

Twenty-third Report of the Independent Monitor

The NYPD's NST and PST Units' Stop, Frisk, and Search Practices

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Floyd, et al. v. City of New York

Ligon, et al. v. City of New York, et al.

Davis, et al. v. City of New York, et al.



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I. Executive Summary

This is the Monitor’s 23rd report and second report focused on the compliance of the New York City Police Department’s (the “Department” or “NYPD”) Neighborhood Safety Teams (“NST”) and Public Safety Teams (“PST”) with constitutional requirements in executing stops, frisks, and searches.

In March 2021, the NYPD initiated NST units in certain precincts to combat gun violence in high-crime areas. Officers in NST units engage in proactive stop, frisks, and searches, and generally they are not expected to respond to 911 calls-for-service. NST officers drive unmarked cars and wear uniforms distinct from those worn by NYPD patrol officers.

In June 2023, the Monitor filed the Nineteenth Report of the Independent Monitor (the “19th Report”) with the United States District Court for the Southern District of New York, which contained results of the Monitor team’s 2022 audit of the NSTs.¹ That report concluded that NST officers performed substantially below constitutional standards and had a rate of unlawful *Terry* stops nine percentage points higher than their counterparts in regular patrol positions.² In addition, the report concluded that supervisors in the Department failed to identify and remediate unlawful reported stops.

To determine Fourth Amendment compliance with the stops, frisks, and searches conducted by NSTs since the filing of the 19th Report, the Monitor began a second, more comprehensive audit of NSTs and PSTs,³ another specialized proactive enforcement unit, to assess

¹ New York Police Department Monitor, *Nineteenth Report of the Independent Monitor*, NYPD Monitor (June 5, 2023), available at <https://www.nypdmonitor.org/wp-content/uploads/2023/06/NST-Report.pdf>.

² When a police officer detains a civilian such that the person is not free to leave it is called a “*Terry* stop,” derived from the Supreme Court case *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968). There, the Supreme Court ruled that an officer must have reasonable suspicion of criminality before the officer can conduct a police stop.

³ PSTs are similar in their enforcement duties and responsibilities to NSTs. They are deployed in almost every Precinct, Housing Police Service Area, and Transit District in the NYPD. PST officers in the Patrol Services and Housing Bureaus are in regular

their compliance with court-ordered reforms. This follow-up report audits NST, PST, and regular patrol officers based on stops, frisks, and searches conducted in 2023. It compares NST officers with their counterparts on regular patrol and in PSTs and measures compliance rates of all supervisors and officers regardless of unit assignment.

Based on the 2023 audit, the Report concludes that NST and PST officers are not performing stops, frisks, and searches at constitutional levels, and that supervisors of NST, PST, and patrol officers are not appropriately overseeing their officers.

Some of the key findings are below:

- This 2023 audit shows that NST officers' constitutional compliance with respect to stops, frisks, and searches did not improve since the Monitor's 2022 audit.
- In the 2023 audit, NST officers had reasonable suspicion (and thus a lawful basis) for 75% of the reported *Terry* stops, slightly below the NST percentage of 76% compliance in the 2022 audit.
- In the 2023 audit, NST officers made lawful stops at a rate of 75%, 17 percentage points lower than their patrol counterparts' rate of 92%.
- In the 2023 audit, PST officers also made lawful stops at a rate lower than patrol officers, with only 64% of their reported stops being assessed as lawful, which is 28 percentage points lower than their patrol counterparts' rate of 92%.
- In the 2023 audit, NST officers and PST officers overwhelmingly conducted self-initiated stops (70% and 77%, respectively, were self-initiated), while officers on

police uniforms but patrol in unmarked cars. They are not expected to handle 911 calls-for-service from the public and are expected to engage in proactive enforcement to address violent crimes.

routine patrol primarily conducted stops based on radio runs (68% were radio runs).⁴

- In the 2023 audit, regardless of the officer's unit assignment (NST, PST, Patrol, or other), *Terry* stops based on a complainant/witness (100% lawful) or a radio run (94% lawful) were nearly all constitutional, while only 65% of self-initiated stops were assessed as lawful.
- In the 2023 audit, NST officers had reasonable suspicion for only 58% of the frisks assessed and had a legal basis for only 54% of the searches assessed.
- In the 2023 audit, despite significant numbers of unlawful stops, frisks, and searches, command-level supervisors of NST, PST, and Patrol officers only determined that 1% of stops were unlawful and 1% of frisks and searches were unlawful.
- In 95% of the stop reports in this audit in which race was identified (N=385) and 93% of the BWC videos assessed (N=697), the person stopped was identified as Black or Hispanic. Of the 397 stop reports in which gender was indicated, 97% were male. Overall, in this audit, 89% of the individuals encountered were Black or Hispanic males.

The NYPD must focus on supervisors ensuring implementation of constitutionally compliant stops, frisks, and searches. The Department must improve Fourth Amendment compliance levels and NST and PST units must be better supervised. The ball is in the Department's hands, and the NYPD can do this. The law requires no less.

⁴ Stops based on "radio runs" are stops conducted in response to information obtained through a 911 or 311 call for service. In self-initiated *Terry* stops, officers are making stops solely based on their own observations, and not based on a radio run or information obtained from a complainant or witness.

II. Background

A. The Formation and Purpose of the NST

In January 2022, Mayor Eric Adams announced that the NYPD would establish an NST program in 34 high-crime commands where officers would be focused on removing illegal guns off the street. At the announcement, Mayor Adams emphasized that these teams must provide fair, effective, and responsive policing. Further, the Mayor noted that it was the Monitor's "job to do the oversight" and that the Monitor would "make sure we are doing it correctly"⁵

Before the NYPD implemented the NST units, Chief Kenneth Corey, the then-Chief of Department (the highest-ranking uniform member of the NYPD) sent a memorandum in January 2022 to the chiefs of the Patrol Services Bureau and Housing Bureau. As stated in the memo:

In order to balance the need to provide public safety with concerns about proactive policing by Precinct-based plainclothes teams, the Department must ensure that the best officers are selected for the position and that they are properly trained, equipped, and supervised. Selected members of the service will receive specialized training, which will be required, and which will focus on advanced plain-clothes tactics, constitutional policing, risk identification/mitigation, active bystandership, case preparation and testimony, and investigative tools and technology, and which will include presentation from the community.

The Neighborhood Safety Teams will be strictly monitored at the Precinct, Borough, and Bureau levels, as well as by the Chiefs of Department, Chief of Crime Control Strategies, and the Risk Management Bureau, in order to measure the effectiveness of enforcement actions (e.g., prosecution outcomes, crime patterns addressed, etc.), and to identify and correct any issues with police/community encounters (i.e., frequent review of Body-Worn Camera footage, Stop Reports, Vehicle Reports, Arrest Reports, etc.).

At the time, the Monitor team was briefed on the Department's plans to implement the NSTs and attended several training sessions for NST officers, including court-approved training on investigative encounters and the characteristics of armed suspects. The Monitor team also

⁵ New York City Mayor Eric Adams, *Mayor Adams announcement on NYPD Neighborhood Safety Teams*, CBS NEWS (March 21, 2022), <https://www.cbsnews.com/newyork/video/mayor-adams-announcement-on-nypd-neighborhood-safety-teams/>.

observed a briefing by the Chief of Department for community members in one of the precincts in which an NST unit would be operating. Almost immediately after the NST program was launched, the Monitor began collecting data on NST enforcement activities to examine whether NSTs were complying with court-ordered reforms relating to stop, frisk, and search practices.

NST units generally consist of between four to six officers and a sergeant, and they are supervised by the command's Special Operations Lieutenant. Officers in NSTs are expected to engage in proactive enforcement to address violent crime. In most circumstances, they are not expected to handle 911 calls-for-service from the public. NST officers drive unmarked cars and wear uniforms distinct from those worn by NYPD patrol officers. As with officers in other assignments, NST officers conduct stops, frisks, and searches, as well as make arrests, in their assigned neighborhoods. There were initially 34 commands with NSTs (30 precincts and four Housing Police Service Areas ("PSA"));⁶ during the Monitor team's 2023 audit, there were 28 commands with an NST unit.

B. The Monitor's 19th Report

On June 5, 2023, the Monitor filed the 19th Report with the United States District Court for the Southern District of New York containing the results of an audit of the NSTs. That report concluded that NST officers performed below constitutional standards and had a higher percentage of unlawful *Terry* stops than their counterparts in regular patrol positions. Most concerning, the Monitor team's audit showed an apparent inability of the Department to identify and address unlawful stops when they were reported. Command-level supervisors tasked with reviewing stop reports, identifying unconstitutional stops, frisks, or searches, and correcting problematic behavior,

⁶ A PSA is a Housing Bureau command.

failed their oversight responsibilities by doing an inadequate job of ensuring constitutional compliance.

In response, the Monitor directed the NYPD to develop a plan to improve NST operations. The NYPD submitted a draft compliance plan to the Monitor on July 17, 2023. The plan included enhanced training, auditing, NST “roundtables,” NST mentoring, more rigorous vetting of NST applicants, and a “tiered-review process” of BWC footage recorded by NST officers on patrol. The plan was reviewed by the Monitor and recommendations were provided to improve it, which the Department adopted. The plan was implemented incrementally and became fully in place by January 2024 (see Section V below).

III. Audit Methodology

In 2023, the Monitor began a second, more comprehensive audit of NSTs and other specialized proactive enforcement units to assess their compliance with court-ordered reforms. This follow-up report expands on the original audit and compares NST officers with their counterparts on routine patrol and in PST units deployed throughout the City. PSTs are precinct-based and tasked with addressing a variety of issues within the community—both violent crime and quality of life. PSTs are similar in their enforcement duties and responsibilities to NSTs and are deployed in almost every precinct, Housing PSA, and Transit District in the NYPD. PST officers in the Patrol Services and Housing Bureaus are in regular police uniforms but patrol in unmarked cars. They are not expected to handle 911 calls-for-service from the public but are instead expected to engage in proactive enforcement to address violent crimes.

The Monitor’s audit followed a comprehensive methodology to identify officers and their *Terry* stops.⁷ As described below, the Monitor (1) compared stops conducted by randomly selected officers in different commands and different assignments over a 29-week period, (2) reviewed all stop reports prepared by officers of five commands over a 30-day period, and (3) reviewed BWC footage covering a 60-day period from five randomly selected NST officers in different commands. The combination of these three approaches was intended to provide a deeper understanding of NST, PST and patrol officer performance in stop, frisk, and search activities. The purpose was to provide data about the constitutionality of stops conducted by NST and PST officers compared to patrol officers working in the same commands.⁸

To identify officers assigned to NST or PST units, the NYPD provided personnel rosters for both NST and PST officers. As of June 7, 2023, there were 184 officers assigned to NSTs (13 lieutenants, 30 sergeants, 7 detectives, and 134 police officers). As of June 13, 2023, there were 823 officers assigned to PSTs (3 lieutenants, 138 sergeants, 29 detectives, and 653 police officers). Since the staffing of these units is fluid and fluctuated throughout the audit, the NYPD provided the Monitor with updated rosters of the NST and PST units during the audit. The exact number of officers on patrol in the NYPD during the audit was unknown.

