2016 Bias-Free Policing Annual Report

> Within 365 days of the Effective Date, and at least annually thereafter, NOPD agrees to assess all NOPD programs, initiatives, and activities to ensure that no program, initiative, or activity is applied or administered in a manner that discriminates against individuals on the basis of race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity. As part of its assessment, NOPD agrees to specifically include an assessment of misconduct complaints involving discrimination, use of force, motor vehicle and pedestrian stops, and arrests, including the selection or rejection of particular geographic deployment tactics or strategies based upon stereotype or bias. NOPD shall base its assessment of programs, initiatives, and activities on accurate, complete, and reliable data, including data contained in the EWS, stop and detention data, use of force analyses, crime trend analysis in relation to population demographics, enforcement practices based on community concerns, operations plans, and after-action reports. NOPD agrees to make this assessment publicly available. [Consent Decree ¶188]

The purpose of this report is to "assess all NOPD programs, initiatives, and activities to ensure that [they are not] administered in a manner that discriminates against individuals on the basis of race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity." This report references assessments contained in other annual reports with a specific focus on bias-free policing. For example, the Stop and Search annual report contains extensive analysis of stop and search data, and the Misconduct annual report contains analysis of public and rank initiated complaints.

Relevant Policies

The NOPD's current policy on bias-free policing was updated and made effective July 10, 2016. The policy prohibits discriminatory and bias-based policing, including using factors such as race, ethnicity, religion, gender identity, sexual orientation, age, or disability as the sole basis for law enforcement action. However, the policy permits officers to consider some of these traits in combination with other aspects of a physical description, such as height and weight, when pursuing the suspected perpetrator of a crime. For example, the Department's policy forbids racial profiling, or pulling over drivers on the basis of race alone. However, an officer searching for the perpetrator of an auto theft described by a witness as a "short, white, female teenager" could pull over a driver who fits that description. In that case, the legitimate consideration of a person's race is not a violation of Department policy.

NOPD created a separate policy for LGBTQ (Lesbian, Gay, Bisexual, Transgender, and Questioning) persons, to emphasize bias-free policing procedures when dealing with the LGBTQ community. The new policy regarding police interactions involving LGBTQ persons, Chapter 41.13.1, was implemented on March 12, 2017.

The Department has also created a policy that prohibits discrimination, harassment, and retaliation in the workplace and community, Chapter 26.3, implemented May 7, 2017. This policy operates in tandem with recently approved disciplinary policies, including Chapter 26.2: Adjudication of Misconduct, and Chapter 26.2.1: Disciplinary Matrix and Penalty Schedule. The Disciplinary Matrix forbids discrimination and categorizes it as an offense that is punishable by dismissal, in extreme cases. The Disciplinary Matrix also states that penalties shall be imposed "objectively, without favoritism or bias in any form. Similar penalties shall be imposed for similar violations, depending on the aggravating or mitigating circumstances of each case."

Additional policies contain prohibitions against discrimination in the performance of law-enforcement duties. For example, the Department's approved Search and Seizure policy, Chapter 1.2.4, provides that officers "shall not use race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity in exercising discretion to conduct a warrantless search or to seek a search warrant . . . except as part of an actual and apparently credible description of a specific suspect or suspects in any criminal investigation." The same verbiage is used in Chapter 1.2.4.1: Stops/Terry Stops, to make the same prohibition applicable to *Terry* Stops, i.e. the brief detention of a person based on reasonable suspicion. These policies, which were implemented during the second half of 2016, make clear that discrimination is unacceptable in stops, searches, arrests, and other police duties. While the appropriate policies are in place, it is important to make sure they are being followed, and that there is proper training, supervision and accountability.

<u>Training</u>

Following up on the progress made in 2015, when the Department held two "bias-free policing" training sessions with a nationally recognized expert, Dr. Lorie Fridell, NOPD has created its own "Bias-Free Policing" course, as well as another course titled "Fair and Impartial Policing." The 2016 Bias-Free and Fair and Impartial Policing lessons, taught by the Training Academy, were presented to all NOPD Police Recruits (113), as well as 862 Officers, and 105 NOPD supervisors.

The stated goals of the training were for recruits, officers, and supervisors to:

- Recognize their own biases, both implicit and explicit;
- Understand how implicit biases can affect perceptions and behaviors;
- Understand how biased policing impacts community members and the Department;
- Understand how fair and impartial policing supports procedural justice and thus police legitimacy; and
- Develop skills and tactics to reduce the influence of bias on police practice, and allow officers to be safe, effective and just police professionals.

Further, supervisors were also tasked with reflecting on the role effective supervisors have in producing fair and impartial policing.

