

No. 24-5381

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IN THE  
**Supreme Court of the United States**

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NATHAN COOPER,

*Petitioner,*

*v.*

UNITED STATES,

*Respondent.*

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

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**BRIEF *AMICUS CURIAE* OF EARL SAMPSON  
IN SUPPORT OF PETITIONER**

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**TABLE OF CONTENTS**

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES .....	iii
INTEREST OF THE <i>AMICUS CURIAE</i> .....	1
INTRODUCTION AND SUMMARY OF ARGUMENT.....	2
EARL SAMPSON.....	3
ARGUMENT.....	6
The <i>Terry</i> frisk has been used in the United States to discriminate persons of color under the pretext of crime prevention.....	6
Earl Sampson is <i>Terry</i> 's greatest casualty .....	6
The City of Miami Gardens .....	9
The Policies.....	11
Stop and Frisk: The Targeting of Black Males Ages 15 to 30 .....	11
Field Contact Reports ("FCR") .....	13
The Crime Suppression Team ("CST") .....	15

*Table of Contents*

	<i>Page</i>
Emory Creel, M.S., M.A. ....	16
Dr. James Ginger, Ph.D. ....	18
Irrefutable Evidence of Racially Motivated Stop and Frisk Policy .....	19
Quota Policy .....	20
Zero Tolerance Zone Policy .....	20
The Criminal Justice System also failed Earl Sampson. ....	21
CONCLUSION .....	23

## TABLE OF CITED AUTHORITIES

*Page*

### CASES

<i>Sampson et al vs the City of Miami Gardens,</i> Case No. 1:13-cv-24312 .....	1
<i>Terry v. Ohio,</i> 392 U.S. 1 (1968).....	1, 2, 3, 4, 6, 9, 14, 22, 23

### OTHER AUTHORITIES

Julie K. Brown, <i>In Miami Gardens, store video catches cops in the act</i> , Miami Herald (2014) available at <a href="https://www.miamiherald.com/news/local/community/miami-dade/article1957716.html">https://www.miamiherald.com/news/local/community/miami-dade/ article1957716.html</a> .....	10
Stoudt Brett G., Michelle Fine, Madeline Fox, <i>Growing Up Policed in the Age of Aggressive Policing Policies</i> , 56 Nylslr 1331 (2011-2012).....	2
Ben Grunwald & Jeffrey Fagan, <i>The End of Institution-Based High-Crime Areas</i> , 107 Calif. L. Rev. 345 (2019).....	3

**INTEREST OF THE *AMICUS CURIAE*<sup>1</sup>**

Mr. Earl Sampson (“Mr. Sampson”) and several other African American men were Plaintiffs in the Case of *Sampson et al vs the City of Miami Gardens*, Case No. 1:13-cv-24312, a civil rights case that was brought in the Southern District of Florida.

Mr. Sampson and the other Plaintiffs in the case were victims of the City of Miami Gardens’ Police Department’s (“MGPD”) custom, policy, and practice of targeting African American males from ages fifteen (15) to thirty (30) years of age, as well as their quota and zero tolerance zone policy. The City’s final policy makers authorized the MGPD to utilize “stop-and-frisk” to mount a large-scale unconstitutional offensive against its own Black community already beleaguered by poverty and violence.

Mr. Sampson got caught up in the racially motivated stop and frisk policy promulgated by the City, because he was Black, in his twenties, and part of the target group. Mr. Sampson seeks to provide *amicus* assistance to the Petitioner giving the Court an on-the-ground perspective into how its decision in *Terry* allowed this pervasive and unlawful stop-and-frisk policy to be weaponized against him and thousands of Black men just like him in Miami Gardens. While Mr. Sampson and the Other Plaintiffs

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1. Pursuant to SCR 37.6: No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the *amicus curiae* or his counsel made a monetary contribution to its preparation or submission. Pursuant to SCR 37.2. All Counsel of Record were notified of this filing at least 10 days prior to the filing deadline.

overcame summary judgment on the almost always insurmountable municipal liability claims, and prior to trial recovered monetary damages, and attorney's fees and costs, no amount of money could ever adequately remedy the harm the Terry Stop and Frisks caused him and others like him which is why Mr. Sampson prays the Court grants the Petition and reaches the only just conclusion—almost six decades later—that the frisk aspect of *Terry* must be reversed. Mr. Sampson and those who share his same immutable characteristics should not be subjected to discriminatory policing tactics under the guise of crime prevention. The half a century experiment of the *Terry* frisk has failed to prevent crime, and this Honorable Court should overrule its own precedent in *Terry*.

