64.4 percent Black, 24.1 percent white, 8 percent Hispanic or Latino, and 1.6 percent Asian.

A. Government of Memphis and MPD

Memphis is governed by a mayor and 13-member City Council. Mayor Paul Young was sworn in on January 1, 2024, succeeding Jim Strickland, who served as mayor for eight years. Memphis is the largest city in Shelby County, and the County operates the court system, the District Attorney's Office, and public schools.

The Memphis Police Department (MPD) is the largest law enforcement agency in Tennessee, with about 1,900 sworn officers. Fifty-eight percent of MPD officers are Black, 37 percent are white, and 3 percent are Hispanic or Latino. MPD also employs several hundred non-sworn employees, including 911 call-takers and dispatchers.

MPD's Emergency Communications Center receives around 3,000 calls each day. Operators can dispatch police or transfer callers to the Fire Department for ambulance or fire response.

MPD divides the city geographically into nine patrol precincts. Patrol officers respond to 911 calls and engage in proactive street enforcement, like traffic and pedestrian stops. MPD also has dozens of specialized units. Some units have detectives who investigate homicides and other violent crimes. MPD's Canine Unit looks for suspects and missing persons. The Inspectional Services Bureau investigates allegations of officer misconduct.

MPD has long deployed specialized units that engage in street enforcement activities, including the now-disbanded SCORPION Unit. MPD formed SCORPION (Street Crimes Operation to Restore Peace in Our Neighborhoods) in November 2021 to address violent crime, including by making traffic stops in high-crime neighborhoods. Memphis officials told us that SCORPION was an expansion of MPD's preexisting Criminal Apprehension Teams. These units operated citywide, independently from patrol precincts, and their officers conducted traffic and pedestrian stops.

The mayor appoints the chief of police, and the City Council must approve the appointment. The current police chief is Cerelyn "CJ" Davis, who has served in that

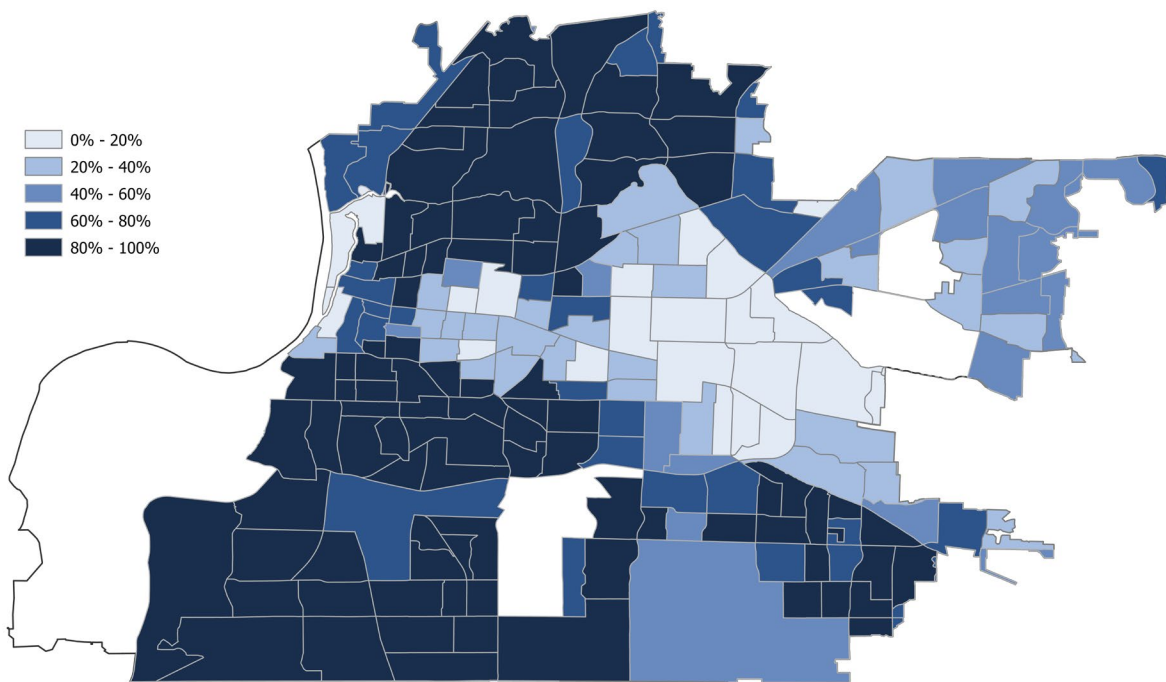
position since 2021. Chief Davis has served in an interim capacity since January 2024, when the City Council tabled a vote on her reappointment. From 2016 to 2021, Michael Rallings led MPD.

MPD has faced difficulties with hiring and retention. Nearly 200 officers resigned in 2014 and 2015, and numbers have declined further since then. The police department went from a high of 2,449 sworn officers in September 2011 to 1,798 officers in May 2024. Over the past several years, the City and MPD have focused on hiring more officers.

B. Racial Segregation, Poverty, and Public Safety Challenges

Memphis is a racially segregated city. Both north and south Memphis are predominantly Black, while a string of majority-white neighborhoods leads from downtown towards east Memphis and wealthier suburbs.

Map of Black Population in Memphis



Poverty is a major problem in Memphis. In 2021, the poverty rate in Memphis was 22.6 percent, well above the national average of 12.8 percent and the Tennessee average of 13.6 percent. Among Black residents, the poverty rate is 26.5 percent, and among Black children, the poverty rate is 37.6 percent.

Memphis faces significant public safety challenges. Among American cities with more than 100,000 residents, Memphis had the third-highest homicide rate and the highest rate of aggravated assaults in 2023. Departing from downward national trends, Memphis experienced an increase in violent crime in 2022 and 2023. In 2023, there were 397 homicides in Memphis, up from 301 homicides in 2022. Homicides and aggravated assaults are often gun-related: from 2020 to 2023, for example, more than 90 percent of the city's murders and more than 70 percent of aggravated assaults involved a gun.

This violence harms community members, including youth. In 2023, 10 children were killed in Memphis, and nearly 170 children were treated for gunshot wounds.² These harms are amplified by other challenges that residents face, including poverty. As one community leader told us, "We have a trauma-dense community."

MPD has struggled to solve violent crimes, such as murders and non-fatal shootings. According to data submitted by MPD to the FBI, MPD arrested a suspect in just 28 percent of murders in 2022 and 14 percent of murders in 2023—far below the national rate of 50 percent. MPD recently created a Gun Crimes Unit to investigate non-fatal shootings. In 2023, that unit investigated more than 2,100 non-fatal shootings and made an arrest in 276 cases, a clearance rate of 13 percent. A 2018 report by the National Public Safety Partnership found that caseloads for MPD's homicide investigators were "unsustainable." According to local prosecutors, MPD has skilled and dedicated investigators, but there are gaps in case files they receive, which they attribute to excessive caseloads and inexperience.

Memphis leaders agree that public safety requires more than the police. Former Mayor Strickland told us, "Policing is just one piece of the puzzle." Chief Davis recently explained at a community meeting, "We can't arrest our way out of crime." The City has invested in some non-police public safety strategies. A recently expanded Group Violence Intervention Program identifies people at risk for engaging in violence and connects them with supportive services. Mayor Young convened a coalition of mayors from across the country to discuss crime-fighting efforts, including strategies to improve violent crime investigations and implement targeted violence prevention initiatives. He announced plans to improve coordination among public safety services and described

² Research shows that exposure to community violence can harm children's academic performance and social wellbeing. Patrick Sharkey et al., *High Stakes in the Classroom, High Stakes on the Street: The Effects of Community Violence on Student's Standardized Test Performance*, Sociological Science (May 27, 2014).

the importance of “investing in prevention and intervention in the lives of . . . young people headed down the wrong path.” He also told us that he wants the City to be “proactive” and address violence from all angles.

C. Community Advocacy for Changes to Policing

Memphis has a long tradition of civil rights organizing and community engagement. In the 1960s, Memphians mobilized to challenge segregated schools and libraries, and sanitation workers went on strike for higher wages and better working conditions.³ In 1978, police officers and firefighters went on strike, seeking improved conditions and benefits.

Memphians have repeatedly raised concerns about policing practices. In 1971, Memphis police officers fatally beat a Black teenager named Elton Hayes after a car chase. The officers were later acquitted, prompting widespread protests. Three years later, the police shot and killed 15-year-old Edward Garner, leading to the landmark Supreme Court case *Tennessee v. Garner*, which held that officers cannot use deadly force against a person who is fleeing and poses no threat.⁴ More recently, in July 2016, community members marched and occupied a major bridge in Memphis as part of protests against police shootings.

Community efforts, internal reforms, and legal actions have led to changes in MPD’s practices over the years. Following a 1976 lawsuit over MPD’s surveillance of activists, a federal court issued an order limiting how MPD collects information about political activists; that order remains in place today.⁵ And in 1987, after an officer shot and killed a person experiencing a mental health crisis, MPD created a Crisis Intervention Team (CIT) with specially trained officers who respond to mental health calls. MPD’s CIT program, known as the “Memphis Model,” prompted other police departments across the country to establish similar teams. In 2020, former Mayor Strickland convened a “Reimagining Policing” project, resulting in a 2021 report with personal stories from community members who experienced excessive force and described distrust in the police. The report also called for new public safety strategies, like a “collaborative system” to send “mental health crisis professionals” to certain 911 calls.

In January 2023, officers in MPD’s SCORPION Unit fatally beat, pepper sprayed, and fired a Taser at Tyre Nichols, a 29-year-old Black man, during a traffic stop. The City released hours of unedited camera footage of officers’ encounter with Mr. Nichols. MPD swiftly fired seven officers, and Chief Davis disbanded the SCORPION Unit. She said

³ Aram Goudsouzian & Charles W. McKinney, Jr., eds., *AN UNSEEN LIGHT: BLACK STRUGGLES FOR FREEDOM IN MEMPHIS, TENNESSEE* 203-227, 306-329 (2018).

⁴ *Tennessee v. Garner*, 471 U.S. 1, 3-4 (1985).

⁵ *ACLU of Tennessee v. City of Memphis*, 2020 WL 5630418, at *1-2 (Sept. 21, 2020).

that disbanding the unit “is in the best interest of all,” and that MPD must “take proactive steps in the healing process.”

INVESTIGATION

On July 27, 2023, the Department of Justice opened a civil investigation into the Memphis Police Department and the City of Memphis pursuant to 34 U.S.C. § 12601, which prohibits a pattern or practice of conduct by law enforcement officers that deprives people of rights protected by the U.S. Constitution or federal law. Our investigation evaluated whether MPD (1) uses excessive force; (2) conducts unlawful stops, searches, and arrests; and (3) engages in racially discriminatory policing. We later expanded our investigation to examine whether the City and MPD unlawfully discriminate against people with behavioral health disabilities. We sought to identify the root causes of any violations, including deficiencies in policies, training, supervision, and accountability systems.

A team of career attorneys, investigators, and paralegals from the Civil Rights Division and the U.S. Attorney's Office for the Western District of Tennessee investigated these allegations. We consulted more than a dozen subject-matter experts with experience in police tactics and training, internal affairs investigations, statistical analysis, behavioral health crises, and 911 call-taking and dispatch. We visited MPD specialized units, internal affairs, homicide, the Real-Time Crime Center, the emergency communications center, and the training academy. We interviewed dozens of MPD officers, from the chief of police and members of command staff to front-line supervisors and patrol officers. We toured all nine MPD patrol precincts and rode with officers during each shift and in every patrol precinct.

Our team reviewed thousands of documents, including policies and training materials and internal affairs files. We also reviewed MPD reports in which officers described using force or stopping, citing, or arresting people. We analyzed databases containing information on thousands of 911 calls, traffic stops, and other encounters. We reviewed hundreds of hours of body-worn camera footage.

We heard directly from community members about their interactions with officers, the effect of MPD's practices, and their views on public safety in Memphis. We held in-person and virtual community meetings during our investigation. We met with community members, advocates, criminal defense attorneys, prosecutors, judges, and service providers. We are grateful to all those who shared their experiences with us.

We thank the City officials, MPD leadership, union officials, and officers who fully cooperated with our investigation and shared their views about public safety practices in Memphis.

MPD'S ENFORCEMENT STRATEGY

The pattern of unlawful conduct described in this report is a result of MPD's decision to prioritize intense street-level enforcement without appropriate safeguards to prevent unlawful conduct by officers. This approach results in frequent community contacts and places significant discretion in the hands of officers. There is little supervision of specialized units or patrol officers, and officers rarely face consequences when they exceed their authority. And neither the City nor MPD has implemented a comprehensive, citywide violence reduction strategy, nor evaluated whether MPD's traffic enforcement practices have their intended effect.

MPD's patrol precincts and street enforcement units rely heavily on traffic stops with the stated goal of curbing violent crime. From January 2018 through August 2023, the police department made 866,164 traffic stops and issued 296,685 traffic citations. MPD officers made about twice as many traffic stops and issued three times as many citations as their counterparts in Nashville over a similar period.⁶ Careful oversight is necessary to ensure these encounters do not result in constitutional violations. But MPD policies do not provide clear guidance for officer discretion.

MPD promotes "saturation" policing to flood certain neighborhoods with traffic stops. For example, the police department's Gang Response Team, a specialized unit of officers who work in plainclothes, will "saturate" an area with "zero tolerance" enforcement and traffic stops. But officers target a particular neighborhood rather than trying to locate and apprehend specific suspects in gang-related crimes.

This aggressive street enforcement is not limited to specialized units. For years, MPD conducted an annual Operation Spring Cleaning and Operation Summer Heat, initiatives that concentrated patrol enforcement in certain neighborhoods. In 2019, Spring Cleaning resulted in 340 arrests and citations over a month; more than half were misdemeanors, and marijuana was 96.6 percent of the drugs recovered, by weight. The SCORPION Unit employed similar tactics before Chief Davis disbanded it in January 2023. We reviewed many incidents and spoke to community members who told us about officers jumping out on them or stopping them repeatedly. MPD continues to rely on saturation tactics, sending patrol officers out on one- or two-day operations in various precincts to make hundreds of traffic stops.

A significant contributor to the systemic violations detailed in this report is MPD's failure to supervise and assess the legality of its saturation-style enforcement of traffic infractions and other nonviolent offenses. The SCORPION Unit illustrates how MPD's lack of safeguards led to unlawful conduct. MPD never adopted policies and procedures

⁶ Nashville's population is nearly 700,000, which is larger than Memphis (about 630,000), and its police department has about 1,500 officers, which is fewer than MPD (about 1,900).

to direct the SCORPION Unit's activities and failed to act despite alarming indications that supervision was minimal. We heard from officers, prosecutors, defense attorneys, judges, community members, and other advocates that the SCORPION Unit persistently mistreated people. Prosecutors told us that some SCORPION Unit cases involved "outrageous" inconsistencies between body-worn camera video and arrest reports, and if the cases went to trial, they "would be laughed out of court." The unit's misconduct led to the dismissal of dozens of criminal cases.

These problems go beyond the SCORPION Unit. MPD's patrol supervisors do not regularly review traffic stops for compliance with law or policy. Commanders do not evaluate how many stops yielded contraband and how many resulted in no enforcement action. MPD has adopted a zero-tolerance, saturation approach that gives substantial power to individual officers, specialized units, and task forces—without close supervision, clear rules for officers, and regular assessments by leadership.

FINDINGS

We have reasonable cause to believe that MPD and the City engage in a pattern or practice of conduct that violates the Constitution and federal law. First, MPD uses excessive force. Second, MPD makes unlawful stops, searches, and arrests. Third, MPD unlawfully discriminates against Black people when enforcing the law. Fourth, the City and MPD unlawfully discriminate when responding to people with behavioral health disabilities.

A. The Memphis Police Department Uses Excessive Force in Violation of the Fourth Amendment.

The use of excessive force violates the Fourth Amendment. The constitutionality of an officer's use of force is assessed under an objective reasonableness standard.⁷ This test must account for the "totality of the circumstances" surrounding the officer's use of force. In Memphis, the police department is responsible for addressing violent crime, and officers face challenging circumstances that may threaten their safety or the safety of others. For that reason, the law requires that an officer's use of force be evaluated "without regard to their underlying intent or motivation."⁸ To determine objective reasonableness, one must pay "careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight."⁹ These factors are not exhaustive. Other relevant considerations may include a person's diminished capacity or an officer's attempts to de-escalate an encounter.¹⁰

Our review of a random sample of force incidents showed that MPD officers regularly escalate encounters involving nonviolent offenses and use unreasonable force against unarmed people who pose no threat. Officers punch, kick, and tackle people just moments into an encounter without justification. Officers use disproportionate force against people who have committed, at most, minor offenses such as traffic infractions, and use force even after people are restrained. Officers use force to retaliate and punish, especially when people talk back to them. MPD has used unreasonable deadly force, such as shooting at moving cars and using unjustified neck restraints. Officers also use excessive force against people with behavioral health disabilities. Officers face

⁷ *Graham v. Connor*, 490 U.S. 386, 396 (1989).

⁸ *Id.* at 397.

