

**MORE THAN A PLAZA**

**DC JUSTICE LAB**

# **END JUMP-OUTS**

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## End Jump-outs

The most callous example of [stop-and-frisk](#)<sup>1</sup> in the District of Columbia is the Metropolitan Police Department's jump-out squads. Specialized paramilitary units such as the Gun Recovery Unit ("GRU") in the Narcotics and Special Investigations Division ("NSID") use tactics often referred to as "jump-outs" by community members because of how they operate in D.C.'s predominantly-Black neighborhoods: Officers jump out of unmarked cars to surround, stop, and search individuals without basis. These routine patrols drive around demanding<sup>2</sup> that people who are doing nothing wrong stop, lift up their shirts, and display their waistbands to prove that they are not carrying firearms.

**"It's become so normalized that when they do jump out, guys are already starting to pull their shirts up."**<sup>3</sup>

Jump-outs often work in plainclothes with tactical vests, however, a similar tactic has also been observed from [marked cars](#).<sup>4</sup> This unlawful and discriminatory treatment undermines community trust in law enforcement and does not improve public safety. This tactic must be ended immediately to ensure the safety of our community members and to preserve the constitutionality of policing in D.C.

MPD's paramilitary units jump-out tactics are in line with a larger culture of celebrating police violence and the idea that D.C. residents from certain neighborhoods should be treated as inherently dangerous. Although D.C. leadership [denies](#)<sup>5</sup> that jump-outs are still a pervasive aspect of Department culture, these units brag about the often-violent practice.

*Members of the Powershift unit were seen wearing t-shirts that bore the slogan "Let me see that waistband jo" and included white supremacist logo.*<sup>6</sup>

*Members of GRU sported insignia glorifying police violence with the slogan "vest up one in the chamber" and an image of a human skull with a bullet hole in the center.*<sup>7</sup>

This imagery endorses a dangerous culture between officers and community members: where officers are portrayed as ready to shoot and kill, rather than protect and serve.

Jump-out tactics have been employed in other cities by police units under various names such as the Anti-Crime Unit, Time Out, and Jump-out Boys.<sup>8</sup> Although New York City has taken measures to disband jump-out units<sup>9</sup> and crack down on "stop and frisk" practices, these dehumanizing tactics are alive and well in the District of Columbia.<sup>10</sup>



As recently as January 2020, Sergeant Charlotte Djoussou confirmed that officers are still conducting jump-outs and targeting Black communities when doing so. **“Officers were targeting groups of minority males and violating 4th Amendment rights, jumping out...During roll call, NSID officers were being instructed to target large groups in poverty-stricken areas without probable cause.”**<sup>11</sup> The plaintiffs in the pending case of *Crudep et Al v. District of Columbia*, allege that as recently as April of this year, MPD was still actively performing jump-outs, still discriminating, and still violating citizens’ constitutional rights.<sup>12</sup>

**“You just get over it. You don't bother trying to find out who the police officers were and stuff like that because it happens to almost everyone that you know...I really can't name one of my friends who hasn't had a jump-out happen to them.”**<sup>13</sup>

One D.C. Resident, Ryan Morgan, submitted a [video](#) of an MPD officer demanding to see his waistband without probable cause. In the video, Morgan states he does not consent to any search, yet he is still harassed and intimidated into showing his waistband to prove he is not carrying a gun.<sup>14</sup>

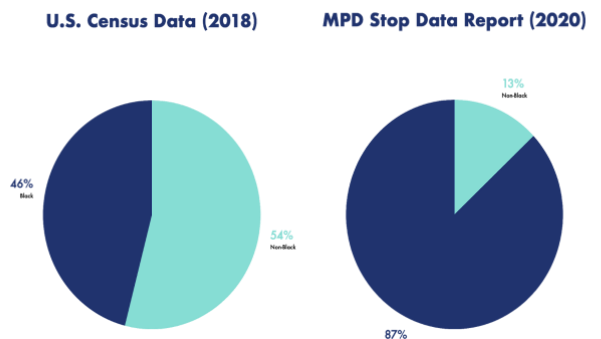
Similar tactics garnered national attention in recent months when plainclothes paramilitary units in Portland, Oregon, jumped out to stop, frisk, and even detain protestors.<sup>15</sup> The terror felt by those in Portland parallels the terror routinely experienced by District residents when Black youths in D.C. are subjected to the same practice.<sup>16</sup>

The city must take immediate action to prevent MPD from further terrorizing its citizens and put a stop to the use of jump-outs in D.C.