## INTRODUCTION AND SUMMARY OF ARGUMENT

The power of police officers to stop citizens today far exceeds that of 1968. “Reasonable” justifications for a stop now include nearly all minimal indications of criminal activity: living in high-crime areas, the time of day, ambiguously evasive or suspicious behavior, appearing like a criminal, moving in and out of shadows, wearing heavy clothes in summer weather, fitting the description of a reported suspect, and exchanges with people in an area known for drug activity. Stoudt Brett G., Michelle Fine, Madeline Fox, *Growing Up Policed in the Age of Aggressive Policing Policies*, 56 Nylslr 1331 (2011-2012).

In *Terry v. Ohio*, 392 U.S. 1 (1968), the Court authorized police officers to “stop and frisk” Americans even when there is no probable cause to arrest them for a crime. Specifically, the Court held that police officers

may conduct an investigatory stop based on reasonable suspicion that criminal activity is afoot. *Id.* The Court further held that, during such a stop, police officers may physically feel a person's body in a search for weapons based on reasonable suspicion that the suspect is armed and dangerous. *Id.*

But *Terry's* holding enabling police officers to frisk persons without probable cause has led to systemic abuse against people of color. Much of what we do know about this abuse comes from two cities—New York and Chicago—where there has been aggressive litigation regarding stop and frisk in recent years. Ben Grunwald & Jeffrey Fagan, *The End of Institution-Based High-Crime Areas*, 107 Calif. L. Rev. 345, 359-60 (2019). The data from those two jurisdictions show that illegal stop and frisks disproportionately affecting people of color. Amicus provides overwhelming statistical and real-life evidence below of how from the years 2008 to 2013 in the City of Miami Gardens, *Terry* stop and frisks were used to discriminate young Black men ages 15 to 30 (“Target Group”). The MGPD conducted 99,172 stop and frisks, mostly without reasonable suspicion or probable cause, targeting young Black men between most of who lived, or frequented the City of Miami Gardens. Even though these men only represented 11% of the City's total population they were stopped and frisked more than any other group.

## **EARL SAMPSON**

Earl Sampson (“Mr. Sampson”), a Black man in his twenties who suffered from mental health issues, became the most victimized person of this widespread, racially motivated police enforcement action. Mr. Sampson was

unlawfully stopped, frisked, searched, seized, and/or arrested *over 288 times* by MGPD officers—the equivalent of roughly once a week for a period of four years. Most of these encounters were absent reasonable articulable suspicion or probable cause. Mr. Sampson was arrested (63) times, for trespassing at his place of work, which was also his residence. (ECF No. 101 ¶¶ 67-70). According to records obtained from the Florida Department of Law Enforcement (FDLE), there were *516 encounters* between Mr. Sampson and the MGPD over a four-year period. (ECF No. 149 ¶26; ECF No. 149 Ex. 31), but the MGPD documented only 288 of the encounters. Mr. Sampson was often stopped and harassed, sometimes multiple times by the same officers during the same day. Mr. Sampson was deemed suspicious even though the MGPD officers knew him from his place of work—the 207 Quick Stop. The MGPD would also fabricate Field Contact Reports claiming to have stopped Mr. Sampson, when in fact he was at the Miami Dade County Jail, and the officers knew Mr. Sampson was in custody because they had taken him to jail on bogus trespassing charges. (ECF No. 149 ¶ 30).

Amicus also provides overwhelming statistical evidence below of how *Terry* frisks were used by the MGPD not just to violate the civil rights of the Target Group that Mr. Sampson belonged to by virtue of his race, gender, and age. The stop and frisks also affected the rest of the Black community, including children. During this time, the MGPD conducted 99,172 documented stop and frisks. Had Miami Gardens confined the stop and frisks to one stop per individual, the MGPD would have stopped and frisked 92.68% of the Miami Gardens population. But they did not; they often stopped the same individual many times. The evidence suggests that MGPD called



