GOVERNMENT OF THE DISTRICT OF COLUMBIA OFFICE OF POLICE COMPLAINTS

Office of Police Complaints
Marke D. Cross, Executive Director

POLICE COMPLAINTS BOARD
Paul Ashton, Chair
Bobbi Strang
Jeffrey Tignor
Earl Fowlkes, Jr.

PCB POLICY REPORT #26-1:
Prolonged Traffic Stops

Summary:

An important part of police work is initiating stops, particularly traffic stops. In fact, traffic stops are the most common police-initiated interactions with members of the public.[1] Traffic stops are a brief seizure of one's person and property, so it is important for officers to keep in mind that these stops are governed by the Fourth Amendment of the United States Constitution, which provides freedom from unreasonable searches and seizures. The Fourth Amendment's reasonableness standard applies both to the purpose of initiating the stop and the decision to extend a stop that is already in progress beyond the time it takes to resolve the initial purpose. The Office of Police Complaints (OPC) has received numerous complaints over the past several years involving Metropolitan Police Department (MPD) officers who have extended traffic stops beyond their original purpose to wait for drug- or gun-sniffing K-9 units without reasonable suspicion to do so. These unreasonable extensions of traffic stops violate the Fourth Amendment, decrease trust between MPD officers and the public, and expose officers and the District to potential civil liability.[2] [3]

Applicable Directive or Law:

In 2015, the Supreme Court ruled in *Rodriguez v. United States* that the prolongation of a traffic stop in order to conduct a dog sniff is, absent independent reasonable suspicion for the sniff, a violation of the Fourth Amendment of the Constitution.[4] That case began when a police officer pulled over Dennys Rodriguez after his vehicle veered onto the shoulder of a Nebraska highway.[5] After the officer issued Rodriguez a written warning, he asked for consent to walk a

---

[1] Susannah N. Tapp & Elizabeth Davis, Bureau of Justice Statistics, U.S. Dep't of Justice, NCJ 304527, Contacts Between Police and the Public, 2020 (2022), available at https://bjs.ojp.gov/media/document/cbpp20.pdf.

[2] The Police Complaints Board (PCB) is issuing this report pursuant to D.C. Code § 5-1104(d), which authorizes the Board to recommend to the District of Columbia Mayor, Council, MPD Police Chief, and the Director of District of Columbia Housing Authority reforms that have the potential to improve the complaint process or reduce the incidence of police misconduct.

[3] The PCB would like to recognize and thank legal intern Annette Hasnas for her contributions to this policy recommendation.

[4] *Rodriguez v. United States*, 575 U.S. 348 (2015).

[5] *Id*. at 351.

drug detection dog around the car.[6] Though Rodriguez did not consent, the officer refused to let Rodriguez leave for the seven or eight minutes it took for the dog to arrive, walk around the car, and alert to the presence of drugs.[7] At trial, Rodriguez asked the court to exclude the methamphetamine eventually found in his car, on the basis that the traffic stop's extension violated his Fourth Amendment rights.[8] When the case reached the Supreme Court, the Court ruled in favor of Rodriguez. The Court reasoned that as traffic stops are "especially fraught with danger to police officers," an officer may need to take extraordinary precautions in order to complete his or her objective safely. However, an on-scene investigation into other crimes deviates from that objective. Actions taken to ensure officer safety are different from the Government's endeavor to detect crime in general or drug trafficking in particular.[9] Since the Court's decision in this case, the law has been clear: it is a violation of the Fourth Amendment for an officer to extend a traffic stop without additional reasonable suspicion to do so.[10]

Reasonable suspicion, as defined in *Terry v. Ohio*, exists when an officer has "specific and articulable facts" that provide an objective basis for suspecting legal wrongdoing.[11] This suspicion must be more than an "inchoate and unparticularized suspicion or 'hunch.'"[12] Thus, an officer who wishes to prolong a traffic stop in order to use a drug- or gun-sniffing dog on the stopped vehicle must have more than a general feeling that the driver may have drugs or guns in their car. This does not mean that prolonging a traffic stop for that purpose is per se unreasonable. For example, if an officer smells drugs or perceives the driver to be under the influence while conducting the stop, the officer can prolong the stop to investigate these crimes, but the officer would need to justify such a prolongation with reasonable and articulable facts in order to comply with the Fourth Amendment. In other words, reasonable suspicion of additional crimes beyond the original purpose of the stop can be developed during the course of a traffic stop.