**Legal framework:**

It took more than 10 years<sup>17</sup> of organizing and litigation before a federal court in New York held that NYPD’s practice of systematically targeting people of color to stop and frisk violated the Fourth Amendment’s prohibition against unlawful searches and seizures and the Fourteenth Amendment’s guarantee of equal protection under law.<sup>18</sup> MPD’s jump-out practices violate the same constitutionally-protected rights.

After [ignoring](#)<sup>19</sup> a statutory mandate to collect data until a federal court ordered them to do so, the Metropolitan Police Department produced its first stop data [report](#)<sup>20</sup> earlier this year. Unsurprisingly, it revealed that 87% of non-traffic stops were of Black residents, even though they make up only 46% of the District’s population.<sup>21</sup>



This [MPD report](#)<sup>22</sup> and the [ACLU-DC's Analysis](#)<sup>23</sup> illustrate three things:

1. **Stops are happening too often.** MPD reports that between July 22 and December 31, 2019, it collected data on approximately 63,000 police stops. Officers made 11,045 stops that did not result in a warning, ticket, or arrest. This category of citizen stops almost certainly includes stops of people who were engaged in innocent conduct.
2. **Stops are targeting Black people.** Black people make up 87% of non-traffic stops and 91% of the searches, that resulted in no warning, ticket, or arrest. Black youths made up 89% of the children who were stopped and were stopped 10 times more often than their white peers.
3. **Stops are not keeping us safe.** Less than one percent of all stops and less than two percent of non-traffic stops led to the seizure of guns. According to a report from the Mayor's office,<sup>24</sup> violent crime increased 4% during the five-month period of data collection.

### ***The Fourth Amendment***

The United States Constitution requires reasonable articulable suspicion before a person can be lawfully stopped by police, even momentarily.<sup>25</sup> The D.C. Court of Appeals defines a stop as “when liberty is restrained by means of physical force or show of authority.”<sup>26</sup> The Supreme Court of the United States has held that the test for a non-consensual stop is “whether, taking into account all of the circumstances surrounding the encounter, the police conduct would have communicated to a reasonable person that he was not at liberty to ignore the police presence and go about his business.”<sup>27</sup>

Jump-outs demanding that a person show their waistband typically amount to a “stop” and, therefore, require that an officer have a reasonable articulable suspicion that criminal activity is afoot.<sup>28</sup> Reasonable articulable suspicion consists of, “specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion.”<sup>29</sup> Judicial charity has expanded the definition over time, to accommodate the fast-moving and challenging realities of policework.<sup>30</sup> However, District residents describe jump-outs as acting without any suspicion at all.

### ***The Fourteenth Amendment***

Although the Fourteenth Amendment to the United States Constitution provides for equal protection under the law, the Supreme Court of the United States and the District of Columbia Court of Appeals have yet to expressly address whether the exclusionary rule applies when police engage in racial profiling.<sup>31</sup>

Whether the federal constitution requires it or not, the District of Columbia must demand more. The District's [Human Rights Act](#)<sup>32</sup> requires that residents be protected from lawlessness and racism. The District's First Amendment Assemblies Act codifies a definition of reasonable suspicion that specifies, “A suspicion that is based upon the race, ethnicity, religion, national origin, lawful political affiliation or activity, or lawful news-gathering activity of an individual or group is not a reasonable suspicion.”<sup>33</sup>



DC Justice Lab calls on the District of Columbia to take immediate action to end jump-outs. The District must:

- **Disband existing paramilitary units and reassign those officers.**<sup>34</sup>
- **Require officers to work in full uniform and marked police cars, unless they are conducting a justified and targeted undercover operation.**<sup>35</sup>
- **Prohibit officers from demanding to see a person’s waistband without probable cause.**
- **Disallow the following common pre-textual bases for reasonable articulable suspicion or probable cause:**
  - **Presence in a high-crime neighborhood;**
  - **Apparent nervousness around police officers;**
  - **So-called furtive gestures or movements or running;**
  - **A generic bulge in a person’s clothing; and**
  - **Time of day.**<sup>36</sup>
- **Suppress all evidence seized as a result of “jump outs” and other discriminatory stop and frisk tactics.**

## References

- <sup>1</sup> Stop Police Terror Project DC, *No More Stop and Frisk*, available at <https://www.sptdc.com/nomorestopandfrisk> (last visited Sept. 5, 2020).
- <sup>2</sup> @breakingtheset, *Insane Police “Jump Outs” In DC | Interview with Eugene Puryear*, YOUTUBE (Feb. 11, 2015), <https://www.youtube.com/watch?v=JJIloAuKKeo>.
- <sup>3</sup> Robert McCartney, *Washington Region Has Problems With Police Shootings and Racist Practices, Too*, WASHINGTON POST (Jun. 29, 2020).
- <sup>4</sup> @Soup Visions, *White Washington Dc Police Harassing Me Again*, YOUTUBE (Nov. 15, 2017), available at <https://www.youtube.com/watch?feature=youtu.be&v=cghtBX19cjA>.
- <sup>5</sup> The Kojo Nnamdi Show, *Chief Lanier on “Jump-Outs”: “You’re Only Seeing One Half Of the Picture*, WAMU (Apr. 3, 2015).
- <sup>6</sup> Peter Hermann & Keith L. Alexander, *D.C. Police Suspend Officer Seen Wearing Shirt With Symbol Used by Racist Group*, WASHINGTON POST (July 28, 2017).
- <sup>7</sup> Justin Jouvenal, *Photo Shows D.C. Officers Displaying Flag That Advocates Violence, Complaint Says*, WASHINGTON POST (Aug. 12, 2017).
- <sup>8</sup> Kamilah Newtown, *‘We call them jump-out boys’: Videos of protesters getting picked up by unmarked police cars spark outrage, but many say it’s not new*, YAHOO (Jul. 31, 2020).
- <sup>9</sup> *Id.*
- <sup>10</sup> Stop Police Terror Project DC, *No More Stop and Frisk*, available at <https://www.sptdc.com/nomorestopandfrisk> (last visited Sept. 5, 2020).
- <sup>11</sup> Nathan Baca, *2 employees allege DC Police faking numbers, targeting minorities*, WUSA9 (Jan. 16, 2020).
- <sup>12</sup> *Crudep et al v. District of Columbia*, No. 1:2020cv01135 (D.C. filed Jun. 9, 2020).
- <sup>13</sup> Max Kutner, *‘Jump-Outs’: D.C.’s Scarier Version of ‘Stop-and-Frisk’*, NEWSWEEK (Jan. 16, 2015).
- <sup>14</sup> @Soup Visions, *White Washington Dc Police Harassing Me Again*, YOUTUBE (Nov. 15, 2017), available at <https://www.youtube.com/watch?feature=youtu.be&v=cghtBX19cjA>.
- <sup>15</sup> Emily Czachor, *Alexandria Ocasio-Cortez to Push Bill Making Feds Identify Themselves Following Portland Arrests*, NEWSWEEK (Jul. 20, 2020).
- <sup>16</sup> See Max Kutner, *‘Jump-Outs’: D.C.’s Scarier Version of Stop and Frisk*, NEWSWEEK (Jan 16, 2015) (recounting this narrative: “I didn’t know who it was...I was scared. I thought it was somebody trying to grab me, throw me in the trunk or something.”)
- <sup>17</sup> *Floyd et al v. City of New York*, CENTER FOR CONSTITUTIONAL RIGHTS (July 9, 2020), available at <https://ccrjustice.org/home/what-we-do/our-cases/floyd-et-al-v-city-new-york-et-al>.
- <sup>18</sup> *Floyd v. City of New York*, 959 F.Supp.2d 540 (S.D.N.Y. 2013).
- <sup>19</sup> Martin Austeruhle, *D.C. Police Release Long-Delayed Stop-And-Frisk Data, Showing Racial Disparities in Stops*, WAMU (Sep. 10, 2019).
- <sup>20</sup> Metropolitan Police Department Washington D.C., *Stop Data Report* (Feb., 2020), available at <https://mpdc.dc.gov/sites/default/files/dc/sites/mpdc/publication/attachments/Stop%20Data%20Report.pdf>.
- <sup>21</sup> See *Id.*, at 19 - 21 (showing racial demographic data of ticket stops, wherein black residents comprised 66% of stops in the First District, 35% of stops in the Second District, 54% of stops in the Third District, 60% of stops in the Fourth District, 70% of stops in the Fifth District, 90% of stops in the Sixth District, and 91% of stops in the Seventh District, as well as non-ticket stops, wherein black residents comprised 86% of stops in the First District, 64% of stops in the Second District, 78% of stops in the Third District, 73% of stops in the Fourth District, 90% of stops in the Fifth District, 97% of stops in the Sixth District, and 96% of stops in the Seventh District).
- <sup>22</sup> *Id.*