stop and frisks Field Interviews aka “FI’s,” but the “FI” was the code name for stop and frisks. The testimony and statistical data obtained in Mr. Sampson’s case support the conclusion that the animus behind the 99,172 stop and frisks was to stop and frisk the Target Group. The City’s policy makers believed the Target Group was responsible for all the violent crime in the City, which is why it gave the MGPD the unfettered discretion to unlawfully stop and frisk a vast majority of its residents for a period lasting almost 5 years. The evidence irrefutably established that Mr. Sampson was the person most affected by this racially motivated targeting policy against him and his Target Group, and it is unknown if there is another person in America that has endured as much odious discrimination. During this time, Mr. Sampson became persona non grata in his own neighborhood, labeled as a suspicious person in his own home, his place of work, the library, the park, and even public sidewalks. It was only when Mr. Sampson filed suit in 2013 that the unlawful stop and frisks, searches, seizures, and false arrests, which marred his life during the years of 2008 through 2012, ended. During this period, Mr. Sampson, who had never been convicted of a felony, pled guilty to 27 misdemeanors crimes of trespassing while being legally innocent of those crimes, because in addition to what he had already had to endure, Mr. Sampson received ineffective assistance of counsel from the Miami Dade Public Defender’s Office due to staffing shortages and oversized caseloads.

## ARGUMENT

**The *Terry* frisk has been used in the United States to discriminate persons of color under the pretext of crime prevention**

**Earl Sampson is *Terry*'s greatest casualty**

Earl Sampson's story illustrates the plight of being poor, black, and confined to living in a high crime area, in America, post *Terry*. Despite his long rap sheet, Sampson, 28, had never been convicted of anything more serious than trespassing and one case of possession of marijuana, which was arguably predicated on an unlawful stop and frisk. Yet the MGPD arrested Mr. Sampson 63 times for trespassing, with almost every arrest taking place at the same place, his place work, the 207 Quick Stop, a convenience store located Miami Gardens on NW 207th street and NW 32nd Avenue, where he worked as a store clerk. (ECF No. 101 ¶¶ 69-70).

Sometimes Mr. Sampson was not arrested; he was stopped, frisked, searched, and let go. Mr. Sampson began working at the 207 Quick Stop on October 1, 2011. Prior to that time, Mr. Sampson was always an invited guest. Mr. Ali Amin Saleh, whom Mr. Sampson called "Alex," was the owner of the 207 Quick Stop. Mr. Saleh testified that he never authorized the MGPD to arrest or remove Mr. Sampson from his store for trespassing, even prior to employing Mr. Sampson at the store. Neither did any of the other employees of the store. Mr. Saleh was so outraged about the treatment of Mr. Sampson that he began to record the MGPD Officers and provided video evidence to the MGPD Internal Affairs Unit of three

unlawful arrests of Mr. Sampson for trespassing while he was clearly working inside the store. (ECF No. 101 ¶¶ 70).

Mr. Sampson testified that he had been stopped by the MGPD so many times he did not remember all of the encounters, but that each time they stopped him officers patted him down and searched his pockets. MGPD officers were captured on video arresting Mr. Sampson without Probable Cause for trespassing at the 207 Quick Stop. (ECF No. 149 Ex. 28).

The first video shows that on July 15, 2012, Mr. Sampson was arrested for trespassing while working by a female officer he knew as Jackie (later identified as Jaina “Jackie” Ucanan). Despite Mr. Sampson’s protests that he worked there, he was still arrested. The second video is from June 26, 2012, and it depicts Mr. Sampson being arrested while working inside the 207 Quick Stop. Mr. Sampson was arrested even though two witnesses “Julio” and “China” confirmed Mr. Sampson worked at the store. The officer’s report falsely stated he was loitering outside. The third video is from August 23, 2012, and it depicts Officers Michael Wagoner, Eddo Trimino, and Sgt. Martin Santiago arresting Mr. Sampson for trespassing, while stocking the coolers at the 207 Quick Stop. Officer Wagoner walked right past Mr. Saleh, who had already made an Internal Affairs complaint earlier that day because, among other things, MGPD officers kept arresting Mr. Sampson for the crime of trespassing while working at his store. Neither Mr. Saleh nor any other authorized representative of the store owner had requested that Mr. Sampson be removed, trespassed, or investigated, but Officer Wagoner arrested him anyway. (ECF No. 149 Ex 31). During this encounter, the officers’

falsely claimed Mr. Sampson was loitering outside the business, but the video footage showed Mr. Sampson only walked outside of the business to dispose of trash. Despite Mr. Saleh's intervention, Officer Wagoner arrested Mr. Sampson without arguable probable cause, for the crime of trespassing. Officer Wagoner's supervisor officer, Sgt. Martin Santiago, was present and approved the arrest. *Id.* After being presented with video footage of the incident and Mr. Saleh testifying for Mr. Sampson, the Miami-Dade State Attorney's Office dismissed the trespass charge against Mr. Sampson. (ECF No. 101 ¶83). This was the last time Mr. Sampson was ever arrested for trespassing at the 207 Quick Stop.