⁷ For this report, a “stop” refers to a Level 3 *Terry* stop in which the person stopped is not free to leave. Under New York State’s *DeBour* framework, Level 1 requests for information and Level 2 common law inquiries are investigative encounters in which the person is free to leave and are not “*Terry* stops.”

⁸ In reviewing stops of NST, PST, and patrol officers, the Monitor’s assessment was conducted in the same manner as other stop report audits conducted by the Monitor team. Each stop report and associated BWC video was reviewed independently by two Monitor team members. This exercise allowed for comparison across each type of unit. If there were disagreements on the lawfulness of the stop, frisk, and/or search, the stop report would be reviewed by other members of the Monitor team, including the Deputy Monitor, and the Monitor team would determine the final assessment. For this audit, there were 17 disagreements on the lawfulness of stops during the first level of assessment. A third Monitor team member reviewed the 17 stops and conferrals among team members allowed for the resolution of all the disagreements.

A. Weekly Random Sampling

Assessing the constitutionality of stops conducted by NSTs, PSTs, and routine patrol officers allowed the Monitor team to compare officers by unit and group (precinct, borough, and bureau). Beginning on July 7, 2023, the Monitor team used the following protocol to identify stops from a sample of officers on a weekly basis:

- a. Randomly select eight NST officers and four PST officers from the personnel rosters provided by the NYPD.⁹
- b. Search Evidence.com¹⁰ for videos involving a Level 3 *Terry* stop by patrol officers within the same commands as the PST officers selected in step (a) above.
- c. Randomly select four patrol officers from the list of officers that recorded Level 3 encounters identified in step (b) above.
- d. Request all stop reports prepared in the previous week by the eight NST, four PST, and four patrol officers noted in steps (a) and (c).¹¹
- e. Review the stop report and BWC recordings associated with each encounter to assess the legal sufficiency of the stop, frisk, and/or search, if conducted.

From the 16 officers selected using the protocol above, the sample from the first week yielded only four stop reports prepared by four different officers: one NST, two PST, and one Patrol. Twelve of the 16 officers had no stop reports for the week selected. The sampling

⁹ The NST, PST, and patrol officers selected were police officers and detectives, not lieutenants and sergeants, as police officers and detectives (not lieutenants and sergeants) generally are the officers conducting stops and preparing stop reports. The weekly number of officers was selected to balance the expected number of stop reports from the selection process and the ability of the Monitor team to conduct timely assessments of these encounters.

¹⁰ Evidence.com is the data system containing the BWC videos.

¹¹ The random selection of NST officers and PST officers means that the samples are representative of each type of officer, even though they may not have been in the same commands, as the NST officers were assigned in 28 commands and the PST officers were assigned citywide in all commands. The patrol officers selected were always in the same commands as the PST officers selected.

continued in this format for 21 weeks. After 21 weeks, the total sample consisted of only 78 stop reports.

With a sample of only 78 stop reports, it was not possible to draw conclusions about NST operations with any degree of validity. Similarly, it was not possible to compare NST officers and PST and patrol officers because the sample size was too small. Accordingly, the Monitor modified the initial methodology by selecting stop reports from a longer “lookback” period instead of a one-week period: The NYPD provided all stop reports prepared by the 16 randomly selected officers (eight NST officers, four PST officers, four Patrol officers) from the prior six-week lookback period instead of just the prior one-week lookback period. The Monitor team continued the sample collection for eight more weeks.

The additional eight weeks of sampling resulted in the Monitor team analyzing a total of 29 weeks of sampling, from June 19, 2023, through January 21, 2024. There were 137 stop reports collected in the additional eight weeks of sampling, equaling a total of 215 stop reports over the 29 weeks of sampling.

B. Command Sample

Because the initial Weekly Sample did not provide a sufficient number of stops for the audit, the Monitor team also used a second methodology to expand the scope of the assessment. The Monitor team selected five commands with NSTs and requested all the stop reports prepared by NST, PST, and routine patrol officers in these commands from October 1, 2023, to October 31, 2023. The commands were selected from four of the City’s boroughs and a Housing PSA to get commands that were likely to have a significant number of encounters and that are illustrative of their boroughs. The commands selected by the Monitor team were the following: the 28 Precinct

in Manhattan; 52 Precinct in the Bronx; 79 Precinct in Brooklyn; 105 Precinct in Queens; and PSA2 in Brooklyn. There were 111 stop reports collected by this method.

C. Development of a “Life-Calendar”

To understand the activities of NST officers, the Monitor team selected five NST officers to study. Again, the goal was to select officers from different NSTs throughout the City that could paint a portrait of their activities. Once these officers were identified, the Monitor team obtained their BWC footage over a 60-day period, from October 1, 2023, to November 30, 2023. Similar to the Command Sample, one NST command was selected from four of the City’s boroughs and from a PSA: 34 Precinct in Manhattan; 44 Precinct in the Bronx; 75 Precinct in Brooklyn; 114 Precinct in Queens; and Housing PSA5 in Manhattan. One NST officer was randomly selected from each of these five commands. The Monitor team reviewed each video and memorialized the recorded encounters using a standardized worksheet. The Monitor team then summarized all activities over the 60-day period to better understand the scope and breadth of NST activities. The data and associated BWC footage provided additional information about NST activities.

“Life-calendars” are used in a number of fields for collecting retrospective data from subjects (like a diary) as a way of tracking the time and sequence of events to facilitate the recall of events. It has been used in a variety of social science disciplines with a focus on collecting qualitative data that support understanding unknown or unfamiliar concepts.¹² In this audit, the Monitor team used the BWC recordings of the events of officers’ workdays rather than having the officers produce reports about their daily activities. Viewing and cataloging the events of officers’

¹² Jennifer Roberts & Julie Horney, *The Life Event Calendar Method in Criminological Research*, in HANDBOOK OF QUANTITATIVE CRIMINOLOGY (Alex R. Piquero & David Weisburd eds., 2010), https://doi.org/10.1007/978-0-387-77650-7_15.

work, as captured by their BWCs over an extended period, provided more in-depth knowledge of their work than merely evaluating stop reports.

For the Life-Calendar assessment (“LCA”), the BWC metadata for a two-month period—October 1, 2023, to November 30, 2023—was downloaded by the NYPD and shared with the Monitor team. Three members of the Monitor team independently viewed and assessed the videos and the encounters shown in the footage using a standard observation worksheet. The worksheet recorded information about the officer, the BWC footage, and the date and time of the recordings. The Monitor team then recorded the encounter type, the level of the encounter, and the apparent age, race, and gender of the civilians involved in the encounters. In addition, the Monitor team assessed whether an encounter was a stop, and whether the person was frisked, searched, arrested, issued a summons, or subject to use of force by an officer. The Monitor team also assessed whether the officer explained the encounter to the civilian, whether the BWC recorded the entire encounter, whether a Right to Know Act business card was offered, and whether a supervisor was on the scene.

IV. Results of Stop Encounters

A. General Descriptive Data

The tables below illustrate the frequency and distribution of the stop encounters assessed by the Monitor team during its audit. The table shows that 215 stops were identified during the 29-week sampling of NST, PST, and patrol officers. Notably, there is a marked increase in stops reviewed in week 22 when the sampling method changed. In addition to the 215 stop reports collected from the Weekly Sample, there were 111 stop reports collected from the five commands in the Command Sample, and 71 stop reports identified during the 60-day Life-Calendar review of officer BWC videos.

Table 1. Number of Stop Reports Collected by Week and Methodology

WEEKLY REQUEST	NST	PST	PATROL	TOTAL
1	1	1	2	4
2	6	0	0	6
3	2	1	1	4
4	0	0	2	2
5	4	0	0	4
6	1	0	0	1
7	5	1	1	7
8	2	0	2	4
9	0	0	4	4
10	2	0	4	6
11	1	0	2	3
12	0	0	0	0
13	0	1	1	2
14	1	1	0	2
15	0	1	1	2
16	2	0	3	5
17	2	0	7	9
18	3	0	3	6
19	2	0	1	3
20	2	0	2	4
21	0	0	0	0
22	9	1	6	16
23	7	2	4	13
24	5	9	3	17
25	6	0	3	9
26	5	16	4	25
27	5	2	4	11
28	8	1	4	13
29	30	1	2	33
Weekly Sample Total	110	39	66	215
Command Sample	15	40	56	111
Life-Calendar	53	9	9	71
	178	88	131	397

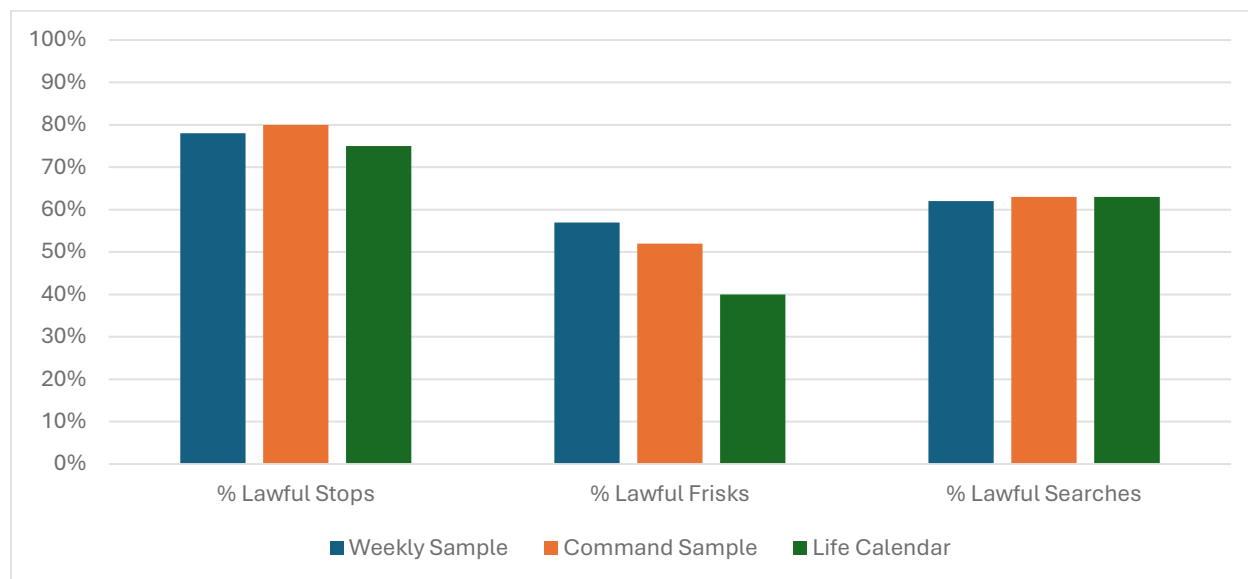
Table 2 below illustrates the Monitor’s assessment of the lawfulness of the stops, frisks, and searches conducted by NST, PST, and patrol officers associated with the three methodologies used in this audit.

