



**New Orleans Consent Decree Monitor
Third Quarterly Report
August 31, 2014**

Office of the Consent Decree Monitor

Sheppard Mullin Richter & Hampton, LLP

Appointed By Order Of The U.S. District Court For The Eastern District Of Louisiana



WHAT'S IN THIS REPORT?



**Office of the
 Consent Decree
 Monitor**

**Third
 Quarterly Report
 August 2014**

**Covering
 April 1, 2014 –
 June 30, 2014**

See
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 for full report

Sheppard Mullin
 Richter & Hampton LLP

WHAT WE DID THIS QUARTER

- Reviewed and analyzed NOPD Use of Force data
- Analyzed in-car camera functionality
- Analyzed Field Interview Card (FIC) process
- Reviewed policies, observed training, and attended disciplinary hearings
- Observed police officers through ride-alongs, unannounced observations, and review of video footage
- Reviewed NOPD record keeping practices regarding Custodian Interrogations, Photographic Lineups, Use of Force investigations, and Supervisor responsibilities

WHAT WE FOUND

- The recent hiring of five qualified individuals to staff the NOPD Consent Decree Implementation Unit was an extremely positive development
- The Office of Police Secondary Employment continues to make significant progress toward achieving its goals
- The implementation of body worn cameras appears to be having a material positive impact on officer use of force
- NOPD failed to notice and/or remedy a high percentage of non-functioning in-car cameras
- NOPD continues to struggle with a lack of consistent recordkeeping
- NOPD field supervisors failed to submit adequate documentation of use of force reviews to PIB
- The FIC process is in need of significant improvement
- NOPD progress in developing compliant policies continues to be slow, but we are encouraged by the competence and urgency exhibited by the new Consent Decree Implementation Team

NEXT QUARTER'S ACTIVITIES

- Continue to review, assess, and suggest revisions to NOPD policies
- Continue to monitor and evaluate NOPD's training
- Initiate the first collection and analysis of annual "outcome measurements"
- Work with the IPM to assess whether racial profiling complaints are being properly captured and investigated by NOPD
- Review and analyze body worn camera footage to assess the accuracy of NOPD FICs, arrest reports, and/or activity logs, as well as the quality of police/citizen interactions
- Continue to monitor closely NOPD's ongoing practices in a number of Consent Decree areas, including disciplinary hearings, bias free policing, Use of Force events, misconduct investigations, secondary employment, and more



I. Consent Decree Authority

“The Monitor shall file with the Court quarterly written, public reports covering the reporting period that shall include:

- a) A description of the work conducted by the Monitoring Team during the reporting period;
- b) A listing of each [Consent Decree] requirement indicating which requirements have been: (1) incorporated into implemented policy; (2) the subject of sufficient training for all relevant NOPD officers and employees; (3) reviewed or audited by the Monitoring Team in determining whether they have been fully implemented in actual practice, including the date of the review or audit; and (4) found by the Monitoring Team to have been fully implemented in practice;
- c) The methodology and specific findings for each audit or review conducted, redacted as necessary for privacy concerns. An unredacted version shall be filed under seal with the Court and provided to the Parties. The underlying data for each audit or review shall not be publicly available but shall be retained by the Monitoring Team and provided to either or both Parties upon request;
- d) For any requirements that were reviewed or audited and found not to have been fully implemented in practice, the Monitor’s recommendations regarding necessary steps to achieve compliance;
- e) The methodology and specific findings for each outcome assessment conducted; and
- f) A projection of the work to be completed during the upcoming reporting period and any anticipated challenges or concerns related to implementation of the [Consent Decree].”

-Consent Decree Paragraph 457

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II. Notes

“The Monitor shall be subject to the supervision and orders of the [United States District Court for the Eastern District of Louisiana], consistent with [the Consent Decree]. The Monitoring Team shall only have the duties, responsibilities, and authority conferred by [the Consent Decree]. The Monitoring Team shall not, and is not intended to, replace or assume the role and duties of the City and NOPD, including the Superintendent.”

-Consent Decree Paragraph 455



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IV. Glossary of Acronyms

“ASU”	Administrative Services Unit
“AUSA”	Assistant United States Attorney
“AVL”	Automatic Vehicle Locator
“BWC”	Body Worn Cameras
“CCMS”	Criminal Case Management System
“CD”	Consent Decree
“CIT”	Crisis Intervention Team
“CODIS”	Combined DNA Index System
“ComStat”	Computer Statistics
“CPI”	California Psychological Inventory
“CSC”	Civil Service Commission
“CUC”	Citizens United for Change
“DA”	District Attorney
“DI-1”	Disciplinary Investigation Form
“DOJ”	Department of Justice
“DVU”	Domestic Violence Unit
“ECW”	Electronic Control Weapon
“EWS”	Early Warning System
“FBI”	Federal Bureau of Investigation
“FIT”	Force Investigation Team
“FOB”	Field Operations Bureau
“FTO”	Field Training Officer
“IACP”	International Association of Chiefs of Police
“ICO”	Integrity Control Officers
“IPM”	Independent Police Monitor
“KSA”	Knowledge, Skill and Ability
“LEP”	Limited English Proficiency
“LGBT”	Lesbian, Gay, Bi-sexual, and Transgender
“MMPT”	Minnesota Multiphasic Personality Inventory
“MOU”	Memorandum of Understanding
“NNDDA”	National Narcotics Detection Dog Association
“NOFJC”	New Orleans Family Justice Center
“NOPD”	New Orleans Police Department
“NPCA”	National Police Canine Association

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“OCDM”	Office of Consent Decree Monitor
“OIG”	Office of Inspector General
“OPSE”	Office of Public Secondary Employment
“PIB”	Public Integrity Bureau
“POST”	Police Officer Standards Training Counsel
“PsyQ”	Psychological History Questionnaire
“RFP”	Request for Proposal
“SART”	Sexual Assault Response Team
“SOD”	Special Operations Division
“SRC”	Survey Research Center
“SUNO”	Southern University of New Orleans
“SVU”	Special Victims Unit
“UNO”	University of New Orleans
“USAO”	United States Attorney’s Office for the Eastern District of New Orleans
“VAW”	Violence Against Women

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V. Introduction to Third Quarterly Report

This quarterly report covers New Orleans Police Department (“NOPD”) and City activity from April 2014 through June 2014. This quarter was a busy one for the Monitoring Team. In addition to our ongoing assessments of NOPD compliance with the various paragraphs of the Consent Decree, the Monitoring Team spent significant time drilling down into several discrete areas to undertake a quantitative and qualitative assessment of NOPD’s compliance with certain key obligations. These areas included Use of Force Reports, Disciplinary Hearings, In-Car Cameras, and Field Interview Cards. Additionally, this quarter the Monitoring Team analyzed the results of the Biennial Police Officer Survey conducted last quarter.

In addition to these quantitative and qualitative assessments, the Monitoring Team continued to spend significant time reviewing and commenting on NOPD policies, procedures, and directives (for ease of reference, we will refer to all three as “policies”). The absence of approved policies continues to be a primary concern of the Monitoring Team – and, admittedly, of the parties as well. While NOPD’s recent hiring of a five-person Consent Decree Implementation Unit has given us more optimism than we have had in the past in this area, the lack of policies continues to delay other important monitoring activities.

We also spent time this quarter observing NOPD training. Obviously, the Monitoring Team cannot conduct a comprehensive review of NOPD’s training program in the absence of approved policies. However, we can observe the training that is being conducted in the meantime and report on the substance, quality, and effectiveness of that training.