On July 8, 2013, Mr. Sampson was unlawfully detained while sleeping at the 207 Quick Stop's back room, for no reason. Mr. Saleh had created a makeshift bedroom for him in what used to be a generously sized storage area at the back of the store; Mr. Sampson's family kicked him out of their home because the MGPD was always looking for him and causing problems. Mr. Saleh always took care of Mr. Sampson; besides giving him a job, and a place to stay, he provided Mr. Sampson with food every day and protected him from the MGPD, even risking arrest in the process. Working at the 207 Quick Stop was the only good thing going for Mr. Sampson, who was stopped and harassed hundreds of times and told to leave the park, the library, the store, public sidewalks, in addition to the 207 Quick Stop. (ECF No. 149 Ex. 28).

Remarkably, Mr. Sampson experienced well over (288) documented stop-and-frisks, searches, seizures, and/or arrests, all of which occurred without reasonable articulable suspicion and/or probable cause. According to

FDLE's TAR Report<sup>2</sup>, police encountered Mr. Sampson *over 516 times*, albeit there were only 288 documented encounters documented by the MGPD. (ECF No. 149 Ex's 28, 31). According to Mr. Creel's Expert Report, Mr. Sampson was the target of the highest number of FCR's with (52) for 2010, 25% percent greater than the individual with the next highest number of contacts. In 2011, Mr. Sampson experienced an even larger number of field contacts, (56). (ECF No. 194 ¶1). Mr. Sampson was arrested (63) times. Out of the (63) arrests, (30) arrests resulted in no action being taken by the State Attorney's Office or the Court dismissing the case for lack of probable cause at first appearance. The (27) trespassing convictions were all based on charges of trespassing at or near the 207 Quick Stop where Mr. Sampson worked and lived since 2011. (ECF No. 101 ¶ 70). The reason Mr. Sampson was subject to this egregious mistreatment was because the City of Miami Gardens adopted the policies described below.

### **The City of Miami Gardens**

New York and Chicago were not isolated cities where the *Terry* stop and frisk targeted people of color. The City of Miami Gardens, incorporated in 2003, struggled with gang violence, drugs, shootings, and homicides since its inception. "In 2013, at the height of the City's racially motivated stop and frisk policy, a 12-year-old girl was killed in a hail of bullets and a retired minister, and her grandson were slain in an execution-style murder. With

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2. Transaction Archive Report records the frequency an officer searches a person's name via the National Crime Index Database.

a population of 109,000 people, Miami Gardens is the third largest city in Miami-Dade. Its population is Black and has had a tumultuous relationship with its police department. Its citizens have voiced their distrust of the police department over the years on several fronts, noting that officers—many of them white and Hispanic—seldom leave their patrol cars except to make an arrest.” Julie K. Brown, *In Miami Gardens, store video catches cops in the act*, Miami Herald (2014) available at <https://www.miamiherald.com/news/local/community/miami-dade/article1957716.html>.

To confront the spike in violent crimes, the City of Miami Gardens created a stop frisk policy targeting young Black males 15 to 30, unleashing its police force against its own Black community, but targeting this specific group of young Black males. Although this Target Group made up just 11% of the population, this group was disproportionately affected by the racial targeting policy. The City engaged in a pattern and practice of unconstitutional stop-and-frisks, unlawful searches, seizures, and arrests absent probable cause. MGPD officers did not use reasonable suspicion, or probable cause, as determinative factors; instead, they used race, gender, and age to determine who to stop and who to frisk. (ECF No. 101 ¶25-26)

Between the years 2008-2013, the MGPD Conducted 99,172 stop and frisks and authored 99,172 Field Contact Reports.<sup>3</sup>

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3. Expert Emory Creel compiled all the data from these stops which were documented in the Field Contact Reports “FCR” and authored an expert report. (ECF No. 149 Ex, 45).

<b>Year</b>	<b># of Field Contact Reports</b>
2008	9816
2009	18,381
2010	31, 036
2011	22,541
2012	10,627
2013	6768 and (3) Blank ones

This was a staggering number considering that the entire City of Miami Garden's Population consisted of 107,000 residents according to the census data of 2010. (ECF No. 101 ¶ 58). Black men of all ages were stopped and frisked as a result of this systematic unlawful stop and frisk policy, but Black males 15 to 30 were affected the most. Despite making up only 11% of the population, 35% to 55% of the stop and frisks were performed against this Target Group. Mr. Sampson was a primary target of this group and was stopped and frisked more than anyone in Miami Gardens. In fact, it is unknown at this time if anyone else in American history has *ever* been stopped and frisked so incessantly.

