

UNDISCIPLINED, UNPUNISHED

Summary of the Report on NYPD's Disciplinary System

Background

On September 23, 2024, the Hon. Analisa Torres, a federal court judge in the NYPD stop-and-frisk cases, published an unprecedented and [detailed report reviewing the NYPD's disciplinary system](#). Judge Torres ordered that the Discipline Report be put together as part of the landmark federal monitorship overseeing reforms to the NYPD's unconstitutional use of stop-and-frisk, trespass enforcement, and racial profiling during pedestrian encounters. This Discipline Report was written by a retired state court judge, James Yates, after extensive investigation.

This Summary is prepared by the lawyers for the New Yorkers that sued the NYPD over these illegal stops and racial profiling practices. The summary highlights key findings, issues, and recommendations described in more detail in the Discipline Report. Judge Torres has invited public comment on the Discipline Report by December 25, 2024.

In 2013, [a federal court found](#) the NYPD's use of stop-and-frisk was unconstitutional and the NYPD had an illegal policy of racially profiling Black and Latinx New Yorkers. The Court [ordered the NYPD to reform many policies and practices, including improvements to "its procedures for imposing discipline."](#) The new Discipline Report details the many ways in which the NYPD fails to hold its officers accountable for misconduct during pedestrian stops, frisks, and searches. It concludes that officers who engage in unconstitutional stops and frisks **"rarely, if ever" receive any discipline**, even when an independent agency, the [Civilian Complaint Review Board](#) ("CCRB"), determines that the officer committed misconduct. The Discipline Report also provides [51 recommendations](#) to improve the NYPD's discipline system and increase accountability for officers who make illegal pedestrian stops.

YOU HAVE AN OPPORTUNITY TO BE HEARD!

Tell the court your thoughts and experiences regarding the NYPD disciplinary system.

All comments will be posted publicly on the Monitor's website.

The Court has invited the public to comment on the Discipline Report by December 25, 2024.

SUBMIT YOUR COMMENTS HERE



Common themes and findings throughout the Discipline Report include:

- The NYPD’s disciplinary system (“System”) fails to hold officers accountable for stop, frisk, or search-related misconduct, [Page 14](#);
- The System gives too much discretion to the NYPD and the Police Commissioner to decide whether or not to discipline officers for stop, frisk, or search-related misconduct, which results in little to no accountability for officer misconduct, [Pages 41, 149](#);
- The System is mostly hidden from the public, and would be improved by increased transparency and community involvement, [Pages 13, 400-401](#);
- The System is not centralized, which results in inefficient and inconsistent misconduct investigations and outcomes, [Pages 82-83](#);
- Complaints against officers are sometimes split into investigations on separate tracks between the NYPD and the CCRB, where the agencies do not regularly share critical information. This creates inconsistencies in investigations and outcomes even though the separate investigations are based on the same police encounter. [Pages 143-145](#).

What is misconduct?

“[Misconduct](#)” by NYPD officers includes a broad range of behaviors prohibited by law, by court order, or by NYPD policy. The main focus of the federal monitorship and the Discipline Report is misconduct related to stop-and-frisk, trespass enforcement, and racial profiling during stop-and-frisk.

The [NYPD’s Patrol Guide and Administrative Guide](#), only some parts of which are available publicly, describe the internal rules officers must follow. These NYPD Guides are written and changed at the Police Commissioner’s discretion. [Pages 32-33](#). Officers can commit misconduct during interactions with the public

in various ways, including by conducting improper and illegal stops, frisks, and searches. [Page 32](#). Officers can also commit misconduct by breaking NYPD rules like failing to complete a required report, or by engaging in inappropriate off-duty behaviors. [Page 32](#).

How does NYPD find out about officer misconduct?

The NYPD learns about officer misconduct in a variety of ways, including civilian complaints to the CCRB, civilian complaints to the NYPD’s Internal Affairs Bureau (“IAB”), reports by fellow police officers to IAB or local commands, observations by NYPD supervisors, internal NYPD audits, lawsuits involving officer misconduct, and more. [Pages 30-31](#).

Types of discipline

Officer misconduct may lead to “formal” or “informal” discipline, or “guidance” instead of discipline. [Pages 49-56](#). Formal discipline must follow the procedural and administrative trial process under state and city law. [Pages 49](#). Formal discipline may include loss of vacation days or of credit for hours worked, suspension, or termination. [Pages 49-51](#). Informal discipline is much more common than formal discipline, and it allows a commanding or executive officer at NYPD to address so-called “minor” misconduct at the command level. [Pages 53-54](#). In these cases, commanding officers are not required to impose any penalties on the officer unless directed by the Police Commissioner. If the commanding officer does not impose a penalty, they may instead impose guidance that includes retraining, monitoring, or “instruction” by supervisors on correcting the behavior. [Pages 54-56](#).

