

City of Milwaukee Settlement Agreement

Semiannual Analysis of Traffic Stops, Field Interviews, No-action Encounters, and Frisks



Prepared by the Crime and Justice Institute

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The photo on this cover depicts a mural at the House of Peace in Milwaukee painted by artist Brad Anthony Bernard, who was assisted by George Gist.

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INTRODUCTION

On July 23, 2018, the U.S. District Court for the Eastern District of Wisconsin entered an order adopting a Settlement Agreement (SA) among the Parties to *Charles Collins, et al. v. City of Milwaukee, et al.*¹ The Plaintiffs in the case alleged that there had been racially disparate and unjustified stops, frisks, and other unconstitutional police actions. As required by the Settlement Agreement, the Milwaukee Police Department (MPD) revised their Standard Operating Procedures (SOPs) to reflect constitutional policing standards specific to the Fourth Amendment's protection against unreasonable searches and seizures. SOP 085 ("Citizen Contacts, Field Interviews, Search and Seizure") defines reasonable suspicion as "objective, individualized, and articulable facts that, within the totality of the circumstances, lead a police member to reasonably believe that criminal activity has been, is being, or is about to be committed by a specific person or people." Additionally, for a frisk to be warranted during a stop, "the police member must be able to articulate specific facts, circumstances and conclusions that support objective and individualized reasonable suspicion that the person is armed and dangerous."²

The Settlement Agreement stipulates that MPD must show sustained and continuing improvement in constitutional policing based in part on whether the legal basis for encounters is sufficiently articulated (SA V.1.d.iv-vii)³. Overall, MPD must be able to demonstrate that fewer than 15 percent of reported traffic stops, field interviews, and no-action encounters fail to show individualized, objective, and articulable reasonable suspicion (IOARS) of criminal activity. Additionally, MPD must be able to demonstrate that fewer than 15 percent of documented frisks fail to show IOARS that the subject of the stop was armed and dangerous.⁴

To measure MPD's compliance with the Fourth Amendment in conducting traffic stops, field interviews, no-action encounters, and frisks, the Settlement Agreement calls for the Crime and Justice Institute (CJI), as the Consultant, to conduct a review of randomly selected encounter data no less often than semiannually (SA V.A.3.a-e). This report is the sixth review in this series. The unit of analysis is a discretionary police encounter, in that the sample consists only of stops wherein the officer had discretion to initiate the stop, rather than stops conducted to fulfill arrest warrants or in which the officer was otherwise directed to conduct the stop. Through random selection, only one person in multi-person stops is included in the sample. Additionally, only forcible frisks are included in the sample, defined in this report as frisks not conducted as part of a search incident to arrest, or to convey or temporarily seat a person in a squad car.

This report details the analysis of a randomly selected sample of stops and a randomly selected sample of frisks representing police encounters that took place between July 1 and December 31 of 2021. As a part

¹ Order and Settlement Agreement (July 23, 2018). *Charles Collins, et al. v. City of Milwaukee, et al.*, (17-CV-00234-JPS) United States District Court, Eastern District of Wisconsin, Milwaukee Division.

² Milwaukee Police Department Standard Operating Procedure 085 "Citizen Contacts, Field Interviews, Search and Seizure." Effective October 8, 2021.

³ Citations to a specific paragraph of the Settlement Agreement will appear in this report as SA followed by the paragraph number.

⁴ Numerical thresholds are referenced in SA V.1.d.i-vii.

of the Settlement Agreement, MPD is required to provide encounter data to CJI on a quarterly basis (SA IV.A.3), which include the electronic, digitized records for traffic stops, field interviews, no-action encounters, frisks, and searches. We base the findings in this report on the data MPD provides.

The first section of this report provides an overview of the population of encounters from which the sample is drawn, the sampling procedure, and an overview of the sample characteristics. Subsequent sections detail the analysis of IOARS for stops and frisks, analysis of hit rates for contraband, including by race and ethnicity, and a comparison of findings from this reporting period to findings published in previous semiannual reports.⁵

⁵ Settlement Agreement reports published by CJI can be found on our website: <https://www.cj institute.org/city-of-milwaukee-settlement-agreement/>

POPULATION AND SAMPLE CHARACTERISTICS

ENCOUNTER TYPE AND DISTRICT BREAKDOWN

Data for the second half of 2021 represent 24,662 police encounters involving 26,338 people.⁶ Officers record and document traffic stops, field interviews, no-action encounters, and frisks in two databases, depending on the nature of the encounter and the type of work assigned to officers during specific tours of duty: Traffic and Criminal Software (TraCS) and Records Management System (RMS). Most encounters in the TraCS database involve traffic stops; non-traffic pedestrian stops initiated by officers from their police vehicles are also included. The RMS database primarily holds data on pedestrian encounters categorized as field interviews or no-action encounters.

In the semiannual analysis published in October 2020, we included for the first time an additional group of data representing citations and warnings that lack corresponding contact summary forms in TraCS or any RMS forms.^{7,8} Based on our current knowledge of the data we receive, and our exploration of these data in particular, we believe that citations and warnings included in this analysis represent unique encounters not represented in other data and thus include them in the sample as well.

Table 1 shows a breakdown of encounters by type and police district. Each “encounter” represents a unique person involved in a documented police interaction where multiple people can be involved in a single event. For encounters where the district was documented, District 6 had the greatest share of all police encounters (23.9 percent). Most encounters for this reporting period came from the TraCS database (86.3 percent). The districts with the largest share of encounters documented in TraCS were District 6 (25.4 percent) and District 7 (16.5 percent). District 5 reported the most field interviews during the period, representing 32.3 percent of field interviews. No-action encounters represented only 0.3 percent of encounters with 25.6 percent occurring in District 5.

For encounters documented in the TraCS database, the district is determined by linking those data with information from the Computer Aided Dispatch (CAD) system.⁹ Encounters represented by only citations or warnings suffer from the highest degree of missing district data because of an inability to match to CAD data. For such encounters where the data do not include district information, we use latitude and longitude information present in the TraCS data files to map encounters onto MPD police districts. This

⁶ This total omits 333 CAD entries that did not have associated TraCS or RMS forms and 143 TraCS entries that did not match to CAD and lack individual level information. These may represent additional encounters.

⁷ We excluded these data from previous analyses because of concerns about oversampling the same encounters multiple times (e.g., the citation or warning may belong to a contact summary already in the sample but was not matched because an officer input the CAD number incorrectly) or oversampling an encounter type (e.g., the citation or warning may be more likely to be a part of a traffic stop rather than a field interview).

⁸ The reasons for this are unclear. Possibilities include: officers mistype CAD numbers, which therefore do not match with contact summary forms; officers issue a citation but don’t complete a contact summary; or a citation is generated separately or later than the contact summary with a related but different CAD number.

⁹ CAD data represent information drawn from the dispatch record for each encounter, including the location of the encounter, communication between officers and dispatchers, and the call type for the encounter.

compensates for the lack of district information because of unmatched CAD data and offers a more complete picture of where these encounters occurred.¹⁰

Table 1. Police encounters by type and district. July – December 2021.

