2014 Use of Force Annual Report

At least annually, NOPD agrees to analyze the year's force data, including the force-related outcome data listed in section XIX.C. below, to determine significant trends; identify and correct deficiencies revealed by this analysis; and document its findings in a public report. [Consent Decree ¶82]

The New Orleans Police Department's policy is to value and preserve human life while exercising lawful authority to use force. New Orleans police officers are required to use the minimum amount of force that an objectively reasonable officer would use in light of the circumstances to effectively bring an incident or person under control, while protecting the lives of the officer and others. Officers are required to perform their work in a manner that avoids unduly jeopardizing their own safety or the safety of others by making appropriate tactical decisions. When feasible based on the circumstances, officers use de-escalation techniques to reduce the need for force and to increase officer and civilian safety. However, officers must sometimes make split-second decisions about the amount of force that is necessary in a particular situation with limited information and in circumstances that are tense, uncertain and rapidly evolving. While the ultimate objective of every law enforcement encounter is to protect the public, police officers are not required to retreat or to be exposed to possible physical injury before applying reasonable force. Nevertheless, officers strive, when it is practicable, to first attempt to de-escalate a situation before resorting to force.

A variety of police activities are considered uses of force, including hand-control or escort techniques, vehicle pursuits, deployment of canines. To ensure that the New Orleans Police Department's uses of force are appropriate, comply with Department policies, and reflect the best practices of policing, the New Orleans Police Department tracks, analyzes, and reports data concerning all uses of force. These data enable the Department to identify areas in which policies should be modified, or for which training and discipline may be required. The federal Consent Decree also requires use-of-force data tracking and analysis (see Consent Decree paragraphs 31, 37, 52, 68, 75, and 82).

The New Orleans Police Department's policy and procedures governing the use of force are presently contained in Policy/Procedure No. 300 ("Use of Force"), as well as in various subsidiary policies that govern specific topics such as the use of Conducted Electrical Weapons (CEWs, also known as Tasers). However, the Department is revising and updating all of its policies, including Policy No. 300, and its revised use of force policy (Chapter 1.3) was recently approved for implementation and publication by the U.S. Department of Justice and the Office of the Consent Decree Monitor, in accordance with the federal Consent Decree. The following definitions and policy statements are excerpted from that policy.

Key Definitions

Active Resistance—Resistance exhibited by a suspect that is between passive resistance and aggressive resistance (e.g., attempts to leave the scene, flee, hide from detection, or pull away from the officer's grasp). Verbal statements, bracing, or tensing alone do not constitute active resistance.

Aggravated Resistance—When a subject's actions create an objectively reasonable perception on the part of the officer that the officer or another person is subject to imminent death or serious physical injury as a result of the circumstances and/or nature of an attack. Aggravated resistance represents the least encountered but most serious threat to the safety of law enforcement personnel or another person.

Aggressive Resistance—Is a subject's attempt to attack or an actual attack of an officer. Exhibiting aggressive behavior (e.g., lunging toward the officer, striking the officer with hands, fists, kicks or any instrument that may be perceived as a weapon such as a knife or stick) are examples of aggressive resistance. Neither passive nor active resistance, including fleeing, pulling away, verbal statements, bracing, or tensing, constitute aggressive resistance.

Anatomical Compliance Technique—The act of applying pressure to vulnerable areas, weak points or pressure points of the body. This technique is used to cause immediate compliance by a subject who poses a threat.

Conducted Electrical Weapon (CEW)—A weapon designed primarily to discharge electrical impulses into a subject that will cause involuntary muscle contractions and override the subject's voluntary motor responses.

Deadly Force/Lethal Force—Any force likely to cause death or serious physical injury. The use of a firearm (discharge) is considered deadly force. Neck holds and strikes to the head, neck or throat with a hard object are considered lethal force.

Passive Resistance—Behavior that is unresponsive to police verbal communication or direction (e.g., ignoring or disregarding police attempts at verbal communication or control; going limp; or failing to physically respond or move) and verbal resistance (e.g., verbally rejecting police verbal communication or direction; telling the officer that he or she will not comply with police direction, to leave him or her alone, or not bother him or her). Bracing, tensing, linking arms, or verbally signaling an intention to avoid or prevent being taken into custody constitutes passive resistance. Passive resistance, including verbal statements, bracing, or tensing alone does not constitute active resistance.

Use of Force—Physical effort to compel compliance by an unwilling subject above unresisted handcuffing, including pointing a firearm at a person.