It should be noted, however, that as cases such as *United States v. Place* and *Illinois v. Caballes* make clear, the use of a drug- or gun-sniffing dog during a traffic stop on its own is not a search and therefore requires neither probable cause nor reasonable suspicion.[13] Thus, in *Rodriguez,* the sniff itself did not constitute a violation of Rodriguez's rights, and officers are constitutionally permitted to use drug- or gun-sniffing dogs for any reason, provided such use does not unreasonably extend a traffic stop once the original purpose has been resolved. As soon as the stop's length is unreasonably extended, however, the Constitution is implicated.

Further, the relative brevity of a stop's prolongation does not relieve an officer of the burden of the constitutional standard laid out in *Rodriguez*. As the facts in that case make clear,

---

[6] *Id*. at 352.
[7] *Id*.
[8] *Id*.
[9] *Id*. at 357.
[10] *Id*. at 352.
[11] *Terry v. Ohio*, 392 U.S. 1, 21 (1968).
[12] *Id*. at 27.
[13] *United States v. Place*, 462 U.S. 696 (1983); *Illinois v. Caballes,* 543 U.S. 405 (2005).

even a short extension, absent reasonable suspicion to justify it, is a constitutional violation. Rodriguez himself was detained for less than 10 minutes;[14] yet, the Supreme Court concluded that the officers violated his rights. In fact, the majority opinion *specifically rejected* the lower court's conclusion that the detention had been permissible because its short duration made it only a *de minimis* intrusion.[15] Thus, the Supreme Court made it clear that reasonable suspicion is required to extend a traffic stop for *any* length of time.

MPD's written directives offer little guidance on the subject of extensions of traffic stops. The most relevant direction is contained in MPD's General Order 304.10, Field Contacts, Stops, and Protective Pat Downs, which instructs officers to "stop an individual for only the length of time required to obtain the information necessary for the investigation."[16] General Order 303.01, Traffic Enforcement, does not address the extension of stops at all.[17] Neither these general orders, nor any others, delve into the extension of stops or the level of suspicion necessary to extend stops. Similarly, no reference is made to the extension of stops in General Order 306.01, Canine Program, despite explaining other procedures and requirements for requests for K-9 assistance.[18]

OPC Case Examples:

Over the past several years, OPC has received a number of complaints alleging unconstitutional prolongation of traffic stops. Of these complaints, the majority involved stops that were prolonged to await the arrival and use of narcotics- or gun-detecting dogs. Further, many of the complainants were never informed of the reason for the extension of the stop and were instead made to wait with no knowledge of the reason. Some illustrative examples follow.

Case Example 1:

In June 2019, the subject officer pulled over the complainant's vehicle for a tint violation. The complainant provided the officer with his driving documents and stepped out of the vehicle when the officer requested he do so. The complainant informed the officer that he did not consent to a search of the car. The officer nonetheless requested a K-9 unit, which took about 20 minutes to arrive, during which time the officer did not inform the complainant of the reason he was being made to wait. During this time, the complainant asked the officer several times why the officer did not just write him a ticket and allow him to leave. After the K-9 unit arrived and alerted on the car, about 30 minutes into the stop, the officer searched the car but found no contraband.