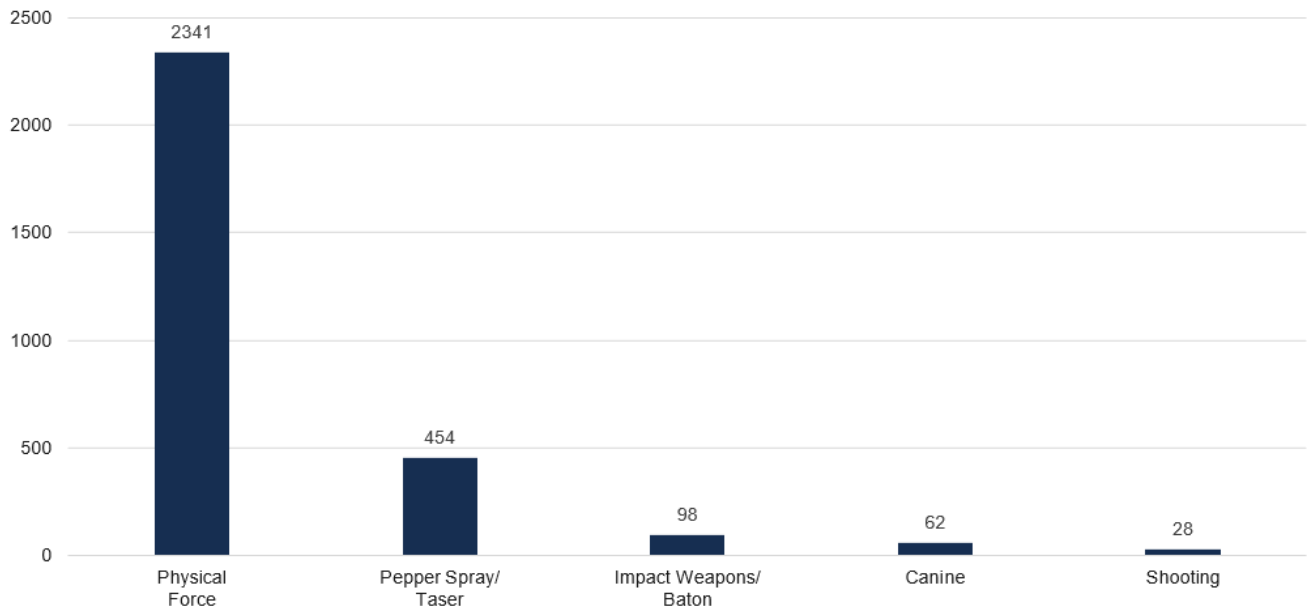
⁹ *Id.* at 396.

¹⁰ *See, e.g., Palma v. Johns*, 27 F.4th 419, 437 (6th Cir. 2022) ("[B]ehavior that ordinarily seems threatening may present a lower risk of harm if the officer has reason to believe that the behavior is a symptom of a mental condition.").

little accountability when they use excessive force, and commanders in the police department have ignored clear warning signs about its prevalence.

We evaluated MPD’s use of both less-lethal and deadly force.¹¹ The following chart shows the Memphis Police Department’s reported uses of force from January 1, 2020, through September 22, 2023.

Reported Uses of Force: January 1, 2020 - September 22, 2023



We reviewed a random sample of incidents between January 1, 2020, and September 22, 2023, in which officers used less-lethal force. We also reviewed every shooting by MPD officers between January 1, 2020, and December 31, 2022. For each incident, we examined body-worn camera footage and any related documentation, including police reports, incident reports, supervisory reviews, and internal affairs investigations, where available. We also reviewed MPD’s policy and training materials, observed training at the MPD academy, and interviewed officers and supervisors about force practices.

¹¹ “Deadly force” is force that is likely to cause serious bodily injury or death and may include the use of firearms, vehicles, or restraints that significantly impair air or blood flow. “Less-lethal” force is so called because it includes tactics that are less likely to cause death or serious injury. Still, less-lethal force can be extremely painful and result in serious harm or death and includes Tasers, police dogs, and projectiles.

1. MPD Escalates Encounters Involving Low-Level and Traffic Offenses, Leading to Unreasonable Uses of Force.

Memphis police officers regularly escalate situations and use severe, excessive force against people suspected of nonviolent offenses, including traffic violations or shoplifting. A significant share of the unreasonable force we found resulted from these types of encounters. Police officers are required to consider the totality of the circumstances when deciding whether and how to use force, including the severity of the alleged offense and if the person resisted the officer's control. But MPD officers resort to force likely to cause pain or injury almost immediately in response to low-level, nonviolent offenses, even when people are not aggressive.

In one incident, officers pepper sprayed, kicked, and fired a Taser at an unarmed man with mental illness because he tried to take a \$2 soft drink from a gas station. Though the man abandoned the drink and left the store, an officer followed him to the edge of the parking lot, yelling at him to leave the area. As other MPD patrol cars arrived, the man put his hands in the air. Without warning, the officer grabbed his arms and shoved him against a squad car. Two more officers arrived and surrounded the man. One officer knelt him in the side four times, then pulled him to the ground and pressed his forearm into his neck. As the officer struck him, the man screamed, "No, don't kill me!" and then tried to run away. The officer fired his Taser at him, which failed to incapacitate him. Another officer then held the man in a chokehold while the first officer pulled the Taser's trigger to shock him again. The officer shocked the man three more times as he screamed in pain, including once after he was facedown with his hands secured behind his back. By the end of the encounter, at least nine police cars and twelve MPD officers had responded to the scene of this attempted shoplifting of a soft drink. The man was arrested and served two days in jail for theft and disorderly conduct.

MPD's decision to emphasize traffic stops in its enforcement strategy—while failing to properly supervise officers and review this strategy for impact—has allowed for regular use of excessive force with impunity. In 196 incidents from 2018 to 2023, officers used force against people charged for driving without a valid license. In some incidents, officers appeared to punish people who tried to get away. During one incident, an officer punched a man in the face and then held his face to the ground after the man fled from a traffic stop. The man was a passenger in a car that MPD stopped for a tag violation, and when officers determined he had an open misdemeanor warrant, he ran. When officers cornered him and he appeared to surrender, one officer punched him in the face, wrapped his arms around his neck, and tackled him. The officer then pressed the man's face and neck into the ground while another officer knelt on his back. The man, who was winded from running, said that he could not breathe. The officer told him to "shut up."

In one incident, officers stopped a driver for speeding, handcuffed her, shoved her against a wall, and threatened to "slam [her] to the ground." According to their report, officers saw her speeding and confronted her after she parked and was standing on the

porch of a relative's home. They demanded her ID, and when she did not produce it, told her that she was going to jail. She told the officers they were not welcome on the property and stepped back. In response, they roughly grabbed her arms, handcuffed her, shoved her against the wall, and threatened to pepper spray her and "slam [her] on the ground." After locking her in a police car, one officer asked, "So what did we see her do?" When an officer suggested the woman had improperly tinted windows, another officer responded, "All this for a tint?" The officer shook his head and gestured with his hand that the woman talked too much.

Some traffic stops have resulted in force that even officers admitted was unnecessary. After officers tried to stop a car for driving with expired tags and failing to stop at a stop sign, they followed the driver to her home and forced their way inside while her young child stood by, crying. No exigent circumstances demanded they enter the woman's home, and the officers had no justification to use force to push their way inside for a nonviolent traffic infraction. After the incident, one officer reflected, "In the grand scheme of things, this does not seem like it was worth it." The officer said, "If it starts with 'mi' and ends in 'eanor,' it's not worth it."

“Sick of his fucking mouth”

MPD officers escalate incidents involving minor offenses by responding to perceived insults, disrespect, or “verbal resistance” with unconstitutional force. “[T]he First Amendment requires that police officers tolerate coarse criticism,” though it may be difficult to bear. *Kennedy v. City of Villa Hills*, 635 F.3d 210, 216 (6th Cir. 2011). But some MPD officers seem to believe that questioning their authority justifies force—as one supervisor told us, **“If someone says ‘I ain’t under arrest,’ that’s resisting right there.”**

One officer reported that a handcuffed man’s “non-compliance” justified using physical force. On body-worn camera video, the officer can be seen shoving the man to the ground just seconds after the man called him an “asshole.” After a traffic stop for expired tags, a driver told a different officer this is “why people don’t like the police” and called him a “racist ass.” When she didn’t immediately get out of her car when ordered, the officer pulled her out, handcuffed her, and pushed her forcefully against her car in front of her six-year-old child.

Officers also use force against people engaging in protected speech when they have no valid reason to stop, arrest, or detain them. After a man referred to a group of officers as “bitch-ass police,” one officer complained that he was **“sick of his fucking mouth.”** Shortly afterwards, the officer walked up to the man and pepper sprayed him in the face. In a different encounter, a man shouted, “Solve a crime!” at two officers standing outside a gas station. One officer cut short his phone call, telling the person he was talking to, **“I’m about to take someone into custody right now.”** The officers grabbed the man from behind, lifted him up, and slammed him on the hood of their squad car. One officer told the man, **“If you want to come up here and talk some bullshit . . . that’s on you.”**

2. MPD Uses Unjustified Neck Restraints.

Neck restraints include chokeholds, strangleholds, or other maneuvers that apply pressure to a person’s neck or throat in a way that limits air or blood flow. These restraints can cause permanent brain injury, stroke, cognitive impairment, and death. Since 2019, Tennessee law has banned officers from using certain neck restraints unless deadly force is justified. For such tactics to be permissible under MPD policy, officers must believe there is an “imminent danger of death or serious bodily injury to the officer or a third person.” MPD policy makes no exception for “the use of hands, knees, feet, or one’s body weight to restrict a subject’s ability to breathe.” Despite these prohibitions, MPD officers regularly use unlawful restraints, sometimes repeatedly in a single incident.

Officers use unreasonable neck restraints when responding to low-level offenses. In one case, three officers tackled a man who had littered in a public park, held him down, and applied pressure to the back of his neck for about 20 seconds. The man had done nothing wrong, but was “talking all this shit,” according to one officer, and would not tell the officers his name. When the man dropped his drink while leaving the park, four officers surrounded him. The man said he just wanted to go home, and an officer responded, “The way you want it to go, it’s not gonna go.” Seconds after telling him to put his hands behind his back, the officers converged on the man, piling on top of him and holding him down by the neck. While handcuffed in the patrol car later on, the man told a lieutenant that he was trying to follow the officers’ directions, but they had already decided to charge him: “I even offered to pick the can up.”

MPD officers also use unjustified neck restraints on people exhibiting symptoms of behavioral health crises. In one case, officers offered a ride home to a man at a gas station experiencing paranoid delusions that someone wanted to kill him. The man accepted the ride, but while he was waiting in the squad car, the officers discovered he had a misdemeanor warrant for theft. They pulled him from the car to arrest him, telling him, “You’re fixing to get your ass whupped.” When he tried to get away, they repeatedly punched him in the head and body, then wrapped an arm around his neck to pull him to the ground and pressed his head and neck into the pavement.

In another such incident, officers used unlawful neck restraints to subdue an intoxicated man who was on his hands and knees in a hotel hallway, yelling incoherently and spitting. As officers approached, the man struggled to his feet and grabbed one officer’s arm. In response, officers grabbed him by the neck, and one pressed a baton across his throat. Then they forced him to the ground and pressed on the back of his neck for 10 more seconds. When they relieved the pressure, the man sobbed and screamed, “You choked me!” One officer silenced him by gripping his throat and squeezing. The officers then held him against the wall by the neck while applying handcuffs, and again, after he was cuffed, an officer held his arm across the man’s throat. The man eventually urinated on himself and was transported to the hospital by ambulance for psychiatric evaluation. He was not charged with any crimes.

In over 90 percent of the incidents we reviewed involving neck restraints, neither the officers nor supervisors reported the neck restraints. If mentioned in reports at all, officers described neck restraints simply as “physical force.” In one incident, the reviewing lieutenant colonel sent a use-of-force report to a front-line supervisor to “research” officers’ “omissions.” The supervisor instructed the officers to add that there had been “impact” to the face—the body-worn camera video shows they punched the person. But the supervisor failed to identify or mention the two obvious neck restraints that the video showed during the same incident and were also omitted from the officers’ reports. At the time of our review, no officer who used an unjustified neck restraint in the incidents from our sample had received discipline.

3. The Memphis Police Department Uses Unreasonable Force on People Who Are Restrained or Under Control.

MPD officers punch, kick, and use other force against people who are already handcuffed or restrained. The gratuitous use of force against a person who has surrendered is unconstitutional. We found many incidents in which officers used unreasonable force against people who were restrained. In nearly all of them, supervisors approved the use of force. One officer hit a handcuffed man in the face and torso with a baton eight times. In a different incident, officers kicked a woman in the chest three times while she was handcuffed in the back of a squad car. In another case, officers punched a man in the throat while he was handcuffed to a chair. Officers repeatedly permitted police dogs to bite or continue to bite people, including children, who were nonresistant and attempting to surrender.

After being pepper sprayed in the back of a squad car and left with the doors closed, a man told officers he could not breathe. The officer who sprayed him responded: **“I don’t give a fuck.”** MPD found no violations of policy.

When officers use force punitively, other officers or supervisors often do not intervene. One officer choked, pepper sprayed, and repeatedly struck a handcuffed man with a baton because the man did not immediately follow his directions. Officers arrested the man after responding to a 911 call for domestic assault, handcuffed him, and walked him to a police car. The man stood calmly next to the police car but refused to get into it. The arresting officer became enraged, grabbed him by the shirt, bashed him against the frame of the car, and hit him twice with a baton as he shoved him inside. When the man began to kick the door of the squad car, the officer screamed, “Kick my motherfucking door again!” The man kicked the door again, and the officer charged back, climbed into the backseat atop the man, and pepper sprayed him in the face at close range. The officer then dragged him out of the car and held him in a chokehold for 20 seconds while the man’s family stood screaming at the officers to stop. Officers forced the man back into the squad car and closed the windows. When the man said he could not breathe, the officer who sprayed him responded, “I don’t give a fuck.” Other officers were present the entire time and did not intervene. MPD supervisors reviewed the incident and found no violations of MPD policy.

We reviewed incidents in which officers unreasonably pepper sprayed people secured in police cars, though MPD policy explicitly prohibits the use of pepper spray against a person who is being transported in a police car. One officer told a man he had arrested for shoplifting that he was going to “beat [his] ass” and take him “to the woods” instead of to jail. He then pepper sprayed him while he was handcuffed and secured in the back of his squad car. His lieutenant responded to the scene and told him, “Next time spray somebody in the sunlight.” Though she reviewed the body-worn camera footage, she told her chain of command that the officer had complied with MPD policy. Her report made no mention of the officer’s threats.

MPD's Dangerous and Punitive Use of Police Dogs

MPD's Canine Unit trains dogs to bite suspects immediately after they locate them and to hold the bite until a handler directs them to release. In practice, this results in unnecessary and unreasonably long bites that hurt people who are not a threat. MPD officers have allowed canines to bite people, including teenagers, who were trying to surrender. One MPD officer commanded his dog to bite a person who was sleeping. Another dog bit a 17-year-old's arm for at least 30 seconds as he begged officers to release the dog; the teenager was later taken to a children's hospital for treatment. These bites were unnecessary and unreasonable because the people posed no threat to the dogs or their handlers.

One training officer told us that officers often need to insert a device into a dog's mouth to get the dog to release the bite, indicating that they do not reliably release on command. And even though MPD policy limits use of dogs to cases with felony suspects, we reviewed an incident in which an officer released his dog to apprehend a man suspected of shoplifting household items. The dog bit the man multiple times, causing injuries that required hospitalization. Supervisors found no policy violations.

4. MPD's Use of Less-Lethal Weapons Violates the Law.

Memphis police officers unreasonably use less-lethal weapons, such as Tasers and pepper spray, often without first attempting to resolve situations peacefully. Of the 2,669 reported less-lethal force incidents between January 2020 and September 2023, MPD officers used a Taser or pepper spray in at least 454 of them. Officers have used Tasers and pepper spray recklessly, and they have accidentally discharged these weapons at other officers, or even themselves.

Tasers and pepper spray can cause intense pain and can incapacitate a person. Tasers have two modes: In probe mode, an officer fires darts into a person's body, which delivers an electrical shock that causes severe pain, temporarily overrides the person's central nervous system, and paralyzes the person's muscles.¹² In drive-stun mode, an officer presses the Taser directly against the person's body, which causes severe pain but does not paralyze the person. Pepper spray is a chemical irritant that induces an intense burning sensation in the eyes and forces them to close and flood with tears. Pepper spray works almost instantly and can cause coughing fits and difficulty breathing.

¹² *Bryan v. MacPherson*, 630 F.3d 805, 824 (9th Cir. 2010).

Officers make light of the risks these weapons pose, and some lack a proper understanding of how to use these weapons. In one incident, an officer drive-stunned a man without warning and laughed at him, prompting another officer to joke, “What is that, like, your eightieth fucking confirmed Tasing?” On a different occasion, a Crisis Intervention Team (CIT) officer Tased a 13-year-old twice and told his lieutenant that the boy did not need to go to the hospital because “I just did a drive stun, I didn’t *tase him* tase him.” In one incident we reviewed, an officer observed that Tasers would be effective to get people to comply with police orders, and then mimed someone being electrocuted with a buzzing noise. He remarked, “That voltage change[s] a whole lot, that Taser changes a lot.” Another officer equipped with pepper spray admitted she did not know how to use it. While breaking up a fight at a high school, she asked others, “So you gotta lift the hood up and spray?” and “I just don’t know the policy, can I just spray the shit like that?”

MPD’s unlawful Taser use is particularly concerning because the only officers with Tasers during our review period were CIT officers who receive special training in de-escalation. CIT officers should have been among the best-equipped in the police department to de-escalate situations and avoid using force because of their advanced training. Instead, they frequently used Tasers unjustifiably. In December 2023, MPD started equipping all patrol officers with Tasers after they complete a brief training. Some officers expressed reservations that the new Taser training was not of the same caliber, and that newer, non-CIT officers might not know when to use Tasers or might be too quick to use them. Based on our review, these concerns are warranted.