Use of Force Principles

NOPD officers, regardless of the type of force or weapon used, are required to abide by the following rules:

- Officers shall use verbal advisements, warnings, and persuasion, when possible, before resorting to force.
- Officers are expected to use sound judgment when making a subjective and independent decision regarding the need and appropriateness of the force to be used.
- Under no circumstances will an officer use force solely because another officer is using force.
- Officers will use disengagement; area containment; surveillance; waiting out a subject; summoning reinforcements; and/or calling in specialized units such as mental health professionals or a crisis response team, when feasible, in order to reduce the need for force and increase officer and civilian safety.
- When possible, officers shall allow individuals time to submit to arrest before force is used.

AUTHORITY TO USE REASONABLE FORCE (Louisiana R.S. 14:20 and R.S. 14:22)

Officers may use only necessary and reasonable force:

- To protect themselves from injury;
- To protect others from injury;
- To effect a lawful detention;
- To effect a lawful arrest; or
- To conduct a lawful search.

A use of force is "necessary" when it is reasonably required, considering the totality of facts and circumstances, to carry out one of the above-listed law enforcement objectives.

When practicable, officers will identify themselves as peace officers before using force. If it is not already known by the subject to be detained, arrested, or searched, officers should, if reasonable, make clear their intent to detain, arrest or search the subject.

Displaying or pointing a firearm constitutes a use of force. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create an objectively reasonable belief that a situation may escalate to the point at which lethal force would be authorized. Once an officer determines that the use of deadly force is no longer likely, the officer shall re-holster the weapon.

Officers shall not use force to attempt to effect compliance with a command that is unlawful. Any use of force by an officer to subdue an individual resisting arrest or detention is unreasonable when the initial arrest or detention of the individual was unlawful. (See La. C. Cr. P. Art. 220)

DEADLY FORCE

Deadly/Lethal force shall be used only when:

- There is an imminent danger of death or serious physical injury to the officer or another person; or
- To prevent the escape of a fleeing subject if there is probable cause to believe:
 - The subject has committed a felony involving the infliction or threatened infliction of serious bodily injury or death; and
 - The escape of the subject would pose an imminent danger of death or serious bodily injury to the officer or to another person.

Officers are not authorized to fire their firearms in order to subdue an escaping suspect who presents no imminent threat of death or serious injury.

Deadly Force may never be used for the protection of property.

FORCE LEVELS

When use of force is needed, officers will assess each incident to determine, based on policy, training and experience, which use of force option is believed to be appropriate for the situation and bring it under control in a safe and prudent manner.

LEVELS OF RESISTANCE (see Use of Force Continuum)

- Passive Resistance,
- Active Resistance,
- Aggressive Resistance, and
- Aggravated Resistance.

LEVELS OF CONTROL (see Use of Force Continuum)

There are a variety of controls officers can use to stop the unlawful actions of a subject(s) or to protect a subject(s) from injuring himself/herself/themselves or others. The type of control officers use may vary based upon the facts and circumstances confronting them. Officers shall assess all contacts to determine the appropriate level of control. When possible, officers shall attempt to gain control of subjects by using verbal commands/directives first.

If verbal commands/directives are ineffective or not feasible, officers may utilize other control methods. If force is necessary, officers shall determine which control technique(s), tactics or authorized defensive equipment would best de-escalate the incident and bring it under control in the safest manner. When it is objectively reasonable, officers may utilize the following skills and techniques when faced with the levels of resistance as outlined in the Use of Force Continuum:

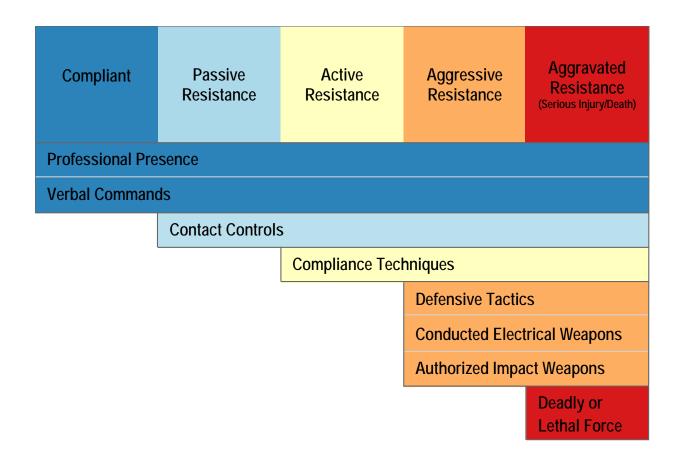
- **Professional Presence**—This includes all symbols of police authority, such as badge, uniform, marked police vehicle, etc., and applies to all levels of control.
- Verbal Commands—This level includes fundamental verbal skills and strategies that are

available to the trained officer. The mere presence of the officer can be included in this category.