With respect to our recurring monitoring activities, the Monitoring Team continues to review NOPD record keeping, custodial interrogation recordings, photographic lineup practices, FIT investigations, and numerous other Consent Decree requirements on a monthly basis. We also still regularly ride-along with officers and supervisors to assess their actions in the field. This quarter, we began supplementing our evaluations with reviews of body-worn camera, Taser camera, and in-car camera footage, as well as activity reports, to give us a broader picture of whether NOPD’s policies are being implemented in practice.¹

Overall, we continue to believe NOPD is making progress toward meeting its obligations under the Consent Decree. This progress notwithstanding, as we noted in our prior report, NOPD still has a long way to go before achieving full and sustained compliance with its Consent Decree obligations. Several of this quarter’s findings provide telling insight into the challenges the Department continues to face. For example:

¹ Video footage now routinely will be reviewed in conjunction with the Monitoring Team’s review of use of force investigations and PIB investigations into allegations of police misconduct.



- The Department continues to lag in the development of effective, compliant policies.
- NOPD's record keeping practices, including those relating to its Use of Force investigation files, continue to show significant deficiencies.
- Some supervisors are not performing and/or tracking the full range of their supervisory responsibilities.
- NOPD's Field Interview Card process is confusing, inconsistently applied, and difficult for NOPD (and the Monitoring Team) to monitor.
- A large number of NOPD's in-car cameras are non-functional – a particularly troubling finding in light of the critical role cameras play in providing transparency into a police department's activities.²

As described later in this report, the recent hiring of five qualified “compliance managers” to staff the Department’s Consent Decree Implementation Unit no doubt will help to expedite NOPD’s progress in each of these areas. Indeed, we already are seeing a new sense of comprehension and urgency from NOPD that we felt was lacking prior to the engagement of the Implementation Unit. The Monitoring Team is hopeful this comprehension and urgency will translate into greater success in meeting the Consent Decree’s requirements.

VI. Summary of Monitoring Activities

This quarter involved a mix of qualitative and quantitative assessments. While we spent significant time reviewing policies and other internal documents, attending training, and observing disciplinary hearings, we also gathered, coded, and reviewed extensive data. The resulting quantitative assessments provide greater insight into a number of critical issues, including the completeness of NOPD supervisors’ documentation of investigations into uses of force by police officers, the fairness of misconduct investigations, the effectiveness of management oversight, and the usefulness of NOPD’s Field Interview Cards. We were able further to supplement our findings in these areas through the overlay of a broad survey of NOPD police officers, the results of which have been incorporated into this quarterly report.

As in each prior quarter, the Monitoring Team also spent time this quarter meeting with citizens, working with the IPM, riding along with police officers, and meeting with supervisors throughout the NOPD. These meetings continue to provide us with an invaluable perspective into a number of important Consent Decree areas. It also provides us with a good sense of the ongoing areas of concern among NOPD officers and community members.

² The NOPD has made significant progress is addressing this problem since the close of this reporting quarter.



While the Consent Decree does not permit the Monitoring Team to receive or investigate particular citizen complaints, the Team does solicit citizen and officer comments and does incorporate those comments into its monitoring activities. Such comments have been received during our quarterly public meetings, through regular communications with the IPM, the OIG, and the NOPD PIB, through regular contact with citizen groups, and through affirmative outreach efforts by citizen groups to the Monitoring Team. An illustrative (but by no means exhaustive) list of the feedback we received this past quarter and how we incorporated the matters into our monitoring work follows:

- A community member brought to our attention the story of a New Orleans resident who was murdered in her home by a co-workers ex-boyfriend. While the suspect was arrested for the murder, significant questions arose regarding the NOPD's response to the earlier reports of violence. While the Courts are dealing with the legal actions arising from the incident, the Monitoring Team has looked closely at the police actions and has used the lessons learned therefrom to inform our analysis of the City's general response to domestic violence situations and its investigation of alleged police misconduct, areas covered by Consent Decree paragraphs 212, 222, and 382, among others.
- One citizen group brought to our attention allegations that NOPD was inappropriately involving U.S. Immigration and Customs Enforcement in their unrelated law-enforcement practices. Similarly, this group identified what they believed to be significant shortcomings and flaws in NOPD's current immigration-related policies. The Monitoring Team met with leaders and members of the affected organization and used the information received to inform our review of NOPD's immigration practices and its written policy. These are matters that fall squarely within Consent Decree paragraph 183.
- During our many ride-alongs this quarter, many officers complained about the quality of their equipment. These complaints were consistent with the findings of the Police Officer survey the Monitoring Team conducted this quarter. As a result of these comments, the Monitoring Team will be working with the NOPD Consent Decree Implementation Unit to ensure officers have the equipment they need to keep them safe and get their jobs done.
- A group of college students with whom we met previously reported being treated with disrespect by police officers. While we encouraged the students to bring such complaints to the attention of the PIB and/or the IPM, we also used the information to guide not only our observation of officers, but also the development of a ride-along evaluation form. We also plan to use the information we learned from the student meetings to inform our ongoing review of PIB and IPM complaint data. (CD XVII)

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- Multiple officers complained over the course of this quarter about changes to NOPD's Secondary Employment rules. While many of the complaints were misplaced and likely based upon misinformation regarding the recent changes, others were quite well-thought-out and expressed a genuine concern about the changes. As a result of multiple discussions with officers, citizens, and the NOPD Office of Police Secondary Employment, the Monitoring Team worked closely with the parties to the Consent Decree to craft reasonable modifications to the Consent Decree to address the concerns raised. (CD 332-374)
- A New Orleans civil rights attorney brought to the Monitoring Team's attention an incident involving the victim of an alleged aggravated battery and the NOPD's response thereto. In cooperation with the United States Attorney's Office, the Monitoring Team met with the victim to hear first-hand about the incident. While the PIB currently is investigating the matter and the IPM is monitoring that investigation, the Monitoring Team obtained the entire case file, including communication tapes, as part of its own ongoing monitoring of NOPD supervisor responsibilities (CD XV), and PIB investigations (CD XVII).

The Monitoring Team continues to welcome comments from the public.

Finally, as we have done since our appointment, the Monitoring Team has spent time meeting with and listening to the parties to the Consent Decree. The Team is in regular contact with the City, the NOPD, and the Department of Justice.



VII. Policies Generally

The Second Quarterly Report detailed numerous deficiencies that impeded the NOPD's efforts to develop policies that met the Consent Decree's requirements. The Report described two distinct types of obstacles: (1) drafting deficiencies that provided inadequate explanation and guidance concerning the NOPD's underlying policies and (2) flaws in the underlying policies themselves, which drafting cannot cure. The Report also cited the NOPD's failure to implement a clear, organized drafting process, assign personnel with policy drafting experience, and provide accountable leadership. The Report expressed optimism, however, that once the NOPD fully staffed its Consent Decree Implementation Unit the process would improve and expedite.

As observed in this Report, the Consent Decree Implementation Unit is now fully staffed. More important, the Monitoring Team has been impressed with the credentials and dedication of the Unit's personnel. The Unit has centralized and streamlined the policy revision process. The Unit has focused its policy revision efforts on revising those policies the Consent Decree requires the NOPD to make a priority: (1) Use, Reporting and Review of Force; (2) Crisis Intervention Team; (3) Stop, Searches and Arrests; (4) Custodial Interrogations; (5) Biased Policing; (6) Community Engagement; (7) Academy and In-Service Training; (8) Supervision; and (9) Misconduct Investigations. The Unit presented to the DOJ, the Monitor, and the Court a plan and timetable for submitting revised policies, to which it largely has adhered, submitting some policies ahead of the forecast date.