Table 2 – Assessment of Stops by Methodology Type

	# Stops	# Stops Lawful	% Stops Lawful	# Frisks	# Frisks Lawful	% Frisks Lawful	# Searches	# Searches Lawful	% Searches Lawful
Weekly Sample	215	168	78%	170	97	57%	103	64	62%
95% CI			73%-84%			50%-65%			53%-72%
Command Sample	111	89	80%	82	43	52%	57	36	63%
95% CI			73%-88%			41%-63%			50%-76%
Life Calendar	71	53	75%	62	25	40%	32	20	63%
95% CI			64%-85%			28%-53%			45%-80%
TOTAL	397	310	78%	314	165	53%	192	120	63%
95% CI			74%-82%			47%-58%			56%-69%

The data in Table 2 shows that the overall level of NYPD compliance for stops, frisks, and searches was poor. Stops were assessed to be lawful in 78% of the encounters, with a 95% confidence interval that has a low of 74% and a high of 82%. The assessments ranged from a low of 75% from the LCA to 80% in the Command Sample. Compliance on frisks and searches was unacceptable, with only 53% of the frisks assessed to be lawful, and 63% of the searches assessed to be lawful.¹³

¹³ A frisk was determined to be unlawful if (1) the officer conducted a frisk without reasonable suspicion that the person frisked was armed and dangerous, or (2) if the officer observed what might be a weapon on a person (e.g., in a pocket or in a bag or fanny pack), but the frisk goes beyond the scope of the officer’s observation (e.g., the officer frisks other pockets or the legs of the person). Both types of frisks are unconstitutional.

Figure 1 – Lawfulness of Stops, Frisks, and Searches by Type of Sample

The following sections of this report provide an analysis of the stop reports collected from the three sampling methods used: weekly sampling; command sampling; and stops identified from the Life-Calendar. In addition, an analysis of the total sample, combining the three sampling methodologies, is included in the Appendix. The analyses of the total combined sample and the three sampling methodologies all showed similar findings.

B. Results from Weekly Sampling

After 29 weeks of sampling, the Monitor identified 215 stop reports prepared by 105 different officers. The number of stop reports prepared by officers ranged from a high of 19 by one officer, to a low of 1 stop report prepared by 67 officers. Of the 141 police officers and

detectives assigned to NST, stops from 43 NST officers (30%) were included in the assessment.¹⁴ Also, stop reports from 27 of the 28 NSTs were included in the audit.¹⁵

The assessment of these reports indicates that NST and PST officers were conducting a substantial number of unconstitutional stops, and were doing so at a rate higher than their counterparts on routine patrol. The assessment also showed that supervision and oversight of these stops was inadequate. Lastly, it appears that NST and PST officers focused on self-initiated stops to find unlawfully possessed weapons and conducted unlawful stops at an unacceptable rate.

1. NST Officers Had Low Levels of Constitutional Compliance on Stops, Frisks, and Searches

To legally make a Level 3 *Terry* stop, an officer must have reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. If an officer does not have reasonable suspicion of criminality prior to conducting a stop, the stop is unconstitutional. Table 3 below details the results of the Monitor's assessment of the 215 stops reviewed from the Weekly Sample:

Table 3. Assessment of Stop Encounters by Unit Type

	# Stops	# Stops Lawful	% Stops Lawful	# Frisks	# Frisks Lawful	% Frisks Lawful	# Searches	# Searches Lawful	% Searches Lawful
Patrol	66	61	92%	38	34	89%	31	24	77%
NST	110	82	75%	100	58	58%	59	32	54%
PST	39	25	64%	32	5	16%	13	8	62%
Total	215	168	78%	170	97	57%	103	64	62%

* Chi-Square = 13.21; (p<0.001)

**Chi-Square = 38.75; (p<0.001)

¹⁴ Personnel assignments in the NYPD are fluid. At the beginning of this study, the NYPD provided a roster of personnel assigned to NST units. There were 13 lieutenants, 30 sergeants, 7 detectives, and 134 police officers assigned. During the sampling, the Monitor team collected stop reports only from police officers and detectives, as they are the officers who conduct most stops and prepare stop reports.

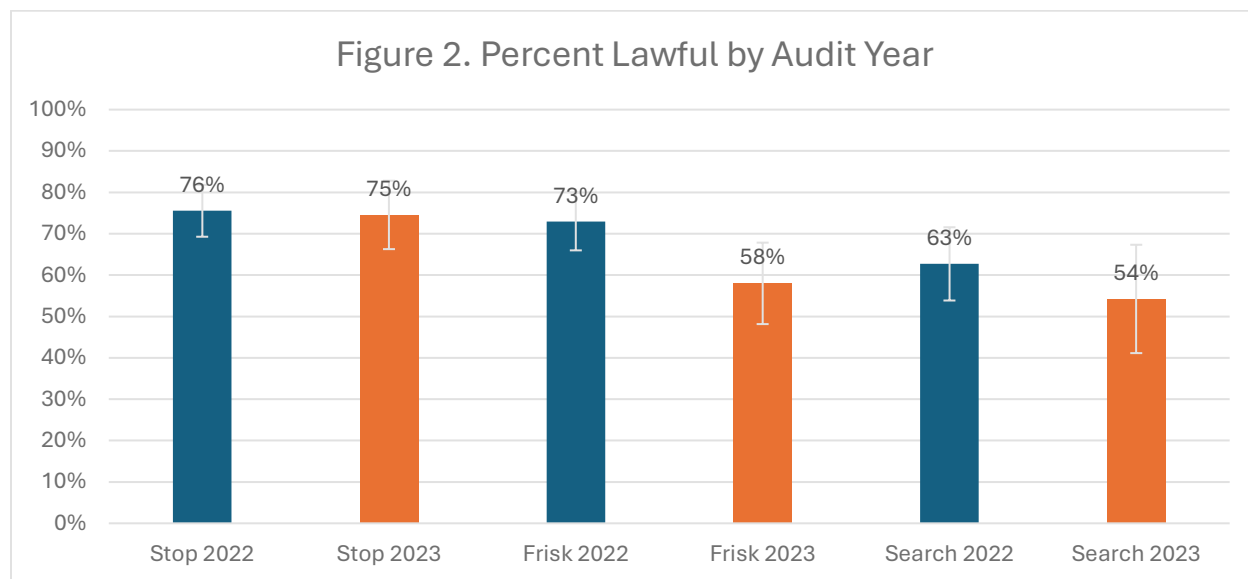
¹⁵ Although the NYPD started the NST program with 32 NST units, there were only 28 NST units during the period of this audit.

The Monitor's 2023 audit shows that NST officers' constitutional compliance with respect to stops, frisks, and searches has not improved since the Monitor's 2022 audit. In the Monitor's 19th Report, the Monitor determined that NST officers had reasonable suspicion for 76% of their *Terry* stops. The percentage of lawful stops by NST officers during the period covered by this audit was 75%. From June 19, 2023, to January 21, 2024, 215 stops were reviewed, and 110 of these stops were conducted by NST officers. In 82 (75%) of the 110 NST stops assessed, the Monitor determined that officers articulated reasonable suspicion for the stop. NST officers in this audit continued to make unconstitutional stops at an unacceptable rate.

Table 3 shows that the rate of constitutional compliance by NST officers conducting frisks decreased compared to the earlier 2022 audit reported in the Monitor's 19th Report. In the current weekly sample, only 58% of the frisks were found to be lawful, compared to 73% in the Monitor's 19th Report—reflecting a 15 percentage-point decrease.¹⁶ Accounting for sampling variation, the difference could range from a 3% to a 27% decrease. For searches, NST officers were found to have conducted lawful searches in only 54% of the searches conducted, compared to 63% in the Monitor's 19th Report—reflecting a 9 percentage-point decrease. Although this percentage-point difference is not considered substantial, as sampling variability indicates that the true range could be from -24% to +7%,¹⁷ the Monitor's current audit shows that improper unconstitutional searches continued to be conducted at an unacceptable rate. Figure 2 below provides an illustration of the comparison between the weekly sample from this audit compared to the Monitor's 19th Report.

¹⁶ A permutation test, which randomly assigned groups 1,000 times and re-estimated the differences in frisks each time, found that the -15 percentage-point difference would occur by chance only 15 times out of 1,000, or 1.5% of the time.

¹⁷ A permutation test, which randomly assigned groups 1,000 times and re-estimated the differences in frisks each time, found that the 9 percentage-point decrease would occur by chance 266 times out of 1000, or 26% of the time.

Figure 2 – Comparison of Lawfulness Between the 19th Report and Current Audit¹⁸

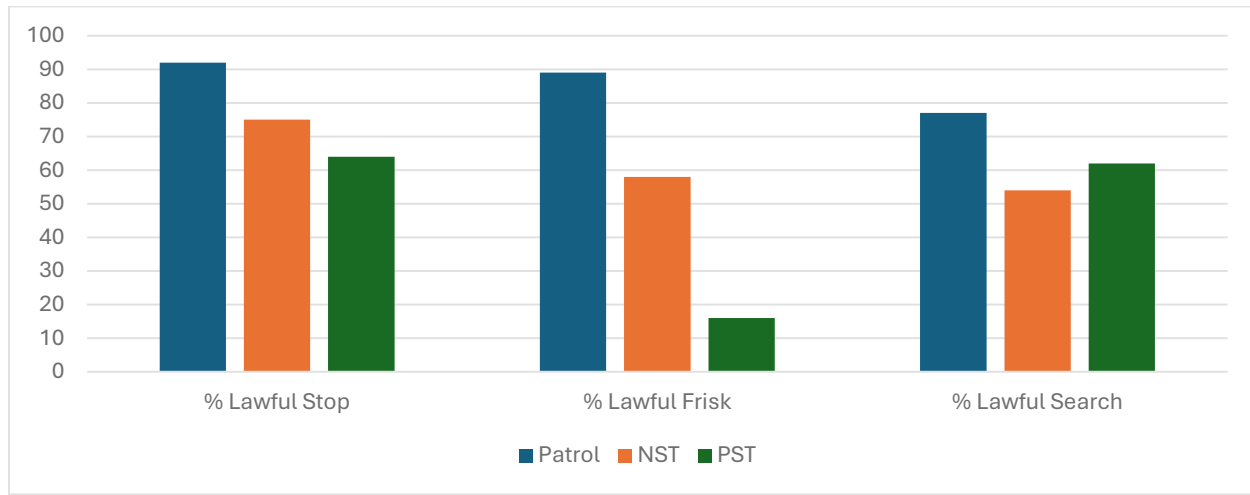
2. NST and PST Officers Have Fewer Stops Supported by Reasonable Suspicion than Patrol Officers in the NYPD

Officers assigned to routine patrol showed greater constitutional compliance when conducting stops than both NST and PST officers. As illustrated in Table 3 above, 92% of patrol officers' stops were assessed to be lawful, compared to 75% of the stops conducted by NST officers and 64% of the stops conducted by PST officers. Frisks and searches by patrol officers were also assessed to be constitutionally compliant more frequently. Notably, only 58% of the frisks conducted by NST officers were determined to be lawful, and fewer than 16% of the frisks conducted by PST officers were determined to be lawful, while 89% of the frisks conducted by patrol officers were assessed to be lawful.¹⁹ Searches by patrol officers also had a significantly higher rate of compliance (77%) than the searches by NST officers (54%) or PST officers (62%).²⁰

¹⁸ Figure 1 shows brackets accounting for the uncertainty of the estimates due to sample variation.

¹⁹ These differences are unlikely due to chance, as indicated by a Chi-square test statistic.