	TRAFFIC STOP- TRACS	FIELD INTERVIEW- RMS	NO-ACTION ENCOUNTER- RMS	CITATION/ WARNING ONLY	TOTAL
DISTRICT 1	984 (4.3%)	91 (5.1%)	12 (15.4%)	90 (5.1%)	1,177 (4.5%)
DISTRICT 2	3,550 (15.6%)	267 (15.1%)	10 (12.8%)	360 (20.4%)	4,187 (15.9%)
DISTRICT 3	2,524 (11.1%)	279 (15.7%)	17 (21.8%)	230 (13.1%)	3,050 (11.6%)
DISTRICT 4	3,234 (14.2%)	211 (11.9%)	11 (14.1%)	226 (12.8%)	3,682 (14.0%)
DISTRICT 5	1,705 (7.5%)	573 (32.3%)	20 (25.6%)	214 (12.2%)	2,512 (9.5%)
DISTRICT 6	5,772 (25.4%)	188 (10.6%)	3 (3.8%)	321 (18.2%)	6,284 (23.9%)
DISTRICT 7	3,758 (16.5%)	164 (9.2%)	5 (6.4%)	274 (15.6%)	4,201 (16.0%)
NULL	146 (0.6%)	0 (0.0%)	0 (0.0%)	3 (0.2%)	149 (0.6%)
MISSING	1,053 (4.6%)	0 (0.0%)	0 (0.0%)	43 (2.4%)	1,096 (4.2%)
GRAND TOTAL	22,726 (86.3%)	1,773 (6.7%)	78 (0.3%)	1,761 (6.7%)	26,338 (100.0%)

Notes:

¹ The numbers in this table represent the number of encounters per person that was involved in the encounter. For example, if there were two field interviews in District 1 which involved two individuals each, the total for field interviews in District 1 would be four.

² “NULL” refers to encounters in which the data indicated “NULL” in the police district field.

³ “Missing” refers to encounters that were missing district data and were missing longitude and latitude information in the TraCS data files.

⁴ The percentages for the grand totals are the percentages for that type of encounter out of the total encounters. The percentages for the districts are the percentages for that district out of the total number of the type of encounter in the column.

Table 2 shows the breakdown of frisk types for the second half of 2021. During this period, 461 police encounters included at least one documented frisk. Of these frisks, we determined that 17 were incident to arrest, 58 were for conveyance or to seat someone in a squad car, and 383 were forcible frisks, meaning that the officer used their discretion and decided to frisk the individual for reasons other than to seat the person in a police vehicle or incident to arrest. Three encounters in the data identified a frisk in written documentation, but it was unclear whether the frisk was forcible, incident to arrest, or for conveyance.

Table 2. Frisks by type. July – December 2021.

	NUMBER OF FRISKS	PERCENT OF TOTAL FRISKS
FORCIBLE	383	83.1%
INCIDENT TO ARREST	17	3.7%
FOR CONVEYANCE	58	12.6%
UNCLEAR	3	0.7%
TOTAL	461	100.0%

¹⁰ Esri ArcGIS software was used to geocode latitude and longitude for encounters that did not match to CAD but had location information present in other files. Using this process, we were able to identify district information for 1,377 encounters from TraCS. We used the MPD police district shapefile available on the City of Milwaukee Open Data Portal to obtain police district boundaries. <https://data.milwaukee.gov/dataset/milwaukee-police-district/resource/7ce853c5-04a0-4500-8650-b7442f10198d>

Table 3 provides a breakdown of the forcible frisk by type of encounter and district. Most frisks (85.6 percent) occurred during encounters documented as field interviews. District 5 accounted for approximately one-third of the total number of frisks during this period (33.7 percent).

Table 3. Forcible frisks by encounter type and district. July – December 2021.

	TRAFFIC STOP- TRACS	FIELD RMS	INTERVIEW- ENCOUNTER-RMS	NO-ACTION ENCOUNTER-RMS	TOTAL FRISKS
DISTRICT 1	1 (1.9%)	9 (2.7%)		0 (0.0%)	10 (2.6%)
DISTRICT 2	10 (18.5%)	47 (14.3%)		0 (0.0%)	57 (14.9%)
DISTRICT 3	4 (7.4%)	38 (11.6%)		0 (0.0%)	42 (11.0%)
DISTRICT 4	14 (25.9%)	48 (14.6%)		0 (0.0%)	62 (16.2%)
DISTRICT 5	11 (20.4%)	117 (35.7%)		1 (100.0%)	129 (33.7%)
DISTRICT 6	6 (11.1%)	23 (7.0%)		0 (0.0%)	29 (7.6%)
DISTRICT 7	7 (13.0%)	46 (14.0%)		0 (0.0%)	53 (13.8%)
MISSING	1 (1.9%)	0 (0.0%)		0 (0.0%)	1 (0.3%)
GRAND TOTAL	54 (14.1%)	328 (85.6%)		1 (0.0%)	383 (100.0%)

Notes:

¹ “Missing” refers to encounters that were missing location data in the data file.

² The percentages for the grand totals are the percentages for that type of encounter out of the total encounters.

³ The percentages for the districts are the number of encounters in that district out of the total number of the type of encounter. For example, 1.9 percent of the frisks that occurred during traffic stops were conducted during encounters in District 1.

SAMPLING STRATEGY

We drew two random samples from these data to complete the required IOARS analysis. The sample size is a statistically significant representation of encounters and frisks, with a confidence level of 95 percent and a margin of error of five percent. An encounter is defined as a discretionary police stop, categorized as a traffic stop, field interview, no-action encounter. Citations or warnings that lack additional corresponding information in TraCS or RMS are also considered encounters. A frisk is an action that occurs during a police encounter and is sampled separately.

Because officers record a majority of encounters in TraCS (86.3 percent), we stratified the stop sample to oversample field interviews and no-action encounters, allowing us to gain a better understanding of field interviews and no-action encounters. The resulting sample included 379 encounters: 210 traffic stops (55.4 percent), 75 citations/warnings (19.8 percent), 75 field interviews (19.8 percent), and 19 no-action encounters (5.0 percent).

We did not stratify the frisk sample by encounter type. Frisks occur more frequently during field interviews, but the proportion of frisks documented in TraCS was substantial enough to have confidence in a non-stratified random sample. The sample we drew included 192 frisks (30 traffic stops, 161 field interviews, and one no-action encounter).

DECISION RULES

The Settlement Agreement does not specify decision rules for determining IOARS. We consulted MPD training materials, SOPs, previous research, and subject matter experts to establish decision rules to determine whether officers sufficiently documented IOARS in the encounter and frisk samples.¹¹ These decision rules are consistent with previous semiannual analyses.

Decision Rule #1: “Speed Violation” stops demonstrate IOARS.

Stops occurring because of speeding violations meet IOARS and no further documentation is necessary to justify the stop. This is because speeding represents visual and observable cues that the person has engaged in a traffic violation.

Decision Rule #2: “Vehicle Registration Violation” and “Vehicle Equipment Violation” stops demonstrate IOARS if officers document the observable registration or equipment violation that prompted the stop.

Officers must indicate in narrative fields the specific nature of the vehicle registration or equipment violation. Examples include expired registration, missing registration, improperly affixed registration, and brake light, headlight, plate, tinted window, or muffler violations. We coded encounters marked as vehicle registration or equipment violations that do not have supporting text regarding the registration or equipment violation observed prior to initiating the stop as a failure to document IOARS.

Decision Rule #3: Stops that are not speed, vehicle registration, or vehicle equipment violations are examined to judge whether IOARS was present prior to initiating the stop.

We determine IOARS to be sufficiently documented if narrative text indicates an observable and legally justified reason for the stop. Examples include stop sign violations, traffic light violations, blocking traffic, open intoxicants, and seatbelt violations. If an officer documents that loitering was the stop justification, the narrative needs to include details about the violated loitering ordinance, such as “loitering in area where ‘no loitering’ signs posted.”

Decision Rule #4: Field interviews documented in RMS must include narrative that specifies IOARS was present prior to initiating the stop.

Examples that meet the IOARS threshold include: truancy, traffic violations or rules of the road, illegal loitering as violation of ordinance, vehicle registration infractions, and matching description of a suspect. If officers specify the reason for the stop as matching description of a suspect, they must provide specific information about how the person matched the suspect description.

¹¹ For traffic stops, when officers indicate several violations as the reasons for initiating the stop, the decision rules prioritize reasons for stops and the necessary IOARS documentation needed to justify the stop. For example, if an officer indicates “speeding” and “other rules of the road” as the reason for the stop, Decision Rule #1 determines that the officer provided adequate IOARS documentation to make the stop without further explanation of the “other rules of the road” violation.

Decision Rule #5: No-action encounters must include narrative that specifies IOARS was present prior to initiating the stop.