- **Contact Controls**—When confronted with a subject demonstrating minimal resistant behavior, the officer may use low-level anatomical compliance techniques or physical tactics to gain control and cooperation. These tactics can be psychologically manipulative as well as physical, and include additional verbal persuasion skills, pressure point applications, and escort positions.
- **Compliance Techniques**—When a subject becomes resistant (active resistance), the officer may use anatomical compliance techniques or physical control tactics to overcome the level of resistance and remain vigilant for more aggressive behavior from the subject.
- **Conducted Electrical Weapon**—The CEW is used in situations in which a subject exhibits aggressive resistance and in situations in which the subject presents an imminent threat to the officer, himself/herself, or another person. This includes situations in which a suspect is actively fleeing from arrest for a serious offense, but fleeing should not be the sole justification for using a CEW against a suspect. Members should consider the severity of the offense, the suspect's threat level to others, and the risk of serious injury to the subject before deciding to use a CEW on a fleeing suspect.
- **Defensive Tactics**—When a subject attempts to assault the officer or another person (aggressive resistance or aggravated resistance), the officer is justified in taking appropriate physical action to immediately stop the aggressive action and to gain control of the subject. This may include the use of hands, fists and feet.
- Authorized Impact Weapons—Those less-than-lethal weapons such as the PR-24 and expandable batons, which, when authorized by the NOPD and utilized in accordance with training, may be used to overcome aggressive and aggravated resistance.
- **Deadly or Lethal Force**—Deadly/Lethal force shall be used only when:
 - There is an imminent danger of death or serious physical injury to the officer or another person; or
 - To prevent the escape of a fleeing subject if there is probable cause to believe:
 - The subject has committed a felony involving the infliction or threatened infliction of serious bodily injury or death; and
 - The escape of the subject would pose an imminent danger of death or serious bodily injury to the officer or to another person.

USE OF FORCE CONTINUUM – ILLUSTRATION

The Use of Force Continuum illustration below is a guideline used to assist officers in assessing which level of control may be appropriate when confronted with a certain level of resistance. The Use of Force Continuum does not replace the requirement that force must be objectively reasonable and consistent with NOPD policy.



The above table illustrates the options an officer has at each level of resistance. It is provided as a visual aid in decision-making. This illustration is not to be interpreted as a mandatory step-by-step progression. It is recognized that a compliant encounter can escalate to a deadly force situation quickly. Professional presence and verbal commands are present at every level of resistance.

USE OF FORCE INVESTIGATION

New Orleans Police Department policy requires that all uses of force must be reported, and all use of force reports are reviewed to ensure that each instance of force was reasonable, necessary and within Department policy. Violations of policy or law are addressed through disciplinary action, which may range from counseling to dismissal and criminal prosecution, depending on the seriousness of the violation.

A special unit with the New Orleans Police Department's Public Integrity Bureau, known as the Force Investigation Team (FIT), investigates all serious uses of force by New Orleans police officers; uses of force indicating apparent criminal conduct by an officer; uses of force by New Orleans Police Department personnel of a rank higher than sergeant; deaths that occur when a person in is the custody of New Orleans police; and other cases assigned to the FIT by the Superintendent of Police. When the Force Investigation Team discovers violations of policy or law, it pursues disciplinary investigations and, in some cases, recommends criminal prosecution.

Findings

Table 1 – Use of Force statistics, 2013-2014

	2013	2014
Arrests	48,859	36,122
Force incidents	421	409
Use of force per arrest	0.9%	1.1%

			Percent
Type of Force	2013	2014	Change
Firearm Discharge*	13	10	-23%
Firearm Exhibited	64	101	58%
Total Firearm Uses	77	111	44%
Taser Discharged*	102	138	35%
Taser Displayed	62	73	18%
Total Taser Uses	164	211	29%
Baton	6	4	-33%
Hands	289	246	-15%
Feet	3	0	-100%
Takedown	116	90	-22%
Strike	33	5	-85%
Canine	32	35	9%
Other**	5	4	-20%
Total Uses of Force	725	706	-3%

*Does not include accidental discharges

**Other includes Uses of Force not otherwise categorized.

Although the use of force per arrest in 2014 is slightly higher than it was in 2013, the increase is very slight—about two-tenths of a percentage point. Because the difference is so small, it does not appear to represent a significant change. However, the total number of arrests dropped by 12,737 between 2014 and 2013, a decrease of 26 percent.