### **The Policies**

#### **Stop and Frisk: The Targeting of Black Males Ages 15 to 30**

From 2008 through 2013, this policy resulted in thousands of illegal stop and frisks. The MGD Officers would conduct Stop and Frisks under what they called Field Interviews ("FI"). MGD Officers would document these stop and frisks in Field Contact Reports ("FCR"). The impetus behind the Stop and Frisks was race,

gender, and age. (ECF No. 101 ¶¶ 33-34,46). Wanda Gilbert, a former Crime Analyst for the MGPD, testified that she worked for MGPD from 2007 to 2011. Mrs. Gilbert previously worked for the City of Miami Police Department for 26 years as a Crime Intelligence Analyst. Her duties included providing background information, tracking crime trends, and assisting in investigations of major crimes, which required reporting to FDLE under the Uniform Crime Report. Mrs. Gilbert was responsible for providing statistical data for Strategic Management Analysis, Resources, and Tactics (SMART) Meetings, led by Major Anthony Chapman. Chief of Police Matthew Boyd and Deputy Chief Paul Miller, along with Major Chapman regularly attended these meetings. (ECF No. 149 Ex. 17).

Post-December 2009, Field Contacts became a mandatory part of SMART Meetings, and officers were instructed to stop Black males aged 15 to 30 and author FCR's. Mrs. Gilbert testified that data suggesting that Black males 15 to 30 were committing most crimes was never provided by her or anyone else in the crime analysis unit. Mrs. Gilbert blew the whistle on the police misconduct of targeting Black males 15 to 30 by reporting it to Chief Boyd, City Attorney Sonja Dickens, and the City Manager Danny O. Crew, but none of them took any action. *Id.*

Mrs. Gilbert testified that Officers were pressured to generate FCR's, which lead to illegal stops and frisks, and in some instances, officers fabricated FCR's. *Id.* Mrs. Gilbert handed Chief Boyd a stack of fabricated FCR's, and he told her that he would speak to Major Anthony Chapman to "see what happens." (ECF No. 149 ¶20).



Mrs. Gilbert observed officers completing FCR's for non-criminal behavior. Mrs. Gilbert noticed an excessive number of FCR's compared to her previous employer, the City of Miami, which had a much larger police force that was required to patrol a much larger population. Mrs. Gilbert reported that at MGPD, officers were generating over 1,200 FCR's every (2) weeks.

### **Field Contact Reports ("FCR")**

MGPD documented 99,172 stop and frisks on FCR's. The narrative portion of the FCR's mostly illustrated constitutionally insufficient bases for stop and frisks. (ECF No. 101 ¶49). Many of the FCR's stated no other basis for a stop than an individual's presence in a high crime area (ECF No. 101 ¶50). Sometimes the FCR's would document such innocuous behavior as "sitting next to a bathroom," "riding a bicycle," "chilling" in front of a store, not conducting any business, or simply waiting for a friend. (ECF No. 149 Ex. 35). Nevertheless, a warrantless intrusive search would often follow one of these stops, or at a minimum a records search for warrants. Mr. Sampson, a Black man in his twenties, was the main target of the MGPD's unconstitutional, racially motivated stop and frisk policy. Mr. Sampson would often get stopped for sitting on top of a dumpster for 10 minutes, smoking a cigar near the library, being at the basketball courts while "not participating in any activities," loitering in front of the business where he worked, the 207 Quick Stop, or one occasion walking through a high crime burglary area. (ECF No. 149 Ex. 35). The FCR's always labeled Mr. Sampson as suspicious, even though all MGPD Officers knew him. (ECF No. 149 Ex. 37). The encounters were hardly ever consensual or pleasant. Often these stop and