No-action encounters are interactions in which officers briefly question a person about that person, or that person's own actions or behavior but do not obtain the subject's personal information or conduct any other police action such as a frisk. The examples listed above apply to no-action encounters as well.

Decision Rule #6: Frisks must meet the guidelines of SOP 085 and include narrative about the IOARS that the person is armed and immediately dangerous.

SOP 085 indicates that "members may not use only one of the below factors on their own to justify a frisk as more than one of these or other factors must be present":

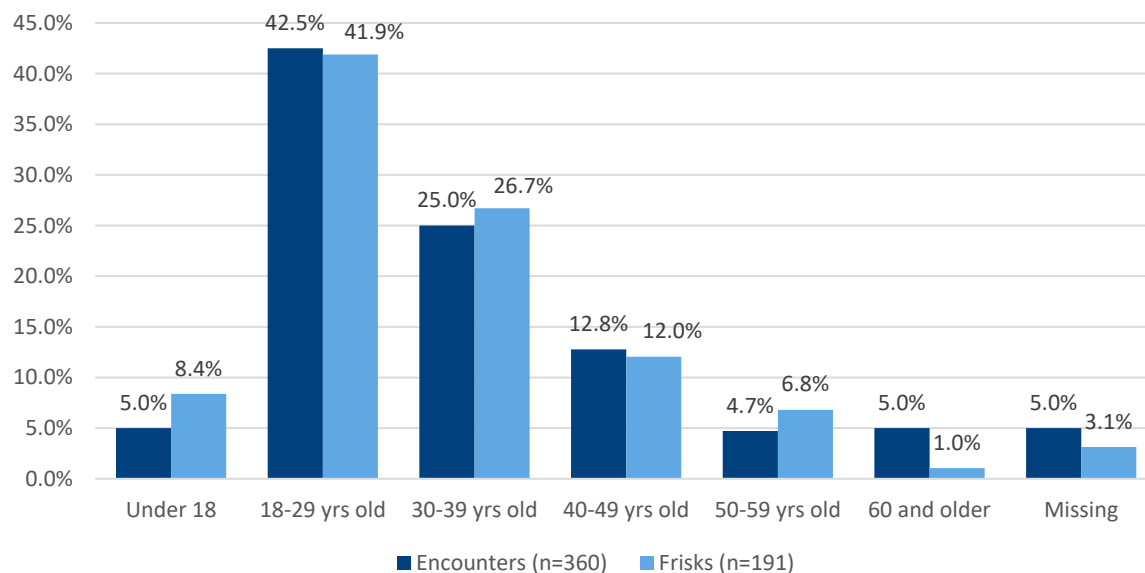
- The type of crime suspected – particularly in crimes of violence where the use or threat of deadly weapons is involved.
- Number of subjects vs. police members present.
- Police member vs. subject factors (age and gender considerations).
- Factors such as time of day, location, or neighborhood where the stop occurs.
- Prior knowledge of the subject's use of force and/or propensity to carry deadly weapons.
- The appearance and demeanor of the subject.

As articulated in SOP 085, if the following condition alone is present, the frisk is justified: "Visual indications that suggest that the subject is carrying a firearm or other deadly weapon." Boilerplate language such as "officer safety" is not considered adequate to meet the IOARS standard for this condition.

ENCOUNTER AND FRISK SAMPLE CHARACTERISTICS

Figures 1, 2, and 3 provide an overview of the characteristics of the individuals that police officers stopped from July to December 2021. Figure 1, which presents the percent of encounters and frisks by age group, shows that young adults (18–29-year-olds) represent the largest group of individuals involved in both encounters and frisks (42.5 percent and 41.9 percent, respectively). Figure 2 presents the breakdown of encounters and frisks by gender and illustrates that males represent the majority of encounters and frisks (65.4 percent and 93.2 percent, respectively). Figure 3 shows the percent of police encounters and frisks by race and ethnicity. Over half of the subjects of police encounters are Black, and Black subjects make up an even greater proportion of frisks (56.5 percent and 83.3 percent, respectively).

Figure 1. Percent of encounters and frisks by age group. July - December 2021.



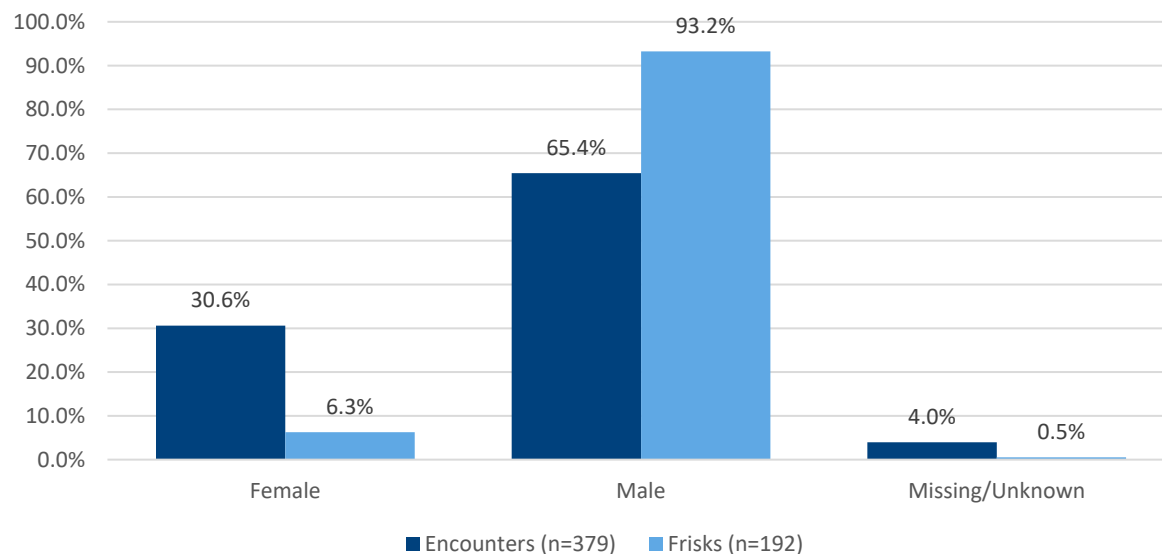
Notes:

¹Age represents the person's age at the time of the encounter, given date-of-birth information.

²Totals exclude no-action encounters (19 from the encounter sample and one from the frisk sample) because information about subject age is not documented during no-action encounters.

³"Missing" refers to encounters where numerical age could not be computed because encounter date or date of birth information were missing. For field interviews, the age_Code variable in the Inform_FieldinterviewPerson file was used when a numerical age could not be computed.

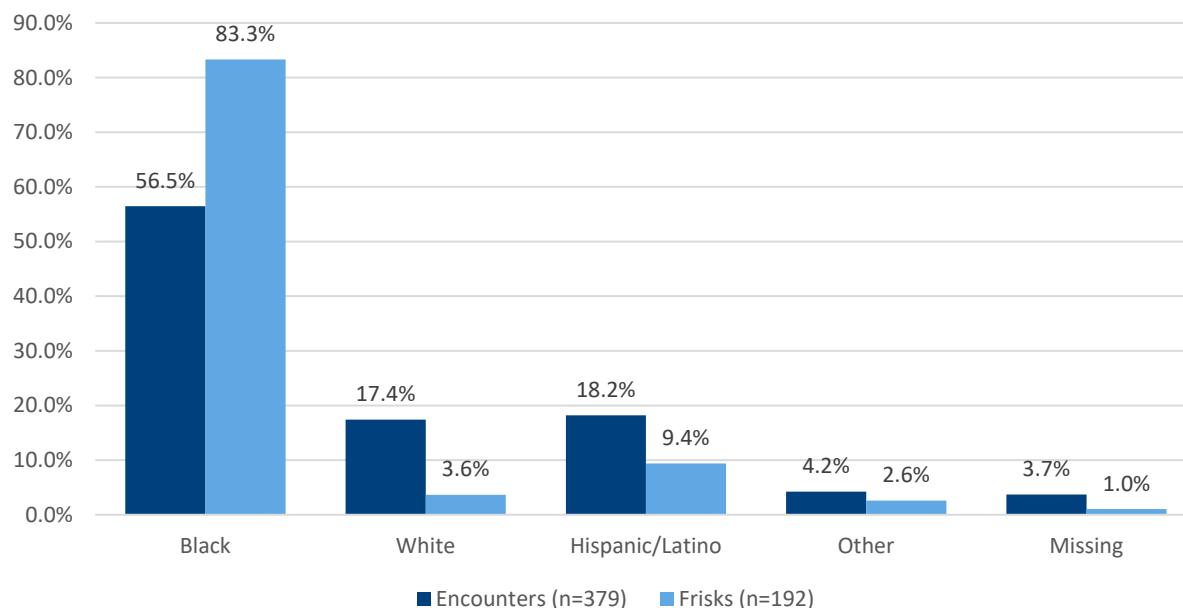
Figure 2. Percent of encounters and frisks by gender. July - December 2021.