The Unit has revised and resubmitted policies, which the DOJ and Monitoring Team previously had reviewed and returned to NOPD because they failed to meet the standards for effective policing. Upon reviewing the resubmitted policies, the Monitoring Team observed substantial improvement in the Use of Force Policy and the Misconduct Policy. To its credit, the Implementation Unit has not limited its efforts to addressing the DOJ's and Monitoring Team's previous comments, but has taken a fresh look at the policies, reorganizing and revising them to improve structure and clarity. The Unit also has broadened the source material it considers. Although these policies still evidenced drafting and substantive deficiencies, they were significantly improved. Other policies the Implementation Unit submitted, however, had been neither meaningfully revised nor improved.³

It should be noted here that it is not only the DOJ and the Monitoring Team that find NOPD's current policies confusing. During the new sergeants training we attended this quarter, several sergeants approached us to complain about how confusing NOPD's policies and procedures were. The Monitoring Team has heard similar complaints from rank and file officers

³ Some observations of the Monitoring Team were not shared with the Implementation Unit during this reporting quarter. The Implementation Unit's response to those observations will be reported in the next quarterly report.



as well. While not a statistically valid sampling of the NOPD population, such unsolicited officer feedback further confirms the Monitoring Team's oft-stated views the NOPD's policies are in serious need of improvement. Much of the confusion stems from the separation of the policy from the procedures. There also is a lack of direction for first responders and the lack of delineation of duties with respect to follow-up responsibilities.

The Parties and the Monitoring Team continue to coordinate to improve and expedite the policy revision process. The process continues to present a substantial challenge. The drafting and review process is time-consuming and must be performed meticulously in order to ensure that the resulting policies are clear, consistent and effective at communicating the policies, procedures, and practices officers must understand and follow to perform constitutional policing. The Monitoring Team will continue to assess whether the NOPD is devoting the resources necessary to accomplish this critical task as expeditiously as possible.

VIII. Use of Force Reports

A. Introduction

The issue of appropriate use of force lies at the very heart of constitutional policing. The issue was a critical focus of the DOJ investigation, and has been a critical focus of the NOPD for some time as well. The DOJ Report noted the "NOPD had begun to make significant and overdue changes to its force policies, regarding how officers will be trained to use force, and how force will be reported, investigated and reviewed." The Report also emphasized the need for further "comprehensive changes to policy and practice to end the pattern of unconstitutional use of force by NOPD."⁴ The Report, the Consent Decree, and the Monitoring Team recognize the changes required are long-term solutions. Thus, while the following findings concerning NOPD's Use of Force Reports⁵ provide a valuable and informative snapshot of the current status of NOPD's use of force reporting, the broader purpose is to set a baseline against which further improvements in polices, practices, and outcomes can be measured.

Informed by the DOJ Findings Report, the Consent Decree requires the NOPD to

develop and implement force policies, training, and review mechanisms that ensure that force by NOPD officers is used in accordance with the rights secured or protected by the Constitution and laws of the United States, and that any unreasonable uses of force are identified and responded to appropriately. (CD III)

⁴ See DOJ Findings Report at vii.

⁵ A Use of Force Report documents a supervisor's investigation of Levels 2 and 3 uses of force. Field supervisors review Level 1 uses of force and investigate Levels 2 and 3 uses of force. The NOPD Public Integrity Bureau Force Investigation Team investigates higher levels of force.



In determining whether the NOPD's use of force policies and practices are reasonable, the Monitoring Team applies the legal test for the constitutionally reasonable use of force as set forth by the United States Supreme Court. The use of force must be "objectively reasonable" when considered in the "totality of the circumstances" in which the force was used. This assessment requires careful attention to the circumstances of each particular case, including (1) the severity of the crime at issue, (2) whether the suspect poses an *immediate threat to the safety of the officers or others*, and (3) whether he or she is actively resisting arrest or attempting to evade arrest.⁶

The Supreme Courts' definition of constitutionally reasonable force highlights not only the standard by which the Monitoring Team evaluates the NOPD's use of force, but also one of the challenges in making that evaluation; namely the difficulty of accessing the totality of circumstances after the fact. Judging the totality of circumstances usually requires access to a broad range of information, including eyewitness accounts, evidence, and expert analysis. Further complicating this assessment with respect to specific uses of force by NOPD officers, however, is NOPD's deficient recordkeeping practices, as reported below. The growing availability of Body Worn Camera, Taser, and in-car camera video footage, however, gives the Monitoring Team more tools than previously available. The Monitoring Team is using those tools to facilitate its monitoring efforts in the area of uses of force.

B. Data

To promote effective reporting, the Consent Decree requires the NOPD to "develop and implement a uniform reporting system pursuant to a Use of Force Reporting Policy, using a uniform supervisor Use of Force Report, which will include individual officer Force Statements." (CD 76)

The Monitoring Team reviewed reports of 145 use of force events this quarter. These 145 events comprise all Use of Force Reports logged by NOPD's Force Investigation Team ("FIT") during the period January through May 2014. Our review, at this time, was limited to the documents found in the files maintained by PIB/FIT. We reviewed the investigating supervisor's Use of Force Report, all officer Force Statements in the file, and the Department's response to the use of force. We carefully considered whether the Use of Force Report was completed properly, whether the supervisor reported that he or she responded to the scene of the

⁶ "Objectively reasonable" is a legal term and is judged not from the perspective of the officer who used the force, *i.e.*, subjectively reasonable, but an unbiased assessment based on factual evidence. The Supreme Court described the "objectively reasonable" standard this way: "As in other Fourth Amendment contexts, . . . the 'reasonableness' inquiry in an excessive force case is an objective one: the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. . . . An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional. . . ." *See Graham v. Connor*, 490 U.S. 386 (1989).

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incident, whether the incident was recorded (*e.g.*, by an in-car or body worn camera), and more. We also considered the demographic information contained in the Use of Force Reports, including gender and race.

For purposes of this quarter's analysis, we did not go beyond the materials accompanying the Use of Force Report contained in the PIB/FIT files. The existence of evidence such as video recordings or hospital treatment records was often indicated in the Use of Force Report but not included in the file for our review. ***Where the reports indicate additional evidence, such as Taser video, Body Worn Camera, and in-car camera recordings, may be available, but was not in the file, our subsequent review will locate and review that evidence.*** The Monitoring Team will follow-up on every Use of Force Report about which our initial review raised questions and/or concerns.

Overall, one of our key findings is that the files we reviewed are incomplete and, thus, do not facilitate adequate oversight by the Force Investigation Team of the Public Integrity Bureau, or by the Monitoring Team.⁷ Minimally, in addition to the supervisor's Use of Force Report documenting his or her investigation, the file must contain Force Statements from all officers using force and from all officers witnessing the event. Additionally, a complete Use of Force Report should include a copy of the offense report, copies of all associated video recordings or pointers to where those files can be located, and a statement of justification for the use of force as determined by the supervisor – all evidence required to be collected and maintained by the Consent Decree. It also should contain copies of hospital treatment records and photos of injuries to subjects. In our review we found few files complete. In fact, only one file included a video recording, even though forty-seven of the investigative reports indicated a recording was available. And none of the files we reviewed included photos of the subjects of the use of force. As discussed below, it is a requirement of the Decree (CD 86d) (and a common police practice) that photos be taken of all subjects who claim injury, and even of subjects not injured to preserve evidence that they were not injured. ***In short, NOPD has a ways to go to render its Use of Force Reports useable for the critical intended purposes – and into compliance with the Consent Decree.***

Fundamentally, any use of force analysis is only as good as the available data. Due to the general lack of documentation found in the files, we did not undertake to make an independent determination of whether the use of force was reasonable considering the totality of circumstances at this time. Going forward, however, as we now have more ready access to more complete information including TASER, Body Worn Camera, and In-Car Camera video footage, we are able to (and will) assess the reasonableness of specific use of force events in accordance with the constitutional standard.