However a complaint is made, the Police Commissioner has final authority over the discipline system. [Page 11](#). Whether the Police Commissioner receives a recommendation for discipline after a formal hearing, or a recommendation from the CCRB after an investigation, the Police Commissioner is the final decisionmaker as to what discipline is imposed, including whether to lessen a recommended penalty. This power comes from the [New York City Charter](#).



The Police Commissioner can use this power in different ways. The Police Commissioner can delegate this authority, which they often do for many “informal” cases. The Police Commissioner can even dismiss a case entirely using a process called “retention.” Page 333. The Report concludes that “the decision to retain a case is, in most instances, likely to remove the case from any disciplinary penalty.” [Page 338](#). The Report discusses past efforts to remove this final authority, [Page 174](#), but does not recommend that the Police Commissioner be stripped of that authority.

NYPD fails to meaningfully discipline officers for stop, frisk, and search-related misconduct or racial profiling

The Report finds that stop, frisk, and search-related misconduct seldom results in meaningful officer discipline. This is partly because many stop-and-frisk related violations fall through the cracks of the NYPD’s disciplinary system. [Page 5](#). While a substantiated—or confirmed—stop, frisk, or search-related complaint is not uncommon from the CCRB, NYPD discipline for these confirmed complaints is rare. [Page 316](#). From 2019 to 2021, if penalties were imposed for stop, frisk, and search-related misconduct, it was usually because it was incorporated into discipline imposed for other types of misconduct alleged in the complaint, such as excessive force. [Page 480](#). In many, if not most, cases where it was found that an officer committed stop-and-frisk related misconduct or failed to file a required stop report, the officer was not penalized at all and only received guidance in the form of training or instruction. [Page 55](#).

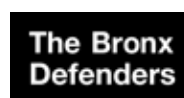
Complaints about racial profiling by NYPD officers also rarely result in meaningful discipline. As of July 2021, “no officer ha[d] been charged with bias-based policing or profiling” out of over 5,000 complaints filed. [Page 110](#). Biased-based policing investigations are now handled by the CCRB’s Racial Profiling and Bias-Based Policing Unit, and in 2023, four allegations were substantiated. [Monitor’s 21st Report at 50](#). In the first

half of 2024, CCRB substantiated 17 bias-based policing allegations. [CCRB Semi Annual Report at 36](#). The Discipline Report also found that the complexity of the disciplinary system leads to relatively few acts of misconduct being substantiated, that NYPD and CCRB investigations were sometimes duplicative, and that the CCRB was not provided key evidence of officers’ prior misconduct. It found that investigations took too long and likely left misconduct unidentified even before they were forwarded to the NYPD, where the Police Commissioner has the final say over the outcome.

Penalties Under the NYPD Discipline Matrix

The Discipline Report describes issues with the NYPD’s Discipline Matrix, which was adopted in January 2021 and sets out penalties for different types of misconduct. For stop, frisk, and search-related misconduct, the “presumptive”—or default—penalty under the Discipline Matrix is three “penalty days”, usually a loss of accrued vacation time. [Pages 49-50, 379](#).

But based on consideration of different factors, the Police Commissioner can lower this presumptive penalty to a “mitigated penalty” and direct that the officer merely get additional training. [Pages 358-60, 379](#). The Commissioner could also raise the penalty to 15 “penalty days” based on certain “aggravating” factors that allow for stricter discipline, but this rarely happens. [Pages 358-60, 374-75, 379](#). The presumptive penalty is rarely imposed: in a sample of 91 complaints with substantiated allegations of stop, frisk, or search-related misconduct and no other types of misconduct alleged, the Report found that no officer had received the presumptive penalty. [Page 389](#). The penalties for stop, frisk, and search-related misconduct are also among the lowest in the Discipline Matrix. [Page 357](#). The Discipline Report does not recommend higher penalties for this type of misconduct, but it cites a proposal for increased penalties from directly-impacted stakeholders [Communities United for Police Reform](#). [Page 379, footnote 1584](#).



The Report also identified issues with grouping penalties for multiple bad stops or frisks into a single penalty. [Pages 369-71, 389-90](#). The Report notes that assessing penalties at the same time, rather than one after another, prevents full accountability for multiple allegations of misconduct during a single incident, or for misconduct that affects more than one individual. [Pages 369](#).

Recommendations: Key Points

The Report makes [51 recommendations](#) relating to the disciplinary process to improve the Fourth Amendment (stops and searches) and Fourteenth Amendment (racial profiling) compliance with pedestrian stops. The recommendations are grouped into six categories: 1) transparency; 2) complaint processing, 3) findings of officer “good faith” and “mistakes” as a means of reducing or disregarding a recommendation of discipline, 4) biased-based policing and racial profiling, 5) accountability, and 6) timeliness of investigations. We summarize key recommendations here.