²⁰ The weekly sample of 103 searches, when divided by officer assignment, is sufficiently small, possibly indicating that these differences may be the result of chance.

Figure 3 – Comparison of Patrol, NST, and PST on the Lawfulness of Stops, Frisks, and Searches

The level of compliance by patrol officers is generally positive. However, given the specialized training provided to, and the experience of, the NST and PST officers, it is not acceptable that their level of constitutional compliance is significantly below that of patrol officers. If the purpose of the specialized units is to make proactive stops and conduct frisks and searches, they need to do so within the bounds of the law.

As Table 4 below illustrates, NST and PST officers were overwhelmingly involved in self-initiated stops, while officers on routine patrol primarily conduct stops based on radio runs.

Table 4. Nature of Stop by Unit

	Complainant/Witness		Radio Run		Self-Initiated	
	#	%	#	%	#	%
Patrol	9	13.6%	44	66.7%	13	19.7%
NST	8	7.3%	25	22.7%	77	70.0%
PST	1	2.6%	8	20.5%	30	76.9%
Total	18	8.4%	77	35.8%	120	55.8%

The data in Table 5 below shows that the catalyst for an officer’s stop—information from a witness or complainant, information conveyed over a radio dispatch, or an officer’s own observation—correlates to the lawfulness of the encounter. In the table, CW represents a stop based on information provided by a complainant or witness, RR represents a stop based on a radio run, and SI represents a self-initiated stop.

Table 5. Lawfulness by Nature of Stop

	# Stops	# Stops Lawful	% Stops Lawful	# Frisks	# Frisks Lawful	% Frisks Lawful	# Searches	# Searches Lawful	% Searches Lawful
CW	18	18	100%	15	15	100%	6	6	100%
RR	77	72	94%	45	40	89%	44	36	82%
SI	120	78	65%	110	42	38%	53	22	42%
Total	215	168	78%	170	97	57%	103	64	62%

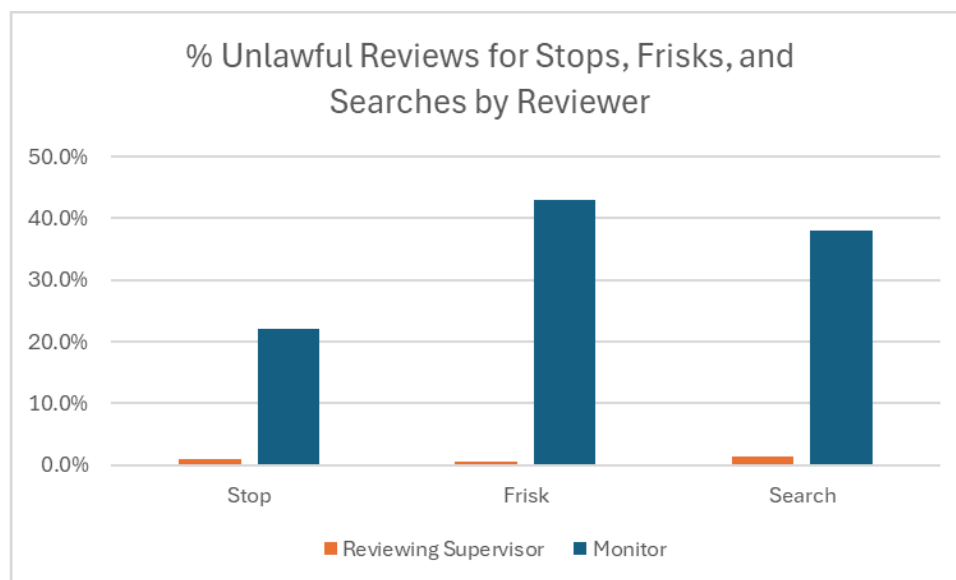
Table 5 illustrates that stops based on a Complainant/Witness or Radio Runs were nearly always constitutional, with 100% and 94%, respectively, being assessed as lawful. In contrast, only 65% of self-initiated stops were assessed as lawful. A disproportionate number of self-initiated stops, frisks, and searches were conducted unlawfully and NST and PST teams conduct the majority of self-initiated stops.

3. Supervisory Oversight Is Inadequate for All Officers: NST, PST, and Patrol

Command-level supervisors must review the stops of their officers and assess the lawfulness of the officers’ stops, frisks, and searches. Supervisors then record their conclusion on the NYPD stop report. Command-level supervisors reached strikingly different results than the Monitor team when evaluating officer conduct. This is very disappointing given the last Monitor’s report, which pointed out the lack of supervision. Reviewing command-level supervisors determined that 213 of the 215 stop reports (99.1%) articulated reasonable suspicion for the stop.

In other words, supervisors found that almost all the stops were constitutional when they were not. This is very concerning. Supervisor determinations with respect to frisks were similar. Of the 170 stop reports that involved a frisk, reviewing command-level supervisors evaluated 160 of them, with the other 10 not reviewed and marked by supervisors as “NA” on the stop report form. Of the 160 frisks evaluated, 159 were determined to be lawful (99.4%). In addition, there were eight stop reports where the reviewing command-level supervisors reported on the legal sufficiency of the frisk, even though no frisk was conducted, which raises serious questions about what the supervisor is doing.

Figure 4 – Comparison of Monitor Assessments with Reviewing Supervisors



For the 103 stops during which a person was searched, the reviewing command-level supervisor assessed 75 for lawfulness. The other 28 were not assessed and supervisors entered “NA,” meaning not applicable with respect to the search on the stop report form. The BWC videos showed that a search was conducted, which the supervisors should have seen had they watched the BWC video. It is very troubling that 28 searches were not reviewed, which is 27% of the time. Moreover, in many of the 28 non-assessed searches, the associated stop report failed to document

that a search occurred, which is also troubling. In other words, the stop report was incorrect, and the reviewing command-level supervisor did not identify that error.

At the same time, reviewing command-level supervisors completed the stop report's assessment for searches for 23 stop encounters out of the total 215 stops even though no search was conducted during those stops. In other words, the BWC shows that there was no search conducted. Again, supervisors concluding based on their review of BWC that a search was lawful when none was conducted suggests that they are not doing their jobs. The failure to identify a search when one was conducted and to identify a search when none was conducted raises fundamental questions about supervisors' review.

Similar to stops and frisks, of the 75 searches that were reviewed, command-level supervisors regarded 74 as lawful, or almost 100% (98.7%) when only 52 (70.3%) were assessed to be lawful by the Monitor's audit. This also raises serious concerns about the supervisor's role in assessing searches.

Command-level supervisors were present on the scene of stops most of the time. In 167 of the 215 stops (77.7%), the reviewing supervisor or another supervisor was on the scene of the stop. Reviewing supervisors evaluated 450 aspects of these encounters (215 stops, 160 frisks, and 75 searches) and concluded that the actions were lawful in 99.1% of their reviews. These command-level supervisors are not doing what they are supposed to do on the scene or when they are reviewing the stop reports, ICADs,²¹ and BWC footage. These supervisors are failing to identify unlawful actions by the officers who report to them, even when they are present at the encounters.

²¹ Intergraph Computer-Aided Dispatches ("ICADs") are the transcripts of radio dispatches of 311 and 911 calls and the communications between the dispatchers and NYPD officers.

4. Weapons Stops

A primary goal of the NST and PST units is to reduce violent and gun-related crimes in the City. The Monitor team isolated NST and PST performance in stops where the officer states the suspected crime was Criminal Possession of a Weapon (“CPW”). Table 6 below shows the Monitor team’s assessment of the stops, frisks, and searches in CPW stops by NST, PST, and routine patrol officers. One hundred fifty of the 215 *Terry* stops in the weekly sample were CPW stops. The lawfulness of the 150 CPW stops was assessed to be below constitutional standards.

Table 6. Lawfulness of CPW Stops

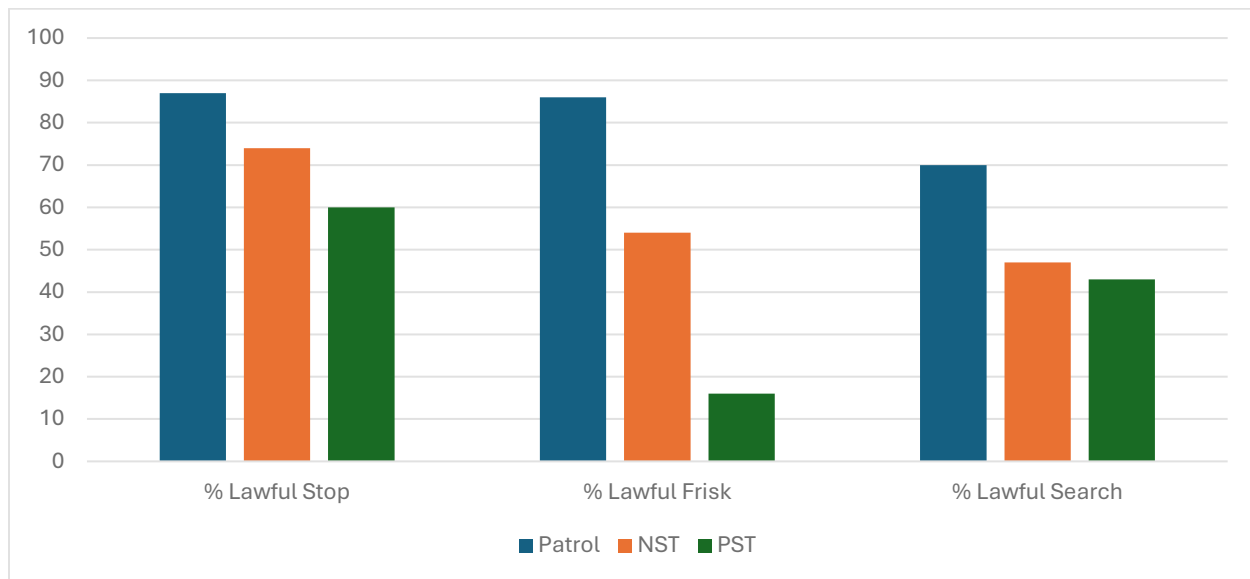
	CPW Stops	# Lawful	% Lawful*	# Frisks	# Frisks Lawful	% Frisks Lawful**	# Searches	# Searches Lawful	% Searches Lawful***
Patrol	23	20	87.0%	22	19	86.4%	10	7	70.0%
NST	95	70	73.7%	89	48	53.9%	49	23	46.9%
PST	32	19	59.4%	31	5	16.1%	7	3	42.9%
Total	150	109	72.7%	142	72	50.7%	66	33	50.0%

*F=2.67; p=0.07

**F=15.9; p<0.001

***F=0.9; p=0.39

As shown in Table 6 above, CPW stops were assessed to be lawful in 72.7% of the encounters. This is lower than the overall lawful rate of 78% for all the 215 stops in the weekly sample, as shown in Table 2 above. The rates of compliance for frisks and searches during CPW stops were even lower. Approximately one-half of the frisks (50.7%) and searches (50.0%) that occurred during CPW stops in this audit were assessed to be unlawful. Significance testing indicates that the differences observed between Patrol, NST, and PST for the stops and searches are non-significant with differences that could occur due to sampling variability. However, there appears to be a significant difference between the groups with respect to frisks, with NST and PST officers having significant lower rates of lawful frisks compared to patrol officers.