Overall, the total uses of force decreased by 3 percent from 2013 to 2014. The decrease in the total uses of force is a positive trend. However, additional data is needed from future years to adequately analyze. The relative stasis in both use of force per arrest, use of force incidents, and uses of force, these data indicate New Orleans police are using force at relatively the same rate from 2013 to 2014. Moreover, uses of force represent a very small percentage of overall arrests.

Force Complaints

In 2014, 45 complaints of excessive or unauthorized force were filed against New Orleans police officers. Of those, five were sustained. In addition, in 2014, zero officers violated force policy more than once.

Disposition type	Complaints	Percent
Sustained (violated policy)	5	11%
Exonerated	4	9%
Unfounded	5	11%
Not sustained	21	47%
No formal investigation merited	2	4%
Pending	8	18%
Total	45	100%

Table 2 - Force complaint disposition, 2014

Vehicle Pursuits

A vehicle pursuit is defined as an event involving one or more police officers attempting to apprehend a suspect who is trying to avoid arrest while operating a motor vehicle. This may include using high speed or other evasive tactics, such as disregarding traffic warning signs, stop signs, and red lights, driving off a roadway, turning suddenly or driving in a legal manner but willfully failing to yield to an officer's signal to stop.

New Orleans police officers engaged in 49 vehicle pursuits in 2014. None resulted in any criminal or civil legal actions or charges against the officers, the Police Department, or the City. Of those pursuits, 14 resulted in property damage, including one instance of heavy damage, two instances of moderate damage, and 11 instances of light damage. One pursuit resulted in injuries to two officers, and one pursuit resulted in injury to one suspect and one bystander. The following table lists: the violation that prompted the pursuit; the officer(s) involved in the pursuit; the supervisor who approved the pursuit; the outcome of the pursuit; and resultant property damage.

Table 3 – Vehicle pursuits, 2014

Violation	Drivers	Passengers	Supervisor Approval	Pursuit Outcome	Damage to Vehicle
Traffic	Davis Guzman; R. Young; K. Young	Shannon Davis	Lt. Allison	Pursued veh. spins out	None
Stolen vehicle	Murhammer		Sgt. Young	Pursued veh stops driver flees on foot subsequently arrested	None
Traffic	Vicknair		Sgt. Palumbo	Pursued veh stops driver flees on foot and subsequently arrested	None
Stolen vehicle	Morrell Carter	Elensohn Ogden	Sgt. Bush	NOPD terminates pursuit	None
Felony	Vicknair	Aranda	Sgt. Anderson	Pursued veh stops driver flees on foot and escapes	None
DWI	Brown		Sgt. Theard	Pursuit veh stops and is arrested	None
Switchd plates	Aranda		Sgt. Landry	Pursued veh stops and driver escapes	None
Stolen vehicle		Carwile	Sgt. Barbe	NOPD unit disabled	None
Felony	Williams	Carwile	Sgt. Barbe	Pursued vehicle in collision (one suspect, one bystander injured)	Medium
Felony	Poluikis Linehan		Sgt. Gillard	Pursued veh evades	None
Misdemeanor	Henry Vicknair	Cooper Hebert	Sgt. Smith	Pursued driver voluntairly stops & is arrested	None
Felony	Gant Senanayake	Pazon Elsesohn	Lt. Austin	Pursued vehicle stops & driver flees on foot	None
Stolen vehicle	Brown Warren	Walton	Lt. Monaco	NOPD terminates pursuit investigation ongoing (two officers injured)	None
Stolen vehicle	Sam		Sgt. Young	Pursued vehicle stops & driver flees on foot	None
Traffic	Brown	Walton	Sgt. Marchese	NOPD terminates pursuit subject escapes	Light
Traffic	Jemigan		Lt. Deshotel	Pursued vehicle stops driver flees on foot	Light
Traffic	Foxworth Barre	McGowan Davis	Sgt. Young	Pursued vehicle stops & driver flees on foot	None
Traffic	Jones		Lt. Monaco	Pursued vehicle evades	None
Traffic	James	Dede	Sgt. Amos	Pursued vehicle stops & driver flees on foot	None
Felony	Williams	Hebert	Sgt. Barbe	Pursued vehicle stops & driver flees on foot	None
Felony	James	Dede	Sgt. Amos	Pursued vehicle stops & driver flees on foot	None
Traffic	James	Dede	Sgt. Young	Pursued vehicle stops & driver flees on foot	None
Felony	Pearson Weathersby	Callais	Sgt. Perkins	NOPD terminates pursuit	Light
Traffic	Gaines	Fuquay	Sgt. Kirton	Pursued vehicle stops & driver flees on foot & subsuquently arrested	Heavy