5. MPD Officers Unreasonably Shoot at People and Cars After Placing Themselves in Dangerous Situations.

We reviewed all 18 Memphis police shootings from 2018 through 2022. A significant number of them involved officers firing into cars or at moving vehicles, without justification. Shooting at a moving car is deadly force and therefore permissible only when an officer has probable cause to believe a suspect poses an immediate threat of serious physical harm to the officer or another person. It is also highly dangerous because it presents risks of an uncontrolled vehicle.

MPD officers have fired at moving cars without justification. An officer may be justified to use deadly force against “a driver who objectively appears ready to drive into an officer or bystander with his car.” But that justification ends “once the car moves away, leaving the officer and bystanders in a position of safety.”¹³ MPD officers have disregarded tactical basics and placed themselves in dangerous and avoidable situations when approaching cars. “Where a police officer unreasonably places himself in harm’s way,

¹³ *Raimey v. City of Niles*, 77 F. 4th 441, 449 (6th Cir. 2023).

his use of deadly force may be deemed excessive.”¹⁴ In one shooting, an officer fired at a car at least eight times at a fast-food drive-thru in the middle of the day, jeopardizing other officers and bystanders. The officers had been alerted to a stolen car, and two police cars approached from different directions, trying to box the car in. One officer got out of his car and ran towards the suspect’s car but tripped and fell to the ground as the suspect’s car moved slowly in his direction. As he regained his footing and jumped out of the car’s path, another officer fired twice at the car. The officer fired another six shots after his partner had retreated to safety, including the final two as the suspect’s car slowly came to rest against a brick wall. When he continued to fire after the car no longer presented a threat, the officer used unreasonable force and unnecessarily placed bystanders and officers in harm’s way. MPD’s investigation improperly found that this use of deadly force was justified.

In another incident, an officer shot at a car after it had passed him, shooting through the car’s side window and hitting a different car parked on the other side of the street. The officer was investigating a call that someone was breaking into vehicles outside a hotel when a pickup truck pulled out of a parking spot and drove towards him. The officer raised his gun, yelled “Stop!” twice, and stepped to the side as the truck continued to drive past him, firing one shot. Shooting when the truck no longer presented a danger to him violated the Fourth Amendment. Minutes after the shooting, the officer admitted, “I fucked up.” MPD investigated and found the officer violated policy and imposed a five-day suspension and remedial training.

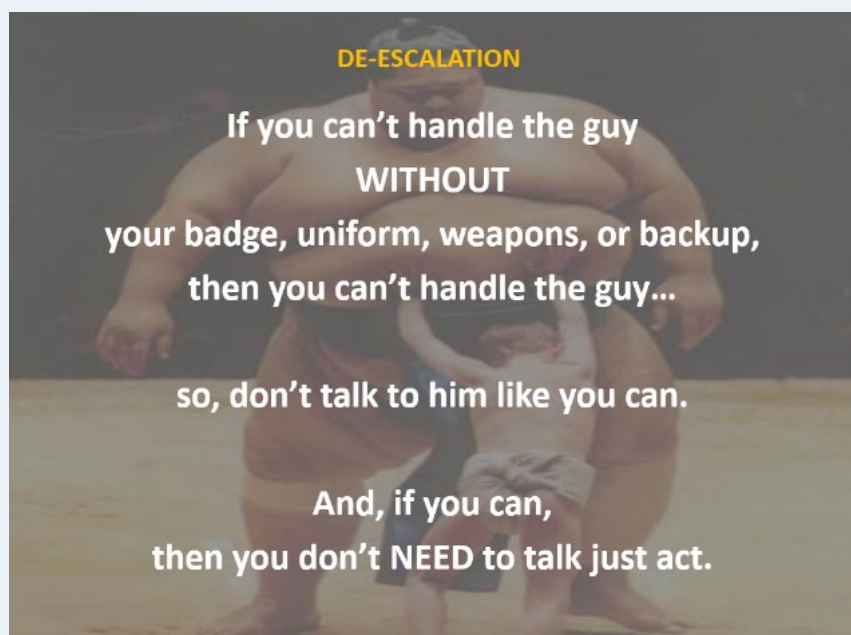
6. MPD’s Deficient Policies and Training Contribute to Excessive Force.

MPD’s deficient policies and training fail to advise officers on the constitutional requirements for using force. MPD’s use of force policies are missing critical elements, like the basic legal requirement that force must be proportionate in light of the severity of the offense and the threat that officers face. Instead, MPD policy suggests that force may be necessary if a person’s non-compliance prevents an officer from accomplishing their duties in a “timely manner.” The desire to resolve an interaction quickly does not justify the use of force. As described above, we reviewed multiple incidents in which MPD officers used force unnecessarily just because a person did not immediately follow their commands.

¹⁴ *Kirby v. Duva*, 530 F.3d 475, 482 (6th Cir. 2008).

“Hurt them first and hurt them bad.”

MPD training primes officers to believe that force is the most likely way to end an encounter. Some trainings feature inappropriate imagery alongside statements that encourage officers to use force. For example, one training’s imagery on de-escalation implies that if officers can physically overpower a person, they should do that first, rather than talking to them:



Another training instructs officers, **“If a fight is unavoidable, hurt them first and hurt them bad.”** Even if using force becomes necessary, the force must be reasonable and proportional to the circumstances. The severity of the offense, the degree of resistance, and the size or stature of the person and the officer are relevant considerations. Throughout an encounter, officers should continually re-assess the situation, threats, and risks. MPD’s exhortation to use severe force immediately is especially concerning in light of other training materials that misconstrue actions like failure to provide identification as “resistance,” and some officers’ stated views that backtalking or criticizing the police is “resistance.” Officers may then perceive a person’s passive noncompliance or words as a threat that warrants force, including severe force.

Officers also receive inadequate training on de-escalation skills that can reduce or avoid uses of force altogether. De-escalation refers to verbal and non-verbal tactics that officers use to slow down interactions and reduce the likelihood of a use of force. De-escalation is a cornerstone of modern CIT programs, and many de-escalation training

programs are specifically designed to help officers respond to dynamic situations, especially when interacting with people exhibiting symptoms of a behavioral health crisis.

MPD policy does not require officers to attempt to de-escalate before using force where feasible. And MPD training improperly instructs officers to consider de-escalation only when force would already be justified, rather than to prevent situations from reaching that point. MPD training further undermines the concept of de-escalation by teaching officers that some people “may not be capable of being de-escalated,” including people in mental crisis. MPD training materials claim that, from the start, “[f]or approximately ten percent (10%) of the population, de-escalation will not work,” without any factual basis. They list “predisposition toward law enforcement, mental state,” and “intoxication or influence” as some of the factors that could place a person into this category. The success of de-escalation strategies will depend on the incident. But this training encourages officers to forgo attempts at de-escalation altogether for these categories of people. During our investigation, we reviewed many cases in which officers used unreasonable force without even speaking to the person first.

Officers told us they found the training they received from MPD inadequate. Some believe that the specialized training for recruits on defensive tactics and handcuffing techniques left them ill-prepared. One officer remarked that recruits “feel more comfortable shooting than fighting hand to hand,” and that as a recruit, he received no training on using teamwork to bring people into custody. He said that officers “don’t learn what to do when you go to handcuff somebody and someone decides to swing on you.”

7. Weak Oversight Contributes to Excessive Force.

Although MPD policy requires officers to report force, officers often minimize the seriousness of the force they used. Part of this is due to MPD policy: MPD lumps together vastly different actions by officers under the category of “empty hands control,” which encompasses everything from “soft” empty hand techniques like grabbing a person to “hard” empty hand techniques like punches, kicks, and strikes. In officers’ use of force reports, both “soft” and “hard” empty hand techniques are reported simply as “physical force.” A punch or kick to the head receives the same review from the chain of command that grabbing a person’s arm does. But we also found that in their reports, officers regularly omit information about the number of times they used force or the kind of force they used.

Frontline supervisors handle initial determinations about whether uses of force are reasonable and comply with MPD policy. These supervisors’ reviews are cursory, often endorsing conduct without any discussion of the facts. MPD requires supervisors to review body-worn camera video and to write a memo if they find that a use of force is out of policy. But there is no requirement for supervisors to explain their determination that a use of force is within policy. In our random sample of force incidents, supervisors

rarely flagged potential policy violations in incidents that we determined involved excessive force. For example, a supervisor found no fault with an officer's conduct when he grabbed and squeezed the neck of an unarmed person whose hands were being held by other officers. Body-worn camera video clearly showed the officer's hand around the man's neck. In his review, the supervisor omitted this conduct, describing the use of force as "minimal with soft-hand technique," and reporting that the officer shoved the man "in his chest" and "held him against the car." The same officer had previously used an unreasonable chokehold in 2020, which he also failed to report in his use-of-force report, and which his supervisors either ignored or did not notice. One lieutenant told us that new supervisors needed more training on how to review uses of force. A newly promoted supervisor told us that it was hard to judge another officer "for something so fast." He said, "How am I to make that call and say that it wasn't in policy?"

Even when unlawful force is brought to its attention, MPD fails to fault officers' actions. In one case, an investigator in MPD's Inspectional Services Bureau determined that a police shooting was reasonable—but did not evaluate or question the officers about their use of physical force. In that case, one officer shot a teenager, and then another officer hit the teenager three times in the head with the butt of his handgun and at least twelve times with a closed fist. The teen was disarmed, seriously injured, and posed no threat at the time. Prosecutors later sent a letter to MPD stating that they "seriously considered recommending criminal charges" against the officer because of the "more than one dozen closed fist punches to the face" that the officer delivered. The prosecutors wrote, "We trust that you will handle this as an internal matter and leave it to your sound discretion." We saw no evidence that any further investigation took place or that any discipline was imposed. The officer remains employed at MPD.

In another case, an officer fired his gun at a busy gas station during the day and told internal affairs that a car was coming towards him and the area was clear when he fired. Body-worn camera footage shows neither assertion was true. Still, the final investigative report claimed incorrectly that the person "drove a car at [the officer]" and implied that the officer was in danger of being hit by the car, in direct contradiction to the body-worn camera footage.



An officer claimed that a car was driving towards him when he fired his gun, though his body-worn camera showed the opposite. An MPD investigator credited his account.

Finally, MPD fails to analyze data meaningfully to determine whether there are patterns of behavior that require training or other remediation. MPD publishes annual reports that provide data about internal investigations and purport to identify “patterns that might suggest problems with training, equipment, or policy.” The 2022 annual report offered “no recommendations as to policy changes” because “[n]o significant . . . trends or patterns were observed.” But it stated that “management must make sure they are reviewing response to resistance reports.” This was only slightly different from the 2021 annual report, which stated that “management must ensure that subordinates are submitting reports in a timely manner.”

* * *

Excessive force is routine in MPD. Officers use force as a first resort, demand unquestioning obedience, and exact punishment if they do not receive it. Supervisors do not address these recurrent practices, and some at MPD defend these practices. One field training officer told us, “We’re not excessive enough with these criminals. We baby them.” MPD’s pattern of excessive force undermines community trust. It takes a toll in the form of intense physical and emotional pain for the victims, as well as their families and friends. One victim of excessive force told officers, “Y’all attacked me, knocked me down in front of my kids. Busted my house. . . . You ain’t understanding my pain. This is trauma.”

B. MPD Conducts Unlawful Stops, Searches, and Arrests.

We have reasonable cause to believe MPD engages in a pattern or practice of making stops, searches, and arrests that violate the Fourth Amendment. During minor traffic and pedestrian stops, MPD officers conduct unjustified frisks and more intrusive searches, or handcuff and hold people in patrol vehicles just to write a simple citation. At times, officers unnecessarily prolong these stops, or search and seize the drivers' vehicles. MPD officers also make unlawful arrests for low-level offenses, such as arresting people for disorderly conduct even as they are following officers' instructions and commands.

Our findings are based on a variety of evidence. We interviewed MPD officers and supervisors and observed their activities during ride-alongs. We reviewed MPD policies and training materials concerning stops, searches, and arrests. We analyzed a random sample of traffic stops from 2021 through 2023, as well as a random sample of arrests for minor offenses, such as disorderly conduct, resisting arrest, loitering, and curfew violations from 2022 through 2023. For each incident in our sample, we examined officers' body-worn camera footage and all available documentation for evidence of constitutional violations. We also reviewed dozens of complaints and internal affairs investigations, use of force incidents, and court cases involving stops, searches, and arrests by MPD officers, including numerous cases in which federal courts suppressed evidence because of MPD's unconstitutional conduct. And we interviewed judges, judicial commissioners, prosecutors, and defense attorneys, as well as community members who have been impacted by MPD's practices.

1. MPD Makes Unconstitutional Stops.

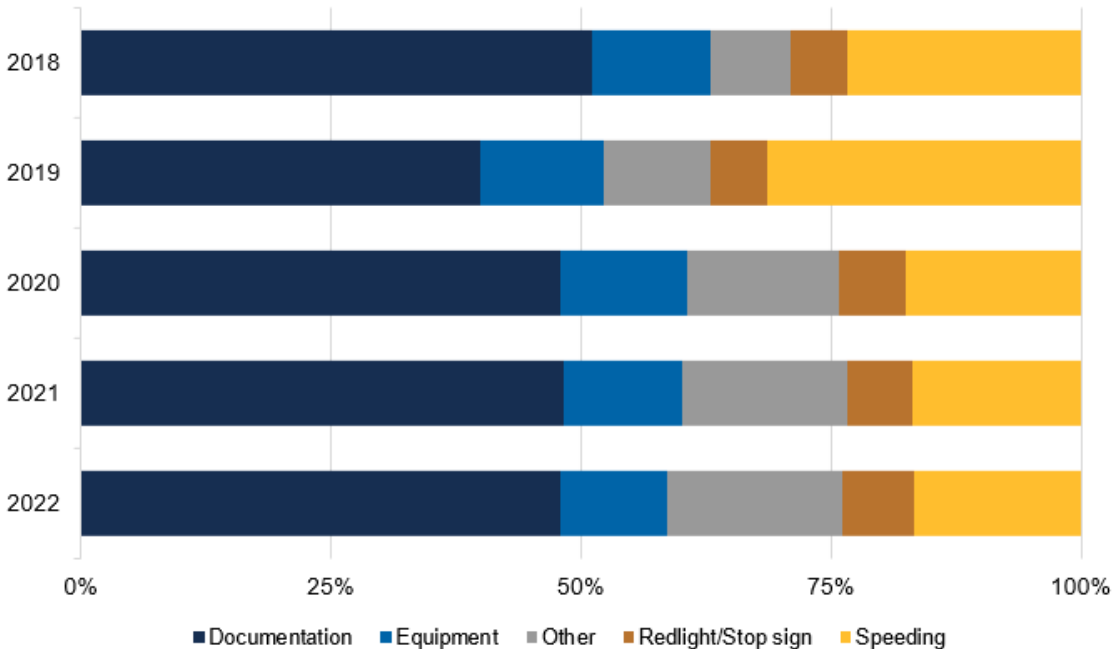
Under the Fourth Amendment, police can stop and briefly detain people if they have reasonable suspicion the person is engaged in criminal activity. Reasonable suspicion must be "articulable," not just an "unparticularized suspicion or hunch."¹⁵ MPD officers violate these standards while enforcing traffic laws and during other interactions with people they encounter on Memphis streets.

The pattern of Fourth Amendment violations stems from MPD's decision to prioritize traffic enforcement as a central method to address crime in Memphis, while at the same time failing to ensure that officers understand and follow constitutional requirements when they stop and detain people. MPD officers face pressure to make stops. Many of these traffic stops involve documentation or equipment violations, like broken taillights and expired tags. MPD's data show that from 2018 to 2023, more than half of MPD's citations involved documentation or equipment violations. The chart below shows MPD's traffic citations in more detail. This data does not include hundreds of thousands

¹⁵ *Terry v. Ohio*, 392 U.S. 1, 27 (1968).

of traffic stops that did not result in citations, because MPD officers do not document the reason for those stops.

MPD Traffic Citations by Year, 2018-2022



Supervisors rarely review traffic stops to ensure they meet constitutional standards. But they do measure officers' "productivity" based in part on how many stops and citations they generate. Supervisors look at officers' totals at the end of each month to ensure that they are making enough stops. Officers can face discipline if they fail to meet productivity averages for their shifts, and supervisors have even cited officers' productivity as grounds for leniency in disciplinary hearings. Reflecting the pressure to make stops as an overall enforcement strategy, one officer said to a colleague after a traffic stop, "You guys wanted to find something . . . Traffic stop. Traffic stop. Traffic stop. Check. Check. Check . . . You guys asked, I just delivered." MPD stopped and cited one Black man 30 times in three years. At the same time, MPD's failure to properly supervise its officers results in unconstitutional stops, searches, and arrests.

“Two tickets a day keeps the lieutenant away.”

MPD’s STATS program is designed to measure each officer’s productivity “against the productivity of other officers of the same station and shift.” Productivity metrics include stops, citations, and arrests. An officer’s “continued failure to meet the average productivity of the officer’s shift” may result in discipline, and supervisors have counseled officers based on their lack of citations. A former MPD supervisor told us that for officers, a traffic stop “shows you did something during your shift”: “two tickets a day keeps the lieutenant away.” The supervisor described the STATS program as “a joke” that turned patrol enforcement into “a contest” or “a game” in which supervisors “pitted [officers] against each other” and officers made stops to generate stats, rather than to address public safety needs.