Figure 5 – Lawfulness of CPW Stops by Unit

C. Results of the Stop Reports from the Command Sample

In the Command Sample, there were 111 stops assessed from five commands: 28 Precinct (Manhattan), 52 Precinct (Bronx), 79 Precinct (Brooklyn), 105 Precinct (Queens), and PSA2. The table below illustrates the lawfulness of these stops:

Table 7. Lawfulness of Stops in Command Sample

	# Stops	# Stops Lawful	% Stops Lawful	# Frisks	# Frisks Lawful	% Frisks Lawful	# Searches	# Searches Lawful	% Searches Lawful
Patrol	56	46	82%	35	24	69%	29	21	72%
NST	15	15	100%	12	6	50%	8	4	50%
PST	40	28	70%	35	13	37%	20	11	55%
Total	111	89	80%	82	43	52%	57	36	63%

Constitutional compliance in these five commands was similar to the results obtained during the assessment of stops selected during the weekly sample. Stops were lawful in approximately 80% of the encounters, and lawfulness was markedly lower for frisks and searches (52% and 63%, respectively). Notably, NST officers in these five commands performed better

with respect to stops than the PST and patrol officers in these commands, as well as the NST stops identified during the Weekly Sample.

D. Results of the LCA

As described above, the Monitor team conducted an LCA by reviewing all the BWC videos recorded by five NST officers from October 1, 2023, to November 30, 2023.

During the two-month period reviewed, there were 784 BWC videos recorded by the five NST officers. In 87 videos, there was no contact with the public observed.²² Therefore, 697 videos were assessed by the Monitor team. The following table outlines what was shown in these videos:

Table 8. LCA BWC overview

Command	# BWC Videos	# Dates	Avg BWC per Day	Car Stop	CIP*	IE**	Other***
34 Pct.	66	29	2.3	48	8	10	0
44 Pct.	263	40	6.6	80	10	169	4
75 Pct.	139	29	4.8	87	5	44	3
114 Pct.	154	33	4.7	133	12	8	1
PSA5	75	29	2.6	51	0	24	0
Total	697	160	4.4	399	35	255	8

*Crime in Progress

**Investigative Encounter (including Levels 1, 2 and 3)

***E.g., voided arrest, administrative work, providing directions

The data from this table and the review of BWC videos show that these officers, and their partners during these shifts, focused on vehicle stops. In fact, car stops accounted for approximately 57% of all the BWC videos reviewed by the Monitor team. More than 85% of the BWC videos from the NST officer in the 114 Precinct involved car stops. As noted below, some vehicle stops may initially start as Level 3 *Terry* stops if an officer stops a vehicle based on reasonable suspicion that

²² These included situations in which officers were at a scene and searched for evidence or weapons, or searched a parked car; entered a NYCHA property but did not encounter anyone; or were backing up other officers.

a crime is in progress or imminent. Other vehicle stops that start as probable cause of a traffic violation can develop into a Level 3 *Terry* stop.

1. LCA Stop Reports

As Table 8 above notes, there were 255 investigative encounters shown in BWC footage and there were 71 stop reports prepared that were related to these encounters. It should be noted that the officers recording the videos reviewed by the Monitor team were not always the officer of record for the stop report. The table below shows that 53 of the 71 stop reports identified through the LCA of NST officers were prepared by the subject NST officer or a member of his team, while the other 18 were prepared by PST or patrol officers.

Table 9. Lawfulness of Stops in LCA

	# Stops	# Stops Lawful	% Stops Lawful	# Frisks	# Frisks Lawful	% Frisks Lawful	# Searches	# Searches Lawful	% Searches Lawful
Patrol	9	8	89%	6	5	83%	6	4	67%
NST	53	40	75%	49	20	41%	23	14	61%
PST	9	5	56%	7	0	0%	3	2	67%
Total	71	53	75%	62	25	40%	32	20	63%

The performance of officers in these five commands with respect to the lawfulness of stops identified through the LCA was remarkably similar to what was found using the other two assessment methods, thus bolstering the reliability of the audit results.²³ The lawfulness of NST stops was 75%, which is consistent with the Weekly Sample of this audit. The lawfulness of frisks identified through the LCA (40%) was lower than the compliance rate of the Weekly Sample and

²³ Because all of the stops reported by PST and patrol officers also involved at least one NST officer (as well as the small sample size), it is not possible to compare the compliance rates of NST, PST, and patrol officers in the Life-Calendar sample.

Command Sample, while the compliance rate of searches (63%) was similar to the results of the other methods employed in identifying and assessing stop reports.²⁴

In addition, the same pattern of deficiencies was observed through the LCA as with the other methods. Supervisory oversight was inadequate, self-initiated CPW stops were prevalent, and in 91 of the 111 stops (82%), the reviewing supervisor was present on the scene with the officer during the stop and regarded the stop as lawful despite the unconstitutional conduct identified by the Monitor team.

2. NST Car Stops

Although vehicle stops result in the driver and oftentimes other occupants of the vehicle being detained, vehicle stops based on an observed traffic infraction are not initially considered *Terry* stops. Police officers can stop vehicles for infractions that they observe (i.e., speeding, disobeying a sign/pavement marking, passing a steady red light, vehicle occupant(s) not wearing a seatbelt, etc.) and thus the driver of the vehicle is stopped with probable cause of a Vehicle and Traffic Law (“VTL”) violation. NYPD officers do not complete a stop report for a VTL violation car stop, but instead complete a Vehicle Report.

Vehicle stops, on occasion, can look like a *Terry* stop but might not require the preparation of a stop report. For example, if the driver of a car commits a VTL violation (i.e., failed to wear a seatbelt) and they, along with their passengers,²⁵ are briefly detained based on probable cause of said offense, officers often will lawfully ask and require all occupants of the vehicle to step out of the vehicle. That is not a *Terry* stop and does not require a stop report. However, when an officer

²⁴ The sample size of the LCA is too small to indicate whether this difference in frisk rates is greater than would occur by chance due to sampling variability.

²⁵ Oftentimes, passengers of a vehicle that has been stopped will wait with the driver until the police encounter has concluded despite not being suspected of committing an offense.

frisks or searches the driver or passenger of the car, the vehicle stop based on probable cause of a VTL violation may develop such that an officer initiates a Level 2 or Level 3 investigative encounter. When a vehicle stop starts as or develops into a *Terry* stop, the officer making the stop must have reasonable suspicion that a crime unrelated to the VTL violation just occurred, is in progress, or is imminent.

Of the 697 videos reviewed by the Monitor team, 399 involved car stops (57%). Officers searched the vehicle in 129 of the 399 car stops (32.3%) conducted by the NST officers. To search a vehicle during a routine car stop, an officer either needs to have probable cause other than the traffic violation, or there must be an exception to the probable cause requirement (i.e., consent, plain view, etc.). After the car is stopped, if an officer reasonably suspects that an occupant of the vehicle is armed and dangerous, the officer may conduct a protective search of the area in which the occupant was sitting and where a weapon might have been hidden. To seek consent to search a person or a vehicle during a car stop, the police need to have at least a founded suspicion of criminality (again, separate from the traffic violation).

Consent searches of the vehicle occurred in 18.5% of all car stops (74 out of 399) and represented 57.4% of all vehicle searches (74 of 129). Contraband was recovered in two of those consent searches (one firearm and one knife), a recovery rate for contraband of only 2.7%. Searches not based on consent were conducted in 55 out of 399 vehicles (13.8%); contraband was recovered in nine instances (16.4%).

E. Performance of Commands with NST Units

NST command compliance was not uniform across New York City. Commands with NST units in the Bronx and in Housing Bureau commands were very non-compliant. Table 10 below shows the lawfulness of stops, frisks, and searches for each of the 28 commands that have NST

units.²⁶ The table includes all stops reviewed in the command, including stops by NST, PST, and patrol officers. A green shaded cell illustrates when a command achieved between 90% and 100% compliance when conducting their stops, frisks, or searches. The red shaded cells illustrate when a command had lawful compliance in less than 70% when conducting stops, frisks, or searches, and yellow shaded cells illustrate when a command had lawful compliance between 71% and 89% when conducting stops, frisks, or searches.²⁷

The poorest performance was in the Bronx, with five of the nine commands assessed to have conducted stops lawfully in only 60% of their encounters or lower. Notably, the 41 Precinct in the Bronx was the subject of scrutiny in the 19th Report due to its poor performance. In the most recent audit, there were only three *Terry* stops reviewed from the 41 Precinct, and each of these stops were assessed as lawful.

The poor performance of commands conducting unlawful frisks and searches was more widespread. Again, the Bronx and Housing Bureau NST commands' rate of lawful stops, frisks, and searches was exceedingly low, as was the Queens South Patrol Borough. The 44 Precinct in the Bronx had the most stops assessed in this study with a total of 70, and only 40% of its frisks and 52% of its searches were assessed as lawful.

In contrast, as shown in Table 10, there are commands with a high level of compliance, including commands that are quite active. This provides confidence that other commands can police constitutionally, with appropriate leadership and accountability. Twelve of the 28 commands posted a 90% or greater lawfulness on their stops. This gives the Monitor great confidence that the NYPD can do much better and is capable of constitutional policing.

²⁶ Although the NYPD started the NST program with 34 NST units, there were only 28 NST units during the period of this audit.

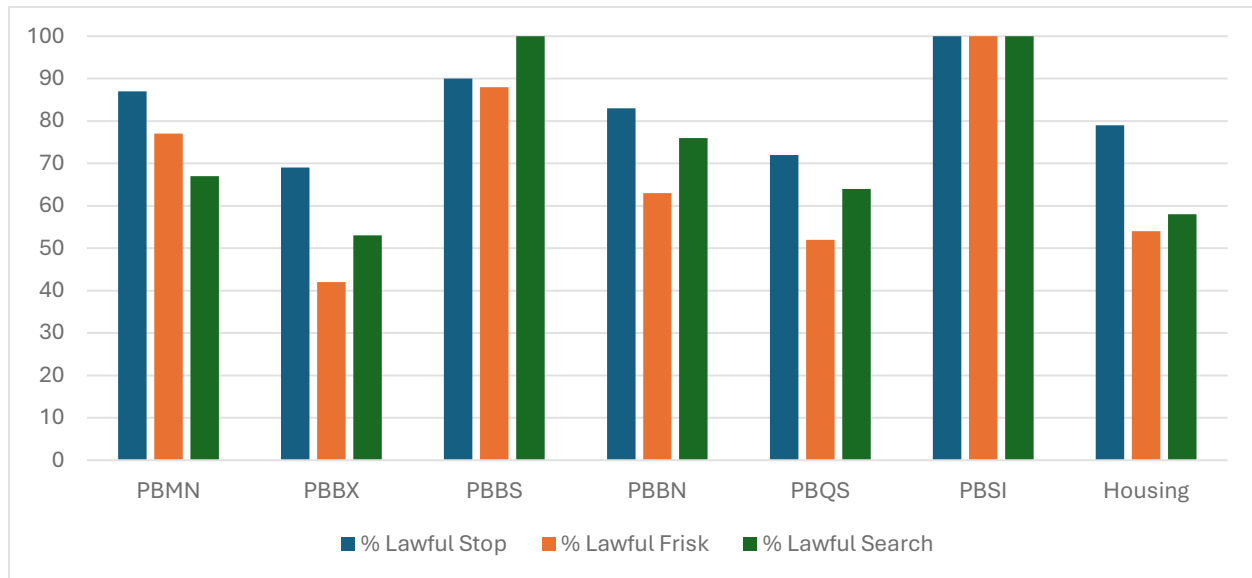
²⁷ Table 10 is a summary of the stops per command in the Monitor's audit. There are some commands with few stops in the audit and thus may not be representative of the command. Figure 5 shows the stops by Patrol Borough, providing more representative figures.