⁷ In addition to being incomplete, the Reports were not always well written. It is worth noting here that NOPD seems to recognize this shortcoming and is working to remedy it. An instructor in the new sergeant's training informed his class that report writing is one of NOPD's "biggest problems."



Included in the 145 use of force events we reviewed this quarter are 18 Level 4 force events, defined by the Consent Decree as a serious use of force. The Consent Decree defines a serious use of force as: (1) all uses of lethal force by an NOPD officer; (2) all critical firearm discharges by an NOPD officer; (3) all uses of force by an NOPD officer resulting in serious physical injury or requiring hospitalization; (4) all neck holds; (5) all uses of force by an NOPD officer resulting in a loss of consciousness; (6) all canine bites; (7) more than two applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and whether the applications are by the same or different officers, or ECW application for longer than 15 seconds, whether continuous or consecutive; and (8) any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject. Level 4 use of force events are subjected to a more thorough and in-depth review by the NOPD⁸ – and by the Monitoring Team.

The 145 Use of Force Reports reviewed by the Monitoring Team this quarter broke down as follows among the NOPD’s various Districts:

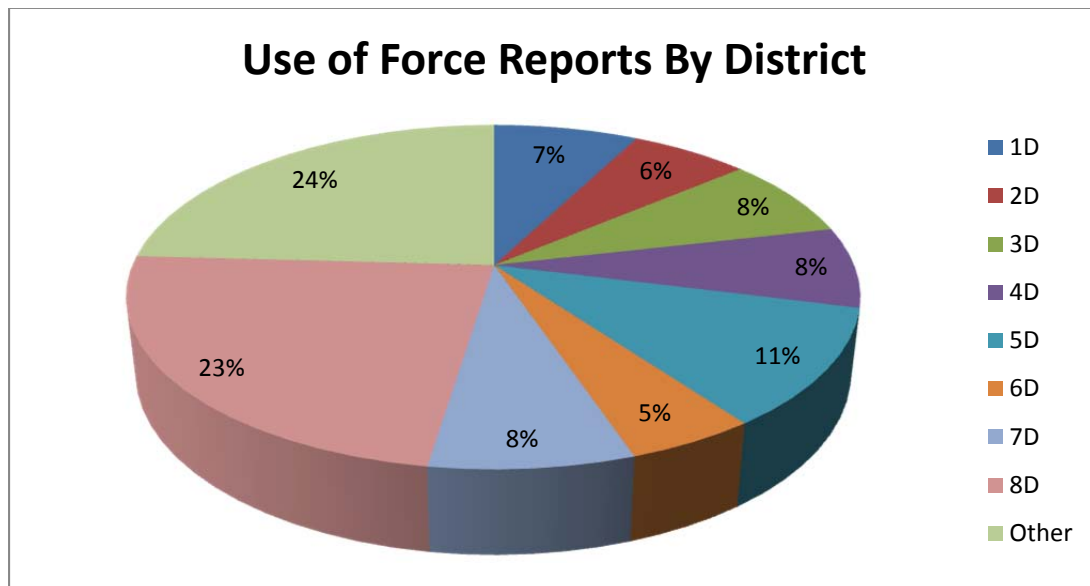


Figure 1

⁸ The Force Investigation Team (“FIT”) is a unit of the Public Integrity Bureau with primary responsibility for conducting investigations of all critical firearms discharges and serious use of force events by members of the New Orleans Police Department. FIT is commanded by a Lieutenant who reports directly to the Deputy Chief of PIB. FIT investigative personnel have been selected by the PIB Deputy Chief in consultation with the FIT Lieutenant for their investigative competency and integrity. All members of FIT receive specialized training on conducting use of force investigations, including annual training in legal aspects of internal investigations, and both criminal and administrative force investigation from recognized experts in the field.



As reflected in Figure 1, the 145 Use of Force reports we reviewed were distributed among the various police districts fairly evenly, with one exception. The average number of reports for a District (including specialty units) was 13.5 per District, with the 8th District being the outlier with 34 Use of Force Reports. *See* Appendix 2.

While the “Other” category in Figure 1 comprises 24% of the Use of Force Reports reviewed by the Monitoring Team, it is important to point out that category includes a number of different NOPD units, including task force officers, narcotics units, investigative units, Special Operations Division officers, and gang unit officers. While future Quarterly Reports will allocate those Use of Force Reports to the Districts to which the involved officer(s) is assigned, due to inherent limitation in the initial data capture process, this Quarterly Report groups them collectively into the “Other Category.” Future Quarterly Reports also will attempt to add uniform as a variable for analytical purposes. This will allow the Monitoring Team to identify differences in uses of force by uniformed platoon officers, those specialists who wear tactical duty uniforms,⁹ and plain clothes personnel.

The uses of force also broke down fairly evenly over the course of the period of review, with most months having approximately the same number of reports.

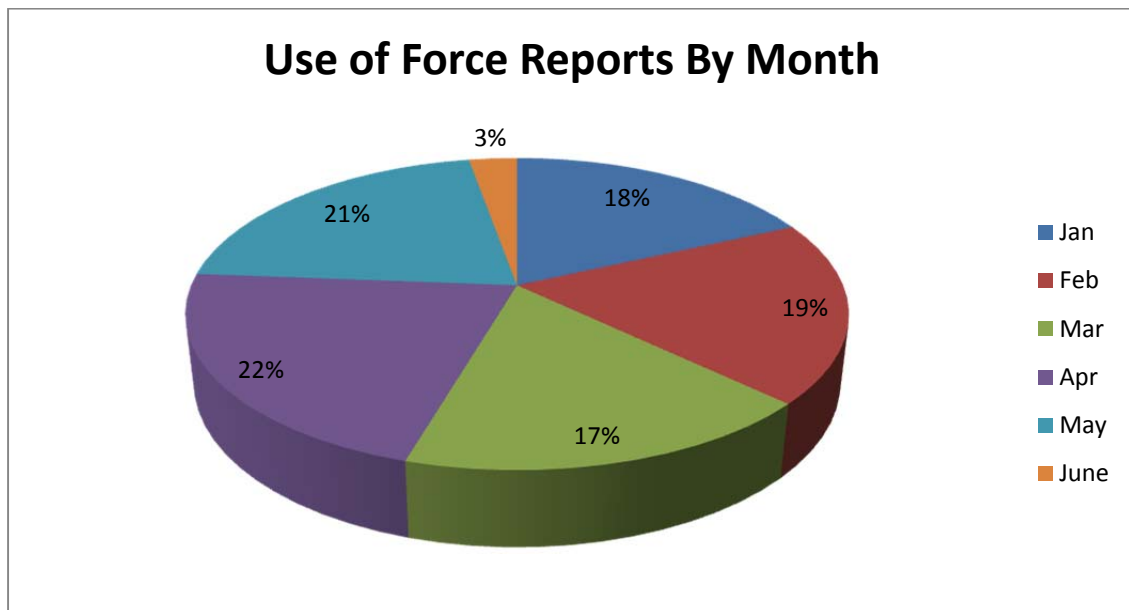


Figure 2

⁹ Tactical duty uniforms also are commonly known as “BDUs.”

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The month with the highest number of reported uses of force was April 2014, with 31 reports. The lowest was June 2014, with 6 reports.¹⁰ See Appendix 2.