Such deficiencies have led to officers routinely failing to justify stops with reasonable suspicion. Judges, prosecutors, and defense attorneys all raised concerns about MPD’s over-reliance on “high-crime areas” as a justification for stops. Police may consider “the relevant characteristics of a location in determining whether the circumstances are suspicious to warrant further investigation.”¹⁶ But police must do more than just label a behavior as suspicious—a person’s presence in a “high-crime area,” without additional factors, does not justify a stop.¹⁷

MPD officers stopped one driver in a “high-crime area” because he backed into a parking spot at a gas station store and left the car running. A federal court found officers had no reason to stop him: “[a]side from [the man’s] legal method of parking, the Detectives could point to no other factors that they believed to be suspicious.” In a separate incident involving a stop and seizure by an MPD officer, a federal magistrate concluded that a man’s “presence in a high-crime area, refusal to show his hands, and backwards movement, viewed together, fall short of meeting the reasonable suspicion requirement.” Charges against the man were dismissed.

Rather than emphasizing specific factors that would establish reasonable suspicion, MPD’s policies and trainings list general factors, including the “[d]ay of week” and “[t]he time of day or night is inappropriate for the suspect’s presence in a particular area.” A judicial commissioner told us MPD should place more emphasis on “reasonable suspicion” requirements and raised concerns about officers “not understanding the boundaries of how far they can go.”

¹⁶ *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000).

¹⁷ *Id.*

Even where specific crimes have occurred, for a stop to be lawful, an officer must articulate why they believe the person being stopped is engaged in that criminal activity. In one incident, MPD stopped a Black man outside a dollar store “due to multiple robberies of Dollar stores in the area,” according to the police report. The officers had no reason to suspect that this particular man took part in the robberies, and the man told them he was just waiting for a friend. When the man did not leave or provide identification, the officers tried to handcuff him “in order to identify him.” The officers grabbed the man and, when he pulled away, pepper sprayed him in the face and hit him in the leg multiple times with a baton. The officers had no reason to believe that the man engaged in criminal activity and lacked reasonable suspicion to stop him. But they arrested him anyway, and he spent a night in jail. Prosecutors declined to pursue any charges stemming from the incident. After the incident, the man noted, “They had no reason to do this. And they’re out here doing this to people every day.”

In another incident, MPD unlawfully detained four Black teenagers after reports that four Black males were “prowling” near car doors in a majority-white, affluent neighborhood of Memphis. When the officers saw the teens, they immediately stopped them, frisked them, searched their pockets, and then detained them in patrol cars. The woman who reported the teens admitted to the officers she had seen no crime: the group “looked kind of suspicious to me, but I don’t know.” Still, the officers kept them locked in patrol cars for nearly an hour. One officer seemed to recognize that the children had been profiled based on their age and race, telling one 15-year-old boy, “You know why they called, right? They saw you all, I guess, prowling around the car That’s what they said. We didn’t see shit, alright? But that’s what people are saying when you’re walking around the neighborhood. And whether you actually were or weren’t, I mean, it’s optics.”

In another incident we reviewed, an officer unlawfully detained a Black man who complained about the officer after receiving a traffic citation. The man was free to go, and he got out of his car and loudly complained about the officer as he walked away through a parking lot. The man was not engaging in dangerous or threatening behavior, but the officer followed him and handcuffed him anyway. The man objected: “I have freedom of speech. I can say what I want to say The [officer] is just messing with me.” The officer then frisked and searched the man and threatened to take him to jail but instead issued a misdemeanor citation for disorderly conduct. Prosecutors declined to prosecute the disorderly conduct charge.

MPD officers also routinely handcuff and detain people in their patrol vehicles during stops. Even when an initial stop is lawful, police may not keep someone longer than necessary to complete the purpose of a stop. Unless they are making an arrest, they may not handcuff or hold a person in a patrol car unless they have specific reasons to believe a person poses a danger or flight risk. MPD officers, however, handcuff and detain people in routine traffic stops without a lawful basis. For example, officers stopped a young Black woman for expired tags, found she had a revoked license, and ordered her to get out of her car. The woman was compliant and cooperative throughout the encounter, but the officers frisked her for weapons, handcuffed her, and held her in

the backseat of a patrol vehicle for nearly 25 minutes as they wrote a misdemeanor citation. One officer seemed to recognize that the handcuffed young woman posed no threat and told her, “You seem sweet,” after she said she had never been handcuffed before.

MPD provides minimal supervision of officer stops. Supervisors rarely review stops unless the stop results in an arrest or complaint, and they rarely examine the basis for a citation. Supervisors must approve arrests, but one MPD commander explained that some supervisors “just push a button” and approve without careful review. An officer told us that officers who make bad stops rarely get caught unless someone files a complaint. But even when community members complain to MPD, reviewers often do not identify or discipline officers for problematic stops, searches, detentions, and arrests. For example, when a Black woman complained to internal affairs that, after being pulled over for speeding and tinted windows, she “was ordered out of her vehicle, pat-searched, and detained in the squad car during the traffic stop,” the investigator did not investigate the incident. Instead, the investigator informed the woman that “it is the officer’s discretion to detain an individual in his squad car during a lawful traffic stop.” The investigator did not acknowledge that to detain a person in a squad car during a routine traffic stop, the law requires there must be sufficient facts that suggest that the person is dangerous or might flee.

2. MPD Searches People Unlawfully.

Memphis police officers conduct unreasonable frisks or searches following pedestrian or traffic stops. The Fourth Amendment permits police to “frisk” or “pat down” people for weapons if there is reasonable articulable suspicion that the person is armed and dangerous. The scope of a lawful frisk is limited to a person’s outer clothing, and once an officer determines a person is unarmed, there is no longer justification to continue to search. To conduct a more intrusive search of a person, officers must have probable cause to believe they will find evidence of a crime.

A stop or a frisk is far more than a “petty indignity”—it is, rather, “a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment.”¹⁸ But MPD officers order drivers out of their cars and frisk them for weapons without justification to believe they are armed and dangerous. Courts have recognized that nervousness is an “unreliable indicator” of dangerousness, “especially in the context of a traffic stop.”¹⁹ This may be particularly true for individuals who, due to fear that police may treat them unfairly because of their race, may display symptoms of stress during encounters with the police. Still, MPD policy lists “[t]he appearance and demeanor of the suspect, i.e. person appears to be unusually scared, jittery, or acting in a strange manner” as a factor that may serve as the basis for a frisk. In our review of a

¹⁸ *Terry*, 392 U.S. at 16-17.

¹⁹ *United States v. Noble*, 762 F.3d 509, 522-23 (6th Cir. 2014).

random sample of traffic stops, officers often frisked individuals with no explanation at all.

MPD does not require officers to record when they frisk or search people, which means police leaders cannot assess how common the practices are. Even when officers do record their actions, they often do not cite specific facts that support their conduct. For example, in one incident in which an officer stopped a driver for improper tags, handcuffed the driver, searched the car, and searched the driver's purse inside the vehicle, the officer's report did not mention any of these activities. In another incident in which officers were responding to a call about a car at an abandoned home, the officers similarly failed to document that they had handcuffed, frisked, and searched the occupant of the car and searched the car. Supervisors therefore are not easily able to review and assess whether officers are engaging in unlawful conduct during these frisks and searches. This lack of documentation also prevents MPD leadership from assessing whether MPD's search practices are legal and effective.

Officers also frisk and search people after stopping them on the street. After stopping a Black man for "walking into traffic," officers immediately bent the man over the hood of their patrol car, patted him down, manipulated the outside of the man's pocket, and reached inside. The officers noted in their report that the man was a "known panhandler," but did not mention or seek to justify the frisk and search. They released him twenty minutes later with a citation. In another incident, when an officer stopped three Black teenage boys for a curfew violation in downtown Memphis, the officer frisked all the boys even though he had no reason to believe they were armed and dangerous. The boys, who were suspected of nothing more than a curfew violation, were compliant and had not tried to reach or conceal anything in their pockets before he began frisking them, and the officer's report did not mention or justify the frisk.

Body cavity searches implicate greater constitutional concerns than searches of a person's clothing and generally require a warrant. MPD policy requires a warrant to conduct "an inspection, probing, or examination of the inside of a person's anus, vagina, or genitals."²⁰ But MPD officers ignore these requirements and conduct invasive searches in public view. In one incident, MPD officers seemed to believe a more intrusive search was warranted "to catch bigger fish." During a "zero-tolerance" operation in a "high-crime and known-drug area," officers saw two men who had been standing on a corner walk away when the patrol car approached. Finding these actions "suspicious," the officers detained, handcuffed, frisked, and searched the men. During the search, one officer asked, "Did you check his ass crack yet?" and another officer responded, "Yes." Both men complained that an officer searched their rectums. The officers were not disciplined for the searches.

²⁰ Tenn. Code § 40-7-121.

3. MPD Unlawfully Searches and Seizes Cars.

To search a car, officers must have probable cause to believe they will find evidence of a crime. Police can also search vehicles when they make an arrest, when there is reason to believe a person is armed and dangerous, when evidence is in “plain view” of the officers, and if they take lawful possession of the car. Although officers may ask a person to waive these requirements and consent to a search, the consent must be voluntary and not the product of police coercion.

During traffic stops for minor violations, MPD officers violate people’s rights by illegally searching their vehicles. For example, officers stopped a man for driving without tags on his car, told him to get out of his car, then, without explanation or warning, frisked the man and held him in the backseat of a locked patrol vehicle. Officers then searched the man’s car, including opening the glove compartment and looking under the seat. Finding nothing, the officer issued the man a citation and released him more than 30 minutes later. The officer’s report did not mention the search.

When MPD officers seek consent to search vehicles, they will conduct searches even when consent is not given. One officer admitted that a driver’s refusal contributed to his decision to search the car: “It’s a possibility that they have something to hide.” In that case, officers pulled over a Black driver for tinted windows, frisked him, and asked to search the car. When the driver said no, they held him in the backseat of the patrol car while searching the entire car, breaking the rear seat of the car in the process. Internal affairs investigators found that the officers had violated MPD policy by searching the vehicle without consent or probable cause. One officer resigned while the disciplinary hearing was pending, and, though the other officer received a written reprimand, the hearing officer praised that officer for being “self-motivated” and “a great role model,” and downplayed the significance of the violation.

When a person agrees to a search, they must do so voluntarily. MPD policy informs officers that consent must be unequivocal, specific, and free of duress. MPD officers seek consent to search under coercive conditions, such as when a person is handcuffed and has been threatened with jail, and they search even when consent is unclear. In a traffic stop for tinted windows, the officer asked the Black driver to get out of the car, reached into the man’s pocket, and, telling the man he was not under arrest, handcuffed him. When the officer asked if he could look in the car, the man replied, “You the police.” Another officer responded, “He’s just being generous. Technically we can search it . . . Technically, you’re under arrest . . . He’s just being nice.” Though the officers did not have probable cause for a search, they searched the car for three minutes without finding anything and released him with a citation.

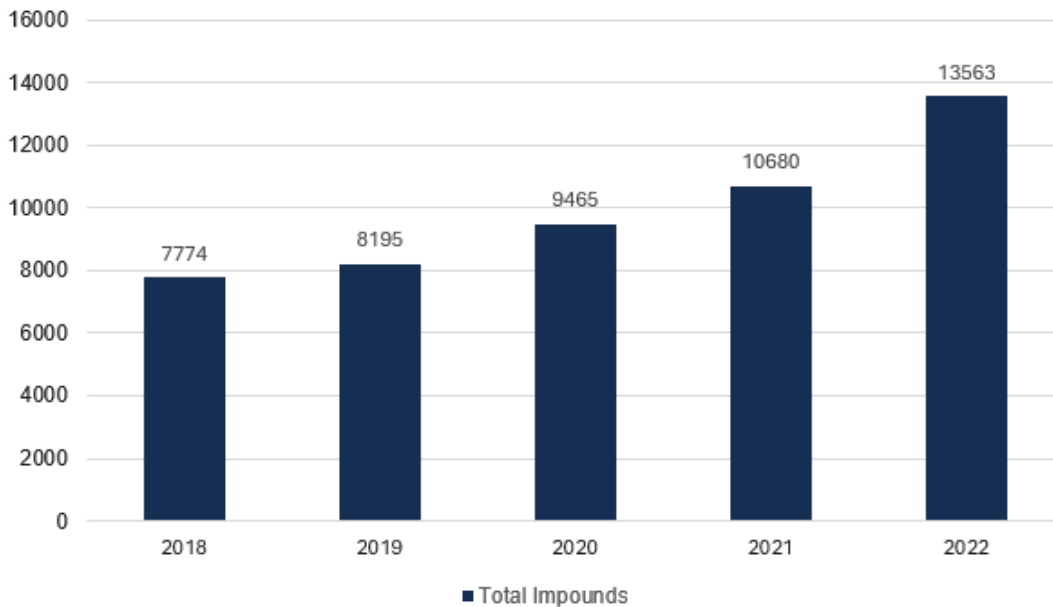
Searches Based on the “Odor of Marijuana”

While officers often justify vehicle and pedestrian searches based on statements that they have smelled the “**odor of marijuana**,” courts and MPD’s own internal affairs unit has found that those justifications are not always credible. Officers will, for example, write in reports that they smelled marijuana, but there will be no mention of the odor of marijuana on body-worn camera footage. A prosecutor described MPD’s explanations as sometimes “**cringey**,” and gave the example of an officer claiming to have smelled marijuana in a car that was going 60 miles per hour.

Contrary to MPD’s own policies, officers tow cars that are legally parked or when family members or other licensed drivers are available to drive the car. MPD impounds hundreds of cars each month, and for a stretch in 2022, the police department impounded more than 1,000 cars per month. Chief Davis defended the tactic of seizing cars, explaining that when drivers engage in “reckless driving” and endanger others, “we want to take your car, too . . . Even if the case gets dropped in court . . . You might be inconvenienced for three days without your car. That’s enough.”²¹ But the unlawful seizure of cars can have long-term negative impacts, as a car may be a person’s lifeline, including a way to maintain employment. In Memphis, the process of recovering a car, once impounded, is expensive and onerous. Drivers can be charged a \$225 towing fee, a \$75 impound fee, and storage rate of \$30 per day. Drivers face even higher expenses when their cars are seized as part of an investigation, including a \$350 bond to prevent automatic forfeiture. Retrieving a car can cost more than the actual value of the car.

²¹ Jessica Jaglois & Mike Baker, *In Memphis, Car Seizures Are a Lucrative and Punishing Police Tactic*, N.Y. TIMES (Mar. 23, 2023) <https://perma.cc/R3YR-QEL2>.

Cars Impounded by MPD



In 2019, a federal court found that MPD’s decision to tow a car was improper, and the subsequent search was unconstitutional, when officers violated MPD policy by failing to present a driver with alternatives to towing and failing to contact a supervisor before deciding to tow the car. Still, MPD has continued to tow cars without offering alternatives. In one incident we reviewed, an officer stopped a car for a tag violation and later towed the car because a teenager in the backseat cursed at him. The officer admitted to other officers that he towed the car because the girl started cussing.

4. MPD Makes Unlawful Arrests.

Under the Fourth Amendment, arrests must be supported by probable cause, which requires “a probability or substantial chance of criminal activity.”²² Each year, MPD makes thousands of arrests for nonviolent misdemeanor offenses, such as trespassing, disorderly conduct, panhandling, curfew violations, drug possession, drug paraphernalia possession, public intoxication, and vandalism. Unlike arrests for more serious, violent crimes, officers have significant discretion on how to handle such low-level violations, such as whether to make an arrest, issue a citation, or let people off with a warning. MPD officers abuse that discretion and arrest people for minor offenses without probable cause, at times in apparent retaliation or to justify the officer’s own conduct. Adults who are arrested are transported to jail where County magistrates review their

²² *Illinois v. Gates*, 462 U.S. 213, 243 n.13 (1983).

charges, while children who are arrested for low-level offenses often receive a summons to appear in juvenile court.

MPD officers, for example, unlawfully arrest people for “disorderly conduct”²³ even when they are complying with officers’ instructions and are not threatening or dangerous. In one incident involving a traffic stop for improperly displayed tags, officers arrested a 20-year-old Black driver for “disorderly conduct” and failure to obey police officers even though the young man followed the officer’s instructions. The young man had been standing in the street speaking with officers for several minutes when one officer told him to get out of the street.

The man complained but moved out of the street toward his car. As the man was walking out of the street, the officer grabbed and handcuffed him. Because the officer grabbed the man, the officer decided that he needed to be taken into custody: “He gotta ride because we put our hands on him.” The young man was released from jail the next day, and prosecutors declined to pursue the charges.

In another incident, officers charged a Black woman with “resisting arrest” when she criticized the officers who stopped her.²⁴ Officers pulled her over for driving with expired tags and instructed her to get out of the car. The woman stayed in her seat, called the two white officers “racist” and said she wanted to call her grandmother. When she tried to make a phone call, one officer slapped the phone away, grabbed her by the arm, and shoved her against the car to handcuff her. “Y’all being aggressive! Y’all racist!” she said. “Now you are going to jail,” an officer said, and put her into a patrol car. Although she never used force against the officers, one said, “We’re gonna have to charge her with resisting.” Prosecutors declined to pursue these charges.