Table 10. Assessment of Stop Encounter by Commands with NST Units

NST	Stops	# Lawful	% Lawful	Frisks	# Frisks Lawful	% Frisks Lawful	Searches	# Searches Lawful	% Searches Lawful
23	2	2	100%	2	2	100%	1	1	100%
25	4	4	100%	3	2	67%	3	3	100%
28	20	18	90%	12	10	83%	7	4	57%
34	5	3	60%	5	3	60%	4	2	50%
40	14	12	86%	14	12	86%	8	5	63%
41	3	3	100%	3	2	67%	2	1	50%
42	5	3	60%	5	1	20%	4	0	0%
44	70	51	73%	68	27	40%	31	16	52%
46	9	3	33%	8	3	38%	5	3	60%
47	9	5	56%	6	6	100%	7	6	86%
48	22	11	50%	21	5	24%	7	4	57%
49	1	0	0%	1	0	0%	1	0	0%
52	42	33	79%	38	13	34%	16	8	50%
67	6	6	100%	5	5	100%	2	2	100%
69	1	1	100%	0	0	NA	0	0	NA
71	3	2	67%	3	2	67%	2	2	100%
73	3	3	100%	3	3	100%	1	0	0%
75	9	6	67%	7	4	57%	7	5	71%
79	22	19	86%	13	7	54%	12	10	83%
81	2	2	100%	1	1	100%	1	1	100%
101	2	2	100%	2	1	50%	1	1	100%
105	22	16	73%	18	10	56%	9	6	67%
113	1	0	0%	1	0	0%	1	0	0%
120	5	5	100%	4	4	100%	4	4	100%
PSA2	16	13	81%	15	9	60%	8	6	75%
PSA3	11	10	91%	5	3	60%	7	4	57%
PSA5	4	1	25%	3	0	0%	2	0	0%
PSA7	3	3	100%	3	2	67%	2	1	50%
	316	237	75%	269	137	51%	155	95	61%

In Figure 6 below, the Monitor's assessments are broken down by Patrol Borough and Housing PSAs.

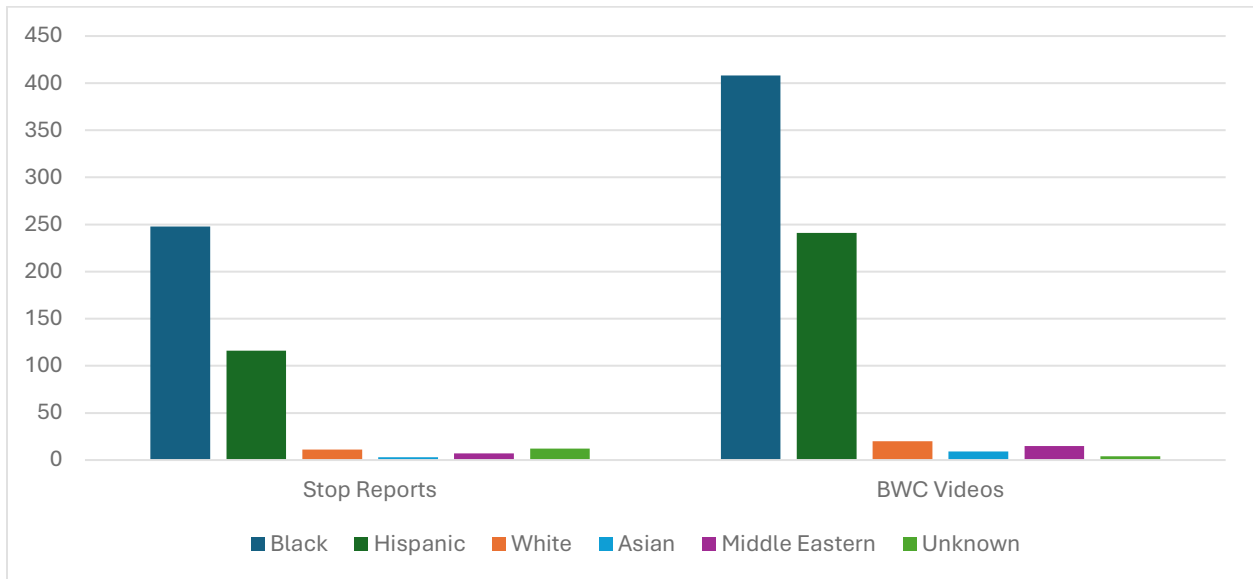
Figure 6 – Lawfulness of Stops, Frisks and Searches of NST Commands by Patrol Borough



F. Encounter Racial Characteristics

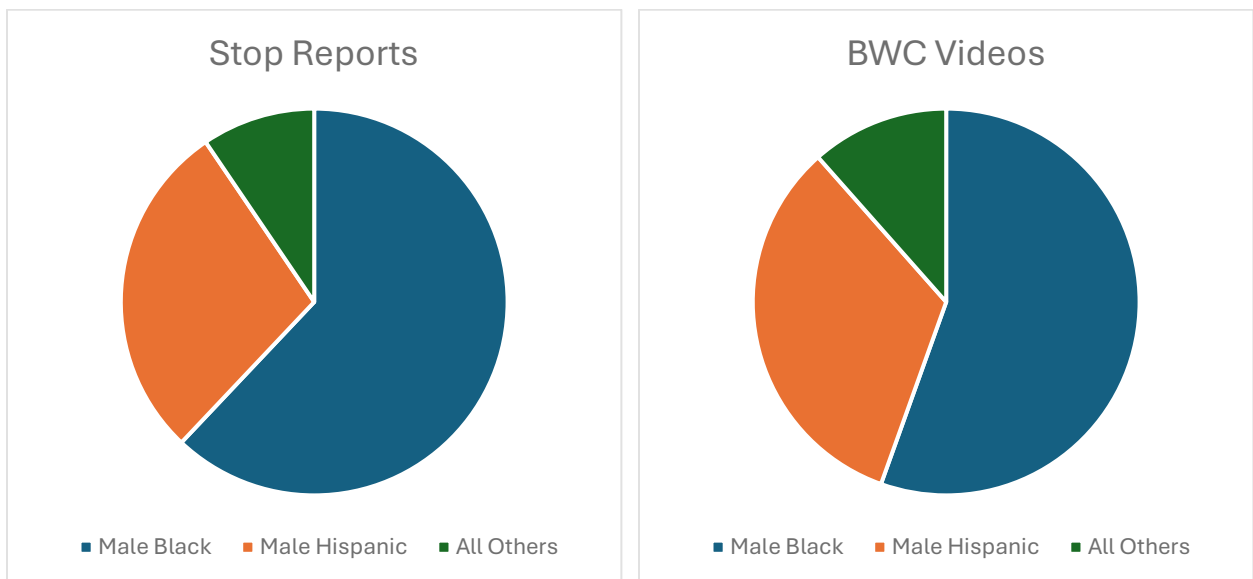
In the 19th Report, the Monitor team determined that 95% of the individuals stopped, frisked, and searched were Black or Hispanic individuals. The demographic makeup of stops and other encounters assessed in this report is the same. The Monitor team reviewed 397 stop reports of NST, PST, and patrol officers using the three methodologies described above, as well as 697 BWC videos from the LCA. In 95% of the stop reports in which race was identified (N=385) and 93% of the BWC videos assessed (N=697), the person encountered was Black or Hispanic.

Figure 6 – Race of Person Encountered



As found in the 19th Report, the overwhelming majority of persons encountered were male. Of the 397 stop reports in which gender was indicated, 97% were male, and in the 697 BWC videos assessed in which gender could be determined, 95% were male. Overall, 89% of the individuals encountered were Black or Hispanic males.

Figure 7 – Apparent Race and Gender of Persons Encountered in Stop Reports and BWC Videos



G. Observed Problematic Patterns in Policing by NST, PST, and Patrol

Hundreds of stop reports and associated BWC videos were reviewed during this audit. The Monitor team identified the following patterns of problematic officer actions in its review of Level 3 *Terry* stops: use of boilerplate language when describing the officer's reasonable suspicion for a *Terry* stop; inconsistencies between stop report narratives and BWC footage showing the encounter; stops of persons with fanny packs without sufficient reasonable suspicion; frisks that exceeded proper scope; and unlawful searches. These problems were noted in stops of NST, PST, and patrol officers, but because improper stops, frisks, and searches were found more frequently in NST and PST stops, the patterns were less often seen in patrol officer stops.

1. Use of Boilerplate Language

The Monitor team observed similar language used by NST and PST officers to describe their basis (reasonable suspicion) for different *Terry* stops. Similar language or factors were observed in stop report narratives across several distinct stops occurring at different times or across several days by the same officer. This raises a concern that boilerplate or rote explanations are invoked to justify otherwise questionable policing.

A few examples are provided below. In each example, the text was taken from the stop narrative section of the stop reports prepared by the NST officer, with highlighted language showing the repeated boilerplate language. A review of the stop reports prepared by NST Officer A and the other members of his NST team reveal some alarming information. Of the 66 stop reports prepared by this NST unit reviewed as part of this assessment, it appeared that 47 of them relied on the use of boilerplate language in the stop narrative. Just as troubling, the same supervisor reviewed and approved all 66 reports.

In the examples provided from “NST Officer A,” the stop report narratives use similar language regarding the person’s jacket pocket having “slapped” his body, purportedly indicating there could be a firearm inside. However, the video footage of the encounters shows two people wearing heavy winter coats on cold winter evenings and does not appear to reveal any indication of a firearm inside of the heavy coat.

NST Officer A

12/19/2023 at 22:15

As the subject walked southbound on YY Avenue, his right coat pocket slapped his body in an unusual way. The pocket contained a heavy metal object consistent with the shape, size and weight of a firearm. The undersigned asked the subject to hold on, when the subject waved his hand at officers and continued to walk to avoid police contact. The undersigned exited the vehicle and frisked the subject’s pocket. The frisk yielded negative results for a gun. The items were found to be a cellphone, and weed containers. Id was requested and provided. A business card was offered and refused.

1/14/2024 at 19:09

At TPO, the undersigned assigned to the XX Precinct NST Team and attired in the prescribed NST uniform. As the subject walked, the pocket slapped his body. The undersigned exited the car to speak to the subject. At this point the undersigned observed the male to have a heavy metal object which appeared to be similar to a firearm. The object appeared to have the same weight, size, and shape of a firearm. A frisk was conducted yielding negative results for a firearm. The objects found to be an asthma pump and a Vaseline container

In the three examples from “NST Officer B” below: (1) The duration of the BWC videos is two minutes or less and the actual length of contact with the persons stopped is only a matter of seconds; (2) the behaviors described in the narratives are not present on the BWC recordings; and (3) the identification of suspected objects and their locations are also inconsistent with the video footage. Finally, in all three cases, the officer and his partners conduct extensive frisks well beyond the authorized scope as set forth in the stop report.