In January 2016, Public Integrity Bureau (PIB) personnel received additional instruction on the classification of discrimination complaints to ensure that allegations of discrimination or bias-based policing are properly classified and investigated. This instruction, given in collaboration with the Office of the Consent Decree Monitor, focused on the use of key terms that intake personnel may use when assessing complainants during interviews. Using this guidance, PIB may be able to identify allegations that are not made explicitly. To learn more about the NOPD's training efforts, you can read the 2016 Training Annual report at http://nopdnews.com/nopdnews/media/Assets/Policing-Data/Training-annual-report-2016.pdf

<u>Community Engagement</u>

The NOPD constantly works to ensure bias-free policing practices are part of every encouter Department members have with the public. One type of positive police interaction is through community outreach and engagement. In 2016, the NOPD participated in more than 70 community partnerships and events. NOPD partnership participants include city agencies, civic groups, youth engagement and mentorship groups, neighborhood associations, among others. The purpose of NOPD partnerships are to engage with the community and youth, and to problem-solve with the community to address crime and quality of life issues.

Throughout the year, the NOPD participated in multiple events in each of the City's eight districts, in an effort to reach out to every citizen that wanted to interact with our officers. The events were

broad reaching, from community forums and anti-crime rallies, to toy and candy drives during the holidays. To learn more about the NOPD's community engagement activities in 2016, see the 2016 Community Engagement Annual Report, found https://nola.gov/nopd/nopd-consent-decree/.

Alleged Officer Misconduct

As discussed above, misconduct complaints involving discrimination are currently investigated and assessed according to Chapters 41.13 – Bias Free Policing and 41.13.1 – Interactions with LGBTQ Persons. As the following tables demonstrate, no complaints of discrimination were sustained between 2014 and 2016, although 7 of the 134 complaints lodged in that three-year period remain under investigation.

Table 1: Discrimination and Biased-Based Allegations, by Disposition

	2014	2015	2016
Sustained	0	0	0
Pending (under investigation)	3	1	3
Exonerated	3	3	7
Not sustained	12	5	5
No formal investigation merited	1	0	1
Unfounded	17	33	39
Cancelled	0	1	0
Total	**36**	**43**	**55**

Over the last three years, NOPD has seen an increase in the number of discrimination and bias-based complaints. This may be attributed to the increased awareness of the Department's complaint process and improved classification of bias-related complaints. NOPD has made a concerted effort toward transparency and public awareness of the processes to file complaints of NOPD misconduct, as well as how to submit commendations for outstanding examples of police work. Placards, brochures and forms detailing the complaint and commendation process have been made available to each District Station, NOPD Headquarters, City Hall, the office of the Independent Police Monitor, as well as in New Orleans' public libraries. This information has been transcribed in English, Spanish and Vietnamese, to provide all New Orleans residents and visitors a way to address the NOPD regarding positive and/or negative experiences.
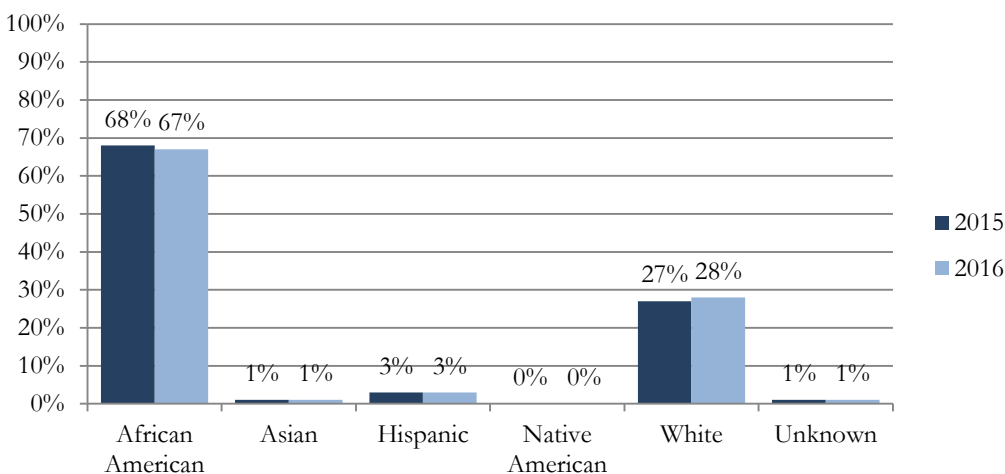
It is also worth noting that the majority of allegations of discrimination and bias-based policing, with final dispositions, are classified as "Unfounded." According to NOPD's Federal Consent Decree, the Unfounded disposition is used in cases in which "the investigation determines, by a preponderance of the evidence, that the alleged misconduct did not occur or did not involve the subject officer" (pg. 103, ¶415).