frisks were conducted by multiple officers, with a show of force, surrounding the person stopped. The video footage, the 99,172 FCR's and the Statistical Data obtained in the case confirmed that the City of Miami Gardens implemented an official policy to target Black males 15 to 30, authorizing the MGPD to conduct almost 100,000 unconstitutional *Terry* stop and frisks. By contrast, police officers in the City of Miami, with a population of 400,000, and approximately 900 more police officers filled out only 5,000 FCR's during the same period. (ECF No. 101 ¶58). Major Chapman told several MGPD officers including Detective Steve Trapaga, Sergeant Wiren Norris, Officers Michael Perez, Jose Rosado, Dana Levine, Detective Joel Williams, and former Sergeant Jeffrey Mason of the Policy to target Black males 15 to 30. Other MGPD officers were not present when Major Chapman issued the policy but heard from colleagues that Major Chapman issue the policy. These officers included Jaina "Jackie" Ucanan, Sergeant William Dunaske, and retired Officer Larry James. (ECF No. 149 ¶¶8-9). Also noteworthy is the fact that the City of Miami Gardens attempted to cover up the fact its police department was conducting these thousands of unlawful *Terry* stop and frisks, by not recording the encounters, despite having spent over a million dollars equipping all MGPD patrol vehicles with Audio and Video cameras, and enacting a policy requiring officers to video and audio record "all encounters" with citizens. Yet many of the stop and frisks were not recorded because officers purposely would not follow this policy, failing to activate their cameras. Even when Chief Boyd, Deputy Chief Miller and Major Chapman became aware that officers were not recording these encounters, they did nothing to enforce the policy. Neither did City manager Danny O. Crew. (ECF No. 149 ¶¶65).

### **The Crime Suppression Team (“CST”)**

The CST were amongst the greatest violators of the MGPD’s Stop and Frisk Policy. Officer Jose Rosado, first a patrol officer, then a member of the CST testified about the unlawful stop and frisk policy. The CST was a specialized unit focusing on proactive policing and crime suppression in high-crime areas. CST vehicles were not equipped with cameras. Major Chapman oversaw CST, and he instructed officers to target Black males aged 15-30, claiming they were responsible for all the crimes in the city. (ECF No. 149 Ex 27). Officer Rosado further stated that Major Chapman wanted the CST to stop Black males with bookbags. (ECF No. 149 ¶10), and that Major Chapman emphasized the importance of FI’s and FCR’s, and gave officers extra pay assignments for conducting an increased number of FI’s and documenting the encounters on FCR’s. Officers were pressured to conduct FI’s. Not conducting enough FI’s or generating enough FCR’s affected the officers’ potential for raises and promotional assignments. (ECF No. 149 Ex 27). Major Chapman also encouraged arrests for minor offenses, such as open containers, equating them to more serious crimes. Officer Rosado testified that Officers were instructed to trespass and stop and frisk Black individuals in apartment complexes, even if they lived there. Officer Rosado complied with these directives due to financial pressures and the potential impact on his career. Major Chapman and Deputy Chief Paul Miller were frequently together, and Deputy Chief Miller never discouraged any civil rights violations. Officer Rosado advised that Major Chapman never rejected any of the FCR’s he authored. *Id.*

The MGPD’s Record Management System (RMS) was accessible to all, including Chief Boyd. Major Chapman

sent out emails encouraging officers to conduct FI's and rewarded proactive officers with extra assignments. Officer Rosado testified that officers, including himself, had to identify individuals as suspicious under Chapman's mandate. Officer Rosado testified that Major Chapman and Sergeant Martin Santiago, Officer Rosado's direct supervisor and Major Chapman's subordinate, wanted to implement NYPD-style policing practices at MGPD. Officer Rosado tried to challenge Sergeant Santiago about having to stop individuals without reasonable suspicion, but Sergeant Santiago reminded him to follow Major Chapman's directive. *Id.*

Tiffany Britton, Esq., MGPD's Legal Advisor admitted in a deposition she never trained the MGPD Officers on FI's and never trained supervisors on how to reject unconstitutional FCR's. Britton also admitted Chief Boyd, Deputy Chief Miller, or Major Chapman never asked her to train MGPD officers how to properly fill out FCR's. (ECF No. 149 ¶¶62-63).

**Emory Creel, M.S., M.A.**

Mr. Creel reviewed the MGPD's FI Data from 2009-2013 and the 2010 Census Data for his analysis. Mr. Creel reviewed census data, which revealed that the City had a population of approximately 107,000 residents, the majority of which are African American who make up 76% of its population. Mr. Creel's analysis involved extracting data from FCR's using Optical Character Recognition software to extract the data from the Field Contact Reports for analysis. The data covered stop and frisks from 2009 to 2013, totaling 99,172 stops, with the

highest number of stops in 2010. Mr. Creel compared the number of stops documented in the reports of Black males aged 15-34 to population statistics, noting a significant discrepancy. Mr. Creel's expert report includes a graph comparing actual monthly Field Contacts for Black males aged 15-34 with expected contacts based on population statistics, showing actual contacts were over (3) times higher. Black males aged 15-34 accounted for an average of 38.5% of monthly field contacts in 2010, with a minimum of 35% and a maximum of 42%, despite representing only 11.1% of the population. (ECF No.'s 149 Ex. 45; 194 Ex. 1).