In 114 of the 145 Use of Force reports reviewed (78.6%), the subject of the force was identified as non-white. In 116 of the 145 Reports, the subject was identified as male. We were unable to determine the race or gender of the subject in 5 of the 145 Reports, which reveals a failing on the part of those particular report writers.

Most uses of force did not involve injury to the officer. In fact, in 118 of the 145 cases, the reporting officer reported receiving no injury from the use of force. The Use of Force Reports did not consistently reflect the extent of injury to the subject of the force, although the Monitoring Team has requested additional information regarding subject injury for certain reports. Additionally, in future quarters, the Monitoring Team will focus on subject injury through means beyond the Use of Force Reports, for example, through a review of hospital records, prison records, IPM complaints, and/or PIB complaints. The NOPD should require investigating supervisors to capture such information in future Use of Force reports.

C. Findings

A summary of our findings follows:

1. Use of Force Reporting

Due to the recordkeeping deficiencies identified above, we have refrained from undertaking a determination of the reasonableness of the force used in the 145 records we reviewed at this time, *although we will make individualized assessments in future quarters*. Such assessments will be facilitated once NOPD is operating under approved policies and procedures, and once NOPD requires its supervisors and investigators to prepare more comprehensive investigations files. Our monitoring, however, has not waited for such improvements. The Consent Decree identifies specific practices that promote constitutional use of force, and those practices must be applied now. Accordingly, we analyzed the NOPD's compliance with those elements of the Consent Decree, as well as other measures that also can indicate or promote the reasonable use of force. In addition to providing a snapshot of NOPD's current practices and compliance, they serve as an informative benchmark against which to measure change over time.

We analyzed the following data, which often correlate to the level of force used:

¹⁰ While the chart suggests June was an anomalously low month, subsequent to our review, PIB/FIT identified an additional 31 June cases that were not available at the time of our review. The Monitoring Team is reviewing those cases now.



- The presence of video recording of use of force
- Presence of multiple officers on scene
- On scene supervisory presence
- Use of force statements
- Supervisory review of use of force
- Supervisor interviews of use of force subjects
- Supervisory justification of use of force
- Photographing of use of force subjects
- Force Factor analysis
- Subject's resistance

As explained below, our analysis identified important shortcomings in NOPD's reporting and record keeping practices.

2. Video Recording Of Use Of Force Incidents

Most uniformed NOPD police officers now wear Body Worn Cameras and a growing number of patrol cars now include in-car cameras. The value of police cameras has been gaining significant national attention over the past few years and NOPD's adoption of these best practices reflects favorably upon the Department, and represents a critical step toward transparency and openness – and compliance with the Consent Decree. As a timely *Washington Post* article pointed out recently, though, police cameras are useless if not used properly.¹¹ “Proper use” of video cameras is a broad concept, which includes not only actually having the cameras, but also ensuring they are functional, ensuring they are used properly and consistently, ensuring the product of the cameras (*i.e.*, the video footage) is effectively used by supervisors and investigators, and that such use is properly documented.

The availability and functionality of NOPD's cameras is discussed in detail in Section XIII.J below. The proper and consistent use of the cameras is the subject of a recently-initiated review by the Monitoring Team, the findings of which will begin to be reported next quarter. The following discussion, in contrast, focuses primarily on the use of video camera footage by

¹¹ See “Police Cameras are Important, But They’re Useless Without Policies To Ensure They’re Used Properly,” *Washington Post* (Aug. 19, 2014).



supervisors in the context of use of force investigations, and the proper documentation of such use.

Of the 145 Reports we reviewed, as reflected in Figure 3, 49 indicate the event was recorded, while 86 did not.¹² (In 10 cases, we were unable to determine whether a recording was made.) While it is possible some of these reports simply failed to note a recording was made, if there are relevant recordings, they should have been noted on the Use of Force Report. Obviously, the existence of relevant video recordings makes it easier for NOPD (and for the Monitoring Team) to determine whether the force applied was reasonable. The absence of recordings creates not only substantive difficulties for the supervisors, investigators, and the Monitoring Team, but also creates justified suspicion among citizens (and among the Monitoring Team). *See* Appendix 6.

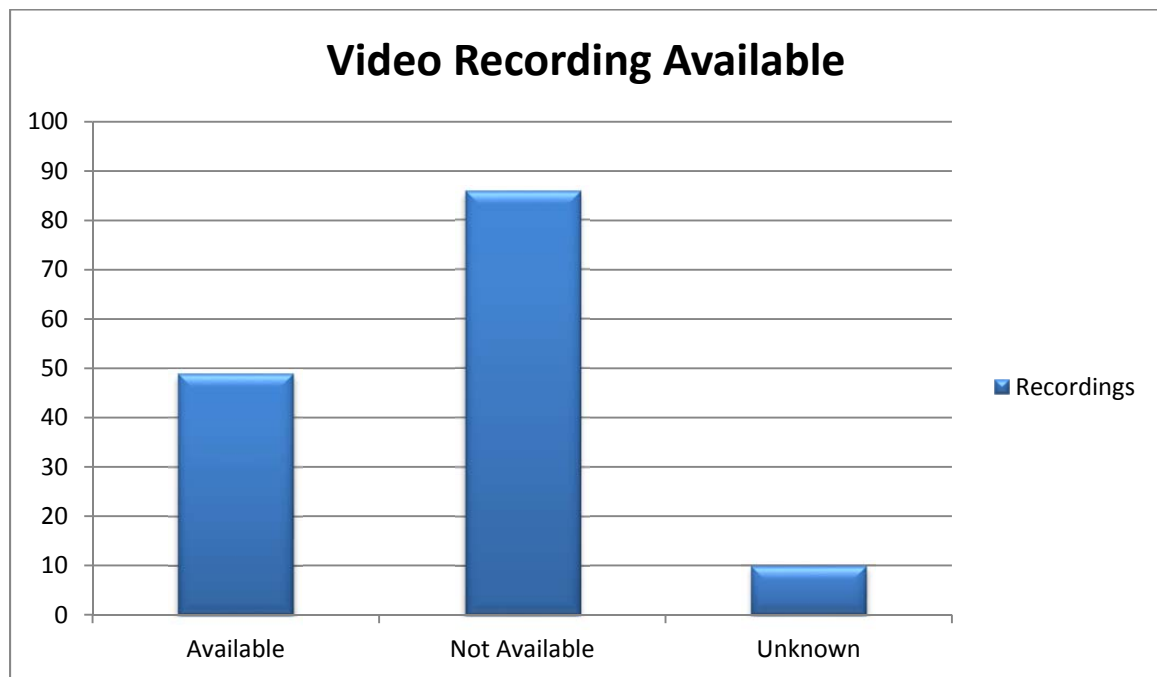


Figure 3

Since video recordings were not among the items included in the Use of Force Reports we reviewed this quarter, our initial analysis did not undertake to assess the accuracy of the officer's Force Statement. As noted above, however, the Monitoring Team recently was provided complete real-time access to video recordings and now is reviewing relevant recordings whether or not they were included in the reports in order to permit such findings in the future.

¹² Importantly, our review found that, even when video recordings were reported as available by the investigating sergeant, there was no indication that the videos were reviewed in 49% of the cases. This finding is discussed in greater detail below.