The officer then called a supervisor, to whom he explained that he believed the complainant was not who he claimed to be. The officer believed that the complainant was actually a known drug dealer. After more than 35 minutes, a sergeant arrived on the scene and

[14] *Rodriguez,* 575 U.S. at 352.
[15] *Id*.
[16] MPD General Order 304.10(II)(B)(4)(a)(2), available at https://go.mpdconline.com/GO/GO_304_10.pdf.
[17] MPD General Order 303.01, available at https://go.mpdconline.com/GO/GO_303_01.pdf.
[18] MPD General Order 306.01(II)(B), available at https://go.mpdconline.com/GO/GO_306_01.pdf.

asked whether the complainant's license and registration were valid and whether the car was registered to the complainant. Only at this point, between minutes 40 and 45 of the stop, did any officer check the complainant's license information in the database or run the car's registration. The license was valid, and the car was registered to the complainant. After about 50 minutes had elapsed since the beginning of the stop, another officer established that the complainant was who he purported to be and that the known drug dealer the subject officer had in mind was the complainant's brother. By the end of the stop, which lasted over an hour, the original officer had not tested the car's tint, and the complainant was issued only a warning ticket for an unverified tint violation.[19]

The subject officer claimed that he had reasonable suspicion to extend the stop based on a number of factors, including his perception that the complainant was lying about his identity, that the complainant was in a high-crime area, and that the complainant appeared nervous and agitated. However, although the subject officer did not need probable cause to initiate a K-9 search, he was not permitted to prolong the stop beyond the time reasonably required to complete the traffic stop for a tint violation.

A Complaint Examiner sustained the allegation of prolonged detention. The officer acknowledged that he prolonged the traffic stop for an initial tint violation in order to wait for and conduct a K-9 search, but the officer did not complete any investigative tasks regarding the actual traffic stop for tinted windows and the stop lasted approximately one hour. While the Court has ruled that an officer may extend a traffic stop if the officer encounters additional facts that give rise to a reasonable and articulable suspicion that "criminal activity is afoot," the officer did not adequately articulate, nor did the evidence support a reasonable basis for extending the traffic stop. As such, the Complaint Examiner found that the officer detained the complainant beyond the scope of the initial stop without reasonable suspicion to do so.

Case Example 2:

In March 2020, Subject Officer 1 pulled over the complainant's vehicle for tint and headlight violations. The complainant initially only partially rolled down his window, but eventually rolled it down fully and provided his driving documents to the officer. Subject Officer 1 ran the complainant's license through a law-enforcement data system, which informed him of the complainant's previous arrest for drug sales and affiliation with a gang. About ten minutes into the stop, Subject Officer 1 asked for consent to search the complainant's vehicle, which was refused. At this point, Subject Officer 1 requested backup officers, and Subject Officer 2 arrived. Subject Officer 1 explained the situation to Subject Officer 2, and Subject Officer 2 asked whether he should request a K-9. Subject Officer 1 expressed his doubts that the K-9 unit would arrive before the traffic stop ended, but eventually asked Subject Officer 2 to call one. Subject Officer 1 later stated that his decision to request a K-9 unit was based on the complainant's criminal history, presence in a high-crime area, the complainant's apparent reluctance to roll down his window when first pulled over, and confusing comments by the complainant's passenger related to the possession of marijuana.

[19] OPC Case 19-0550, available here.

While Subject Officer 1 was writing a citation for the tint and headlight violations, Subject Officer 2 informed him that there was an alert in a local law-enforcement system indicating that another district requested to be notified of any contact with the complainant. Subject Officer 2 investigated the alert while Subject Officer 1 continued writing the citations. At around 21 minutes into the stop, Subject Officer 2 learned that the alert was from 2018, four years prior, but continued to try to contact the district that issued it. At around 24 minutes into the stop, the complainant asked what was going on. Subject Officer 1 did not inform him of the request for a K-9.