The standard deviation of monthly contact proportions was about 2.5%, indicating consistent targeting of this demographic. In 2010, 11,969 field contacts were recorded for Black males aged 15-34, nearly matching their population size in Miami Gardens, with 7,450 individuals stopped multiple times. Approximately 22,400 distinct individuals in Miami Gardens had field contacts in 2010, suggesting about 1 in 5 citizens were stopped. Relative risk analysis showed Black males aged 15-34 were 3.1 times more likely to be stopped than others aged 10+, with an odds ratio of 6.55. *Id.*

In 2012, Black males aged 15-34 accounted for over 55% of field contacts, despite being about 11% of the population. Mr. Creel's testimony concludes that Black males aged 15-34 were significantly overrepresented in field contacts, suggesting a pattern of targeting by the police department. Between 2009 and 2013, over 57,300 individuals from this race and age group had field contacts, with many experiencing multiple stops. *Id.*

**Dr. James Ginger, Ph.D.**

Dr. Ginger was also an expert witness in Mr. Sampson's case. Dr. Ginger reviewed a variety documents, including complaints, depositions, affidavits, and police records, to form his opinions. (ECF No. 166 Ex's 1-2).

Dr. Ginger identified poor policing policies, ineffective training, and inadequate supervision within the MGPD, noting a reliance on outdated, militaristic tactics and a lack of proper documentation and oversight. Specific examples of improper police conduct include stops and detentions without reasonable suspicion, targeting Black individuals in high-crime areas. Dr. Ginger's affidavit details numerous instances where individuals in Miami Gardens were detained by the MGPD without reasonable articulable suspicion. *Id.*

Examples include detentions for being in high drug-prone areas, conducting investigations, and loitering, often targeting Black males aged 15 to 30. A sample of the records reviewed from 2010 showed a 57.5% error rate in police stops, significantly higher than the 5% error rate considered effective for police policy. None of the records reviewed showed evidence of prior supervisory review, indicating a lack of oversight. A similar review of other records from 2010 revealed a 68.5% error rate, with repeated instances of detentions without reasonable suspicion, often involving the same officer. Dr. Ginger's affidavit highlights a pattern of "cookie cutter" explanations for police interventions, suggesting systemic issues within the MGPD. *Id.*

Dr. Ginger also reviewed records from 2011 and concluded the detentions without reasonable suspicion

targeting Black males in specific age ranges continued. Dr. Ginger's affidavit underscores the absence of supervisory review and suggests deliberate indifference by command personnel in allowing such practices to persist. The affidavit continues to document various instances of individuals the MGPD detained and interrogated without reasonable articulable suspicion. *Id.*

The subjects of these detentions were predominantly Black males who were stopped for "being in the parking lot," "loitering in a stairwell," and "visiting a friend." The error rate for these detentions was reported at 97.1%, far exceeding the 5% error rate considered effective for police policy. Dr. Ginger criticized the MGPD's disciplinary procedures, noting that excessive force or aggressive policing tactics were often overlooked, while actions questioning the status quo face swift retribution. *Id.*

### **Irrefutable Evidence of Racially Motivated Stop and Frisk Policy**

Officer Michael Perez testified that FCR's were tied to overtime pay, and officers were pressured to produce high numbers. Officers Perez (ECF No. 150 Ex 6), Steve Trapaga (ECF No. 150 Ex. 5), and Sergeant Jeffrey Mason (ECF No. 150 Ex. 1) heard Major Chapman's Order to stop the Target Group. Officer Joel Williams reported that promotions were denied for not producing enough FCRs and confirmed Major Chapman's policy to stop the target group. Officer Williams expressed concerns to city officials, but no one acted upon his concerns. (ECF No. 150 Ex. 4) Chief Boyd was detached from daily operations, disavowing knowledge of Major Chapman's activities and the FCR program. Chief Boyd denied awareness

of discriminatory practices, but Wanda Gilbert refuted Boyd's plausible deniability. Major Chapman denied issuing orders to target Black males, despite multiple officers' testimonies to the contrary. (ECF No. 166 Ex's 1-2). Other policies enabled officers to systemically violate the rights of the target group.