Potentially combining recordings, narratives and reports to evaluate use of force instances could be even more promising as our monitoring continues. It is important, therefore, that copies of the video recording are preserved, reviewed by investigating supervisors, and made part of the investigative file forwarded to PIB/FIT for review and oversight.¹³

In addition to our findings regarding the availability of video footage in the Use of Force files, our review of the data identified an interesting related correlation. The data we reviewed revealed a correlation between the recording of a force event and the level of force used. This finding suggests what many already believe – that is, cameras may reduce the level of force used by officers. Further study is necessary to determine whether this correlation signifies a “cause and effect” relationship. While one can theorize about why camera recordings correlate with lower uses of force, the data clearly demonstrate that it does. With respect to the reason, it is perhaps because, when being recorded, officers are cognizant of their actions and better adjust to the heightened emotional energy that comes with any given use of force encounter or “street fighting scenario.”¹⁴ Whatever the reason, the data provide additional support for the wisdom of NOPD’s decision to install in-car cameras and Body Worn Cameras, and the critical importance of ensuring they are functional and consistently used.

3. Supervisors Review Of Available Evidence

The Consent Decree identifies a multitude of data gathering, record keeping, and reporting requirements relating to a number of different substantive areas. In the Use of Force area, for example, the NOPD is required to capture officer Force Statements, audio and video recordings, photographs, and more. (CD 85-86) These requirements are important for several reasons; among others, they promote transparency, allow for supervisory oversight, and ensure accountability. These critical results are not achieved, however, unless the information and materials are captured in a manner that facilitates their use. Our review of the Use of Force Reports revealed several shortcomings in this regard.

Of the 145 Use of Force files the Monitoring Team reviewed this quarter, we identified 50 that did not include Force Statements from all involved and witness officers. Further, in 49 of the Use of Force Reports, there was evidence that some or all of the incidents had been recorded, yet the Reports indicated only 25 of those recordings were reviewed by the investigating sergeant. Fifty-nine of the Use of Force Reports indicated that non-NOPD witnesses were present, yet, according to the Reports, only 23 were interviewed – and only five of those were listed as the interview having been recorded. *See* Appendix 6.

As described below, these findings are consistent with several of our other findings flowing out of our compliance audits of the various Districts. For example, the NOPD’s record

¹³ NOPD captures and preserves video recordings on a secure web-based system to which the Monitoring Team now has full access.

¹⁴ See <http://www.policefoundation.org/content/body-worn-camera>.

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keeping practices regarding Custodial Interrogations, Photographic Lineups, and Supervisory Responsibilities all are in need of improvement. The Monitoring Team has raised these issues with the NOPD Consent Decree Implementation Team and will continue to monitor and report on each of these areas as the NOPD works toward full compliance.

4. *The Number Of Officers At The Scene Of A Use Of Force*

The data show an interesting correlation between the number of officers on the scene of a use of force and the level of force used. Specifically, use of force encounters with multiple officers are more likely to involve lower levels of force than encounters involving a single officer. *See* Appendix 3. In fact, for each additional officer at the scene, an officer is 162% more likely to have used less force (either Level 1 or Level 2 force) than greater force (Level 3 or Level 4 force). *See* Appendix 14 for a description of use of force levels.¹⁵

D. **Supervisor Interviews of Subjects of Uses of Force**

The Consent Decree requires that, for all Level 2 and Level 3 uses of force, the investigating supervisor must, among other things, “respond to the scene, examine the subject of the force for injury, interview the subject for complaints of pain after advising the subject of his/her rights, and ensure that the subject receives medical attention from an appropriate medical provider.” (CD 86) Level 4 uses of force requires FIT to “respond to the scene, examine the subject for injury, interview the subject for complaints of pain after advising the subject of his or her rights, and ensure that the subject receives medical attention from an appropriate medical provider.” (CD 105) ***The Use of Force Reports we reviewed suggest NOPD cannot yet demonstrate compliance with this requirement.***

¹⁵ The Consent Decree requires that NOPD uses of force be divided into four levels for reporting and investigation purposes: Level 1 uses of force include pointing a firearm at a person and hand control or escort techniques (*e.g.*, elbow grip, wrist grip, or shoulder grip) applied as pressure point compliance techniques or that result in injury or complaint of injury. Level 2 uses of force include use of an ECW (including where an ECW is fired at a person but misses); use of an impact weapon to strike a person but where no contact is made; use of a baton for non-striking purposes (*e.g.*, prying limbs, moving or controlling a person); and weaponless defense techniques (*e.g.*, elbow strikes, kicks, leg sweeps, and takedowns). Level 3 uses of force include any strike to the head (except for a strike with an impact weapon); use of impact weapons where contact is made (except to the head), regardless of injury; or the destruction of an animal. Level 4 uses of force include all “serious uses of force,” as defined in the Consent Decree, and shall be investigated by NOPD’s Force Investigation Team. The Consent Decree defines a “serious use of force” to include (1) all uses of lethal force by an NOPD officer; (2) all critical firearm discharges by an NOPD officer; (3) all uses of force by an NOPD officer resulting in serious physical injury or requiring hospitalization; (4) all neck holds; (5) all uses of force by an NOPD officer resulting in a loss of consciousness; (6) all canine bites; (7) more than two applications of an ECW on an individual during a single interaction, regardless of the mode or duration of the application, and whether the applications are by the same or different officers, or ECW application for longer than 15 seconds, whether continuous or consecutive; and (8) any strike, blow, kick, ECW application, or similar use of force against a handcuffed subject. (CD I.C.14.vvv)



1. *Supervisors At The Scene*

The Consent Decree requires a supervisor to respond to the scene of every Level 2, 3, and 4 use of force. (CD 84) *The Use of Force reports we reviewed do not demonstrate compliance with this requirement.*

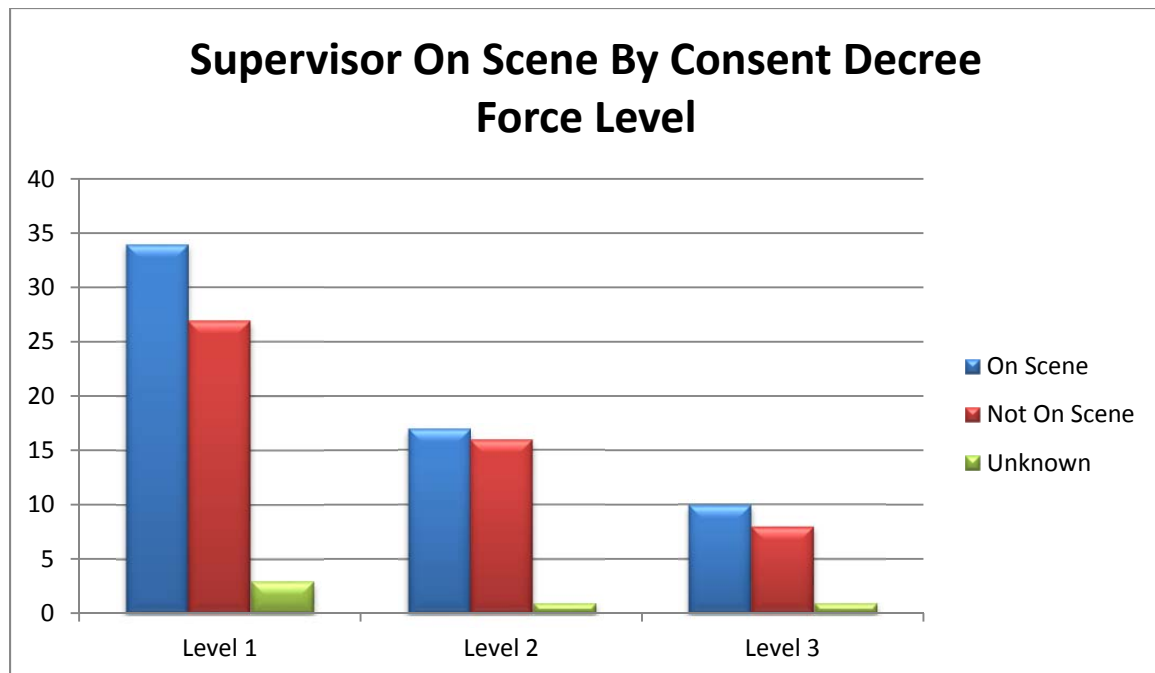


Figure 4

As Figure 4 shows, and as one would expect, the data reveal a correlation between the level of force used and a supervisor's appearance on the scene. As the force level decreases, a supervisor was less likely to have made an appearance. *See Appendix 10.* Indeed, in the context of a Level 2 use of force, a supervisor arrived on the scene in only slightly more than half of the cases. *These data suggest NOPD cannot yet demonstrate compliance with this element of the Consent Decree.*