During another traffic stop, officers arrested a young Black woman for disorderly conduct and resisting arrest when she talked back to them during the arrest of her boyfriend. The woman had committed no crime and caused no disturbance other than

Between 2018 and 2023, MPD arrested or cited 20 people more than 20 times each.

93 percent of these charges were for nonviolent traffic and panhandling offenses.

²³ Under Tennessee law, a person engages in “disorderly conduct” when the person “commits an offense who, in a public place and with intent to cause public annoyance or alarm: (1) Engages in fighting or in violent or threatening behavior; (2) Refuses to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or (3) Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose. (b) A person also violates this section who makes unreasonable noise that prevents others from carrying on lawful activities.” Tenn. Code § 39-17-305(a)-(b).

²⁴ Under Tennessee’s resisting arrest law, “[i]t is an offense for a person to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer . . . from effecting a stop, frisk, halt, arrest or search of any person . . . by using force against the law enforcement officer or another.” Tenn. Code § 39-16-602(a) (emphasis added).

yelling at the officers. The woman later complained to MPD and while internal affairs later noted that there was “questionable probable cause,” they did not investigate the arrests. Prosecutors declined to pursue these charges.

Judges and prosecutors we spoke to expressed concerns with the legality of MPD’s arrests, but these concerns have not led MPD to meaningfully change its practices. A prosecutor said that some supervisors do not take the time to review arrests: “some people would sign anything,” and might not have sufficient training to recognize whether probable cause exists. A judicial commissioner noted that they must often remind officers that probable cause is needed to conduct a search or arrest. Another judicial commissioner gave the example of one officer who submitted about six versions of the same probable cause affidavit, many of which factually contradicted other versions. A judge expressed frustration that MPD officers, who have the power to take away a person’s liberty, are sometimes unable to write a police report establishing probable cause.

* * *

MPD’s intrusive and unconstitutional stops, searches, and arrests violate the rights of people throughout Memphis. The impact of being unlawfully stopped, frisked, detained, handcuffed, searched, or arrested is hard to quantify. The damage to one’s dignity, reputation, and self-image can be lasting and traumatic. One man told us, “Getting pulled over in our community is a frightening experience.” He said officers “spark fear in order to control.” A man who experienced a cavity search said that he now spends more time in his house, “can’t eat,” and gets jumpy whenever he sees a police car. One woman told us that her family’s experiences meant she would only call MPD in a life-threatening situation: “They are not the first resort. They are the last resort.”

Many of these improper stops result in nothing more than traffic citations or other charges that are ultimately dropped. Some people are taken into custody and may sit in jail away from their families and jobs for charges that, as a result of MPD’s unlawful conduct, are likely to be dismissed. These interactions can be degrading and humiliating and result in other negative impacts, such as loss of employment or transportation or separation from families. Although their actions have serious consequences, one judicial commissioner said, “[MPD officers] don’t get sometimes this is not a game.”

C. MPD Unlawfully Discriminates Against Black People in its Enforcement.

We have reasonable cause to believe that MPD engages in racial discrimination in violation of Title VI of the Civil Rights Act of 1964 and the Safe Streets Act. These laws prohibit police practices that discriminate on the basis of race.²⁵

We examined MPD's enforcement of low-level, minor offenses, where officers have more discretion over whether to stop, cite, and arrest people. MPD's own data show that across a range of different law enforcement actions, MPD treats Black people more harshly than white people when they engage in similar conduct.

These disparities are driven by MPD's saturation-style enforcement of low-level offenses, including traffic violations, with limited supervision and safeguards. MPD's stops and citations impose a heavy burden on Memphians, especially on those who have been stopped repeatedly. But MPD has never meaningfully assessed whether these practices are effective or necessary to address violent crime, or whether they result in discriminatory treatment.²⁶

1. MPD Engages in Racially Disparate Enforcement.

We examined records from MPD's 911 system and data recording stops and arrests to determine whether MPD officers treat similarly-situated people differently, without a reasonable basis to do so. We based our analyses on officers' own descriptions of people's conduct. We then measured officers' actions against reliable benchmarks to understand how officers treat people of different races who engage in the same conduct. These analyses allow us to rule out alternative explanations for racial disparities and assess the role of race in how MPD enforces the law. We found that MPD treats Black people more harshly than white people who engage in similar conduct.

²⁵ 42 U.S.C. § 2000d (Title VI); 28 C.F.R. § 42.104(b)(2) (Title VI); 34 U.S.C. § 10228 (Safe Streets Act); 28 C.F.R. § 42.203 (Safe Streets Act).

²⁶ Our investigation also raised concerns about MPD's interactions with victims or witnesses with limited English proficiency (LEP). Differential treatment based on language spoken, including barriers to accessing police services for individuals with LEP, ineffective or unreliable communication strategies, or the placement of different burdens on individuals with LEP may constitute national origin discrimination. 42 U.S.C. § 2000d et seq.; 28 C.F.R. Part 42, Subpart C (Title VI); 34 U.S.C. § 10228(c)(1), 28 C.F.R. Part 42, Subpart D (Safe Streets Act). Some Memphis police officers have used children, other family members, or friends as interpreters, or told the person that they must find a translator. In addition to potentially violating nondiscrimination requirements, these interactions can erode community trust. When people perceive that officers do not treat them fairly, they may be less willing to call the police for help, which can weaken efforts to reduce and solve crime.

MPD enforces traffic laws more aggressively against Black drivers and in Black neighborhoods. Each year, MPD officers cite thousands of drivers for moving violations, such as speeding or running a red light. But officers treat people engaged in similar driving behavior differently, due, in part, to race. We designed this analysis to find similarly-situated drivers—those engaged in dangerous driving behavior at similar locations and times of day. We first identified a pool of drivers engaged in dangerous driving behavior that led to crashes.²⁷ We then compared this dataset to citations MPD officers issued to drivers for moving violations along the same stretch of road at around the same time of day. If MPD enforced traffic laws without regard to race, we would expect officers to treat drivers whose dangerous driving led to crashes similarly to drivers whose dangerous driving led to traffic stops. Instead, we found that MPD is 21 percent more likely to cite Black drivers for moving violations, as compared to white drivers who engaged in dangerous driving that led to at-fault crashes in the same place and time.

This discrimination is compounded because MPD enforces traffic laws more intensely in predominantly Black neighborhoods than in majority non-Black neighborhoods with similar levels of vehicle crashes. For example, predominantly Black neighborhoods experience 33.2 percent more moving violation enforcement, as compared to majority non-Black neighborhoods with similar crash rates. In other words, MPD's more intense moving violation enforcement in Black neighborhoods cannot be explained by differences in dangerous driving.

MPD is more likely to cite or arrest Black people for drug-related offenses than white people. MPD officers are more likely to arrest or cite Black people for drug offenses than white people who they describe as engaging in similar conduct. We analyzed MPD's data regarding incidents in which officers encountered people using drugs, and then compared how officers treated people of different races in those encounters. We identified these "similarly situated" people based on officers' own reports. We designed this analysis to rule out factors other than race: the analysis only compared people who were accused by officers of engaging in similar types of conduct, as described by the officers themselves. If race did not factor into officers' decision making, then we would expect the outcomes of those encounters to be closely the same. Instead, we found that officers are 17 percent more likely to cite or arrest Black people for drug-related offenses, as compared to white people who were described by officers as engaging in the same conduct.

MPD arrests Black people for marijuana possession at more than 5 times the rate of white people. We also found significant disparities in MPD's enforcement of laws prohibiting the possession of marijuana. Data on drug arrests can be compared to

²⁷ We limited the analysis to include the crashes where only one driver was cited for moving violations, assuming that this driver was at fault for the crash.

relevant benchmarks on drug use to evaluate whether MPD enforces drug laws disproportionately. Public health data show that Black people and white people use marijuana at similar rates.²⁸ If MPD enforced marijuana possession laws without regard to race, we would expect that Black people and white people in Memphis would be charged with marijuana possession violations at roughly equal rates. But that is not what the data shows. Instead, we found that MPD cites or arrests Black adults for marijuana possession at 5.2 times the rate of white adults, based on MPD's data from 2018 to 2023.

Disparate drug enforcement is not new in Memphis. A 2016 report found that MPD arrested Black people at more than 3.5 times the rate of others, when adjusted for the city's racial demographics. The disparity was larger for marijuana possession: MPD arrested Black people for marijuana possession at more than 4 times the rate of others.

These analyses used reliable benchmarks to compare how officers enforce the law in similar circumstances. They are bolstered by stark disparities in MPD's enforcement of minor offenses against Black people in Memphis, as compared to their share of the residential population. In identifying population-based or per capita disparities, we accounted for the fact that Memphis is a majority-Black city. For example, while 64 percent of the Memphis population is Black, we found that 81 percent of MPD's traffic citations were of Black drivers. Population-based disparities are not, by themselves, conclusive evidence of discrimination, because the differences could be due to factors other than discriminatory policing. But they provide additional evidence that MPD engages in discriminatory policing when viewed alongside the analyses described above.

MPD disproportionately cites Black drivers for minor traffic offenses. MPD's traffic stops often involve equipment or documentation violations, rather than dangerous driving behavior.

MPD disproportionately cites Black drivers for minor traffic offenses such as improper tags, tinted windows, faulty taillights, and other equipment violations, as compared to their share of the residential population. Overall, MPD cites Black drivers for equipment violations at 4.5 times the rate of white drivers, based on their share of the residential population. Black drivers receive citations for improperly tinted windows at 9.8 times the rate of white drivers, and for defective lights at 6.1 times the rate of white drivers. Nearly 90 percent of MPD's equipment violation citations were of Black drivers.

²⁸ U.S. Dept. of Health & Hum. Servs., Substance Abuse and & Mental Health Servs. Admin., 2021 Nat'l Survey on Drug Use & Health (NSDUH), at tbl. 1.27B, <https://perma.cc/CE2E-2X4G>.

While these per capita disparities do not conclusively establish discrimination, in part because the population driving with equipment violations may not match the residential population, the per capita disparities in minor traffic offenses are significant enough to suggest discriminatory treatment.

Moreover, this enforcement is most intense where Black people live: In neighborhoods with a Black population of 75 percent or

more, MPD stops people at a rate that is 18 percent higher than in neighborhoods that are not majority-Black. If predominantly Black neighborhoods had experienced the same traffic stop rate as neighborhoods that are not majority-Black, then MPD would have made 12,368 fewer traffic stops per year over the past 5 years.

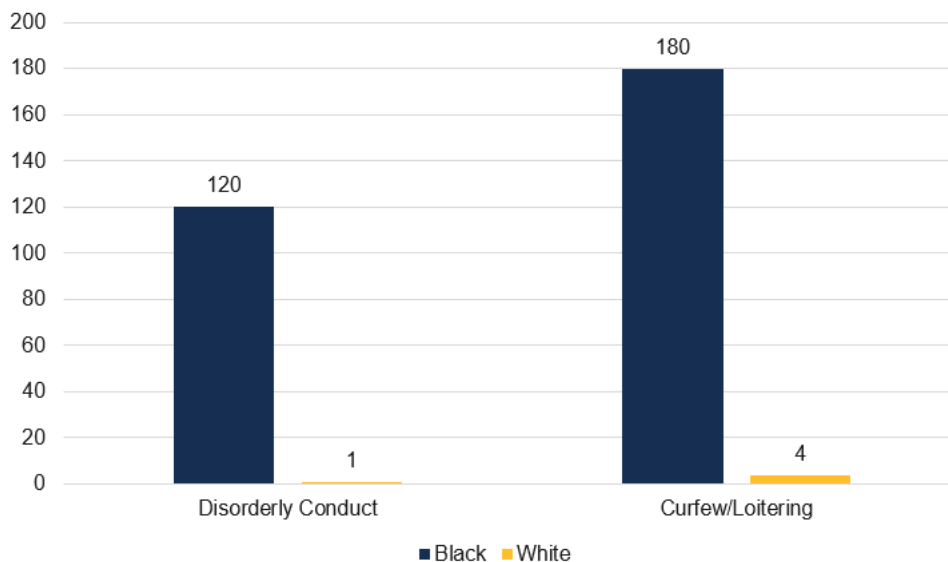
MPD disproportionately cites or arrests Black people for highly discretionary misdemeanor offenses. These stark disparities extend to other discretionary misdemeanor offenses. For example, MPD cites or arrests Black people for loitering or curfew violations at 13 times the rate of white people. And MPD cites or arrests Black people for disorderly conduct at 3.6 times the rate of white people.

MPD's enforcement of low-level, discretionary offenses also impacts Black youth in Memphis. Data confirm that officers disproportionately arrest Black youth for a variety of highly discretionary offenses. From January 2018 through August 2023, MPD arrested 180 Black children for loitering or curfew violations, as compared to just 4 white children. MPD arrested 120 Black children for disorderly conduct, as compared to just 1 white child.

MPD cites Black drivers at . . .

- **4.5 times** the rate of white drivers for equipment violations
- **6.1 times** the rate of white drivers for defective lights
- **9.8 times** the rate of white drivers for improperly tinted windows

Discretionary Youth Arrests



2. MPD Does Not Assess Whether Its Practices Are Lawful and Effective.

Discriminatory policing in Memphis is driven by MPD’s poorly supervised traffic-based, “saturation” strategy—flooding Black neighborhoods with intense enforcement of traffic and other nonviolent offenses.

Organizers and activists have raised concerns about racially discriminatory policing in Memphis for years. In 2016, for example, a civil rights leader said, “A broken taillight justifies a stop in one community and not another . . . You can see there is profiling going on here. It has always been here. It’s just that we can now measure it.” In 2020, community leaders raised concerns about police accountability and excessive force, including force in routine traffic stops. And in 2021, activists urged MPD to limit pretextual stops for non-moving violations and deprioritize marijuana possession offenses.

Even before the death of Tyre Nichols, Memphians described unnecessarily aggressive encounters during traffic stops and questioned whether these stops promoted public safety. A woman told us that after growing up in Memphis, she was shocked to learn that in other cities, police officers did not repeatedly pull people over for low-level traffic stops. Moreover, MPD’s data show that MPD’s traffic enforcement has not meaningfully

reduced vehicle crashes in Memphis over the past five years.²⁹ Community members told us that unlawful encounters and misdirected resources weakened their confidence in the police.

Traffic enforcement can be part of an effective public safety strategy, but city and law enforcement leaders must assess their practices and make changes where necessary. In Memphis, the police department has adopted practices that lead to significant racial disparities without examining whether these practices are necessary to achieve public safety and address violent crime.

Our finding of unlawful racial discrimination is based on MPD's own data. MPD could have collected and analyzed data to assess whether its practices were resulting in discriminatory policing based on race. But MPD has not meaningfully assessed the effect of its enforcement practices based on the data it currently collects. And MPD fails to collect other important data about officer activity.

In 2021, MPD established a policy promising an “annual review of departmental practices with regard to discriminatory profiling,” but that review is limited to civilian complaints and does not assess how MPD officers enforce the law. The first and only annual review, published in 2022, is one page long. It appears in a longer report about use of force and misconduct complaints published by MPD's Inspectional Services Bureau. In the one-page review, MPD reported that there were seven complaints of discriminatory profiling or “Impartial Attitude,” and “none were sustained.” Other parts of that same report showed stark racial disparities in MPD's uses of force: 59 of the 71 force-related complaints (83 percent) involved Black people, and 247 of the 270 firearm displays (91 percent) involved Black people. But MPD did not examine those data or traffic stop data in its review of discriminatory policing. Instead, MPD looked only at the seven complaints and found “no elements of departmental issues that need to be addressed based on this data,” “[n]o significant discriminatory trends or patterns,” and “no recommendations as to policy changes.”

Nor does MPD collect important data on how officers enforce the law. For example, MPD does not collect data on traffic and pedestrian stops that do not lead to citations or arrests. Nor does MPD collect data on frisks or searches. MPD does not consistently connect its dispatch records (showing where officers are sent) to its enforcement records (showing when officers cite or arrest). Consequently, MPD cannot meaningfully evaluate what officers do when they patrol different neighborhoods, or whether their actions are effective or result in unnecessary disparities.

²⁹ One analysis found that from 2019 through 2022, fatal traffic crashes in Memphis increased 74 percent—the largest increase of any big city in the country during that period. Emily Badget & Ben Blatt, *Traffic Enforcement Dwindled in the Pandemic. In Many Places, It Hasn't Come Back.*, N.Y. TIMES (July 29, 2024), <https://perma.cc/XJ5N-XXS8>.

* * *

MPD's enforcement of low-level, minor offenses has resulted in a significant disparate impact on Black residents without clear evidence of public safety benefits. To address this discrimination, MPD and the City must not only modify their data collection practices, but they must also meaningfully assess enforcement practices and make changes based on what the data show. This approach would allow MPD and the City to achieve legitimate public safety objectives without unnecessary racial disparities.

D. The City and MPD Unlawfully Discriminate in Their Response to People with Behavioral Health Disabilities.

The City of Memphis and MPD violate the Americans with Disabilities Act (ADA) by discriminating against people with behavioral health disabilities³⁰ when providing emergency response services.³¹ Each year, MPD officers respond to tens of thousands of 911 calls involving behavioral health. Some of these calls are from people with behavioral health disabilities, calling because they are experiencing a crisis. Other calls are from family members or bystanders who call when they see someone who may need behavioral health support. The City's own 911 call-takers code the majority of these calls as "nonviolent." But the City requires MPD officers to respond to all of these calls, which leads to unnecessary police interactions. In a significant number of these incidents, MPD officers—including specially trained Crisis Intervention Team (CIT) officers—use unnecessary force or mock and belittle people with behavioral health disabilities.

