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Grand Rapids fingerprinting policy violates privacy

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The Constitution explicitly protects Americans from unreasonable search and seizure, yet it seems the Grand Rapids Police Department infringed on residents' rights when it took the fingerprints of Black teenagers who were never accused of a crime.

Michigan residents shouldn't have to fear police demanding such private information without cause—and without a warrant. The Michigan Supreme Court has rightly taken up the case brought by the American Civil Liberties Union of Michigan.

There's broad consensus that the city's fingerprinting and photographing policy violated the Fourth Amendment. The Mackinac Center and the libertarian Cato Institute, for instance, have filed an amicus brief in the ACLU's case.

Police took the fingerprints of two teens, Denishio Johnson and Keyon Harrison, they suspected of wrongdoing, without probable cause.

Johnson was walking through an athletic club parking lot in 2011 when police arrived and interrogated him, suspecting him of prior thefts in the area. Johnson had no ID and said he was 15; he said he lived nearby and used the parking lot as a shortcut.

Yet based on an officer's suspicion, police initiated the photographing and fingerprinting procedure practiced by the department for those without ID.

In the other case, Harrison was followed by police in 2012 for giving a boy a model train engine. Suspicious of the “hand-off” between the boys, police photographed and fingerprinted him. Harrison was 16 at the time and was carrying school supplies in his backpack.

Both boys were stopped by police for acting like normal teenagers. Neither boy was charged with a crime, but their fingerprints are still in the police database.

The Grand Rapids Police Department has followed this procedure for more than 30 years. In 2015, the department was on track to fingerprint 2,000 residents without ID before the department changed the policy to only take prints from people police consider suspicious.

That means that even under the city’s new policy, both boys could have been subject to fingerprinting. The department estimated that around 100 people a year are subject to fingerprinting under the updated policy.

Grand Rapids’ policy lands harder on minorities. Plaintiffs point out in court documents that that out of 439 incident reports from 2011 to 2012, 75% of the officer-initiated encounters involved Black citizens.

They also say Grand Rapids’ population in 2010 was 21% Black and 65% White. That means the city’s Black residents seem to face these unwarranted searches at a disproportionate rate.

The ACLU argues that police fingerprinting violated the Fourth Amendment because “it involved a physical intrusion on Johnson and Harrison’s bodies, and it invaded Johnson’s and Harrison’s reasonable expectations of privacy.”

The architects of the Constitution would not have accepted this kind of police conduct, says Patrick Wright, the Mackinac Center’s vice president of legal affairs.

“The Framers intended that individuals be secure in their liberties unless the government had particularized justification for stopping them,” says Wright. “Random, across-the-board searches don’t meet that criteria.”

Indeed, forced fingerprinting based on police suspicion—or the lack of an ID—is a blank check for abuse and antithetical to American ideals of living free from government interference.