Notes:

¹ "Missing/Unknown" refers to instances in which the gender information was either blank or officers documented it as "unknown."

Figure 3. Percent of encounters and frisks by race and ethnicity. July – December 2021.



Notes:

¹ “Other” includes subjects that are Asian or Indigenous, or documented as an unknown race or ethnicity. ² “Missing” refers to instances in which the race and ethnicity information was blank.

Table 4 provides information about the original CAD call type for the police encounter. (See Appendix A for a categorization of relevant CAD call types.) Unsurprisingly, a substantial proportion of both samples are subject or traffic stops (76.0 percent of encounters and 83.3 percent of frisks). The frisk sample had more weapon/firearm-related call designations than the encounter sample (4.7 percent and 1.1 percent, respectively). Approximately 18 percent of the encounter sample did not have a call type, primarily due to citation or warning forms without associated contact summary or RMS forms. As previously noted, most of these encounters do not match back to CAD data, from which the call type is derived.

Table 4. CAD call types by sample. July - December 2021.

	ENCOUNTER SAMPLE	FRISK SAMPLE
SAMPLE TOTAL	N = 379 (100.0%)	N = 192 (100%)
CRIME SUSPECT/SUBJECT	3 (0.8%)	2 (1.0%)
DRUG-RELATED	0 (0.0%)	0 (0.0%)
INVESTIGATION	9 (2.4%)	11 (5.7%)
OTHER REASON	5 (1.3%)	3 (1.6%)
PROPERTY CRIME-RELATED	0 (0.0%)	5 (2.6%)
SUBJECT/TRAFFIC STOP	288 (76.0%)	160 (83.3%)
VIOLENCE-RELATED	2 (0.5%)	2 (1.0%)
WEAPON/FIREARM-RELATED	4 (1.1%)	9 (4.7%)
WELFARE CHECK	0 (0.0%)	0 (0.0%)
MISSING CALL TYPE	68 (17.9%)	0 (0.0%)

Notes:

¹ Specific call types for each of these groupings can be found in Appendix A.

² Encounters with missing call types represent TraCS or RMS information that does not match to CAD data using the CAD number.

STOP SAMPLE ANALYSIS

Our first semiannual analysis, which included encounters from January to June 2019, noted that much of the failure to meet the IOARS documentation standard was due to the absence of officer-written narratives in traffic stop documentation.¹² Since that time, there has been improvement in the presence of officer-written information about the reason for stops or frisks within the documentation for traffic stops, field interviews, no-action encounters, and frisks. Generally, now the failure to meet the documentation standard is due to documentation lacking the detail necessary to justify the stop.

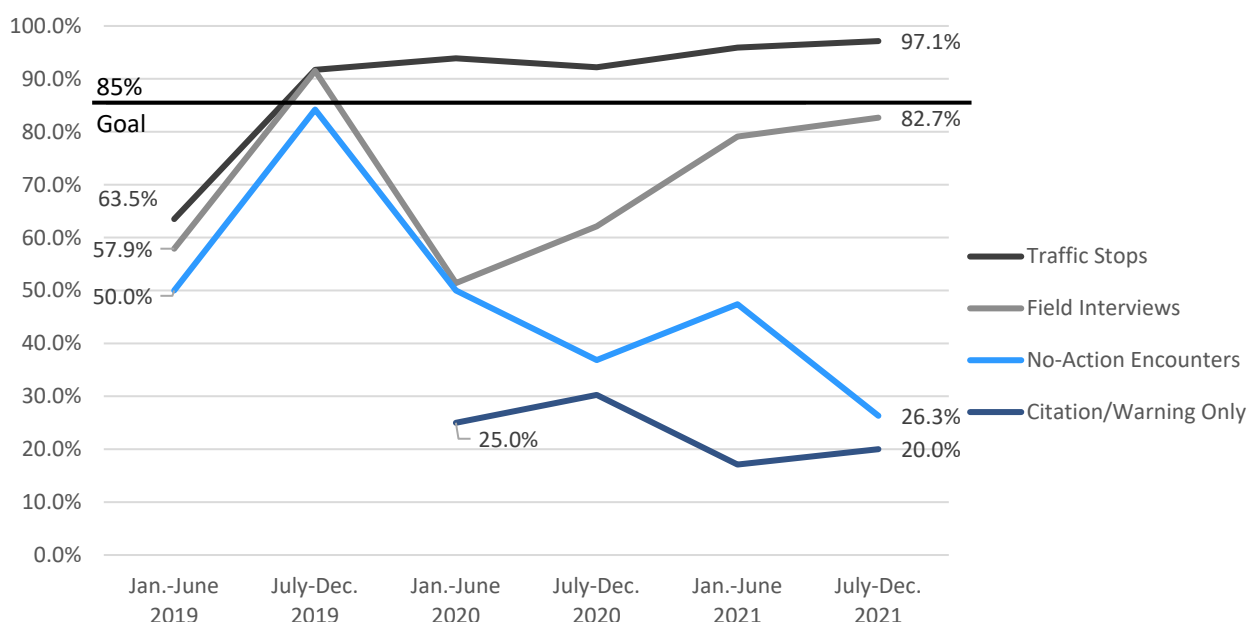
The findings for this semiannual review of IOARS documentation for traffic stops, field interviews, no-action encounters, and frisks are inherently limited to police actions that are documented in the CAD, TraCS, and RMS databases. This review includes an analysis of body-worn camera images for select calls for service based on a CAD call type that did not have corresponding documentation of a frisk but where a frisk could be expected. Review of the video is limited to determine whether there was a frisk conducted during the police stop.

IOARS FOR STOPS

Of the sampled encounters, 286 out of 379 encounters show sufficient IOARS documentation (75.5 percent). Figure 4 indicates the percent of encounters with IOARS documentation by encounter type and offers a comparison to previous reporting periods. When broken down by encounter type, only traffic stops meet the required threshold of 85 percent for the current reporting period (July to December 2021). Officers documented IOARS for 97.1 percent of traffic stops, but field interviews, no-action encounters, and citations/warnings did not meet the threshold (82.7, 26.3, and 20.0 percent, respectively). Compared to previous reporting periods, traffic stops remained at about the same level of IOARS documentation; field interviews increased adherence to the IOARS standard; and no-action encounters decreased. It should be noted that there are very few no-action encounters, so any fluctuation in the number of that encounter type without proper IOARS documentation will greatly impact the percentage. Across all encounter types, failure to document IOARS was largely due to insufficient quality or outright omission of narrative details necessary to meet the threshold for establishing IOARS.

¹² Crime and Justice Institute. (February 2020). *Semiannual Analysis of Traffic Stops, Field Interviews, No-action Encounters, and Frisks* pp. 11. <https://www.cj institute.org/city-of-milwaukee-settlement-agreement/>.

Figure 4. Percent of encounters with IOARS by encounter type and time period.