To ensure the thoroughness of misconduct investigations, all bureaus and divisions are included in the disciplinary process. Although officers assigned to PIB investigate allegations of criminal misconduct against NOPD officers and civilian employees, the investigation of violations of administrative regulations are shared with first-line supervisors. In order to hold first-line supervisors accountable and ensure their involvement in complaints against their subordinates, many administrative complaints are forwarded to division commanders through their bureau chiefs for investigation. These investigations are reviewed through that bureau's chain of command, then ultimately by PIB and Superintendent of Police Michael Harrison. To learn more about the NOPD's misconduct complaint process, or the nature of NOPD complaint in previous years, you can find the complaint data and annual reports at http://nopdnews.com/transparency/policing-data/.

<u>Stops and Arrests</u>

In the 2016 Stop and Search annual report, analysis of pedestrian and vehicle stops in New Orleans by race/ethnicity shows the distribution of stops across races/ethnicities in 2016 very closely resembled the statistics of the previous year, as well as New Orleans' racial demographics. African-Americans represented 67 percent of all FICs, compared to 68 percent in 2015; Whites represented 28 percent of all FIC, a slight increase from their 27 percent in 2015; Hispanics, Asians and Native Americans showed no change, remaining at 3 percent, 1 percent and <1 percent, respectively in 2015 and 2016. African-American persons represented approximately 59 percent of New Orleans' total population; White persons represented 31 percent of the total population; Hispanic persons represented 5 percent of the total population; Asian persons represented 3 percent of the total population; and Native Americans represented 0.1 percent of the total population.[1] While it is widely believed that the resident population should be the appropriate comparison, comparing against only the resident population ignores tourists and commuters. This is particularly relevant to New Orleans, given that many of the people who work in the city reside elsewhere, and millions of tourists visit every year. For a more detailed analysis of stops, see the Stop and Search Annual Report[3], which includes the table shown below.

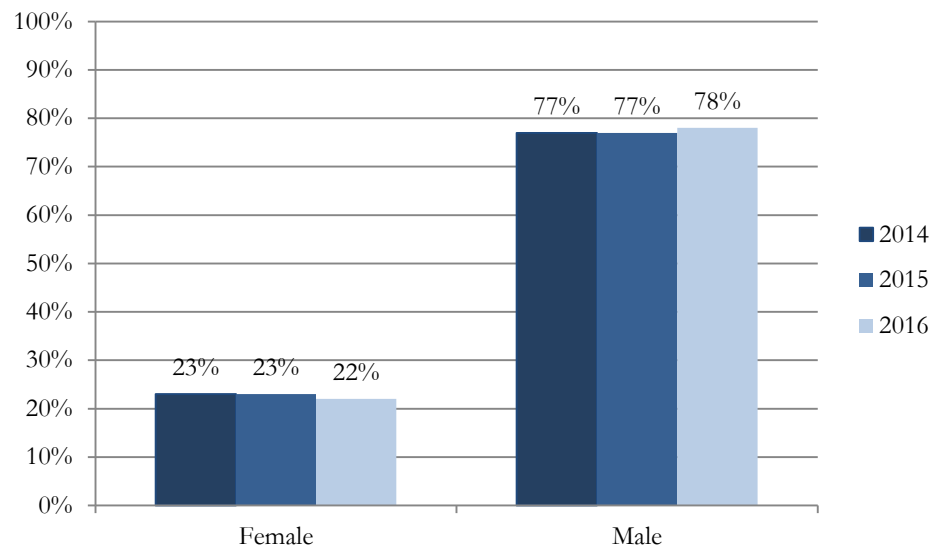**Figure 1: Stops in New Orleans by race/ethnicity of the subject, 2015-16**

Analysis of arrest data similarly shows consistent results over the last two years.[2] For example, the following tables illustrate the percentages of male and female subjects arrested by the New Orleans Police Department between 2014 and 2016. With respect to gender, the demographics have shifted one percentage point over the course of three years. Of all the persons arrested by NOPD in 2014 and 2015, 23 percent were female and 77 percent were male. Those percentages shifted to 22 and 78 percent, respectively in 2016.