2. *Supervisors Reviewing Use of Force Reports*

The Consent Decree requires an officer's direct supervisor to review each use of force. Specifically, for a Level 1 use of force, the supervisor must review the Use of Force Report "before the end of the shift during which the Level 1 force was used." (CD 83) Level 2, 3, and 4 uses of force require the supervisor to respond to the scene of the force. (CD 84) Among other things, the responding supervisor must "review all Force Statements and ensure that all reports include the information required by this Agreement and NOPD policy." (CD 86g) The supervisor also must "provide a written gist to the Division Commander by the end of the shift documenting the supervisor's preliminary determination of the appropriateness of the use of



force, including whether the force was reasonable and within policy; whether the injuries appear proportionate to the use of force described; and summaries of subject, witness, and officer statements.” (CD 87)

Of the 145 Reports we reviewed, the majority clearly indicated a supervisor reviewed the Report and reached a conclusion regarding the reasonableness of the Use of Force. Indeed, in 80% of the cases, a conclusion (one way or the other) was reached. In 73% of the cases, the supervisor found the use of force to have been reasonable. *See* Appendix 5.

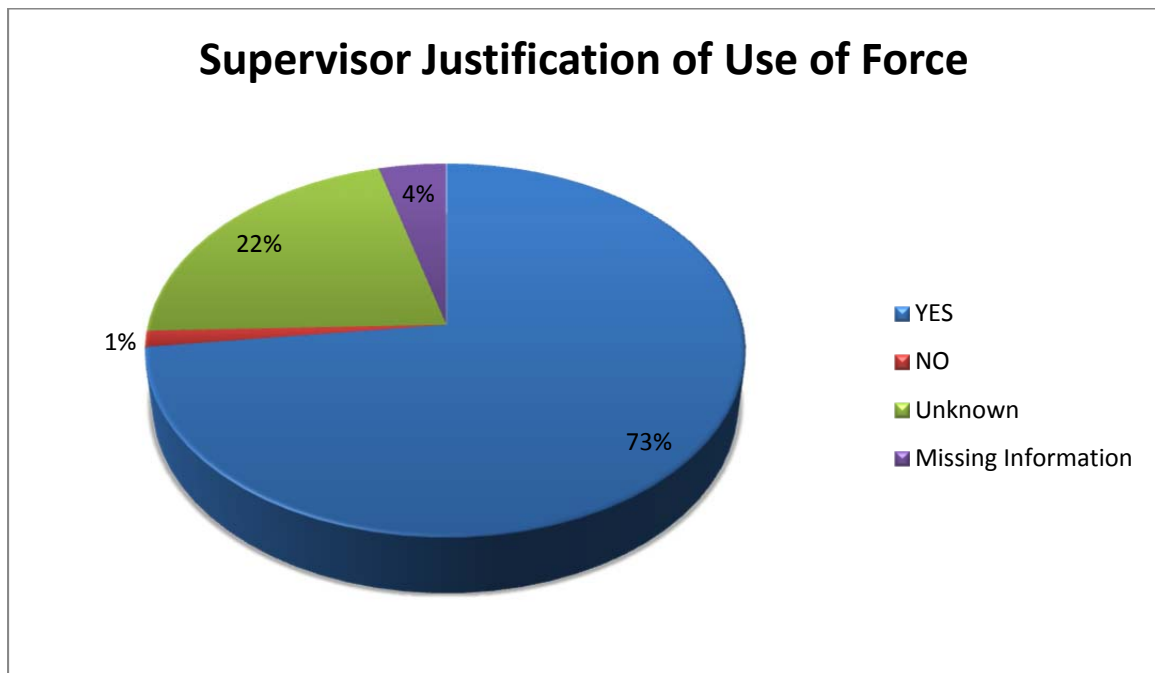


Figure 5

While the Monitoring Team is in the process of reviewing these supervisor findings to make an independent determination regarding the reasonableness of the force used, for present purposes our focus is whether the supervisor had sufficient information to render a reasonableness decision one way or the other in the first place. As noted above, the Use of Force files received by PIB/FIT often were missing information that would be essential to making a valid reasonableness decision. Accordingly, we question the quality of the supervisory review that led to the 73% justification rate. We also find notable that 26% (22% unknown + 4% missing) of the Reports did not reflect a supervisor’s justification or were missing the information necessary to make such a determination. In other words, in one of every four Reports the Monitoring Team reviewed, we were unable to determine if the supervisor found the use of force justified or not.

A 73% justification rate in the face of incomplete files and a 22% missing information rate are clear red flags to the Monitoring Team. We are pursuing both issues diligently and plan



to report our detailed findings shortly. *At this time, however, NOPD has not demonstrated compliance with this Consent Decree requirement.*

3. Photographs of the Subject

The Consent Decree provides that uses of force (other than a Level 1 use of force) should involve the taking of a photograph of the subject of the force. (CD 86) NOPD procedures similarly require that, for Level 2 and 3 uses of force, the investigating supervisor shall “ensure that all evidence to establish material facts related to the use of force, including audio and video records, **photographs**, and other documentation of injuries or the absence of injuries is collected.” See NOPD PR300.9.2 (emphasis added). The data we reviewed, however, suggest photographs were infrequently taken following Use of Force events.

As reflect in Figure 6, photographs of the subject of the force were taken in only 11 of the Level 2, 3, and 4 reports we reviewed. See Appendix 4.