Six out of 210 encounters (2.9 percent) documented in TraCS (with a contact summary form) failed to meet the IOARS threshold. Most of these six had officer-written narratives about the stop but provided inadequate or incomplete details to support the justification for the stop when justification was needed (e.g., something other than speeding). While officers may have documented that there was a defect with a vehicle or equipment malfunction, they omitted specific detailed information about the nature and extent of the defect. For example, an officer may write “I observed the vehicle operating with no lights on,” but does not indicate which lights (e.g., headlamps, taillights) were expected to be illuminated.

Thirteen out of 75 field interviews documented in RMS failed to provide sufficient documentation for IOARS (17.3 percent). Similar to traffic stops, officers included narratives that did not provide the specific, observable facts the officer used to establish IOARS prior to initiating the stop. For example, an officer might articulate that an individual was a robbery suspect, without providing information on how they knew the person was related to the crime they were investigating.

No-action encounters were the least frequently reported type of encounter. Fourteen of the 19 encounters in the sample failed to include sufficient IOARS for the stop (73.7 percent). Eleven of the 14 no-action encounters failed to establish IOARS because officers did not provide a written narrative for why they initiated the stop. For the other three encounters without sufficient IOARS, officers did not adequately detail in their narrative or provided no information regarding the legally-justified observable facts that led them to initiate the encounter. For example, an officer indicates that the subject matches a suspect description but does not provide details about the clothing or other aspects of physical appearance that match the description received.

Eighty percent of encounters where a citation or warning was documented without a corresponding contact summary in TraCS or field interview information in RMS failed to meet the IOARS standard (60 out of 75 encounters). Most of the encounters in this group that did not meet the standard for IOARS

documentation were missing a narrative about the reason for initiating the stop or the narrative did not articulate the precedent for initiating the stop.

Table 5 displays the stops in the stop sample by district with the percent of stops in that district that met the IOARS documentation standard. Encounters occurring in each district with documented IOARS ranged from 61.7 percent (District 3) to 81.1 percent (District 7).

Table 5. Stops by IOARS justification and district. July - December 2021.

	NUMBER OF STOPS	PERCENT OF STOPS WITH DOCUMENTED IOARS
DISTRICT 1	21	66.7%
DISTRICT 2	70	75.7%
DISTRICT 3	47	61.7%
DISTRICT 4	57	73.7%
DISTRICT 5	40	72.5%
DISTRICT 6	79	81.0%
DISTRICT 7	53	81.1%
"NULL" DISTRICT	2	100.0%
MISSING DISTRICT	10	100.0%
GRAND TOTAL	379	75.5%

Notes:

¹ "NULL" refers to encounters in which the data indicated "NULL" in the police district field.

² "Missing District" refers to encounters that were missing district data and were missing longitude and latitude information in the TraCS data files.

DOCUMENTATION OF FRISKS

The Settlement Agreement stipulates an investigation of the consistency and reliability of frisk documentation by requiring analysis of "cases in which an officer marks 'no frisk' and 'no search' in cases in which a frisk or search was highly likely to have occurred (e.g., stop for a robbery investigation)" (SA V.A.3.e). Based on established knowledge of police encounter protocols and in consultation with policing experts, we created a list of CAD call types likely to involve a frisk. Appendix B includes a list of the 22 CAD call types designated as cases in which an officer is likely to conduct a frisk. Call types flagged for this purpose generally involve firearms or other weapons, including: subject with a gun, shots fired, armed robbery, or domestic violence battery. When we find encounters in the stop sample that fit the criteria, but otherwise are not reported as including a frisk, we request video footage from MPD to determine if a frisk occurred but was not documented. As our analysis is focused on one random person in multi-person encounters, we review documentation and video footage for all individuals involved in the encounter to determine whether each individual has proper documentation based on what is found in the video review. This request is based on the guidelines of the Settlement Agreement (SA III.A.7.).

As context for this reporting period, we review the findings from prior reporting periods. CJI has requested and received videos for stops likely to involve a frisk for every 6-month reporting period and have found at least one undocumented frisk in each review. Table 6 provides summary details for the number of

encounters for which we requested videos and the number of encounters for which we observed undocumented frisks during video review.

Table 6. Frisk documentation by time period.

	VIDEOS REQUESTED	UNDOCUMENTED FRISKS
JANUARY TO JUNE 2019	10	1
JULY TO DECEMBER 2019	11	5
JANUARY TO JUNE 2020	6	1
JULY TO DECEMBER 2020	10	4
JANUARY TO JUNE 2021	9	2
JULY TO DECEMBER 2021	4	2

Notes:

¹ Further detail regarding the analysis for each reporting period are available in the associated semiannual reports that can be found on the FPC website (<https://city.milwaukee.gov/fpc/Reports/Crime-and-Justice-Institute-Reports.htm>) or CJI's website (<https://www.cjinstitute.org/city-of-milwaukee-settlement-agreement/>).

For the current reporting period, July to December 2021, we requested and received video footage for four encounters where we determined a frisk was likely but was not documented. All four encounters were considered field interviews. In the footage for those four encounters, we observed two undocumented frisks.

FRISK SAMPLE ANALYSIS

The first semiannual analysis involved encounters occurring from January through June 2019, a period when the Department was in the process of conducting training for all officers on constitutional policing practices and other Settlement Agreement requirements. That first analysis provided a baseline for the extent to which officers document IOARS to justify frisks during police encounters. By the second analysis, all officers had been trained on constitutional policing practices and other Settlement Agreement requirements, and by this sixth analysis, the Department has completed three training cycles on these topics.

IOARS FOR STOPS AND FRISKS

For encounters that involve frisks, two levels of IOARS documentation are needed: 1) IOARS that the person has/is/will engage in a crime for officers to justify the stop, and 2) IOARS that the person is armed and dangerous for officers to justify the frisk. The Settlement Agreement (SA V.1.d.vii.) calls for “analysis of TraCS and RMS data on frisks [that] demonstrates that fewer than 15 percent of frisk records documented during the previous six (6) months fail to show that the frisks were supported by individualized, objective, and articulable reasonable suspicion that the stop subject was armed and dangerous.”

Table 7 presents a breakdown of the frisks in the frisk sample by district along with the percent of frisks in that district that are supported by documented IOARS for conducting the frisk. The districts vary widely in the number of frisks conducted and in the percentage of frisks that meet the IOARS standard. The fewest number of frisks occurred in Districts 1 and 6 (9 and 17 frisks, respectively) and Districts 4 and 5 reported the highest number of frisks (31 and 59 frisks, respectively). District 6 was least likely to meet the IOARS documentation standard to justify frisks (29.4 percent) and District 4 was most likely to meet the IOARS standard (54.8 percent). None of the districts met the threshold of 85 percent of frisks achieving the IOARS standard.

The primary reason for our determination of insufficient IOARS justification is the lack of specific information about why the officer(s) suspected the subject was armed and why they suspected the person was immediately dangerous. This includes officers using boilerplate language (e.g., “bulge” or “matched description”) that is not detailed enough to establish IOARS that the person is armed, dangerous, and a potential suspect with a weapon.