Table 3 – Vehicle	pursuits, 2014	(continued)
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Violation	Drivers	Passengers	Supervisor Approval	Pursuit Outcome	Damage to Vehicle
Traffic	Parker	Landry	Sgt. Celious	Pursued vehicle voluntarilly stops & driver subsusquently arrested	None
Traffic	Poluikis		Sgt. Marchese	Pursued vehicle evades	None
Traffic	Davis Beechem		Sgt. Guggenheim	Pursued driver voluntarily stops & is arrested	Light
Felony	Hebert	Pearson	Sgt. Perkins		Light
Felony	Vicknair Aranda	Frank	Sgt. Anderson	Pursued vehicle stops & driver flees on foot	Medium
Felony	Gant Bax	Davillier Ogden	Sgt. Bax		None
Traffic	Gettridge		Sgt. Brazley		None
Traffic	Riffle		Sgt. Jones	Pursued vehicle voluntarily stops	None
Misdemeanor	Bencik	Linehan	Sgt. Marchese	Pursued vehicle voluntarily stops	None
Stolen vehicle	Winston		Sgt. Easley	Pursued vehicle stops & driver flees on foot	Light
Traffic	Booker		Sgt. Jacobs		Light
Traffic	Davis Jacquet	McGowan	Sgt. Mitchell	Pursued vehicle stops & driver flees on foot	None
Felony	Senanayake	Mc Iver	Sgt. Bax	Pursued vehicle stops & driver flees on foot	None
Medical	Brumfield		Sgt. Jarrot	Pursued driver voluntarily stops	None
Felony	Williams	Pearson		Pursued vehicle in collision	Light
Traffic	Jones Ashmore	Bencik Linehan	Sgt. Marchese		
Traffic	Duming		Sgt. Smith	Pursuit ended by other agency/opso	None
Stolen vehicle	Bencik Brown	Jones	Sgt. Boudreau	Pursued vehicle in collision	Light
Traffic	Vappie Je r inigan	Carey	Sgt. Nero	Pursued vehicle stops & driver flees on foot	Light
Stolen vehicle	Rigney	Miranda	Sgt. Smith- Williams	NOPD terminiates pursuit	None
Stolen vehicle	Barre	Davis	Lt. Lewis- Williams	Pursued vehicle stops & driver flees on foot	None
Traffic	Pearson	Bridges	Sgt. Perkins	Pursued vehicle in collision	Light
Traffic	Banks		Sgt. Yates	NOPD terminates pursuit	None
Traffic	Packer	Almedia	Sgt. Young	Pursued vehicle stops & driver flees on foot	None
Stolen vehicle	Anderson		Sgt. Caronna	Pursued vehicle stops & driver flees on foot	None

Use of Firearms

Only authorized personnel who have met all Louisiana State Peace Officer Standards and Training (POST) requirements and have been commissioned by the Superintendent of Police have the privilege to carry a firearm, as a police officer, both on-duty and off-duty (La. R.S. 40:2405). All critical firearms discharges are required to be reported to, and investigated by, the Public Integrity Bureau's Force Investigation Team. This is defined as a discharge of a firearm by an NOPD officer, including discharges when no person or animal is struck. Range and training firings, humane destruction of animals, and off-duty hunting discharges when no person is struck are not critical firearms discharges.

As outlined above, New Orleans police officers reported displayed their firearms, without discharging them, 100 times during 2014. They reported discharging their firearms 10 times. Additionally, two accidental discharges occurred during the month of February, bringing the total number of critical firearms discharges in 2014 to 12.

