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U.S. lawsuit targets Philly's "stop-and-frisk" policy

By Troy Graham

Inquirer Staff Writer

Civil rights attorneys filed a federal lawsuit Thursday arguing that Philadelphia police illegally stop pedestrians based on race and question them with little or no justification.

The lawsuit accuses the department of crossing a line with its aggressive "stop-and-frisk" policy, instituted in 2008 after Mayor Nutter declared a "crime emergency." It asks the court for remedies to prevent race-based pedestrian stops and other constitutional violations.

In 2009, police stopped 253,333 pedestrians, 72 percent of whom were African American, the suit said. Only 8 percent of the stops led to an arrest, often for "criminal conduct that was entirely independent from the supposed reason for the stop," according to the suit.

"Implicitly, the message is, make as many stops as possible, and hopefully you'll find something," said David Rudovsky, one of the lawyers suing the city and the Police Department.

The suit was filed by Rudovsky's firm and the American Civil Liberties Union of Pennsylvania.

Among the eight named plaintiffs is Mahari Bailey, a Central High School and Georgetown Law graduate who has been stopped four times since 2008 in West Philadelphia "without probable cause or reasonable suspicion," according to the suit.

"It's hard when you try to do everything right and end up being treated like a criminal," said Bailey, who is African American and a lawyer in Philadelphia. "I just became a father, and don't want my children to be brought up and have to deal with this kind of mistreatment."

Nutter and his police commissioner, Charles H. Ramsey, embraced the stop-and-frisk approach in 2008 in response to a rising tide of gun violence and crime. Violent crime has dropped significantly since.

Both men have attributed the decline in part to the strategy of stop-and-frisk, which was intended to cut the number of illegal guns carried on the street.

Mark McDonald, a spokesman for Nutter, noted that police-abuse complaints have remained flat over the last several years while the number of pedestrian stops have more than doubled. That suggests that officers are following the law on permissible stop-and-frisks, he said.

A 40-year-old U.S. Supreme Court case, *Terry v. Ohio*, established that a police officer may legally stop and frisk a pedestrian as long as there is a "reasonable suspicion" of illegal activity. A more thorough search requires a higher threshold.

McDonald said that he could not comment on the lawsuit, but that "we would contend that we're following the Supreme Court requirements." A police spokesman also declined to comment on the lawsuit.

In 2008, more than 600 police supervisors went through an advanced two-hour training course on stop-and-frisk. They were responsible for passing the training down to the district officers.

Lt. Francis T. Healy, a lawyer and adviser to Ramsey, said at the time, "Stop-and-frisk does not under any circumstances mean stopping people for no reason, throwing them up against the wall, patting them down, frisking them."

Rudovsky argues that that is exactly what is happening on the street.

"It's not a case where they failed to do the initial training," he said. "What we feel happened is, the training is ignored."

The suit cites what it calls "a history of racially biased policing in Philadelphia," and details the experience of the eight African American and Hispanic plaintiffs named in the suit.

As part of a 1996 settlement of another civil rights lawsuit, the police agreed to allow the monitoring of vehicle and pedestrian stops. Rudovsky, who participated in that monitoring, said thousands of stops were analyzed between 1996 and 2005.

Those stops showed a wide racial disparity, and as many as 20 percent "failed to show a permissible grounds for a stop," he said.

"Given what our current clients tell us," Rudovsky said, "we have reason to believe that pattern is still the case."

However, the civil rights attorneys do not have police data on pedestrian stops since 2005 to make their case. They are relying on the anecdotal evidence of the plaintiffs and hoping the

lawsuit will force the city to provide the data.

Other named plaintiffs include Fernando Montero, a University of Pennsylvania ethnographer who was stopped four times this year in neighborhoods around Kensington, and State Rep. Jewell Williams, a Philadelphia Democrat.

Williams was arrested in 2009 near his North Philadelphia home after he witnessed what he thought were overly aggressive police tactics and attempted to intercede. He did not return a phone call Thursday to his district office.

The plaintiffs are seeking class status and rulings to prevent the police from conducting pedestrian stops based on race or national origin.

The suit also asks the court to order more police training, supervision, and monitoring to ensure that "stops, frisks, searches, and detentions comport with constitutional requirements."

"Mayor Nutter repeatedly promised that this policy would be carried out in a way that respected the Constitution," said Mary Catherine Roper, a staff attorney with the ACLU of Pennsylvania. "But instead of stopping people suspected of criminal activity, the police appear to be stopping people because of their race."

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