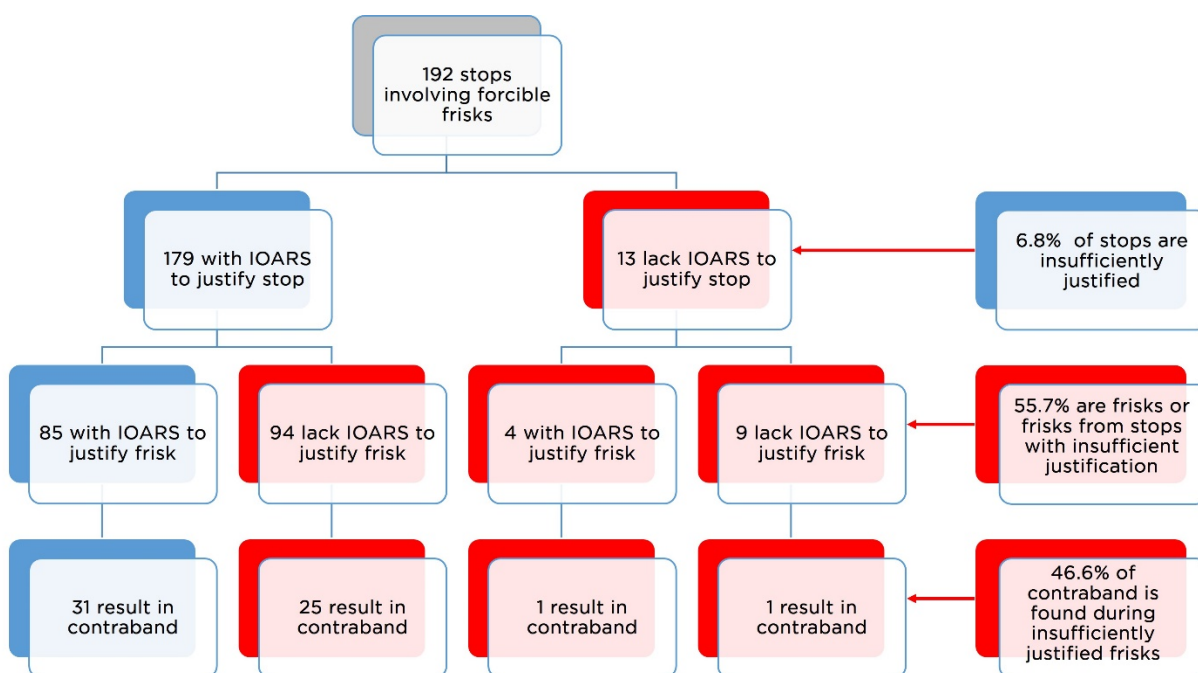
Another pattern that continues to be present in the articulation of IOARS for frisks is placing the individual(s) involved in a stop in the back seat of a squad car. While this is a valid reason to conduct a pat down, in many cases officers did not articulate why a back seat detention was necessary during the encounter and may be using it as a reason to conduct a frisk when they do not otherwise have IOARS to justify it.

Table 7. Stops involving forcible frisks by IOARS justification and district. July - December 2021.

	NUMBER OF STOPS INVOLVING FORCIBLE FRISKS	PERCENT OF FRISKS WITH DOCUMENTED IOARS
DISTRICT 1	9	33.3%
DISTRICT 2	24	37.5%
DISTRICT 3	25	36.0%
DISTRICT 4	31	54.8%
DISTRICT 5	59	54.2%
DISTRICT 6	17	29.4%
DISTRICT 7	26	53.8%
MISSING	1	0.0%
GRAND TOTAL	192	46.4%

Figure 5 presents a breakdown of the frisk sample, including whether officers documented IOARS for the stop or for the frisk, and whether officers found contraband. After assessing the documentation officers provided for each encounter in the sample, 13 of the 192 stops (6.8 percent) did not meet the IOARS documentation needed to justify the stop. An examination of IOARS for frisks determined that officers did not document the IOARS necessary to justify the frisk 53.6 percent of the time (94 frisks among the 179 encounters that had IOARS for the stop and nine frisks among the 13 encounters that did not have IOARS for the stop).

Figure 5. Stops involving forcible frisks by IOARS justification and contraband seizure. July - December 2021.



Note: Blue boxes represent sufficient justification and within acceptable thresholds. Red boxes represent insufficient justification and not within acceptable thresholds.

OUTCOMES OF INSUFFICIENTLY JUSTIFIED STOPS¹³

The presence or lack of IOARS documentation in a given encounter can influence criminal procedure in a court of law, especially if officers find contraband during that encounter. IOARS documentation also becomes important during investigations of complaints against officers. Proper documentation of the justification for stops and frisks, or lack thereof, influences the credibility of officers in the eyes of the community and can contribute to an erosion of trust and legitimacy. This section of the report examines outcomes of stops and frisks that lack proper documentation of IOARS and are therefore insufficiently justified stops and frisks.

We explore outcomes in a few ways. The first considers the frisk as an outcome of a stop without IOARS documentation, acknowledging that frisks are an intrusive police action potentially or possibly infringing on the constitutional rights of members of the public. We reviewed the stop sample (N=379) for documented frisks to assess whether any documented frisks occur during stops that were found to have insufficient IOARS documentation. In the stop sample analysis of 379 randomly selected encounters, 12 forcible frisks occurred during the encounter (3.2 percent). One of the 12 frisks occurred during an insufficiently justified stop.¹⁴ The lack of IOARS documentation to justify the stop in the data we reviewed could create vulnerabilities in criminal procedure and/or complaints regarding officer misconduct.

The second outcome of insufficiently justified stops and frisks involves seizure of contraband. We reviewed the frisk sample (N=192) for documentation of seized contraband to assess the degree to which contraband seizure resulted from stops or frisks that have insufficient IOARS documentation. In the sample of 192 stops where a forcible frisk occurred, 58 resulted in finding contraband—a “hit rate” of 30.2 percent. In the instances where officers found contraband, 46.6 percent lacked proper IOARS documentation for the frisk or the stop (see Figure 5). When considering only stops and frisks with appropriate justifications, the contraband hit rate decreases from 30.2 to 16.1 percent.

Table 8 details the type of contraband obtained during frisks where officers found contraband, broken down by whether the stop and/or frisk was sufficiently justified by IOARS. The contraband obtained during the stops fall into only a few categories, mainly weapons and drugs, with an “other” category that includes items such as stolen property. Overall, weapons were the most common type of contraband found during frisks. Drugs was the second most common, with “other” the least common.

¹³ Section V.A.3.c of the Settlement Agreement calls for an analysis of “fruit of the illegal stop” where a frisk, though proper given the officer’s observations, was made pursuant to a traffic stop or field interview conducted without IOARS. Based on this language, the “fruit” is the frisk. However, conventionally in this type of analysis “fruit of an illegal stop” considers contraband and/or weapons as the “fruit.” We provide a discussion of both interpretations for this report.

¹⁴ Eight of the 12 frisks in the stop sample had insufficient IOARS documentation to justify the frisk.

Table 8. Type of contraband found by IOARS determination. July - December 2021.

	WEAPON(S)	DRUGS	OTHER	TOTAL
ALL FRISKS WITH CONTRABAND IN SAMPLE	32	18	8	58
STOP AND FRISK WITH IOARS	22	6	3	31
STOPS WITHOUT IOARS & FRISKS WITH IOARS	0	0	1	1
STOPS WITH IOARS & FRISKS WITHOUT IOARS	10	12	3	25
STOPS AND FRISKS WITHOUT IOARS	0	0	1	1

HIT RATES

As stated previously, in the sample of 192 stops where a forcible frisk occurred, 58 resulted in finding contraband—a “hit rate” of 30.2 percent. Table 9 provides an overview of hit rates by type of stop indicated by the originating CAD call type. Frisks that occur during the most common call types in the sample, subject and traffic stops, had a contraband hit rate of 29.4 percent.

Table 9. Contraband hit rates by CAD call type. July - December 2021.

	NUMBER OF FRISKS	CONTRABAND HIT RATE
SAMPLE TOTAL	192	30.2%
SUBJECT/TRAFFIC STOP	160	29.4%
INVESTIGATION	11	36.4%
WEAPON/FIREARM-RELATED	9	44.4%
PROPERTY CRIME-RELATED	5	0.0%
OTHER REASON	3	66.7%
CRIME SUSPECT/SUBJECT	2	0.0%
VIOLENCE-RELATED	2	50.0%

Notes:

¹ Percentages represent the proportion of all frisks within each CAD call type that result in obtaining contraband, regardless of whether the IOARS documentation standard was met.