NST Officer B

11/20/2023 at 18:18

Upon male noticing officer's unmarked vehicle, he instantly clutched his left jacket pocket nervously while locking eyes with officers in standard NYPD uniform. Male took multiple steps back and proceeded to walk to nearest convenience store, looking extremely uncomfortable due to police presence in the area. Left jacket pocket looked extremely heavy upon observation of male, weighted down with a circular shape inprint that resembles the craftsmanship of a revolver due to its size, weight, and consistency from male's jacket pocket. PD exited the vehicle to investigate

12/4/2023 at 18:08

Upon male noticing officers unmarked vehicle, male instantly dispersed from the group and started to walk northbound on Bassford Avenue. Male continued to walk looking over his shoulder multiple times trying to examine if he was still in PD's visual scope, walking even faster than once before seeing PD'S unmarked car. PD then locked eyes with reporting officer who was in standard NYPD uniform and adjusted his left jacket pocket while simultaneously walking in a hurried manner. Left jacket pocket looked visibly heavy, with a circular inprint protruding that resembles the craftsmanship of a revolver due to officer's training and experience. PD exited the vehicle to investigate.

12/4/2023 at 22:51

Upon seeing PD'S unmarked vehicle driving down the street. Male started to walk increasingly faster in a hurried manner looking considerably nervous due to police presence. Male looking over his shoulder multiple times seeing if he was still in PD'S visual scope. Male then switched positions with his counterpart to walk on the inside closest to the building, seeming to blade his body away from PD. Right jacket pocket looked considerably heavy with a circular inprint protruding from male's jacket that resembles craftsmanship of a revolver. PD exited vehicle to investigate.

The overly broad frisks and lack of any connection between what is written in the reports and the behaviors of the people stopped indicate that the boilerplate narratives are shortcuts to prepare reports that would justify police conduct.

2. Inconsistencies Between Stop Report Narratives and BWC Footage

There were Level 3 *Terry* stops in which the BWC footage was inconsistent with the narrative that officers wrote in the stop report. In total, the Monitor team assessed the lawfulness of 397 stop reports using the three methods of sampling. Eighty-seven of those stops (22%) were

determined to be unlawful and 310 (78%) were determined to be lawful. The Monitor team determined that the stop report and BWC video reviewed were not consistent in 63 of 87 unlawful stops. In other words, the information contained in the narrative of the stop report was not in the BWC video.

In some encounters, the stop report narratives and the BWC video were contradictory. For example, the stop report states that no frisk or search was conducted, but the video clearly shows that a frisk and/or search was conducted. In one encounter, the stop report states that no frisk was conducted. The BWC video, however, showed that the sergeant on the scene frisked the person's left front sweatshirt pocket, then the left front sweatpants pocket, and then the right front sweatpants pocket. While this occurred, the male asked twice why the sergeant was frisking him. The sergeant also reached into the male's right sweatshirt pocket to retrieve the male's identification. The sergeant who frisked the suspect was the supervisor who reviewed and approved the stop report. Under the "Supervisory Action" section, this sergeant checked N/A in the box under Sufficient Basis for Frisk, indicating that no frisk had been conducted when it had. If supervisors are not accurately reporting their conduct, how can we expect the officers who report to them to do so?

3. Fanny Packs and Lack of Reasonable Suspicion Due to Overly Broad Language

NST and PST officers are rightfully focused on the way suspects carry firearms and other weapons. Suspects rarely carry illegal firearms in holsters but instead carry them in waistbands, pockets, satchels, or fanny packs. As such, NST and PST officers are attentive to these items. However, these items do not, by themselves, justify a stop or frisk. Officers must articulate what they observed and how their observations support reasonable suspicion of criminality. In reviewing stop reports for this audit, the Monitor team noted stop report narratives that failed to

provide sufficient detail and often used overly broad language to support a stop and frisk with respect to suspects who were wearing fanny packs or satchels. Narratives that state a fanny pack was heavily weighted down by an object but fail to describe how the object's shape or size resembles a weapon do not establish reasonable suspicion to believe the person is armed and dangerous.²⁸

4. Frisks Beyond the Scope

Officers who can articulate reasonable suspicion that a person is armed and dangerous due to their observations are limited to frisking the relevant area and do not have authority to continue to frisk other parts of the person's body, clothing, or articles for which they do not have reasonable suspicion. For example, in one case, the stop report narrative read:

I observed on my right side of the vehicle a Arabic male about 5'8" 170 lbs wearing a grey/black hoodie, black pants, and black sneakers walking EB on XX Street on the sidewalk with his right hand pressed against under his hoodie tucked into his waistband as if he was trying to conceal a weapon. At the same time, subject had his hoodie up on his head while looking around nervously. The outline of the hoodie looked heavy and have a L-shaped object consistent with the size and shape of a firearm. I proceeded to drive past him and when the subject noticed the unmarked RMP, he quickly went into the street to cross all while his right hand was still underneath hoodie and tucked into his waistband. At this time, I cut him off with my vehicle, to prevent him from crossing and exited the vehicle. The subject began to make an attempt to flee on foot but didn't get far. Police officers stopped subject and frisked the hoodie pocket and waistband area with negative results. Subject explained stopped, offered a RTKA but refused all.

The BWC video shows that officers went beyond a frisk of the hoodie, frisking the suspect's pants pockets and legs despite the report not articulating reasonable suspicion to do so. The officers also searched the individual because they lifted the suspect's sweatshirt twice; that is not patting someone down. This is impermissible, and officers have been repeatedly trained that this is impermissible. The search was not noted on the stop report.

²⁸ See *People v. Fernandez*, 87 A.D. 3d 424 (1st Dept. 2011); *People v. Gerard*, 94 A.D. 3d 502 (1st Dept. 2012).

5. Unlawful Searches

The Monitor team's audits revealed other stops in which officers conducted searches without a legal basis for the search.

a. Searching pockets when frisk did not reveal a weapon

Stop Report Narrative:

At TPO reporting officer did observe individual wearing gray sweatpants, a black sweatshirt, and black bubble vest walking southbound on [XX] Boulevard at [YY] Avenue. Individual was blading his body away from police during initial pass in unmarked vehicle where he made eye contact with PD and continued to turn his head to look where PD was heading. Upon making a U turn, individual did quickly walk into the laundromat at [XX] Boulevard. PD watched individual walk towards back door of laundromat and proceeded to drive to that area. Upon noticing, individual did not make his way into back parking lot. PD drove back to [XX] Boulevard where the individual was seen quickly walking EB on [YY] in attempt to avoid police contact. Upon approach of individual, he did appear nervous and was physically shaking when being confronted by PD. A heavily weighted rectangular object consistent with the size and shape of the slide of a firearm was observed in the right pocket of individuals bubble vest. Upon frisk of pocket individual did attempt to pull away. **Search on pocket was conducted and object was deemed to be a cellphone.**

The frisk of the pocket containing the individual's cell phone would have revealed that the object was a cell phone and not a weapon, and thus would not have justified the search.

b. Lifting or Removing Clothing

As part of the Monitor team's review of BWC footage of investigative encounters and *Terry* stops, several instances were noted in which officers lifted or raised, unzipped or unbuttoned, or removed articles of clothing during a frisk of a person without first frisking the area, or without a legal basis to conduct a search. These actions—lifting, raising, unzipping, unbuttoning, or removing articles of clothing—constitute a search and not a frisk.

It should be noted that as part of this NST audit, the Monitor team observed numerous investigative encounters captured in BWC footage in which the officers recognized the limits of their authority and their obligation to protect the constitutional rights of those encountered by not

exceeding their authority. However, the Monitor team also observed too many instances in which officers failed to follow the training they received and engaged in unconstitutional practices. And in many instances, command-level supervisors and executives failed to identify unconstitutional practices and correct them even after reviewing stop reports and their associated BWC footage.

V. NST Oversight and Compliance Plan

After the Monitor issued its 19th Report on the NSTs, the Monitor directed the NYPD to develop a plan to improve NST operations. The NYPD submitted a draft compliance plan to the Monitor and revised its plan based on the Monitor's recommendations. The plan included enhanced training, auditing, NST "roundtables," NST mentoring, more rigorous vetting of NST applicants, and a "tiered-review process" of BWC footage recorded by NST officers on patrol. The plan was implemented incrementally and became fully in place by January 2024.

A. BWC Footage Review

After the Monitor issued the 19th Report on the NYPD's NST program, the Monitor directed the NYPD to develop a compliance plan for NST officers. The Department solicited executive review, feedback, and discussion of NST performance with Commanding Officers, Executive Officers, Integrity Control Officers, and Special Operations Lieutenants. The discussions included analysis of common mistakes in the application of laws governing searches and seizures, instructions for completing self-inspections, and a review of the auditing approach of the Quality Assurance Division ("QAD"), the NYPD's auditing unit.

The NYPD submitted a draft compliance plan to the Monitor on July 17, 2023. The plan included enhanced training, auditing, NST "roundtables," NST mentoring, more rigorous vetting of NST applicants, and a "tiered-review process" of BWC footage recorded by NST officers on

patrol. The plan was reviewed by the Monitor and recommendations were provided to strengthen it. The plan was implemented incrementally and became fully in place by January 2024.

Beginning on January 1, 2024, the NYPD began a tiered-review process to review BWC footage recorded by NST officers. Each week, one officer from every NST command is selected and five of their BWC videos are selected for review. The command Executive Officer is expected to review these five videos and assess the quality and lawfulness of the encounter and record those reviews on a standardized coding sheet. These reviews are then forwarded to the Borough command where a Borough executive reviews them, and then they are forwarded to the Bureau (Patrol Services or Housing) for review.

During the first quarter of 2024, there were 1,830 BWC videos recorded by NST officers that were subjected to this tier-review process. Of the 1,830 videos reviewed, the NYPD identified 194 Level 3 *Terry* stops. Of those 194 stops, 159 (82%) had a stop report prepared. That means 18 percent of the time, a stop report was not prepared that should have been. For the 35 stops for which a stop report was not prepared, 13 officers were issued Instructions, one officer received a negative CRAFT,²⁹ and one sergeant was given a Command Discipline (“CD”) and was “removed from the team.”³⁰ For four officers, an email was sent to their supervisor, and for 16 officers, no action at all was taken. In none of the 35 cases in which a stop report was not prepared was any direction given by either the Borough or Bureau executive who reviewed the encounter, and the only discipline imposed was the CD given to the sergeant. This is troubling.

In reviewing the 159 stop reports, the command reviewers determined that six of the stops were unlawful (4%), six of 141 frisks were unlawful (4%), and six of the 104 searches (6%) were

²⁹ CRAFT stands for Cop’s Rapid Assessment Feedback Tool and is a process that allows supervisors to issue a Supervisory Comment Form in the NYPD’s personnel system for an officer’s positive actions or negative actions.