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[1] U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates.
[2] Arrest numbers based on Orleans Parish Sheriff's Office data.
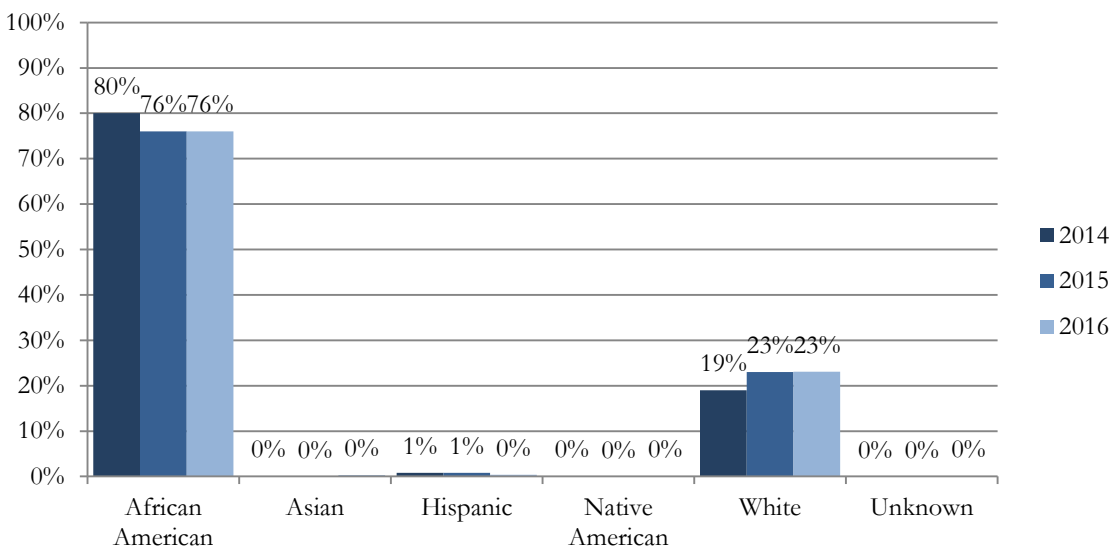[3] Stop and Search Annual Reports can be found online, at http://nopdnews.com/transparency/policing-data/

Figure 2: Arrests in New Orleans by gender of the subject, 2014-16

Similarly, racial demographics of those arrested by the NOPD remained fairly consistent as well. Of all the persons arrested by NOPD in 2014, 80 percent were African-American subjects; 19 percent were white subjects; 1 percent were Hispanic subjects; and less than 1 percent were Asian, Native American or of unknown race/ethnicity. Of all the persons arrested by NOPD in 2015 and 2016, 76 percent of those arrested were African-American; 23 percent were White; 1 percent, or slightly less were Hispanic; and less than 1 percent were Asian, Native American or of unknown race/ethnicity.

Figure 3: Arrests in New Orleans by race/ethnicity of the subject, 2014-16

These data may be used as points of reference but do not provide enough information to draw statistically valid conclusions regarding bias or lack thereof, with respect to arrest percentages based on a subject's race/ethnicity or gender. As previous mentioned in this section of the report (pg. 6), one cannot compare the overall percentage of arrestees of any particular race/ethnicity in 2016 to the overall demographics of New Orleans residents to determine the presence (or absence) of bias, as it would not take into account the presence of commuters and tourists. Neither can one infer a shift in implicit or explicit biases among NOPD personnel from the slight changes found in the 2014-16 data presented above. It does appear that African American/Black people are To learn more about the NOPD's stop, search and arrest activities in 2016, see the 2016 Annual Report, found at https://nola.gov/nopd/nopd-consent-decree/.

Uses of Force

In 2016, there were 589 reported incidents in which NOPD Officers used force. The 2016 data indicates a significant decrease from 2015, which saw 711 reported uses of force. It is worth noting that individual force incidents can include multiple officers, using multiple types of force. For example, consider 10 members of the Violent Offender Warrant Squad (VOWS) are deployed to apprehend a suspect, during which time all of the officers have their weapons exhibited/pointed, and one of them has to use a takedown techniques to subdue the suspect(s). In the previously mentioned scenario, there would be a single force tracking number (FTN) given to document the incident, however, there would be 11 individual uses of force; one count for each weapon pointed, and another for the takedown. During any force incident involving NOPD officers, each type of force used is recorded, along with identifying information for each of the officers that used force.

The data found in the Department's 2016 Use of Force report has an in-depth review of all force incidents for the last three years, including each type of force used. Table 4 also shows that in 2016, most uses of force occurred while officers were making an arrest, or during situations in which an arrest became necessary.

Table 2: Uses of Force Incidents per Arrest

	2014	2015	2016
Arrests	36,122	27,974	21,884
Force incidents	409	711*	589*
Use of force per arrest	1.1%	2.6%	2.7

*In 2015, NOPD began counting the number of times firearms were exhibited/pointed without discharge as Level 1 uses of force.