Section V.A.3.d of the Settlement Agreement calls for hit rate analysis disaggregated by race and ethnicity. As we discuss in previous reports, research from jurisdictions across the country indicates that the threshold of suspicion used by officers to initiate a stop or frisk varies by race, and hit rates are often lower for non-white individuals.¹⁵ This may be an important indicator, but not definitive proof of racial or ethnic bias in policing.

In this sample, 30 of the frisks represent encounters documented in the TraCS database. When recording race and ethnicity in TraCS, officers must choose from a dropdown menu giving the options “Asian,” “Black,” “Hispanic,” “Indian,” “White,” and “Native Hawaiian/Pacific Islander.” The remaining frisks are documented in RMS as Field Interviews and a no action encounter (161 field interviews and one no action encounter). The RMS database includes a field for race (“American Indian or Alaskan Native,” “Asian,” “Black/African American,” “Unknown,” or “White”) and a field for ethnicity (“Hispanic/Latino,” “Not

¹⁵ Crime and Justice Institute. (February 2020). *Semiannual Analysis of Traffic Stops, Field Interviews, No-action Encounters, and Frisks* pp. 16-17 <https://www.cj institute.org/city-of-milwaukee-settlement-agreement/>.

Hispanic/Latino,” and “Unknown”). To analyze the hit rate by race or ethnicity for all frisks, we recoded race and ethnicity for stops documented in RMS into White (Not Hispanic/Latino), Black (Not Hispanic/Latino), Hispanic/Latino, and Other.

Table 10 details the hit rates for all frisks, disaggregated by race, ethnicity, and type of contraband. The contraband hit rate for frisks with Black subjects is the only race or ethnic category that has enough frisk encounters to have confidence in whether the hit rate reflects a pattern. There were 160 frisks of Black subjects in the sample during this period (83.3 percent of frisks in the sample), with a contraband hit rate of 30.6 percent. It is useful to look at hit rates for weapon contraband as the constitutional standard for conducting a frisk is because the officer believes the person is armed and dangerous. Table 10 indicates hit rates are higher for weapons than for drugs or other contraband, with 16.7 percent of all frisks resulting in weapons contraband.

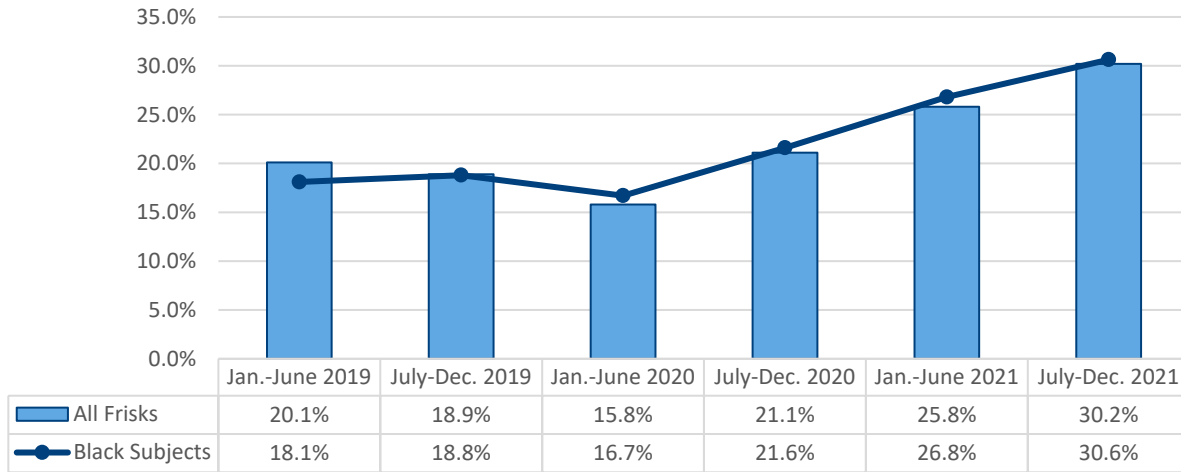
Table 10. Hit rate by type of contraband and race or ethnicity. July - December 2021.

	FRISKS	CONTRABAND HIT RATE			
		TOTAL	WEAPONS	DRUGS	OTHER
ALL FRISKS	192	30.2%	16.7%	9.4%	4.2%
BLACK	160	30.6%	16.9%	9.4%	4.4%
HISPANIC/LATINO	18	38.9%	22.2%	16.7%	0.0%
WHITE	7	0.0%	0.0%	0.0%	0.0%
ASIAN	5	20.0%	20.0%	0.0%	0.0%
UNKNOWN	2	50.0%	0.0%	0.0%	50.0%

Figure 6 presents an overview of the contraband hit rate for all frisk subjects and Black frisk subjects, specifically, over the six reporting periods for which we have conducted this analysis.¹⁶ In all analyses, Black subjects represent most individuals involved in frisks and therefore had the most reliable hit rates over time to identify a trend. The contraband hit rate for Black individuals that are frisked during a police encounter increased from 18.1 percent during the first half of 2019 to 30.6 percent during the second half of 2021. While it is inappropriate to draw strong conclusions from these data without further statistical controls, it is encouraging to see that frisks are becoming more fruitful, as higher hit rates may indicate higher thresholds by which officers decide to conduct frisks. However, we find that over half of frisks lack documentation that meets the IOARS standard to justify the frisk, indicating the Department must continue to work towards compliance with conducting frisks that conform with constitutional policing standards.

¹⁶ Semiannual reports for each reporting period can be found on the FPC website (<https://city.milwaukee.gov/fpc/Reports/Crime-and-Justice-Institute-Reports.htm>) or CJI’s website (<https://www.cjinstitute.org/city-of-milwaukee-settlement-agreement/>).

Figure 6. Contraband hit rates for Black frisk subjects. 2019 –2021.



Notes:

¹ For the January to June 2019 reporting period, there were 199 frisks in the sample involving 160 Black subjects.

² For the July to December 2019 reporting period, there were 260 frisks in the sample involving 208 Black subjects.

³ For the January to June 2020 reporting period, there were 266 frisks in the sample involving 222 Black subjects.

⁴ For the July to December 2020 reporting period, there were 242 frisks in the sample involving 208 Black subjects.

⁵ For the January to June 2021 reporting period, there were 213 frisks in the sample involving 164 Black subjects.

PROGRESS BENCHMARKS

The purpose of the semiannual analysis of IOARS is to determine, in part, whether MPD is meeting the thresholds for justification of traffic stops, field interviews, no-action encounters, and frisks as stipulated in the Settlement Agreement.

Table 11 lists the proportions of each sample of stops and frisks that fail to show that the encounters meet the IOARS standard. The highlighted cells represent where MPD has met the threshold. For the second half of 2021, the IOARS threshold of fewer than 15 percent was only met for traffic stops and not for field interviews, no-action encounters, nor frisks.

MPD must make progress toward meeting the 15 percent threshold for sufficient IOARS documentation for frisks. The frisk samples for all reporting periods in 2019 and 2020 indicated that the vast majority of frisk encounters are not sufficiently justified with officer-written narratives describing IOARS that the subject was armed and dangerous. MPD has made progress in 2021 to meet the IOARS standard for frisks but still lacks sufficient justification for frisks in approximately half of the sampled frisk incidents.

Table 11. Comparison of IOARS documentation to Settlement Agreement thresholds by time period.

SA Paragraph	SA Language	Percentage of Encounters Without IOARS					
		Jan.-June 2019	July-Dec. 2019	Jan.-June 2020	July-Dec. 2020	Jan.-June 2021	July-Dec. 2021
V.1.d.iv	Fewer than 15% of traffic stop records fail to show that the stops were supported by IOARS (TraCS)	36.5%	8.3%	6.1%	7.8%	4.1%	2.9%
V.1.d.v	Fewer than 15% of field interview records fail to show that the field interviews were supported by IOARS (RMS)	42.1%	8.5%	48.6%	37.9%	20.9%	17.3%
V.1.d.vi	Fewer than 15% of no-action encounters fail to show that they were supported by IOARS (RMS)	50.0%	15.8%	50.0%	63.2%	52.6%	73.7%
V.1.d.vii	Fewer than 15% of frisk records fail to show that the frisks were supported by IOARS (TraCS and RMS)	79.4%	80.8%	91.4%	86.8%	48.8%	53.6%

Note:

Encounters with only citations or warnings that lack corresponding contact summaries in TraCS and/or RMS forms are not represented in this table. It is unclear from available data whether these encounters are traffic stops or field interviews and as such are excluded from the percentages.