Title II of the ADA prohibits the City and MPD from subjecting people with disabilities to discrimination. The City and MPD cannot exclude people with disabilities from participation in or deny them the benefits of city services, programs, or activities—including the City's emergency response system. The City must provide people with disabilities an equal opportunity to participate in or benefit from city services,³² and ensure that it is as "effective in affording equal opportunity to obtain the same result . . . as that provided to others."³³ If necessary to avoid discrimination, the City and MPD must make reasonable modifications to policies, practices, or procedures, unless they can show that making such modifications would "fundamentally alter the nature of the service, program, or activity" offered.³⁴

To evaluate the City's and MPD's compliance with the ADA, we worked with experts in 911 dispatch, behavioral health services, and crisis response to analyze hundreds of 911 calls and police incidents involving behavioral health. We reviewed how MPD officers respond to behavioral health emergencies, as well as how call-takers and dispatchers handle those calls. We reviewed audio recordings of 911 calls, body-worn camera footage of officer encounters, policies, and data. We also accompanied CIT

³⁰ Behavioral health disabilities include mental illness and/or substance use disorders. Such a condition is a disability when it causes an impairment that substantially limits one or more major life activities. See 42 U.S.C. § 12102. This population includes individuals with co-occurring intellectual or developmental disabilities.

³¹ We received a complaint that the City of Memphis and MPD were discriminating against people with disabilities, and we accepted and investigated that complaint pursuant to Title II of the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*

³² 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(ii).

³³ 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(iii).

³⁴ 28 C.F.R. § 35.130(b)(7).

officers and other City responders on ride-alongs, and we spoke to 911 call-takers, dispatchers, MPD officers, behavioral health providers, and people with behavioral health disabilities who have interacted with police.

For most health emergencies, a person who calls 911 receives a response from health professionals. But for emergencies involving—even tangentially—behavioral health, a person who calls 911 receives a police response, even though a person who calls 911 for a behavioral health emergency could, in many cases, receive a response from behavioral health professionals, such as a mobile crisis team. As a result, people with behavioral health disabilities do not have an equal opportunity to benefit from the City’s emergency response system as people without behavioral health disabilities.

The City and MPD rely on the CIT program to respond to behavioral health emergencies. They established the CIT program in 1988 in recognition of the need for a specialized response to these emergencies. The goal of the CIT program is to “offer a more humane and calm approach” to people experiencing behavioral health issues.³⁵ But we found that CIT officers regularly escalate encounters with people with behavioral health needs. And many calls involving behavioral health in Memphis could be resolved without law enforcement. Some in Memphis have recognized the need for an alternative response. One Fire Department official told us, “[I] wish there was a third option for a response.” Similarly, a high-ranking MPD official said, “We would love for another agency to handle [these calls].” And one mother told us the City’s reliance on police causes her to worry for her adult son with mental illness because officers often treat a person with behavioral health disabilities “like a criminal” rather than connect them with help. The City operates a joint response program, which deploys behavioral health professionals along with police, but its limited capacity and reliance on police prevent it from meeting the City’s need for a non-law enforcement response to behavioral health emergencies. The City could make reasonable modifications to its emergency response system, including to its joint response program, to ensure that it provides a nondiscriminatory response by behavioral health professionals to behavioral health emergencies, when appropriate.

1. The City Sends Armed Police to Behavioral Health Calls Even When There Is No Apparent Safety Risk.

In Memphis, police officers respond to all behavioral health calls. MPD’s Emergency Communications Center is the gateway to the City’s emergency response system and coordinates the City’s response to calls from 911 and MPD’s non-emergency line. Call-takers transfer calls to the Memphis Fire Department in the event of a fire or medical emergency. They classify other calls based on the caller’s description of the event. They label approximately 20,000 calls per year as “mental consumer” calls, such as calls from

³⁵ Memphis Police Department, *Crisis Intervention Team*, <https://perma.cc/WP86-U7G3>.

people seeking support during a behavioral health crisis. Call-takers further classify these calls based on whether the subject of the call demonstrates a potential for violence. Call-takers mark an additional average of nearly 2,600 calls per year as involving a person experiencing a behavioral health emergency using a weapon. Between 2018 and 2023, call-takers classified about 75 percent of behavioral health calls as “nonviolent” and unarmed.

Many behavioral health calls in Memphis do not require police to respond. We worked with experts in behavioral health and crisis response to analyze a sample of “mental consumer” calls. Many of these calls involve a person with suicidal thoughts but no immediate plan, or someone experiencing delusional thinking or responding to hallucinations. For many, documentation and call audio revealed no safety concerns needing police response. For example, one man called 911 saying he was suicidal, but there was no indication he had weapons or was imminently dangerous. Behavioral health professionals could have responded, assessed his needs, and connected him with mental health services, as appropriate. Instead, MPD dispatched officers who handcuffed the man, patted him down, and searched his pockets before bringing him to the hospital. A woman with PTSD and bipolar disorder called 911 and specifically requested mobile crisis services. The call-taker confirmed she had just “run out of [her] meds” but told the woman, “We’ll get the police out.” A behavioral health response, if available, could have safely handled that call. Instead, five MPD officers took her into custody, handcuffed her, and brought her to a behavioral health facility.

An Alternative Response Option

One MPD dispatcher told us that a behavioral health response team could respond to “**lots**” of behavioral health calls. And a homelessness services provider said about half of the 911 calls they make are about clients’ behavioral health issues, and they would “**absolutely**” call a non-law enforcement response if it was an option.

Some people in Memphis call 911 repeatedly for help with their behavioral health needs, often seeking transportation to the hospital to receive their medication. MPD officers respond to these frequent callers, but many calls could be handled by behavioral health professionals, such as a mobile crisis team.³⁶ For example, one woman encountered MPD officers at least 169 times over a five-year period. She called 911 repeatedly, sometimes because she had suicidal thoughts or was experiencing non-threatening delusions. Over 94 percent of these police encounters ended with police committing her to hospital care without criminal charges. Behavioral health

³⁶ A mobile crisis team includes trained behavioral health staff who respond to individuals in need of urgent behavioral health assistance wherever the person is located. The team can resolve the immediate need and connect the person with ongoing behavioral services as appropriate.

professionals could have responded to most of these behavioral health emergencies, connecting her with community services and reducing MPD’s use of resources.

The number of behavioral health calls that do not require a police response is likely greater than those classified by MPD as nonviolent “mental consumers.” We found behavioral health issues present in calls coded as “check welfare,” “suicide,” and “man down.” For some of these calls, officers were dispatched when a non-police response may have been appropriate, such as when a bystander called 911 because a person had been living outside of a mental health clinic for three days and was nonresponsive. MPD call-takers sometimes failed to ask callers about the existence (or absence) of safety risks. Gathering the right information is critical to ensuring safety and determining the appropriate type of responder. Failing to evaluate safety risks can lead call-takers to assume danger is present and promote heavy police response.

MPD call-takers sometimes fail to document crucial information on “mental consumer” calls, including the fact that the caller is a behavioral health provider, the subject’s active symptoms, and the caller’s requests, like the request for transport to a psychiatric hospital or for mobile crisis.

The City offers limited ways for behavioral health professionals to respond to 911 calls. Since 2017, the City has operated the Crisis Assessment and Response to Emergencies (CARE) Team, which may respond to certain behavioral health calls. Each team includes a CIT officer sent at the same time as a behavioral health professional and a paramedic, who arrive in a separate vehicle. The CARE Team operates through the Fire Department, so only calls that MPD forwards to the Fire Department are eligible for the co-response. The Fire Department is supposed to dispatch the CARE Team to all low-priority calls that involve behavioral health issues. But only one team operates at a time, and Fire Department dispatchers told us that CARE is unavailable when it’s needed. Memphis recently scaled back the program to run 12 hours a day. One police official admitted the “capacity is not equal to call volume.” In many calls we reviewed, the CARE Team would have been an appropriate response, but dispatchers sent only police. Separately, a single provider dispatches mobile crisis services to respond across Shelby County. At present, that service cannot be dispatched from 911 or the crisis hotline (988). Moreover, mobile crisis in Shelby County will not respond to any behavioral health calls without police.³⁷

³⁷ See SAMHSA, National Guidelines for Behavioral Health Crisis Care: A Best Practice Toolkit, 18 (2020), <https://perma.cc/U4PW-2VHT> (“To fully align with best practice guidelines, teams must meet the minimum expectations and: . . . 2. Respond without law enforcement accompaniment unless special circumstances warrant inclusion in order to support true justice system diversion.”).

When the CARE team responds to a call, MPD sends at least two more officers, regardless of the circumstances or safety risk. In one incident we reviewed, at least four additional officers responded with the CARE team to a man experiencing suicidal ideation who called 911 for help. The man was calm but became upset when all five officers surrounded him and ordered him into the back of a police car to transport him to a behavioral health facility. When he tried to walk away, three officers pushed him against the side of the car and handcuffed him, while the other two officers closed in around him. One officer told him he was “acting crazy.” The behavioral health professional with the CARE Team spoke with the man only briefly throughout this encounter, often stood away from the scene, and remained behind when the five officers and the paramedic walked him to the police car.

MPD policy requires more officers at the scene for nonviolent mental health calls than for 911 calls that squarely present a risk of violence. In this way, MPD treats people with behavioral health disabilities differently than other City residents. Dispatchers must send a minimum of three officers to every mental consumer call, unless the call is only a request for transportation. By contrast, dispatchers may send two officers to 911 calls for robberies in progress, shots fired, or armed parties. This different treatment occurs in practice as well as in policy. MPD most commonly dispatches two officers to disturbance calls compared to three officers to mental consumer calls, and most commonly dispatches two officers to a violent armed person call compared to three officers for “armed mental case” calls. One dispatcher recalled an incident in which she sent three officers to a call from a parent seeking help with their nonviolent child with ADHD. “Because they’re a mental health consumer, by policy we have to send three officers,” the dispatcher said. “I think that’s scary for a kid.” Sending more officers just because a person has a behavioral health disability is unwarranted and discriminatory.

The City’s policies and practices requiring police response to people with behavioral health issues extend even to situations where they are experiencing physical health emergencies. The Fire Department dispatches ambulances with medical professionals to emergencies involving physical health issues, like heart attacks or respiratory distress. But when the emergency involves behavioral health, by policy the Fire Department must notify the police about the emergency and verify that officers arrive. One man called 911 requesting an ambulance for chest pain. But when the Fire Department call-taker learned the man was prescribed psychiatric medication, they requested MPD officers to respond, too, though there was no indication of a need for law enforcement. Because of this policy, in practice, MPD typically joins the Fire Department in responding to physical health emergencies when behavioral health issues are present.

2. Sending MPD Officers to Respond to People with Behavioral Health Disabilities Is Often Harmful, Ineffective, and Unnecessary.

MPD policy dictates that all officers should consider using de-escalation techniques when responding to people experiencing behavioral health issues. But our review

demonstrated that the City's police-focused behavioral health response has resulted in officers using force against people with behavioral health disabilities that is both unreasonable and discriminatory. In our random sample of less-lethal force incidents, nearly one-third of the incidents involved people who appeared to be experiencing behavioral health crisis, and officers used unreasonable force in a significant portion of those incidents. In other incidents, officers mocked or demeaned people with disabilities, or acted on harmful stereotypes. In many of these incidents, officers knew the person had a disability. Officers could have safely made reasonable modifications to resolve the encounter peacefully. When officers belittle, verbally abuse, or otherwise mistreat people with behavioral health symptoms based on stereotypes or misconceptions about mental illness, they unlawfully discriminate against people on the basis of disability. This discriminatory and harmful response denies people with behavioral health disabilities an equal opportunity to benefit from the City's emergency response system.

Memphis primarily relies on MPD's Crisis Intervention Team (CIT) program to respond to incidents involving behavioral health issues. MPD is widely recognized as the founder of CIT programs, and police departments across the nation have adopted the "Memphis Model." Memphis introduced CIT in 1988 after an officer shot and killed a man with a history of mental illness and substance abuse who was cutting himself with a knife. Under the Memphis Model, police departments are expected to collaborate with local behavioral health professionals and divert people with mental illness from the criminal justice system to mental health treatment. CIT officers receive specialized training in crisis intervention and should be available throughout the city during all shifts for dispatch to mental health crises. CIT officers should also assume responsibility for the scene, de-escalate crises, and assess whether to transport people for further mental health evaluation. Of MPD's nearly 1,800 officers, around 250 are certified CIT officers. MPD officers and staff at the Emergency Communications Center reported that CIT officers are often not available.

There are serious problems with the CIT program in Memphis. Contrary to the goals of the Memphis Model, CIT officers often escalate encounters and use combative tactics almost immediately after arriving to behavioral health calls. For example, in multiple encounters, officers taunted, threatened, and used force against an eight-year-old Black boy with a history of mental health treatment. One time, the boy's mother called 911 when he locked his family out of their house; she reported that the boy had a behavioral health diagnosis and had threatened to harm himself in the past. When officers arrived, the boy stood with his hands on his hips, looked up at the CIT officer who was there, and stuck out his tongue. The officer's response was combative and threatening: "You this close to me taking my belt off. This close," he said, while holding his fingers about an inch apart. The CIT officer eventually grabbed the child by the arm and prepared to handcuff him and take him to the hospital; when the boy softly asked if he could put his shoes on, the CIT officer bent the boy's arm, and screamed in his face, "Bro, do you see this power? . . . That hurt, don't it? Don't it? I can break your arm with a snap of my wrist." The boy stood by as the CIT officer yelled in his face. Later on, when the boy

protested going to the hospital, officers lifted him horizontally by his arms and legs, and brought him face down on the floor to handcuff him. Finally, officers placed the boy in the back of a police car, and the CIT officer threatened him again because he kicked the door: “[Y]ou see this Taser on my hip? That’s 50,000 volts that I’m going to put in your little body. Is that what you want?”

Three months later, a different CIT officer threw, pushed, grabbed, and handcuffed the same boy before bringing him to a psychiatric hospital. Again, the CIT officer ignored the child’s behavioral health issues and used unnecessary force. This time, the boy’s mother called 911 because her son was “acting out and showing signs of extreme anger.” When officers arrived, she told them her son had at least four behavioral health diagnoses and had started taking a new medication that day. Though the child was calm when officers arrived, the officer twice lifted him into the air, threw him onto a couch, and then yelled in the boy’s face: “You’re two seconds away from meeting the real motherfucking [Officer’s name] alright? . . . You don’t want me to turn up on your little ass.” Based on MPD’s records, this eight-year-old boy had at least nine encounters with officers between December 2021 and August 2023.



CIT officer throws eight-year-old Black boy with behavioral health issues onto a couch.

We observed CIT officers in Memphis belittle and mock people with behavioral health disabilities. In one incident, a CIT officer hit a man in the head and threatened him with a Taser while officers called him a “motherfucker,” “bitch,” and a “dumbass.” The

officers arrested him for a misdemeanor warrant.³⁸ A CIT officer in a different incident responded to a call about a man he knew had behavioral health issues and immediately yelled at him, “You’re under arrest, motherfucker . . . Get your motherfucking ass over here . . . Hands on the car, dickhead.” While other CIT officers watched, this officer later pepper sprayed the man four times while he was handcuffed and in the backseat of the patrol car. The officer shut the door and windows so the irritant would not dissipate and called the man a “worthless piece of incestuous shit” who “can live in a robot society and have a lobotomy.”³⁹

CIT officers should generally assume primary responsibility for a behavioral health-related scene and advise other officers on strategies to de-escalate crises and resolve encounters appropriately. Instead, we saw CIT officers abdicate this responsibility and defer to other officers. At times, CIT officers watched while other officers screamed and cursed at people with disabilities. One CIT officer called a man a “motherfucker” after watching a fellow officer punch the man in the face 18 times. Another CIT officer responded to a woman who called 911 repeatedly and was believed to be experiencing behavioral health symptoms. When he arrived, the CIT officer did not engage with the woman and instead stood by as another officer called the woman “crazy bitch,” and told her “You’ve been fucking calling all night long, this bullshit, we’ve got other shit to deal with.” That same officer then transported her to a behavioral health facility for evaluation.

³⁸ This CIT officer was found in violation of the “personal conduct” policy and was suspended for one day.

³⁹ The CIT officer later pleaded guilty to felony reckless endangerment.

“And I Will Not Let Up on the Button This Time”

Until recently, MPD permitted only CIT officers to carry Tasers, a less-lethal weapon that can cause immense pain and incapacitation. MPD’s use of Tasers is part of the pattern or practice of unreasonable force we found. We also found that that CIT officers have repeatedly fired Tasers at people with behavioral health disabilities without justification.

- One CIT officer was known to his supervisor as “**Taser Face.**” In one incident, he fired a Taser at a suicidal man who posed no threat and was already surrounded by at least four officers who had control of his hands. MPD found this Taser use was “unnecessary and needless” and identified two other incidents during which the same CIT officer discharged his Taser without justification. The CIT officer resigned before he could be disciplined.
- Another CIT officer with a pattern of improper Taser used serious force when responding to a nonviolent “mental consumer” call. Within ten seconds of encountering the man, and without warning, the officer grabbed the man’s neck, pulled him to the ground, and fired his Taser at close-range. The man was face down on the ground with three officers already on top of him. The CIT officer then threatened, “**I will tase you again . . . And I will not let up on the button this time.**” Supervisors found no policy violations.
- Another CIT officer fired his Taser at a woman four times while she was lying face down on the ground, handcuffed with her legs tied. Officers knew the woman was diagnosed with schizophrenia and was in crisis. Before firing his Taser, the officer yelled at her, “**You’re not going to [the psychiatric hospital], I’m going to put you in prison! Because that’s where you fucking belong. Because you’re not smart enough to listen!**” In another incident, the same CIT officer fired his Taser three times at a suicidal man, including while the man was kneeling against a bed with both hands up. Before firing his Taser, he shouted orders without giving the man time to comply and called him “**fucking stupid.**” Supervisors found no policy violations in either incident.