Table 3: Types of Force Used, 2014-2016

	2014	2015	2016
Firearm Discharge[1]	10	12	5
Firearm Exhibited/Pointed[2]	101	367	760
CEW Discharged[1]	138	94	52
CEW Exhibited/Pointed	73	78	114
Baton	4	1	3
Hands	246	316	316
Feet	0	8	0
Takedown	90	154	175
Strike	5	0	4
Canine[3]	35	42	47
Escort Techniques[2]			49
Defense Techniques[2]			1
Other[4]	4	0	37
Total	**706**	**1,791**	**1563**

1-Accidental discharges not included

2- Force types not tracked in previous years

3- Only 9 incidents involving canines resulted in bites.

4-Other includes Uses of Force not otherwise categorized.

Table 4: Type of Force by Arrest, 2016

	Subject Arrested	Subject Not Arrested
Firearm Discharge[1]	0	5
Firearm Exhibited/Pointed	526	234
CEW Discharged[1]	34	18
CEW Exhibited/Pointed	76	38
Baton	2	1
Hands	225	91
Takedown	129	46
Strike	4	0
Canine[2]	45	2
Escort Techniques	42	7
Defense Techniques	1	0
Other	21	3
Total[3]	**1105**	**445**

1-Accidental discharges not included. Also, of the firearm discharges, two involved dogs, and another subject committed suicide after being wounded by officers.

2-Neither of the incidents involving canines, where the subject was not arrested resulted in bites.

3-13 cases listed neither the type of force, nor whether the subject involved was arrested.

Use of Force Demographics

While the NOPD continues to improve the quality and availability of its data, the department has made a commitment to transparency with the public that it serves. Below are three tables listing the number of uses of force by the age, gender and race/ethnicity of those that the force was used against in 2016.

Table 5: Uses of Force by Subject Age

	Under 10	11-17	18-27	28-37	38-47	48-57	58+	Not-specified
Firearm Discharge				1	2			2
Firearm Exhibited	8	111	305	173	74	34	18	37
CEW Discharged		3	20	11	3	6		9
CEW Exhibited		8	33	40	11	13	1	8
Baton				2				1
Hands	1	22	122	102	33	17	7	12
Takedown	1	16	65	53	14	15	3	8
Strike			1	1				2
Canine		23	20	2	2			
Escort Techniques		3	28	7	1	4	1	5
Defense Techniques			1					
Other		3	7	9	3	1		14
Total	**10**	**189**	**602**	**401**	**143**	**90**	**30**	**98**

The data available indicate that force is most often used against individuals between the ages of 18 and 27 (38 percent of 1593 total uses of force). The second most likely age range to have forced used against them were those between 28 and 37 (25 percent), with those aged 11 to 17 a distant third place (12 percent).

Table 6: Type of Force by Gender

	Male	Female	Not specified
Firearm Discharge[2]	5		
Firearm Exhibited	654	97	9
CEW Discharged[1]	46	2	4
CEW Exhibited	98	15	1
Baton		2	1
Hands	249	65	2
Takedown	153	20	2
Strike	4		
Canine[2]	41	6	
Escort Techniques	41	8	
Defense Techniques	1		
Other	17	6	14
Total	**1309**	**221**	**33**

In 2016, men were far more likely to have force used against them by the NOPD. More than more than 1300 of 1563 uses of force were against male subjects (about 84 percent), while only 221 uses of force were against women (14 percent); the other two percent of cases were not specified.

Table 7: Types of Force Used by Race/Ethnicity

	African American	Asian/Pacific Islander	Hispanic	White	Not-specified
Firearm Discharge	2			1	2
Firearm Exhibited	689	2	21	38	10
CEW Discharged	35		1	10	6
CEW Exhibited	93		4	15	2
Baton	2				
Hands	243		3	65	5
Takedown	133		3	36	3
Strike	1		1	2	
Canine	47				
Escort Techniques	44			5	
Defense Techniques	1				
Other	19		1	3	1
Total	**1309**	**2**	**34**	**175**	**43**

The majority of force used by the NOPD in 2016 was against African American/Black individuals (1309 of 1563 total uses of force). Force against African Americans made up 84 percent of all force incidents, while force against White/Caucasians was a distance second place, at 11 percent (175 total uses of force). It is also worth noting that African American individuals made up 67 percent of all stops, and 77 percent of searches conducted by NOPD in 2016. This data is further explored in the 2016 Stop and Search, and Use of Force Annual Reports, both of which can be found at https://nola.gov/nopd/nopd-consent-decree/.