Table 4 – Use of Firearms, 2014

Firearm Uses	2013	2014
Intentional Discharges	13	10
Accidental Discharges	0	2
Total Critical Discharges	13	12

Canines

The use of canines requires adherence to procedures that control their use of force potential and that direct their specialized capabilities into legally acceptable crime detection, prevention, and control activities. A police dog used to apprehend is an instrumentality of force and can only be used consistent with the Police Department's policies. Officers are required to use the minimum amount of force that the objectively reasonable officer would use in light of the circumstances to effectively bring an incident or person under control, while protecting the lives of the member or others.

The New Orleans Police Department requires every canine deployment to be reported to the Public Integrity Bureau's Force Investigation Team, and NOPD tracks every canine deployment as well as bites resulting from a deployment. Canines are deployed for a variety of reasons, including patrols and to search for narcotics, and may be used without attempting to apprehend a suspect.

Table 5 - Canines, 2013-2014

Canine Apprehensions	2013	2014
Without Bite	25	23
With Bite	7	12
Total Apprehensions	32	35
Canine Bite Ratio	22%	34%

Conducted Electrical Weapons

The appropriate use of a CEW should result in fewer serious injuries to officers and suspects. Officers are required to use CEWs only when such force is necessary to protect the officer, the subject, or another party from physical harm, and other less intrusive means would be ineffective. CEWs are authorized to control a violent suspect when attempts to subdue the suspect by other tactics have been, or are likely to be, ineffective, and there is a reasonable expectation that it will be unsafe for officers to approach the suspect within physical contact range. CEWs are intended to control a violent or potentially violent individual while minimizing the risk of serious injury.

Although the total number of CEW discharges increased from 2013 to 2014, the use of ECWs did not apparently increase the overall use of force, as the total number of force incidents decreased from 2013 to 2014, from 738 to 694 (6 percent). The total number of injuries to suspects and police officers also decreased, indicating that the increased use of ECWs did not cause more injuries.

CEW Discharges	2013	2014
CEW Uses	102	138
CEW Accidental Discharges	46	34
Total Discharges	148	172

SWAT Deployments

The Special Weapons and Tactics (SWAT) teams are part of the Crisis Response Unit, which was established to provide specialized support in handling critical field operations in which intense negotiations and/or special tactical deployment methods appear to be necessary. The Special Operations Division's tactical platoons (SWAT teams) are limited to providing specialized response to critical situations in which a tactical response is required, such as hostage rescue, barricaded subjects, high-risk warrant service, high-risk apprehension, and terrorism response. The SWAT teams have the primary responsibility for execution of high-risk warrant utilizing tactical team officers equipped with special equipment, training, and weapons.

The following table list the location of each SWAT deployment; the number of arrests made; the type of evidence or property seized; whether a forcible entry was required; whether a weapon was discharged by a SWAT team member; and whether a person or domestic animal was killed or injured:

Table 7 – SWAT deployments, 2014

Warrants

			Forcible		
	Arrests	Evidence	entry	Weapon	Death/
Location	made	seized	required	discharged	Injury
2000 block Wagner Street	0	None	None	None	None
7000 block Lawrence Road	0	None	Breach	None	None
1300 block Senate Street	1	None	Breach	None	None
4400 block Eastern Street	1	None	Breach	None	None
8500 block I-10 Service Road	3	Cash/drugs	Breach	None	None
3700 block Garden Oaks "D"	1	None	Breach	None	None
1900 block Bodenger Street	0	None	Breach	None	None
2100 block Pauger Street	0	None	Breach	None	None
8700 block Oleander Street	4	None	Breach	None	None
2300 block S. Prieur	0	None	Breach	None	None
6200 block Stafford Street	0	None	Breach	None	None
900 block Pacific Street	0	None	Breach	None	None
2600 block Castiglione Street	0	None	Breach	None	None
700 block Washington Ave.	1	Cash/drugs	Breach	None	None
3300 block Pleasure Street	1	None	Breach	None	None
6900 block Salem Street	0	None	Breach	None	None
3300 block Fourth Street	0	None	Breach	None	None
2700 block Mithra	1	None	None	None	None
2000 block Marais Street	0	None	Breach	None	None
3200 block Washington Ave.	0	None	None	None	None

SWAT Rolls

			Forcible		
	Arrests	Evidence	entry	Weapon	Death/
Location	made	seized	required	discharged	Injury
3000 block G. N. Connor Dr.	1	None	None	None	None
2100 block Florida Avenue	1	None	Breach	None	None
1300 block Napoleon Avenue	1	None	None	Taser	Taser
100 block Iberville	0	None	None	None	Murder/Suicide
1800 block Canal Street	1	None	None	None	None