As one mother of a girl with a behavioral health disability put it, some CIT officers do more antagonizing than assisting. But CIT officers remain confident in their effectiveness. In one incident, multiple CIT officers responded to a call about a “mental disturbance” at a hospital and grabbed the man in crisis on the arm before even speaking to him. The man was standing outside the hospital with staff. When he tried to step away, officers grabbed his pants and roughly dragged him back to the wall. They

pushed him against the wall, shouting “I’m going to tase you! I’m going to tase you!” The officers eventually pushed him onto his stomach and handcuffed him while ordering, “Give me your fucking hands . . . before I pepper spray you.” The officers’ behavior prompted hospital staff to ask them to leave, but the officers refused: “All of us are CIT officers, deal with mental health. We know how to deal with it.”

A lack of officer supervision and oversight and poor training contributes to the violations we saw. MPD’s CIT coordinator leads the CIT program, organizes CIT trainings, and educates the community about the program. The coordinator’s authority is limited, and there is no centralized oversight of CIT officers, other than each officer’s precinct supervision. Precinct supervisors are not always CIT trained and may have biases of their own. Multiple MPD colonels who supervise patrol officers told us that mental health issues are associated with violence and the need to use force. The CIT Coordinator cannot remove officers from the program and does not monitor or review the conduct of CIT officers. Indeed, according to the CIT Coordinator, MPD has removed only one officer from the program due to excessive force, though some CIT officers report using force frequently. One CIT officer reported using force in 19 incidents from 2018 to 2023—more than nearly any other MPD officer during this period. We saw no evidence that supervisors evaluated why this CIT officer used force so often—MPD approved every use of force as consistent with policy.

MPD’s training on behavioral health primes officers to approach people with behavioral health disabilities with force and aggression, and our review revealed they often do. For instance, a training given to all new officers erroneously teaches that people with bipolar disorder do not feel pain. The training instructs officers that officers’ primary concern when encountering people with behavioral health disabilities is safety because “a person with mental illness doesn’t know what they’re doing half the time.” MPD also teaches officers that people experiencing a behavioral health crisis “may not be capable of being de-escalated.”

3. The City and MPD Can Make Reasonable Modifications to its Behavioral Health Response to Avoid Discrimination.

The ADA requires the City of Memphis and MPD to “make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless [they] can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.”⁴⁰ Whether a particular modification is reasonable and not a fundamental alteration for any

⁴⁰ 28 C.F.R. § 35.130(b)(7). The City would not have to make the requested modifications if the person requiring the modification poses a direct threat to the safety of an officer or others. See 28 C.F.R. § 35.139. A direct threat is “a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures, or by the provision of auxiliary aids or services.” 28 C.F.R. § 35.104.

state or local government includes a fact-based assessment of that particular jurisdiction. Here, our investigation revealed that the City does not need to fundamentally alter its emergency response system to comply with the ADA. Instead, the City of Memphis can make the following reasonable modifications to avoid unequal treatment of people with behavioral health disabilities.

Ensure Appropriate Response to Behavioral Health Incidents. First, the City of Memphis and MPD can modify their policies, procedures, and training program with respect to emergency dispatching to ensure that police are only dispatched to behavioral health calls when their presence is necessary. This includes sending behavioral health responders to some calls, as part of a joint response or without law enforcement. As discussed above, the City currently operates one co-response team through the CARE program half-time; the City can expand the hours of operation and capacity of this program and begin dispatching the CARE Team without MPD officers when a police response is not needed. MPD can also modify its policies to ensure that when behavioral health emergencies do require police, MPD deploys an appropriate number of officers based on actual safety concerns. To aid call-takers in choosing the correct response to individual behavioral health calls, the City can provide training for MPD call-takers and develop better dispatching protocols to identify behavioral health issues and communicate those issues to responders. These efforts can be assisted by behavioral health professionals embedded within dispatch to de-escalate situations on the phone and evaluate when it would be safe and effective to send a civilian-led response, or whether a response is needed at all. The City can also revise its training and policies for call-takers and dispatchers to ensure that they do not reflect incorrect stereotypes about people with behavioral health disabilities.

Modify policies, training, and MPD's CIT program. Second, MPD can modify policies to guide officers' discretion when encountering people with behavioral health issues to ensure nondiscriminatory treatment. It can ensure that all officers receive training that provides a basic understanding of behavioral health disabilities, behavioral health crises, and de-escalation skills, so officers can respond appropriately if they encounter behavioral health-related situations. It can make changes to its CIT Program to ensure that when calls related to behavioral health do need a police response, the CIT Program deploys officers who use appropriate de-escalation techniques and coordinate with community-based crisis response where appropriate. MPD and the City of Memphis can monitor CIT officers' conduct and the CIT Program as a whole to ensure the abuses we saw do not continue.

Enhance coordination with crisis hotline and other community services. Third, the City and MPD can enhance coordination with community-based behavioral health services in Memphis, including the crisis hotline. These efforts can include establishing a community advisory committee and protocols for information sharing.

* * *

Unnecessary police response can increase stigma, cause bodily harm and trauma, lead to avoidable incarceration, and contribute to distrust of public services. We spoke to a mother who told us that, based on her experiences with MPD responding to her son in crisis, she would not call MPD when they need help. But the City and MPD's response to all behavioral health emergencies is to send police, no matter what. Behavioral health professionals could handle some of these calls without police; others could be addressed by co-response from these professionals and police. A behavioral health-focused response has led to successes in other cities, and there is a growing desire for such a response in Memphis. Indeed, the Memphis Shelby Crime Commission has noted a consistent community concern about a lack of services for people with behavioral health issues and stated "[w]e can and must do better."⁴¹ Ensuring an appropriate emergency response will better serve people with behavioral health disabilities and their families, MPD officers, call-takers and dispatchers, and public safety in Memphis.

⁴¹ Memphis Shelby Crime Commission, Safe Community Action Plan 2022-2026 (Feb. 2022), at 42-44, <https://perma.cc/4WTC-AQ32>.

E. MPD Unnecessarily Escalates Encounters with Children.

We have serious concerns about MPD’s treatment of children and the lasting impact of police encounters on their wellbeing and resilience.⁴² During interactions with children regarding minor issues, MPD officers escalate the encounters with aggressive and demeaning language and, at times, needless force.

At times, MPD aggressively escalates encounters with children who have committed no crime or where the child is a victim. In one incident, officers handcuffed and used force against a 16-year-old Black girl who called MPD to report she had been assaulted. Before arriving at the precinct to give a statement, officers handcuffed the girl after she refused to give them her phone. When she became agitated and reactive, the officers responded with insults and threats, telling her, “When [the handcuffs] do come off . . . Ooh, I’m itching,” “I leave my gloves on when I fight,” and “If I gotta whip your ass, I will.” After three hours, officers removed the handcuffs to reposition them. As she complained that her hands were hurt and swollen and tried to move her wrists, the officers grabbed her and pushed her face down onto the ground to handcuff her again. The girl was then arrested and charged with disorderly conduct.

MPD has escalated interactions when enforcing laws that are intended to keep children safe. After two Black boys (ages 15 and 16) ran from an officer who was citing them for a curfew violation, officers demeaned the boys and threatened violence. When one boy asked if they were going to jail, the officer responded, “If it’s my decision, hell yeah . . . I’d have so much damn fun rolling your ass down to jail. I’d love doing that shit.” Another officer threatened to assault the boys when he worried that he may have lost his MPD mobile device during the foot pursuit: “I am fucking these little kids up, man . . . I am fucking you all up, I just wanted to let y’all know that.”

MPD officers have mistreated children in crisis, even when it is clear the child has significant disabilities. In one incident, a CIT officer threatened to take a 14-year-old Black boy to adult jail because the boy ran away from home. The boy was diagnosed with autism, ADHD, bipolar disorder, and developmental delays and had the intellectual functioning of a four-year-old. The boy’s mother had called the police after the boy, who had been released from a mental health facility that day, got upset at bedtime, threw a garbage can and a chair, and ran from home. After the boy was found, a CIT officer raised his Taser toward the boy, who was calm and compliant, and told him, “I don’t want to use it on you, but if you don’t listen to me, I can.” Officers planned to take the boy to the hospital for psychiatric treatment. But the CIT officer continued to threaten him, saying that he would take the child to jail “with the big boys,” and “If I have to come

⁴² Interactions with the police can lead to damaging and lasting outcomes for children, especially Black and Latinx teens, including post-traumatic stress, increased levels of depression, diminished academic performance, and increased chances that a child will engage in delinquent behavior in the future.

back over here because you wanna be disrespectful to your mother, you and I can go somewhere else. One-on-one. You and me. We'll see how strong you really are."

In some encounters, officers fail to account for a child's age, size, and lack of maturity. For example, as officers dispersed a crowd after a fight at a high school football game, one officer walked through the crowd, repeatedly threatening, "I'm finna spray the fuck out of these folks." She followed a relatively small-statured teen girl trying to leave the premises, yelling "Bye! Bye!" at her. The officer's taunts provoked the girl, who talked back. In response, the officer shoved the girl, yelling "Get out this motherfuckin' lot." The girl pushed back, and two other officers approached the girl from behind and threw her on the ground. The officers then lifted the girl in the air and slammed her face down into the pavement. The officer who started the altercation told her to "Get your dumb ass up," and called her a "stupid bitch" as the girl was led away in handcuffs.

We also have serious concerns that MPD's interrogations of children may lead to involuntary and false confessions in violation of the Fourteenth Amendment.⁴³ Attorneys working in the juvenile justice system told us they were troubled by MPD's interrogation practices, including lying to children, making false promises, and making threats. During one interrogation, for example, a detective told a handcuffed 17-year-old teen, who had not completed ninth grade, that he might be transferred to the adult system. The detective then said he hoped the boy was "willing to . . . share as much information as we need in this case," and that the child had "an opportunity to help [himself] out in this." According to attorneys representing children, MPD questions children without parents or attorneys, even when parents and attorneys request access. And prosecutors described MPD's "manipulation of children" during interrogations and explained that MPD will "get confessions, but they should be trying to get genuine information." According to a prosecutor, "The kid will keep changing their story until MPD gets the confession."

Many local leaders expressed concerns to us about the lack of resources for children in Memphis, including in-home services, family support services, intervention services, mental health services, violence prevention services, and rehabilitation services. The lack of access to needed services and supports that promote children's development can result in unnecessary and damaging interactions between children and MPD. An MPD commander raised concerns that Memphis is "on the verge of losing a generation of Black kids to the cemetery or jail" and recognized that this is not a problem that MPD can solve. Though providing needed services and resources for children in Memphis falls beyond MPD's control, MPD must ensure that, when it is called to respond to children, officers work to de-escalate, rather than escalate, these encounters.

⁴³ The Supreme Court has recognized that children are particularly vulnerable to the pressures of interrogations. *J.D.B. v. North Carolina*, 564 U.S. 261, 269, 277 (2011); see also *Haley v. Ohio*, 332 U.S. 596, 599-600 (1948).



Memphis police officers handcuff children as young as 8 years old even when they pose no safety risk.

CONTRIBUTING CAUSES OF VIOLATIONS

Unlawful policing in Memphis is caused in part by MPD's deficient policies, supervision, training, and accountability systems. MPD policies lack clear guidance on constitutional standards. MPD does not provide effective training to recruits or current officers on constitutional policing practices. First-line supervisors and commanders have overlooked or tried to justify legal violations. And MPD does not act on misconduct complaints, complete thorough investigations, or adequately discipline officers who have engaged in misconduct.

We closely examined how MPD trains and supervises officers and holds them accountable for misconduct. We visited MPD's training academy and interviewed officers, field training officers, and supervisors. We interviewed supervisors in every patrol precinct, as well as supervisors in specialized units. We met with investigators and commanders in MPD's Inspectional Services Bureau (ISB), which investigates alleged misconduct. We reviewed MPD's data about complaint investigations and a random sample of complaint investigations into a range of alleged misconduct.

A. MPD Lacks Effective Policies, Supervision, and Training.

MPD does not give officers clear guidance on what they can and cannot do. MPD's force policies do not accurately reflect constitutional standards, such as the requirement that force be reasonable and proportional to the threat faced. Similarly, MPD's policies on street enforcement do not provide officers with appropriate standards on when they may detain or search people. The lack of clear guidance is exacerbated by pressure from supervisors to make traffic stops. Nor does MPD have an effective process to develop new policies or update current policies to ensure compliance with the law. We saw little evidence that MPD's policy development process regularly incorporates feedback from supervisors and training staff about gaps in officer knowledge and conduct in the field. Officers and supervisors told us they had minimal input.

MPD's supervisors fail to ensure that officers follow departmental policies. In many incidents described above, MPD supervisors ignored or excused obvious legal violations, from excessive force to the mistreatment of people with behavioral health disabilities. Supervisors overlook plainly excessive force and rarely explain their determination that an officer's use of force complied with policy. Despite MPD's focus on traffic enforcement, we saw little evidence that supervisors meaningfully review traffic stops to ensure they are lawful. Supervisors encourage officers to make large numbers of traffic stops and reward those who do so with advancement in the police department. Neither first-line supervisors nor higher-ranking officials have addressed unlawful conduct or taken proactive steps to prevent repeated violations.

Under MPD's current rank structure, lieutenants serve as first-line supervisors for patrol officers. But they enter that rank after serving as detectives who spend their days investigating crime, rather than responding to 911 calls or making traffic stops, as patrol officers do. MPD's supervisory practices also differ across patrol precincts. In some precincts, for example, supervisors told us that the precinct commander, typically a

colonel, reviews each use of force. In other precincts, the review process stops at a mid-level or first-line supervisor, like a major or lieutenant. We also did not see evidence of close supervision in specialized units, despite the central role these units play in MPD's enforcement strategy. Last year, MPD tried to create a new rank of second lieutenant to provide more direct supervision for officers. MPD's police union blocked the new rank in arbitration, and the City's appeal is pending. Regardless of whether MPD creates a new rank, it must ensure adequate first-line supervision—especially regarding important matters like reviewing uses of force, stops, searches, and arrests.

Training deficiencies also contribute to MPD's systemic legal violations. MPD's force training primes officers to use force immediately rather than de-escalate encounters. MPD's training on stops does not provide clear guidance to officers on the necessary criteria to establish reasonable articulable suspicion for stops and frisks. In addition, MPD's training is often lecture-based rather than requiring active participation by officers. Officers told us they rarely receive regular refresher training on use of force or other topics, beyond legal updates.

When new police recruits graduate from the training academy, they are assigned to field training officers for several months for on-the-job training. MPD does not regularly assess field training officers' performance. The quality of instruction varies, as one lieutenant admitted: "not consistent in quality, not at all." Field training officers have limited influence over whether recruits pass their field training period. Officers told us that in the past, field training officers could fail new recruits when they were not up to the job. But now, lieutenants simply switch the recruit to a more lenient field training officer, who will allow them to become part of the police force.

B. MPD Fails to Hold Officers Accountable for Misconduct.

MPD does not consistently accept misconduct allegations, complete thorough investigations, or discipline officers when warranted. Most complaints do not receive a full investigation, with witness interviews and other investigative steps. From 2018 to 2022, MPD reported that the Inspectional Services Bureau (ISB) opened full investigations into just 20.6 percent of complaints received. The remaining complaints were delegated to the officers' supervisors or otherwise resolved informally. MPD gives supervisors a great deal of power and discretion to resolve complaints. But supervisors also fail to conduct adequate investigations; instead, they overlook or try to justify violations. If someone files a formal complaint with ISB, that unit often closes cases after a nominal preliminary inquiry. For the few sustained allegations, MPD does not impose appropriate discipline. As a result, MPD officers engage in repeated misconduct, harming community members and costing taxpayers millions of dollars.

1. MPD Supervisors Fail to Identify or Investigate Misconduct.

MPD supervisors do not consistently accept and document all misconduct complaints, and some supervisors have talked people out of filing complaints. MPD requires patrol lieutenants to “[d]ocument complaints against civilian and police personnel,” “ensure that investigations are handled appropriately,” and “[m]ake sure the complainant is aware of who will follow up on this complaint.” But in practice, supervisors do not consistently act on misconduct complaints. In one incident, a woman repeatedly told a lieutenant that an officer grabbed her while responding to a call for service at her house about a missing child. In response, the lieutenant spent nearly 20 minutes going back and forth with the woman about the officer’s conduct and told the woman that she wanted to “explain our side.” Though the woman asked if she could file a complaint against the officer, the lieutenant never gave her a clear answer. Instead, the lieutenant concluded the call and closed the complaint file, stating incorrectly that the woman “did not want to file a complaint against the officers.”

Supervisors do not adequately investigate the misconduct complaints they receive. They close many complaints within a day or two of receiving the complaint after reviewing minimal evidence. MPD

supervisors fail to take basic investigative steps such as identifying and interviewing relevant witnesses and objectively evaluating documentary evidence. Rather than interviewing the involved officers, supervisors allow officers to submit memos describing the incident that led to the complaint. Supervisors do not consistently record interviews with complainants and fail to canvass neighborhoods for witnesses.