### **Quota Policy**

The Quota Policy evaluated officers' productivity based exclusively on the quantity of arrests, citations, and FCR's submitted, instead of officers' adherence to constitutional practices, involvement in the community, etc. Officers were rewarded with incentives, benefits, raises, and/or promotions if these arbitrary quotas were met or exceeded. By contrast, officers who did not meet the monthly quotas were reprimanded, routinely disciplined and demoted. (ECF No. 101 ¶32). For example, MGPD officers engaged in the "all out detail" aka "FI detail" in which officers went out to generate stop and frisks and warrant sweeps. In warrant sweeps, MGPD officers randomly stopped individuals to check if they had outstanding warrants, even though the individuals' behavior was neither criminal nor suspicious. (ECF No. 101 ¶36). As an incentive for participating in the "F.I. detail," MGPD officers were either paid overtime (time and a half) based on their regular pay rate or would receive Federal grant money if available.

### **Zero Tolerance Zone Policy**

The Zero Tolerance Zone Policy, was enacted by the City on October 24, 2007, as part of Ordinance No. 2007-22-128, codified at Section 14-59. (ECF No. 101 ¶39). The



alleged purpose of the policy was to reduce the number of individuals who were trespassing and loitering on private property without legitimate business. The policy asked local businesses to complete an affidavit and post a sign on their properties which states that the business owner allows MGPD officers to act on their behalf in their absence. Sergeant William Dunaske, a major transgressor of the unlawful stop and frisks, described how the zero-tolerance policy focused on minor criminal activity by the Target Group. Sergeant Dunaske minimized the impact of these practices in his deposition, but the evidence negated his proposition. The issue with Zero Tolerance began when the MGPD began to use Zero Tolerance to illegally stop-and-frisk, search, seize, and arrest Mr. Sampson, and other unwitting members of the target group at the 207 Quick stop and other stores. (ECF No. 101 ¶40). Between the Stop and Frisk policy, the Quota policy, and Zero Tolerance, MGPD officers stopped thousands of young Black men and even infants, toddlers, and other young children, ranging in ages of 1, 5, 8, 9, 10, 11, 12, and 13 years old—often characterizing children's innocent behavior, such as riding a bike, as suspicious. (ECF No. 101 ¶42).

### **The Criminal Justice System also failed Earl Sampson**

To get out of jail with a sentence of credit time served, because he could neither afford an attorney nor make bail, Mr. Sampson pled guilty to trespassing at the 207 Quick Stop on at least twenty-seven occasions. Mr. Sampson was forced to plead guilty to crimes he did not commit because he received inadequate legal representation. Teresa Enriquez, Chief Assistant Public Defender of the

11th Judicial Circuit of Florida, in and for Miami Dade County, testified that at bond hearings, first appearances, and jail arraignments, due to staffing shortages, she often only had two assistant public defenders “APD” overseeing up to fifty new defendants’ cases. Chief Enriquez further testified that with two APD’s at these hearings, they had limited ability to provide thorough advice to clients. Furthermore, Chief Enriquez conducted an internal investigation into Mr. Sampson’s cases, and she concluded that Mr. Sampson received ineffective representation by her office finding that the APD’s assigned to Mr. Sampson’s case did not effectively investigate Mr. Sampson’s mental health issues, his employment status at the 207 Quick Stop, or the potential witnesses that could have provided him with an absolute defense to the charges. (ECF No. 167 Ex. 7). Thus, Mr. Sampson, who was factually and legally not guilty of trespassing at the 207 Quick Stop, would not have been convicted (27) times of trespassing at the place he worked and lived at had he received effective representation. Mr. Sampson was many times a victim; not only was he systematically discriminated by the City of Miami Gardens illegal stop and frisk policy, the quota policy and zero tolerance policy which were used to conduct unlawful *Terry* stop and frisks, but he was also victimized by a justice system that forced him to elect between taking convictions for crimes he did not commit to get out of jail or stay in jail longer unable to afford bail in order to possibly receive the effective representation he was legally entitled to under the Constitution—to fight the charges.

While this Honorable Court may be hard pressed to find a more insidious example of the discriminatory effect of the *Terry* decision as Mr. Sampson, hundreds of

thousands of Black men have suffered the discriminatory impact of this Court's holding in *Terry* for more than half a century. Amicus suggests that the time has come for the Court to abandon its precedent to eradicate its discriminatory effect on people of color.

### CONCLUSION

For the foregoing reasons, as well as those expressed in Cooper's brief, amicus curiae Earl Sampson urges this Court to grant Cooper's Petition for Writ of Certiorari.

Respectfully submitted,

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