Approximately 25 minutes into the stop, Subject Officer 2 learned that the district that issued the alert no longer needed to speak to the complainant. Nonetheless, the officers continued to hold the complainant after the citation was written, until the K-9 team arrived. During that time, the officers chatted idly in Subject Officer 1's vehicle, including discussing the K-9's ETA. By the time the K-9 arrived, and Subject Officer 1 approached the complainant about the sniff, approximately seven minutes had passed since the law-enforcement system's alert had been resolved. The stop had been ongoing for 32 minutes. When informed of the search, the complainant resisted but did step out of the vehicle. Subject Officer 1 handcuffed the complainant after the complainant jerked his arm away from the officers and became argumentative.

When walked around the vehicle, the K-9 alerted to the presence of contraband, but no items were seized from the vehicle. The search took approximately four minutes. The subject officers then provided the complainant with copies of the citations and released him.[20]

Subject Officer 1 later stated that the traffic stop would have ended after he finished writing the citation had he not received the law-enforcement system's alert. He further admitted that he had finished writing the citations before the K-9 unit arrived. A Complaint Examiner sustained the allegation of prolonged detention, as neither subject officer could articulate reasonable suspicion to extend the traffic stop to await the K-9's arrival. The traffic stop was initiated when Subject Officer 1 observed the complainant driving with dark window tint and without running headlights. Subject Officer 1 finished issuing the citations for the traffic stop approximately 21 minutes after making initial contact with the complainant. Subject Officer 1 acknowledged during his interview, as well as in his incident report, that the traffic stop was extended due to receiving an alert for the complainant. The subject officers' investigation into the alert was completed less than four minutes after the citations were drafted. Thus, the initial traffic stop could have been completed, at most, in approximately 25 minutes had Subject Officer 1 decided to end the stop after Subject Officer 2 completed his investigation of the alert. The stop, however, lasted approximately 42 minutes. The Complaint Examiner found that the subject officers unlawfully prolonged the complainant's detention not only absent reasonable suspicion when investigating the expired alert, but also when awaiting a K9 search, which both officers acknowledged amounted to unauthorized prolonged detention.

Case Example 3:

[20] OPC Case 20-0462, available here.

In January 2022, the two subject officers followed the complainant's car in their police vehicle for several minutes before pulling him over. When the complainant asked why he was stopped, the officers informed him that he failed to come to a complete stop at several stop signs—which the complainant denied—and that his window tint was too dark. The complainant provided his driver's license to one subject officer, who then stepped the complainant out of the vehicle. In response to the subject officer's questioning, the complainant denied having any weapons on his person and refused to be searched. One of the officers then informed the complainant that he planned to request a K-9 unit. The complainant asked why, and the officer responded that the complainant appeared to be shaking and seemed nervous. However, the officer's description of the complainant's demeanor did not match the behavior shown in the body-worn camera (BWC) footage. The K-9 unit arrived 30 to 40 minutes later and, after conducting a sweep of the car, alerted to the presence of a gun. A subsequent search revealed no gun.[21]

One of the subject officers explained to OPC that he decided to request the K-9 unit because he knew of the complainant's previous violent felony arrest and because the area in which they had pulled the complainant over had a high level of gun crime. The subject officer admitted that he was not certain about the nature of the complainant's criminal record but that he believed that the complainant had been arrested for a crime in the commission of which he used a gun when, in fact, the complainant had been listed as unarmed in connection with his arrest eight years prior, and no charges were pursued in that case. Furthermore, that subject officer admitted that a perception of nervousness, a vague recollection of one's criminal history, and presence in a high crime area did not constitute reasonable suspicion to extend the stop. A Complaint Examiner sustained the allegation of prolonged detention, as the subject officer lacked reasonable suspicion to justify an extension of the stop.

Case Example 4:

In February 2024, three officers interacted with the complainant, her son, and the son's friend at a gas station. After the three civilians departed, one of the officers indicated to the others that he observed the son's friend enter the gas station with a satchel only to later leave without it. Upon searching the gas station, the officers found the satchel behind a vending refrigerator and discovered that it contained a firearm. From prior interactions with the complainant, the officers were aware that she lived nearby, and so they proceeded to her house, outside of which they found the complainant's car in which she, her son, and his friend, had driven away from the gas station. All three civilians were still inside the vehicle.