SUMMARY OF FINDINGS

This report offers an assessment of the Milwaukee Police Department's progress in implementing changes to police procedures in accordance with the requirements of the Settlement Agreement of *Charles Collins, et al. v. City of Milwaukee, et al.* The encounters detailed in this report occurred during the second half of 2021. The following summarizes the major findings based on our review of these data.

The Department has remained steady in meeting the requirement that fewer than 15 percent of traffic stops fail to show individualized, objective, and articulable reasonable suspicion. Analysis of traffic stops for this report finds that 2.9 percent of traffic stops fail to show sufficient IOARS documentation.

The Department has shown continued progress in meeting the requirement that fewer than 15 percent of field interviews fail to show individualized, objective, and articulable reasonable suspicion. Analysis of field interviews for this report finds that 17.3 percent of field interviews fail to show appropriate IOARS documentation, continuing a downward trend since the beginning of 2020.

The Department continues to fall short of the requirement that fewer than 15 percent of no-action encounters fail to show individualized, objective, and articulable reasonable suspicion to support the stop. Analysis of no-action encounters for this report finds that 73.7 percent fail to provide proper IOARS documentation, driven largely by missing officer narratives for the reason for the stop.

The Department has shown progress since 2019 but continues to fall far short of meeting the requirement that fewer than 15 percent of frisks fail to show individualized, objective, and articulable reasonable suspicion that the subject is armed and dangerous. Our analysis of officer-written narratives indicates that 53.6 percent of frisks are insufficiently justified, a change in the wrong direction from 48.8 percent in the previous reporting period. Prior to 2021, the Department failed to meet the IOARS standard for the majority of frisks, indicating progress towards compliance in 2021 but still far short of the required benchmark.

Just over half of the contraband seized during frisk encounters is obtained during frisks that were sufficiently justified. Similar to our previous analysis, which indicated that 38.2 percent of contraband was obtained when either the encounter or the frisk were insufficiently justified, this reporting period indicates that 46.6 percent of contraband was obtained when either the encounter or the frisk were insufficiently justified.

The contraband hit rate has increased over time. Contraband hit rates have gradually increased since 2019. While many factors contribute to the potential for contraband to be found during a frisk, including increased likelihood that individuals may have such contraband, increasing hit rates may also indicate officers are making more discerning decisions about when to frisk individuals during a police encounter.

CONTRIBUTORS

Joanna Abaroa-Ellison conducts data analysis and provides policy and project support for the Milwaukee Settlement Agreement work. She has policy and data experience in various parts of the criminal justice system, including policing, courts, and corrections. Prior to her work with CJI, Ms. Abaroa-Ellison served as the Data Integration Specialist and Research Analyst at the Middlesex Sheriff's Office (MA). There, she was able to extract, analyze, and visualize data as well as build capacity for implementing data-driven practices and policies. She holds a Master's of Social Work in Macro Practice from Boston College and a BA in Criminology from the University of Pennsylvania.

Katie Zafft coordinates CJI's data analysis efforts for the Milwaukee Settlement Agreement work. She has over 10 years of experience working on justice system policy evaluation and implementation of reform efforts at the local, state, and federal level. Katie primarily manages CJI's policing and reentry-focused efforts to advance positive changes in support of fair and equitable practices that directly impact the safety of all communities. Prior to coming to CJI, Katie's work for The Pew Charitable Trusts' public safety performance project involved evaluating state criminal justice policy reforms to inform the national conversation about sentencing, corrections, and enhancing public safety. Katie is committed to advancing better justice systems by developing strong foundations for data-driven decision-making because it leads to better policing and more equitable practices. She holds a Ph.D. in Criminology and Criminal Justice from the University of Maryland, a Master's Degree in Criminology from the University of Minnesota-Duluth, and a Bachelor of Arts in Psychology from St. Catherine's University in St. Paul, Minnesota.

Theron Bowman is a policing professional contracted by CJI for his subject matter expertise in policing and compliance with court-ordered reforms. He is a police and city management professional and consultant with more than 30 years of experience leading and managing some of the most complex and sophisticated police and public safety operations in the world. In addition to 30 years with the Arlington TX Police Department, Dr. Bowman's consulting experience includes serving as a Federal court-appointed monitor; police practices expert and investigator on use of force, internal affairs, misconduct complaints, community policing, bias-free policing, stops, searches and arrests; and recruitment for the U.S. Department of Justice in several jurisdictions. He earned a Ph.D. in urban and public administration from the University of Texas at Arlington and has more than 25 years' experience teaching college and university courses. His experience also includes international policing, community affairs, workforce diversification, public finance, construction oversight, policing strategies, technology, and inspections and accreditations. He has written extensively on policing topics for industry publications and is a graduate of the FBI National Executive Institute and the FBI National Academy.

APPENDIX A: CATEGORIZATION OF RELEVANT CAD CALL TYPES

Call Category	CAD Call Type
Crime Suspect/Subject	Foot Pursuit
	Subj Wanted
	Trb w/ Juv
	Trb w/ Subj
	Vehicle Pursuit
Drug-Related	Drug Dealing
Welfare Check	Welfare Citizen
	Injured Person/Sick
	Missing Report Critical
	Mental Observation
Investigation	Additional Info
	Investigation
Other Reason	911 Abuse/911 Abuse Confirmed
	Accident Property Damage Only
	Accident Unknown Injury
	Assignment
	Business Check
	Call for Police
	Citizen Contact
	Contribute to Delinquency of Minor
	Documented Call
	Esp Target Escort
	Fire
	Follow Up
	Gambling
	Hostage Situation
	Indecent Exposure
	Non Pursuit
	Noise Nuisance
	Out
	Parking Trouble
	Patrol
	Reckless Vehicle
	Special Assignment
	Susp Pers/Auto
	Traffic Hazard
	Truant
	Vacant House Check
	Violation of Restraining Order

Call Category	CAD Call Type
Property Crime-Related	Entry
	Entry to Auto
	Holdup Alarm
	Property Damage
	Shoplifter
	Stolen/Abandoned Property
	Stolen Vehicle
	Theft
	Theft from Person
	Theft from Vehicle
Subject/Traffic Stop	DUI
	Subj Stop
	Traffic Stop
	Non Pursuit No Plate
Violence-Related	Battery
	Battery Domestic Violence
	Bomb Threat
	Fight
	Robbery
	Threat
Weapon/Firearm-Related	Armed Robbery
	Reckless Use of a Weapon
	Shooting
	Shots Fired
	ShotSpotter
	Subj With Gun
	Subj With Weapon

APPENDIX B: CAD CALL TYPES LIKELY TO INVOLVE FRISK

Call Type Code	Call Type Description
AS	ACTIVE SHOOTER/ATTACK
1344	BATTERY CUTTING
1344D	BATTERY CUTTING - DV
1345	BATTERY DV
1523	BB GUN COMPLAINT
1810	DRUG DEALING
1952	EXPLOSIVES
1613	FIGHT
FP	FOOT PURSUIT
1820	HOSTAGE SITUATION
1349	OFFICER SHOT
1733	PRISONER TRANS
1351	RECK USE OF WEAP
1352	ROBBERY ARM
SW	SEARCH WARRANT
1356	SHOOTING
1357	SHOTS FIRED
1358	SHOTSPOTTER
1632	SUBJ WITH GUN
1634	SUBJ WITH WEAPON
1847	SUICIDE ATTEMPT
WS	WARRANT SERVICE