KEY

POLICE COMMISSIONER AUTHORITY

Notably, despite frequent [community demands](#), the Report stops short of recommending that final authority over disciplinary decisions be assigned to an outside, independent agency rather than the Police Commissioner, even though it explains that the Police Commissioner’s final authority routinely results in decisions not to discipline officers for their misconduct. Instead, the Report recommends that the Police Commissioner give increased deference to recommendations from the CCRB, and that if the Commissioner chooses not to follow a CCRB-recommended penalty, the Commissioner should explain their reasoning in writing based on the facts and the law and make this explanation publicly available. Discipline Recommendations (“Recs.”) 19,

21, 27. A recent report indicated that the discretion to not follow a CCRB recommended finding for liability or any penalty associated with that finding has been increasing.

KEY

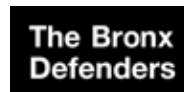
STRENGTHENING ACCOUNTABILITY

A number of recommendations could strengthen officer accountability. The Report found that sergeants or other supervisors regularly witnessed misconduct and failed to report it. And it found that “a failure to supervise or tolerance of inappropriate stops, frisks, or searches by officers is a breakdown of significance in achieving constitutional compliance.” Despite this, “discipline for such failures is close to non-existent.” The Report recommends that supervisors who observed illegal stop, frisk, or search-related misconduct and took no action be held accountable. Rec 33. The Report further recommends that the Patrol Guide clarify that supervisors have an affirmative duty to report stop, frisk, and search-related misconduct, Rec. 39, and that the Administrative Guide be amended to clarify that supervisors must “monitor, investigate, and discipline [for this] misconduct even in the absence of a civilian complaint to CCRB.” Rec. 42. Regarding “progressive discipline,” the Report recommends that a broader range of past misconduct should be taken into account to in order to increase penalties for an officer’s stop, frisk, or search-related misconduct. Rec. 48.

KEY

INCREASING TRANSPARENCY

The Report makes eight recommendations meant to increase transparency and public access to officers’ stop, frisk, and search-related disciplinary history, including posting related Patrol Guide and Administrative Guide sections online, Rec. 1, and posting all substantiated stop, frisk, and search-related misconduct allegations accepted by the Commissioner on the NYPD’s “Officer Profile.” Rec. 5.



KEY**BETTER PROCESSING OF COMPLAINTS AGAINST NYPD**

The Report makes fifteen recommendations related to complaint processing, including greater coordination between the CCRB and NYPD during split investigations, Rec. 10, improving CCRB access to an officer's full disciplinary history when it substantiates stop, frisk, and search-related misconduct, and greater Police Commissioner deference to CCRB findings that officers testified untruthfully during investigations. Rec. 19. Additionally, the Report recommends that if the Police Commissioner decides to set aside a substantiated allegation of stop, frisk, or search-related misconduct or a finding of guilt, the Commissioner must explain the facts and the law that they relied on when making this decision and make that explanation public. Rec. 21c.

KEY**CHALLENGING "GOOD FAITH" MISTAKES BY OFFICERS**

The Report explains that penalties for misconduct can sometimes be lessened where an officer asserts that their actions were in "good faith" or a "mistake." See Report at 364-368. It found that officers were routinely excused from being held accountable for making illegal stops because the officers claimed that they did not understand the law and were acting in "good faith." Some officers were given "training"—which consisted of watching a video describing the law of stop and frisk—multiple times for making multiple bad stops, without ever being punished. The Report notes that repeating the same

training was ineffective and recommends that the NYPD end this practice and discipline officers who say they were acting in good faith more than once. Rec. 24c. The Report also notes that "a stop, a failure to file a stop report, a frisk or a search are all separate and distinct acts" and penalties for each type of misconduct should be assessed consecutively, not concurrently. In other words, the NYPD should not allow officers to serve penalty days for separate violations all at the same time. Rec. 28. As with other recommendations, the Discipline Report notes that the Police Commissioner should explain in writing if they issue discipline that does not follow the Discipline Matrix guidelines. Rec. 28.

KEY**BOLSTERING RACIAL PROFILING INVESTIGATIONS**

The Report recommends that investigations into racial profiling allegations consider past allegations of racial profiling against an officer, regardless of whether those allegations were substantiated, and to assess if a pattern of profiling exists. Recs. 30-31.

KEY**SPEEDING TIMELINESS OF INVESTIGATIONS**

The Report recommends that CCRB complete stop, frisk, and search-related misconduct investigations within 120 days, or if this is not possible, the CCRB should explain to the complaining individual and the officer why the investigation will take longer. Rec. 49.

SUBMIT YOUR PUBLIC COMMENT!

This Summary is intended to provide just a few of the many important takeaways from the Discipline Report's in-depth look into the NYPD's disciplinary system, which generally fails to hold officers accountable for illegal stops-and-frisks. You can find more detailed information, including specific officer disciplinary case examples, in the [full Report](#). While the Discipline Report is an important publication and step towards making sure the NYPD is policing lawfully, it is no substitute for the experiences of everyday New Yorkers. You can share your thoughts on the Discipline Report and its recommendations with the Court directly by submitting a public comment by December 25, 2024 on the monitor's website:

<https://www.nypdmonitor.org/resources-reports/?tab=Discipline+Report#categories>