The complainant's son exited the vehicle, at which point one officer handcuffed him while the subject officer assisted; this took place at 3:08 pm. At 3:11 pm, no weapons were found during the frisk that accompanied the handcuffing. Meanwhile, the son's friend who allegedly hid the firearm was placed under arrest. At 3:12, the subject officer requested a K-9 unit to sweep the vehicle. At 3:14, another officer frisked the complainant's son for a second time and again found no weapons. The complainant's son remained handcuffed while the K-9 unit was brought to the scene to complete a sweep of the car. At approximately 3:46 p.m., the K9 unit arrived, and

[21] OPC Case 22-0198, available here.

the K-9 sweep occurred at 3:49 p.m. At 3:51 p.m., the K-9 completed its sweep of the vehicle. The dog did not alert to the presence of any weapons, and no search was conducted. The complainant's son's handcuffs were removed at approximately 3:52 p.m., and he was released from custody. He had been handcuffed for 44 minutes.[22]

The subject officer later claimed that the decision to detain the complainant's son was based on his history of unlawful firearm possession, the officer's belief that he was a flight risk, and the officers' belief that a backpack in the car contained another firearm.

A Complaint Examiner sustained the allegation of prolonged detention, as no officer was able to articulate reasonable suspicion that any crime was afoot beyond that for which they initially detained the car's passengers. The initial goal for the stop was achieved when the man with the gun had been arrested and the gun was recovered. The holdings in both *United States v. Sharpe*[23] and *Rodriguez* require additional reasonable articulable suspicion to prolong an investigative seizure after the initial reason for the stop has ended, unless officers receive voluntary consent. After the complainant's son was found to be unarmed after two frisks, officers lacked reasonable articulable suspicion that there was a second gun in the vehicle. Therefore, the Complaint Examiner found that the officers had unreasonably prolonged the detention because they could not adequately justify the extension of the traffic stop.

Policy Concerns

The repeated illegal extension of traffic stops for the purpose of conducting K-9 sweeps without reasonable suspicion is, first and foremost, an area of concern because it violates the Constitution. The Constitution, particularly the Bill of Rights, is vital to ensuring the rights and liberties of Americans, and the Search and Seizure Clause of the Fourth Amendment is no exception. Constitutional violations in the form of prolonged traffic stops are especially egregious given the bright-line nature of the rule. In the case of the duration of traffic stops, the law is clear: if the stop is extended beyond the time needed to accomplish the original purpose, regardless of how long or short that extension is, the stop is unconstitutional unless there is reasonable suspicion justifying the extension. Even when the extension seems minor, the prolongation of a traffic stop even by a few minutes is a violation of civil liberty and can result in significant erosion of a community's trust in its police department.

Since illegally extended stops are violations of the Constitution, they also subject officers to liability under §1983 of the United States Code. This law creates a cause of action that allows individuals to sue government actors who violate their constitutional rights. This liability could not only affect individual officers, but also the department or the District at large.

[22] OPC Case 24 0447, available here.
[23] *United States v. Sharpe*, 470 U.S. 675, 686 (1985) ("To assess whether a detention is 'too long in duration to be justified as an investigative stop,' it is appropriate to examine whether the police diligently pursued a means of investigation that was likely to confirm or dispel their suspicions quickly[.]"