In one case, a supervisor overlooked video evidence and mischaracterized what had occurred. After a Black woman was rear-ended by a white driver, an officer cursed at her and threatened to arrest her. When the woman tried to explain what happened, the officer was aggressive and rude: “That’s not what I’m fucking asking you.” He then grabbed the woman and threatened to arrest her for disorderly conduct, though the woman had done nothing wrong and had not even raised her voice. The woman tried to complain the officer had no right to treat her that way, but a MPD supervisor mischaracterized the encounter and exonerated the officer, writing that the woman “provoked officers to address her behavior.” In her complaint, the woman wrote that the

Downgrading Complaints

At times, MPD obscures serious misconduct by classifying the conduct as a lesser offense. This can result in officers receiving little discipline for demeaning community members or behaving in an offensive manner.

One complainant sent MPD video of a detective making a vulgar and racist comment while searching a house:

After an officer commented on a picture on the wall, the detective responded, “Well, it’s like in the Middle East. If you have a retarded kid, they’ll put her in the barn and they all fuck her . . . Not respectful, but it is a cultural thing.”

A supervisor classified this complaint as a courtesy violation. The officer received “oral counseling.”

officer “treated me as if I was nothing, but treated [the white driver] with the utmost respect,” and she felt “violated and afraid of what [the officer] would do next.” She wrote, “I felt as if I were not a citizen of the USA.”

2. MPD’s Internal Affairs Unit Does Not Conduct Thorough and Objective Investigations.

The Inspectional Services Bureau (ISB) is staffed by trained investigators and oversees official misconduct investigations at MPD. But ISB also resolves most of the complaints it receives without full investigations, and even its full investigations are not consistently high-quality. ISB investigators close many cases after a preliminary investigation, which involves taking a complainant’s statement and reviewing available video and MPD reports. MPD policy does not provide a clear standard for whether investigators should open a full investigation or close a case after a preliminary investigation. The policy states that ISB “must handle serious complaints” involving alleged injuries, property damage, theft, or criminal violations, and that an investigator should “briefly outline the nature of the allegation(s) and provide his/her recommendation to a supervisor.” In practice, the decision to fully investigate a complaint is left to the discretion of investigators and supervisors. We found that ISB preliminary investigations are deficient. Investigators do not record statements from complainants, interview accused officers, or search for witnesses and other external evidence, like other video footage.

ISB has improperly closed cases after preliminary investigations even when evidence shows that misconduct occurred. In one case, ISB exonerated a detective who arrested a Latinx woman for making a false report because she described the crime against her as a “carjacking” instead of an “auto-theft.” The woman told the detective she “wasn’t trying to break the law,” and did not know the legal difference between these two offenses. He arrested her anyway—even though Tennessee law requires that a person must know the information is false. The woman asked the detective, “So because I don’t know the correct wordage for the [police report] . . . I have to go to jail?” The detective said she could have asked the officers who took the report or looked up the Tennessee state code herself, and that “ignorance is not an exception to the law.” The woman later filed a complaint with ISB, but the investigator exonerated the detective after a preliminary investigation. The investigator did not provide any written explanation for the decision.

ISB’s full investigations are often not thorough and objective. We consistently found that investigators overlooked potential policy violations and failed to examine available evidence. In one case, ISB overlooked video evidence that an officer berated a Black woman about her race, threw her to the ground, and then lied about it. The officer was responding to a call about a woman who was repeatedly calling 911 and appeared to be experiencing mental health issues. He immediately escalated the encounter by grabbing the woman, trying to handcuff her, and tackling her to the ground within 30 seconds of meeting her. After officers shoved her into a police car, the officer yelled at her, “You think because you Black we’re going to cut you some slack, hell no, we’re going to be even harder on our own fucking kind because you know better!” He also called the woman a “crazy bitch” and told her to “get your ass up” after she fell getting into the

squad car. ISB's investigation omitted any mention of this conduct and concluded that excessive force "cannot be proven" because the officer denied using force and his body-worn camera fell off, even though the video captured the officer telling others on the scene, "I grabbed her by the back of her goddamn neck and threw her head on the fucking ground."

Investigators also fail to run down leads, including failing to canvass for and interview potential civilian witnesses. The interviews investigators do conduct are not meaningful. They are often less than 10 minutes long and largely involve a basic recounting of the event giving rise to the complaint. Investigators do not ask probing, open-ended questions designed to objectively uncover the facts. At times, they ask leading questions that attempt to justify officer conduct. In one case, an officer pepper sprayed a man who was handcuffed in the backseat of a police car. Investigators asked the officer a series of leading questions, like "When you sprayed him, was there ample ventilation in the car?"

3. MPD Does Not Adequately Discipline Officers for Misconduct.

When MPD finds policy violations, its disciplinary process undermines the findings and minimizes the misconduct. After ISB or a supervisor finds that an officer violated policy, MPD holds a disciplinary hearing at the officer's precinct, presided over by a disciplinary officer, who is typically a supervisor or commander at that precinct. Discipline is untimely. Hearings often occur several months or even up to a year after the underlying investigation has concluded. In one case, ISB found that an officer used excessive force when he repeatedly kicked a Black woman in the stomach while she was handcuffed in the back of a squad car. MPD did not hold the disciplinary hearing until seven months after the investigation was complete, and the hearing officer suspended the officer for two days. The prosecutor who reviewed the officer's conduct declined to bring charges against her because the statute of limitations had passed on assault in part because of the seven-month delay.

When presiding over hearings, MPD's disciplinary hearing officers excuse or justify misconduct—and at times overturn investigative findings or amend the violations to less serious offenses. They make these changes without the input of the investigator or additional fact-finding. Until this year, ISB did not attend disciplinary hearings at all. Disciplinary hearings should include a hearing officer to review the findings for each sustained charge, weigh the appropriate aggravating and mitigating factors, and determine the amount of discipline to impose. They should not be a forum to redo an investigation into the underlying charges. But an ISB official admitted that hearing officers rewrite investigative findings "more than I'd like."⁴⁴ In one case, ISB found that an officer used excessive force when he pepper sprayed a man who was handcuffed in the back of a squad car after the man spat at him. A disciplinary hearing officer changed

⁴⁴ In July 2023, MPD prohibited disciplinary hearing officers from modifying "sustained complaints that were investigated by [ISB]" and required hearing officers to "submit a written justification" for any requests to reduce "a sustained ISB charge . . . to a lesser charge."

the excessive force violation to an equipment violation because he viewed the officer's conduct as "understandable" and believed that his "intent was not to intentionally violate policy."

The lack of discipline for proven misconduct can weaken community trust, and inconsistent treatment can take a toll on officer morale. But the wide discretion afforded to disciplinary hearing officers results in discipline that is inadequate and inconsistent. A high-ranking MPD official told us that discipline has not been "meted out fairly and consistently." One investigator said that "when cases go back to the precinct, one commander is heavy, one is lenient." Patrol supervisors told us "nothing is the same around here" in terms of discipline.

Repeated Misconduct

One MPD officer was the subject of nine different complaints in two years, including allegations of excessive force and improper conduct during traffic stops. In June 2023, he repeatedly struck a man with a baton while the man was handcuffed in the backseat of a police car. In an earlier incident, he had punched a woman, grabbed her by the neck, and cursed at her in front of her children. He had also unlawfully frisked and handcuffed a man with autism during a traffic stop after cursing at him.

MPD supervisors knew the officer's conduct was problematic but ignored or failed to address it. After one complaint about a traffic stop in 2021, a supervisor wrote that MPD should "monitor any other situations to circumvent any further complaints." MPD's data shows supervisors received 10 alerts about the officer's performance because of repeated complaints. But each time, a supervisor determined that the officer would not be placed in MPD's Performance Enhancement Program, a non-disciplinary system to identify officers at-risk for engaging in potential misconduct.

Chief Davis has acknowledged problems with MPD's disciplinary systems, including untimeliness—"that's where we have problems." Within the last year, ISB began attending disciplinary hearings, along with a member of MPD's legal department. And MPD has established a disciplinary matrix to ensure more consistency across cases. As a backstop, the chief and assistant chief can overturn disciplinary hearing officers' decisions, although they had not exercised this authority as of March 2024. These are all steps in the right direction. Still, MPD will need to ensure that these changes are properly implemented and result in timely, consistent, and appropriate discipline.

4. MPD and the City Should Improve Oversight and Transparency.

Police accountability requires action both inside and outside the police department, but Memphis has not provided sufficient transparency or external oversight regarding public safety practices. In recent years, the City and MPD have taken steps to further transparency, including creating public dashboards and publishing reports on officer

activity. But the results have been mixed, due in part to limited data and a lack of meaningful follow-up. For example, MPD's most recent complete public report, completed in July 2023, summarizes data on complaints and uses of force only through 2022. And although MPD policy states that the report should "include written recommendations regarding any police or training issues that need to be addressed by the department," the 2022 report identified "[n]o significant discriminatory trends or patterns" and "[n]o recommendations as to policy changes" regarding uses of force.

External police oversight is not new in Memphis, but the City can do more to strengthen oversight practices. For nearly 30 years, the City's Civilian Law Enforcement Review Board investigated police misconduct complaints by community members and made recommendations to the police chief regarding those complaints. In May 2023, Tennessee passed a law that limits the authority of civilian entities outside police departments, including the Civilian Law Enforcement Review Board, to investigate alleged police misconduct. While this change reinforces the need for stronger internal accountability practices by MPD, there are other opportunities for productive external oversight. Rather than investigating individual complaints against officers, civilian entities can audit police practices and recommend changes to policies and training. In addition, the City and MPD can facilitate broader community engagement by providing timely and accurate data to the public about MPD's enforcement activity and public safety outcomes, including data about traffic stops, uses of force, clearance rates, and misconduct complaints.

During our investigation, we heard from many community members who were concerned about both violent crime and unlawful policing in Memphis, and who wanted to help establish lawful and effective public safety practices. Improved transparency, along with stronger internal accountability practices, would help the City and MPD address the unlawful practices described in this report.

RECOMMENDED REMEDIAL MEASURES

The City and MPD have engaged in a pattern or practice of conduct that violates federal law. To end this unlawful conduct, the City and MPD must address the deficiencies in policies, training, supervision, and accountability that contributed to the legal violations described in this report. The recommended remedial measures below are a starting point for these necessary changes.

Use of Force

- 1. Improve Use-of-Force Policies, Reporting, and Review Procedures.** Update use-of-force policies, including policies on shooting at moving vehicles, taser usage, and OC spray, to emphasize the use of de-escalation techniques, require officers to consider less-intrusive alternatives before using force, and require officers to consider the proportionality of force. Require force investigators to have specialized expertise in force review and require greater scrutiny of serious force. Revamp force reporting and review systems to ensure that officers accurately report all uses of force and that MPD reviews uses of force thoroughly and promptly.
- 2. Develop and Deliver New and Ongoing Use-of-Force and De-Escalation Training.** New use-of-force training should provide clear guidance to officers about when it is appropriate to use de-escalation or different force options and should include scenario-based training to reinforce the concepts. Training should include teamwork exercises and safe handcuffing techniques. Training should also explicitly address the dangers of neck restraints, canine bites, Tasers, and firing weapons at moving vehicles. This training should be ongoing, and not merely provided to new recruits.
- 3. Enhance Supervision and Accountability Regarding Uses of Force.** Ensure thorough investigation of use-of-force incidents. Require that investigating officers explain their determinations of whether uses of force adhered to policy and refer misconduct to the appropriate investigative unit or agency. Ensure that officers face disciplinary action when they violate force policies. Assess data to identify trends to develop training, policies, and recommendations to reduce unnecessary force. Ensure that supervisors, trainers, and command staff can effectively review force data.

Stops, Searches, and Arrests

- 4. Stops, Searches, and Arrest Policies and Training.** Adopt, implement, and train officers on policies that set forth the constitutional limits on stops, searches, frisks, seizures, and arrests, and ensure that officers comply with those limits. Require close and effective supervision of all enforcement activities, including traffic and pedestrian stops. Reconsider the role of any specialized street enforcement units that conduct targeted or pretextual traffic and pedestrian stops.

5. **Require Documentation of All Stops, Frisks, and Searches.** Collect data, including demographic data, on all traffic and pedestrian stops, including stops that do not lead to citations or arrests. Officers should document the reasonable articulable suspicion for any stops and frisks, the justification of any use of handcuffs or patrol car detention during a stop, the probable cause for any searches, and the basis for any consent searches. Supervisors should review officers' stops, frisks, searches, and arrests to ensure compliance with law and policy.
6. **Provide Clear Directives to Officers Regarding Enforcement Activity.** Direct officers to focus traffic enforcement on traffic safety. Limit the routine use of pretextual vehicle or pedestrian stops unless the actual reason for the stop is to further an existing investigation of a specific crime. Ensure that officers' vehicle and pedestrian stops align with MPD and the City's public safety priorities.

Identifying and Reducing Racial Disparities

7. **Collect, Analyze, and Respond to Enforcement Data.** Collect and analyze data about stops, searches, uses of force, citations, and arrests. If the data shows evidence of racial disparities, unlawful stops or arrests, or activity inconsistent with the City's public safety objectives, then MPD and the City should address these problems, including by modifying deployment and enforcement practices.
8. **Develop and Implement a Comprehensive Public Safety Plan.** Establish and implement a citywide public safety plan based on shared priorities and community input. Identify key public safety and violence reduction strategies, improve coordination between MPD and other City agencies, and regularly assess the effectiveness of public safety efforts. MPD should implement strategies to strengthen community engagement efforts, and end practices that alienate residents without improving public safety.

Responding to People with Behavioral Health Disabilities

9. **Send Appropriate Responses to Behavioral Health Calls.** Update emergency dispatching policies, procedures, and training to ensure the appropriate response for behavioral health calls. Expand the hours of operation and capacity of the City's co-response program and modify the CARE program to begin dispatching without law enforcement to behavioral health calls where a police presence is not necessary. Modify policies to ensure that when police are necessary to respond to behavioral health emergencies, the appropriate number of police are sent. Embed behavioral health professionals within dispatch to de-escalate situations on the phone and determine the appropriate response.

10. **Modify Behavioral Health Training for Officers and MPD's CIT Program.** Ensure all officers are trained with a basic understanding of behavioral health disabilities, crisis, and de-escalation. Modify CIT policies and training to ensure that when calls related to behavioral health do need a CIT response, CIT officers respond to those calls appropriately. Actively oversee CIT officers' conduct and the outcomes of the CIT program.
11. **Enhance Coordination with Crisis Hotline and Other Community Services.** Coordinate with community-based behavioral health services in Memphis, including the crisis hotline, to improve the City's response to behavioral health emergencies.

Responding to Youth

12. **Develop and Implement Policies and Training Appropriate for Youth.** Recognize the unique characteristics of youth and modify patrol practices as necessary. Develop evidence-based and trauma-informed policies and training that address youth-specific characteristics and vulnerabilities.

Training, Supervision, and Accountability

13. **Improve Academy, In-Service, and Field Training.** Ensure that all officers and recruits are regularly trained on constitutional policing, de-escalation, use-of-force policies and tactics, and how to respond to persons in crisis. Use qualified instructors, employ best practices in adult learning, and include outside experts and community-based instructors. Involve training officials in after-action evaluations of force incidents. Include scenario-based training in both recruit and in-service trainings. Strengthen MPD's field training officer program by ensuring high standards for field training officer selection, as well as consistent and fair evaluation of officers and recruits.
14. **Ensure Close and Effective Supervision within MPD.** Train all supervisors on promoting effective and lawful policing practices. This training should cover how to monitor and assess officers' performance, evaluate written reports, investigate uses of force, review traffic stops and enforcement data, build community partnerships, and de-escalate conflicts. Ensure sufficient first-line supervision for patrol officers. Hold supervisors accountable for the quality of their supervision.
15. **Direct and Closely Monitor Specialized Units and Task Forces.** Establish clearly defined selection criteria, missions, and duties for each specialized unit and task force. Ensure that each specialized unit and task force implements agency-wide policies on use of force; stops, searches, and arrests; and data collection. Require specialized units and task forces to document their activities in detail. Take appropriate action when officers or supervisors violate policies, including by removing them from specialized units or task forces.

- 16. Strengthen Misconduct Investigations.** Ensure thorough, objective, and timely investigations into alleged misconduct. Train investigators and supervisors on basic investigative practices, like investigative planning, witness interviews, and credibility determinations. Fully staff the internal affairs unit with qualified investigators.
- 17. Impose Appropriate Discipline for Misconduct.** Impose consistent discipline based on an agreed-upon disciplinary matrix. Disciplinary hearing officers should neutrally apply relevant factors in deciding the appropriate discipline.
- 18. Improve External Oversight and Transparency.** Adopt measures to increase transparency and civilian oversight, including by providing timely and accurate data to the public about MPD's enforcement activity and public safety outcomes. Consider creating an entity outside MPD that would audit police practices and recommend changes to policies and training. Improve information-sharing and coordination between MPD and prosecutors.

CONCLUSION

The Department of Justice has reasonable cause to believe that the City and MPD engage in a pattern or practice of conduct that violates federal law. As a first step to ending this unlawful conduct, we have identified an initial set of remedies, including stronger policies, training, supervision, accountability, and transparency. We look forward to working with the City, MPD, and the Memphis community to develop and implement remedies to address the pattern or practice of unlawful conduct described in this report.