³⁰ The NST/PST rosters from that command did not list the sergeant in question, so it is not clear from which team the sergeant was removed.

unlawful. This is much lower than the assessments of both the Monitor team and the NYPD's auditing unit, the QAD, when they audited stops in this quarter.³¹ The command's Executive Officer reviews and the reviews by supervisors recorded on stop reports are almost the same and inaccurate. It appears that the Executive Officers are doing an inadequate job in assessing compliance. What is also disappointing is that incorrect assessments are not caught and corrected by the Borough or Bureau reviewers. Given the numerous findings and reports of the Monitor and the NYPD auditors concerning noncompliant stops, frisks, and searches, command-level findings of overwhelming compliance should have raised questions for Borough and Bureau executive reviewers. That was not the case. In almost half the reviews, there are neither comments nor remedial actions taken by the Borough reviewer. In other words, the Borough reviewer is just signing off on the command review, which is just signing off on the sergeant's or lieutenant's review, which is ineffective and does not lead to reform or improved constitutional policing.

Moreover, there were no real consequences for the failure to prepare a stop report or for conducting an unlawful stop, frisk, or search. In most cases, either no action was taken or the officer received instructions. The bottom line is supervisors in the field are not preventing unlawful stops, frisks, and searches from happening and the commands are not stopping this from happening. This is disturbing because the tier review process is not supposed to be a rubber stamp. The Monitor has found that QAD's recent reviews are in line with the Monitor's, so the Department has the tools to fix this. It just needs the will to do it.

³¹ In the first quarter of 2024, the Monitor and QAD compared assessments on 150 stop reports. QAD determined that 79% of the stops were lawful and the Monitor determined that 78% of the stops were lawful. Similarly, 61% of the frisks and 57% of the searches were determined lawful by QAD and 57% of the frisks and 63% of the searches were determined lawful by the Monitor.

B. Training

Members of the NYPD received extensive training on Investigative Encounters, including *Terry* stops and the characteristics of armed suspects. Members of the Monitor team and Plaintiffs' counsel observed this training at the entry-level for recruit officers and at the in-service level for police officers and supervisors. Separate instruction, also based upon Court-approved training materials, was developed for Department executives. Monitor team members observed the investigative encounters portion of this training as well.

Officers selected for NST assignments received additional, specialized training to prepare for their assignment. This seven-day training used Court-approved training materials and included instruction on investigative encounters and characteristics of armed suspects. Based upon deficiencies noted in regular audits conducted by the Monitor and the NYPD, a two-day refresher training course was also developed for NST officers. PST officers and Community Response Team ("CRT") officers also received this refresher training. The Monitor and members of the Monitor team observed the initial NST training and the NST refresher training. Overall, the trainings on investigative encounters and characteristics of armed suspects, and their related training materials, are excellent. Further, all the instructors observed delivering this training did a good job. Training is not the issue in achieving compliance with constitutional standards. And officers are not making unlawful stops, frisks, and searches because they have not been trained. The Department has good training, but it lacks the supervision to deal with unlawful stops, frisks, and searches.

C. ComplianceStat

As discussed in the 21st Report of the Independent Monitor, the NYPD began implementing a new procedure in January 2024 that the Department is calling "ComplianceStat."

These are meetings chaired by Chief John Chell of the Patrol Services Bureau³² and Chief John Cosgrove of the Professional Standards Bureau.³³ Prior to these meetings, the Patrol Services Bureau reviews BWC footage of the commands attending as well as data on stop reports, consent to search report forms, and vehicle reports from the prior 28-day period to identify potential undocumented *Terry* stops, improper *Terry* stops, frisks, and searches, and stop reports awaiting review and approval by supervisors.

ComplianceStat meetings emphasize the need for a process at the command level and at the Patrol Borough level to review *Terry* stops and BWC footage to “detect and correct” deficiencies. Several commands have been called to task for undocumented *Terry* stops and improper frisks and searches. At these meetings, NYPD chiefs and executives emphasized the need for supervisory oversight and executive accountability. Additionally, the Professional Standards Bureau, using BWC footage, provides a brief overview on frequently noted deficiencies. The Monitor team has observed each of the ComplianceStat meetings and has been impressed by the focus on accountability at the meetings. NYPD executives are not only asking command executives whether they are reviewing their officers’ BWC videos but calling them out when the commands did not identify the officers’ improper actions that were found by the Patrol Services Bureau’s review. Patrol Boroughs are now coming back to ComplianceStat meetings for their second time, and it will be important for the Department to examine whether the performance of the commands has improved. ComplianceStat is promising and we look forward to examining whether it has impacted compliance in the field. The Monitor will be assessing NST, PST, and

³² Chief Chell was appointed Chief of Department in January 2025. He will continue to chair ComplianceStat meetings, now including the Housing Bureau.

³³ When the ComplianceStat meeting involved Housing Bureau or Transit Bureau commands, the chief of the Housing Bureau or Transit Bureau, respectively, co-chaired the meeting.

patrol officer stops in 2025 to determine whether the NYPD's plan to improve NST performance has been successful.

VI. Conclusion

This is a challenging and concerning Report. We are not here to tell the Department how it should police, but we are here to tell the Department to conduct stops, frisks, and searches constitutionally. We are especially concerned about officer self-initiated stops because they have the greatest non-compliance rates. And we have not seen improvement from the non-compliance rates found in our 2022 audit in our 2023 audit. We have also not seen effective compliance in 2024 in the execution of the Department's NST compliance plan. We did find the ComplianceStat meetings for Patrol promising in 2024; however, we need to see improvement in the field in compliance rates in 2025. If supervisors and commands continue to fail to address unlawful stops, frisks, and searches and if they fail to address undocumented stops, then the Department must hold supervisors and commands accountable. If some commands can police lawfully, then the rest can do it too, and when they repeatedly do not, then there should be serious consequences.

One-hundred-percent compliance is the goal, but, at a minimum, all officers should be achieving compliance levels of at least 85% by the end of the third quarter of 2025 and at least 90% by the end of the year. If those targets are not met, the Monitor may recommend further action to the Court.

There is no excuse for the NYPD's failing to focus on ensuring implementation of constitutionally compliant stops, searches, and frisks.

APPENDIX

The Monitor combined all the stops from the three sampling methodologies (Weekly Sample, Command Sample, and Life-Calendar) for analysis to see if the larger sample would change any of the results. A benefit of a larger sample is that the confidence intervals of the study are narrower, but because the Command Sample and the LCA are not random selections of stops, there is some selection bias with the total sample weighted towards the precincts in the Command Sample and the five officers in the LCA.

Table A-1 below shows the compliance rates for the total 397 stops, 314 frisks, and 192 searches, along with the 95% confidence intervals (“CI”) to reflect the uncertainty of the estimates due to sampling.³⁴

Table A-1. Assessment of Stop Encounter by Sample

	Weekly	Command	Life-Calendar	Total
Stop Lawful	0.78	0.80	0.75	0.78
95% CI	0.73-0.84	0.73-0.88	0.64-0.85	0.74-0.82
Frisk Lawful	0.57	0.52	0.40	0.53
95% CI	0.50-0.65	0.41-0.63	0.28-0.53	0.47-0.58
Search Lawful	0.62	0.63	0.63	0.63
95% CI	0.53-0.72	0.50-0.76	0.45-0.80	0.56-0.69
<i>N</i>	215	111	71	397

Across all assignments and samples, approximately 78% of stops, 53% of frisks, and 63% of searches were judged as lawful from the audits. The differences between samples are small, even when accounting for sampling uncertainty, suggesting that the overall rating of the legality of stop encounters does not vary meaningfully across samples.

³⁴ The total sample consists of 215 stops from the Weekly Sample, 111 stops from the Command Sample, and 75 stops from the Life-Calendar sample.

Table A-2 below shows the results from the comparison of the entire 2023 audit by officer assignment to NST, patrol, or PST. Routine patrol officers showed greater constitutional compliance when conducting stops than both NST and PST officers for the entire sample of 397 stops reviewed. Because the sample is larger than the weekly sample audit, the results across each outcome are statistically significant at the $p < .05$ level.

Table A-2. Lawfulness of Stops, Frisks, and Searches for NST, Patrol, and PST

Stop Lawful	NST	PATROL	PST	Total
No	41 (23)	16 (12)	30 (34)	87 (22)
Yes	137 (77)	115 (88)	58 (66)	310 (78)
Total	178 (100)	131 (100)	88 (100)	397 (100)
<i>N</i>	397			
Chi-Square	14.9	P=.001		
Frisk Lawful	NST	PATROL	PST	Total
No	77 (48)	16 (20)	56 (76)	149 (47)
Yes	84 (52)	63 (80)	18 (24)	165 (53)
Total	161 (100)	79 (100)	74 (100)	314 (100)
<i>N</i>	314			
Chi-Square	47.0	P<.001		
Search Lawful	NST	PATROL	PST	Total
No	40 (44)	17 (26)	15 (42)	72 (38)
Yes	50 (56)	49 (74)	21 (58)	120 (63)
Total	90 (100)	66 (100)	36 (100)	192 (100)
<i>N</i>	192			
Chi-Square	6.0	P=.05		

Note: Percentages in parentheses

Table A-3 below shows the nature of the stops made by NST, PST, and patrol officers in all three of the sample methodologies. As noted in the report, NST and PST officers predominately made self-initiated stops, while patrol officers mostly conducted radio runs.

Table A-3. Nature of Stop by Unit, Total Sample

Total Sample	Comp/Witness	Radio Run	Self-Initiated	Total
NST	9	30	139	178
	(5)	(17)	(78)	(100)
PATROL	13	88	30	131
	(10)	(67)	(23)	(100)
PST	3	16	69	88
	(3)	(18)	(78)	(100)
Total	25	134	238	397
	(6)	(34)	(60)	(100)
<i>N</i>	397			
Chi-Square	113.8	P<.001		

Note: Percentages in parentheses

When reviewing the overall combined sample audit to assess how the nature of the stop affects its lawfulness, the findings are similar to the Weekly Sample results. The Monitor team found that 68% of 238 self-initiated stops were conducted lawfully, with a 95% confidence interval that has a low of 62% and a high of 74%. Only 36% (95% CI=29%-42%) of 215 frisks conducted during self-initiated stops were conducted lawfully, with a 95% confidence interval showing a low of 29% and a high of 42%. Of the 106 searches conducted during self-initiated stops, only 47% were conducted lawfully, with a low estimate of 38% and a high of 57% according to a 95% confidence interval.

The Monitor's findings with respect to self-initiated stops for CPW using the total combined sample are similar to the findings in the individual samples. Table A-4 shows that CPW stops were assessed to be lawful in 73.5% of the stops in the combined sample. The rates of lawful frisks and searches during CPW stops were even lower. Approximately 47.0% of the frisks and

52.7% of the searches that occurred during CPW stops in combined audit were assessed to be lawful.

Table A-4. Lawfulness of CPW Stops in Total Sample

Total	CPW Stops	% Lawful	Frisks	% Frisks Lawful	Searches	% Lawful
Patrol	54	81.5%	50	76%	24	62.5%
NST	159	76.7%	148	49.3%	78	51.2%
PST	74	60.8%	70	21.4%	27	48.1%
Total	287	73.5%	268	47.0%	129	52.7%
F-test	4.5	P=.01	20.3	P<.001	0.6	P=.55