Indemnification of officers facing suits for their actions on duty is common,[24] impacting both police and broader city budgets.[25] Further, a pattern of illegally prolonged traffic stops, accompanied by inappropriate disciplinary and/or training responses from MPD, may leave the city or department open to suit directly, if such a pattern demonstrates "deliberate indifference" to the Fourth Amendment rights of those detained.[26]

Guidance from Other Jurisdictions

While MPD's written directives mention prolonged stops, they do not make the legal requirements as clear as some other jurisdictions, nor do they provide guidance within the context of dog sniffs. Instead, in General Order 304.10, officers are merely cautioned to make stops only as long as necessary but are not informed under what circumstances prolonging a stop is permissible.[27] A number of other jurisdictions specifically address the topic of illegally prolonged stops in their policies and procedures for police officers. These guidelines explain the contours of reasonable suspicion and make clear to officers that prolonging a traffic stop absent reasonable suspicion is illegal. In addition to explaining the rules surrounding prolonged stops, some cities, including Chicago and Cincinnati,[28] include these rules in their guidance on use of canines. This placement is especially utilitarian considering how frequently illegally prolonged stops are extended to await a K-9 unit.

Minneapolis goes a step further and holds officers to a higher standard than that required by the Constitution. Rather than merely prohibiting officers from extending stops for canine use without reasonable suspicion, the Minneapolis Police Department does not allow officers to deploy narcotics-sniffing canines at all without reasonable suspicion, whether or not the canine's use would prolong the stop.[29] This policy builds in a buffer between the officers' own allowable conduct and the outside limit of the Constitution, thereby ensuring that even violations of the department's own guidelines will not result in unconstitutional conduct by its officers.

Recommendations

To help improve community relations and trust between MPD and community members and avoid violations of constitutional rights, the PCB recommends the following:

---

[24] *See, e.g.* Joanna C. Schwartz, "Police Indemnification" 89 N.Y.U. L. Rev. 885 (2014) (finding that governments paid 99.98% of the amounts awarded to plaintiffs suing police officers for civil rights violations during the study period).

[25] *See* Joanna C. Schwartz, "How Governments Pay: Lawsuits, Budgets, and Police Reform" 63 UCLA L. Rev. 1144, 1173-94 (2016) (discussing different methods cities use to cover the cost of police indemnification and the financial impacts of those methods).

[26] *City of Canton v. Harris*, 489 U.S. 378 (1989).

[27] MPD General Order 304.10(II)(B)(4)(a)(2).

[28] Chicago Special Order S03-04-01(IV)(B)(4); Cincinnati Police Department Procedure Manual, Procedure 12.140.

[29] Minneapolis Police Department Policy and Procedure Manual, P&P 7-807(IV)(F).

1. **MPD should clarify in a written directive the legal rules governing extension of stops. In particular, MPD should include this clarification in the general orders governing traffic enforcement and use of K-9 units.**

Written directives are intended to document and communicate the policies, rules, regulations, and procedures that govern the MPD, and are "necessary to establish clear limits to the broad discretionary authority of a police officer."[30] Thus, a rule governing police that is as clear as that set forward in *Rodriguez*—that it is unconstitutional to extend a stop without reasonable suspicion to do so—should be included in a written directive. Officers must be given some form of guidance informing them clearly of the boundaries of their legal authority when it comes to prolonging stops.

Including this guidance in General Order 306.01, which explains the procedure for an officer to request a K-9 unit, in addition to any general orders concerning searches and stops, would be especially helpful. Were it included therein, an officer who is considering requesting a K-9 unit and either physically reads the directive or merely calls it to mind will be reminded not to do so if it will extend the stop absent reasonable suspicion.

2. **MPD should train officers on the updated general orders and the circumstances under which they may—and may not—prolong stops.**

In addition to adopting the legal standard for prolonged stops into a written directive, MPD should train officers on the relevant legal standards for prolonged stops. Officers that have not received training that emphasizes avoiding illegal extension of stops may, without realizing, violate the Fourth Amendment by prolonging a stop absent reasonable suspicion. This training should be included in every officer's initial training at the academy, and separate trainings should be instituted during Roll Call Trainings or at the annual Professional Development Training.[31]

[30] MPD General Order 101(I) at 1.

[31] OPC and the PCB provided a draft version of this recommendation to MPD for review and comment. MPD agreed with the PCB's recommendations and expressed a willingness to update the general orders and provide training to its members.