- <sup>23</sup> ACLU D.C., *ACLU Analysis of D.C. Stop-and-Frisk Data Reveals Ineffective Policing, Troubling Racial Disparities*, ACLU (Jun. 16, 2020), available at <https://www.acludc.org/en/news/aclu-analysis-dc-stop-and-frisk-data-reveals-ineffective-policing-troubling-racial-disparities>.
- <sup>24</sup> Mayor Bowser, 2017 Accountability Report (2017), available at <https://mayor.dc.gov/accountability>.
- <sup>25</sup> *Terry v. Ohio*, 392 U.S. 1, 21 (1968).
- <sup>26</sup> *Matter of J.G.J.*, 388 A.2d 472 (D.C. 1978).
- <sup>27</sup> *Florida v. Bostick*, 501 U.S. 429, 437 (1991); *see also Terry v. Ohio*, 392 U.S. 1, 21 (1968); *Jones v. United States*, 154 A.3d 591, 593, (D.C. 2017).
- <sup>28</sup> *See generally Hawkins v. United States.*, 663 A.2d 1221, 1226 (D.C. 1995) (holding that questioning about criminal activity amounted to an officer flaunting his authority and constituted a stop requiring reasonable articulable suspicion).
- <sup>29</sup> *Terry v. Ohio*, 392 U.S. 1, 21 (1968); *see also Michigan v. Long*, 463 U.S. 1032, 1050 (1983); *Pinkney*, 851 A.2d at 493; *Pridgen v. United States*, 134 A.3d 297, 301 (D.C.A. 2016); *Morgan v. United States*, 121 A.3d 1235, 1238 (D.C. 2015).
- <sup>30</sup> Policing the Open Road, 99% Invisible (Aug. 11, 2020), available at <https://99percentinvisible.org/episode/policing-the-open-road/>.
- <sup>31</sup> *See Whren v. United States*, 517 U.S. 806, 813 (1996) (declining to decide the issue).
- <sup>32</sup> D.C. Code § 2-1401.01 et seq.
- <sup>33</sup> D.C. Code § 5-333.02(11).
- <sup>34</sup> *See, e.g., Ali Watkins, N.Y.P.D. Disbands Plainclothes Units Involved in Many Shootings*, NEW YORK TIMES (June 15, 2020).
- <sup>35</sup> *See, e.g., Emily Czachor, Alexandria Ocasio-Cortez to Push Bill Making Feds Identify Themselves Following Portland Arrests*, NEWSWEEK (Jul. 20, 2020).
- <sup>36</sup> *See, e.g., West v. United States*, 100 A.3d 1076, 1072 (finding officer testimony that the accused was fidgety and in a nervous state as a contributing factor to justify probable cause); *Singleton v. United States*, 998 A.2d 295, 299 (D.C. 2010).