



November 7, 2013

Anthony W. Batts
Police Commissioner
Baltimore City Police Department
242 W. 29th St.
Baltimore, MD 21211

Re: August 12, 2013 Maryland Public Information Act Request

Dear Commissioner Batts:

Thank you for initiating the meeting last month between the ACLU, NAACP, you and your team. We appreciate your stated commitment to improving a range of longstanding issues in the Baltimore City Police Department, and in particular the transparency of how the agency works.

As we said at the meeting, we think that the Department's response thus far to our Public Information Act request pertaining to stop-and-frisk data is inconsistent with your objective of achieving greater transparency and accountability within the agency. In particular, the most recent correspondence on behalf of BPD suggests that we would need to spend thousands of dollars and wait months to obtain responsive public records, and instead provides a paragraph's-worth of numbers that are troubling for what they reveal both about BPD's stops and BPD's lack of monitoring or analysis of its own stops. Moreover, the response claims that there are more than one hundred thousand documents responsive to our request, but provides no information about the categories into which these documents fall, nor any other information that would permit us to narrow our request.¹ Nonetheless, the attached document addresses each category of documents in our request in turn.

Based on what we have learned thus far, we have grave concerns that mechanisms for monitoring how the BPD utilizes stop-and-frisks, and for enforcing existing policies that are intended to protect against abuse of the tactic, are functionally nonexistent. This is especially troubling in light of the Department's repeated representations in the media that its officers do not misuse stop-and-frisk tactics. Specifically, the BPD's October 17 response to the ACLU's inquiry states:

The BPD is unable to provide you with approximate 2013 figures at this time. These reports are currently still under review and have not yet been finalized.

In 2010 59,320 investigative stops were entered into the database. 203 of those individuals were searched resulting in the recovery of 18 controlled dangerous substances, 12 guns, and 4 knives. In 2011 80,429 investigative stops were entered into the database. 209 of those individuals were searched resulting in the recovery of 9 controlled dangerous substances, 2 guns, and 1 knife. In 2012 there were a total of 123,221 investigative stops. Of the 90,066 entered into the database 494 of those individuals were searched resulting in the recovery of 10 controlled dangerous substances, 9 guns, and 1 knife.

¹ Furthermore, the BPD's response wholly ignores the ACLU's request for a waiver of fees, notwithstanding that fee waivers are customary with public interest MPIA requests like this.

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While we appreciate your sharing these numbers, they raise many more questions than answers, as you likely recognize. Why did it take more than two months for BPD just to provide these numbers? And why are they so incomplete? For example, it seems highly unlikely that, of 123,221 investigative stops in 2012, only 494 resulted in searches. Nor does it speak well of BPD that the only items it can report recovered out of more than one hundred twenty thousand stops were 10 controlled dangerous substances, 9 guns, and 1 knife. It is equally troubling that another 33,000 stops from 2012 are not entered into the database and that the Department is unable to provide *any* information about 2013, given that we are near year's end.

In sum, BPD's response suggests that BPD does not track, in any meaningful or timely sense, how officers are using stop-and-frisk tactics, nor whether their stops and searches are typically conducted in compliance with the law, nor whether officers have been provided with real-time feedback when they have violated the law. The information provided after our meeting about the BPD database reinforces our concerns about BPD's failure to track officer activities in this critical area. We understand that the stop-and-frisk database does not contain any data fields other than identifying information about the person stopped, and that the substantive information about each stop (the reason for the stop, reason for the search, whether contraband was recovered, and any further law enforcement action taken) exists, if at all, only on the scanned stop ticket. If our understanding is correct, we do not see how BPD could accurately make the claims it has concerning how its officers are deploying stop-and-frisk tactics on a system-wide basis.

Moreover, in a conversation with your staff, we were told it was their understanding that there are no documents responsive to the ACLU's request other than certain written policies already provided, paper stop tickets, and the stop tickets in the database. If this is true – that there are no memoranda, analyses or other documents illustrating supervisory review and management of stop-and-frisk tactics, then it becomes even more apparent that BPD has completely failed to supervise and manage how its officers use stop-and-frisk tactics. There does not appear to be any mechanism for auditing whether officers actually issue tickets every time they conduct a stop, let alone whether tickets are filled out correctly, whether stops were justified, or whether searches were justified. As we stated when we met, in our view, patrol officers cannot correct mistakes or misconduct in their interactions with citizens if their supervisors do not provide the feedback necessary to make those changes. And the same is true for those who supervise the supervisors.

We are dismayed, in part, because BPD's own policies mandate such reviews. BPD was pressed to adopt better practices for monitoring citizen street encounters nearly a decade ago, when advocates and media raised evidence of excessive, egregious, and improper stops.² BPD's promise, at that time, was that its policies would serve as a corrective measure. Plainly, BPD has not lived up to this promise.

It was reported prior to our meeting, and reiterated again at our meeting, that, in addition to changing the name from "stop-and-frisk" to "investigative stops," BPD would be adopting a new policy regarding "investigative stops." We welcome change in how citizen-street encounters are conducted, as it is long overdue. However, in our view, the more pressing need is not a change in policy, but rather a change in practice: specifically, following the policies already in place for preventing abuse of stop-and-frisk tactics. The critical factors, in our view, are that any changes that are adopted must (1) lead to immediate improvements in how stops and searches are actually conducted, and (2) be implemented in a way that provides some assurance that the changes will be enduring.

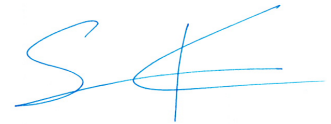
² See, e.g., Police step up frisking tactic: Officials say searches deter crime, but lack of tracking raises concern over practice, *Baltimore Sun*, November 13, 2005.

In recent months, BPD has repeatedly expressed interest in developing stronger relationships with Baltimore residents and communities, citing the initiative headed by Major Russell as an example. As we said to you when we met, in our view it will not be possible for BPD to achieve this goal without dramatically changing its current approach to citizen-police street encounters. These encounters are the foundation of BPD's relationship with communities. Quite simply, there is no substitute for building trust by ensuring that BPD officers adhere to the law and professional standards when they are working the streets. So long as Baltimore residents are subjected to improper stops and searches, and so long as certain Baltimore residents are treated as less deserving to use public spaces than others, BPD will not be able to achieve its laudable goal of strong and lasting partnerships with community members.

We look forward to receiving your response. Please feel free to contact us with any questions or concerns.

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Sincerely,



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