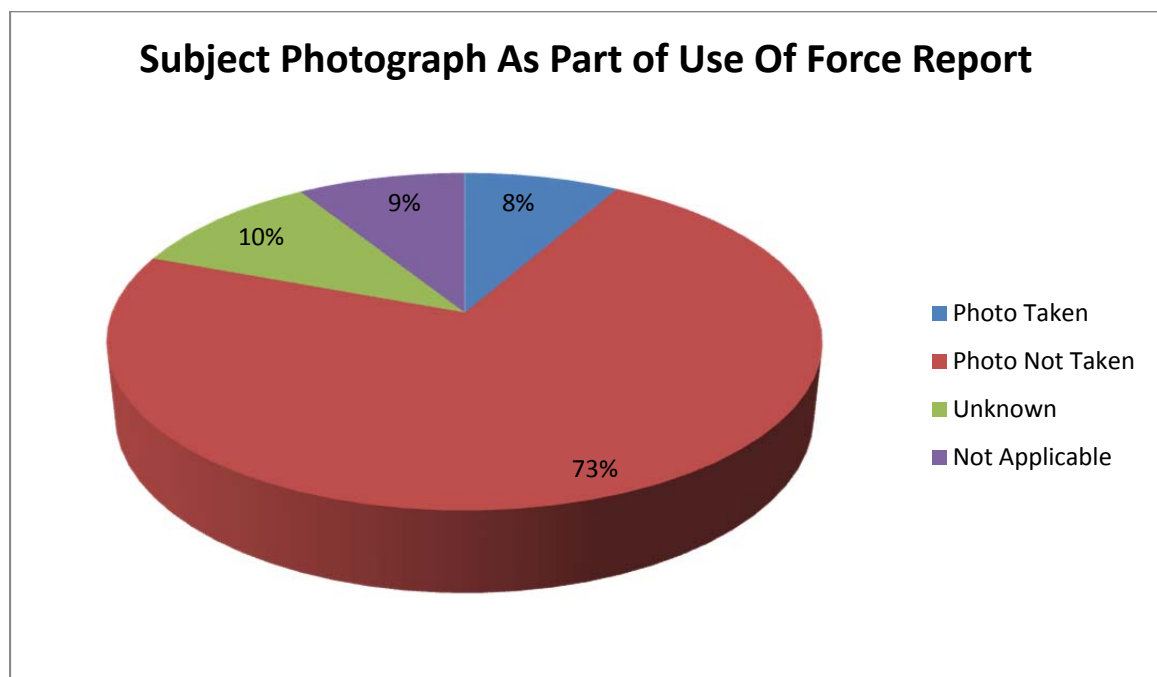


Figure 6

This figure reflects a universe of 145 reports. A deeper look at the data shows that in a significant number of cases photographs were not taken where they should have been.

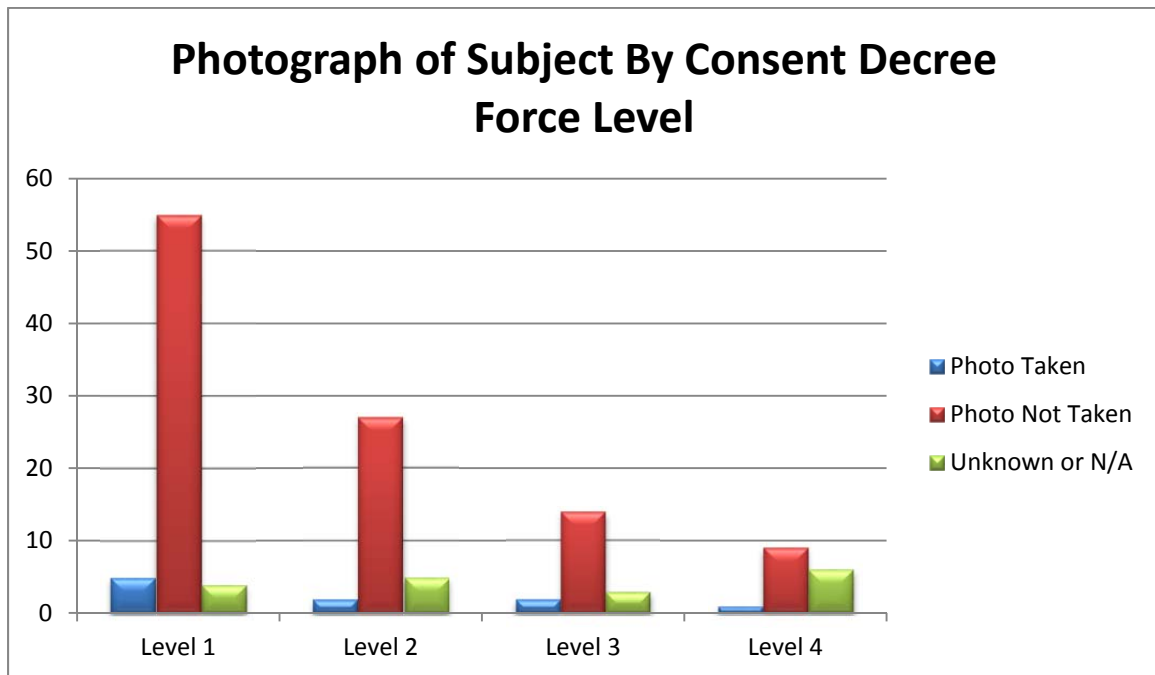


Figure 7

While the height of the “Photo Not Taken” column in Figure 7 for Level 1 uses of force does not constitute a violation of the Consent Decree since photographs are not required for such minor uses of force, the height of the other “Photo Not Taken” columns does raise concerns. *See Appendix 12. NOPD has not demonstrated compliance with this element of the Consent Decree.* Moreover, the Monitoring Team has recommended to NOPD in the context of its Use of Force Policy review that photographs should be taken of every subject of a use of force regardless of Level.

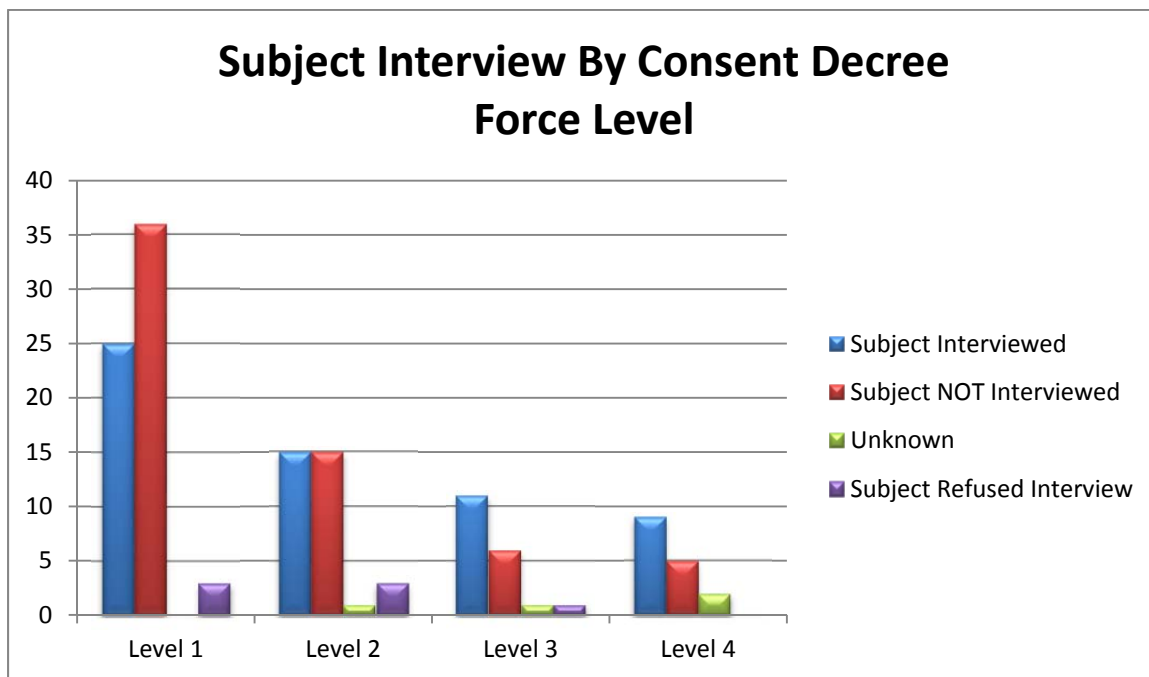


Figure 8

Figure 8 presents a “cross tabulation” of Consent Decree Force Level and whether or not the primary subject was interviewed after the use of force encounter. Level 1 uses of force had the most subjects not being interviewed, however, subject interviews are not required for Level 1 uses of force. At level two, the subject was equally likely to be interviewed or not, although three subjects refused to be interviewed, and in one instance, it was unknown whether the subject of the force was interviewed. At level three, the subject was about twice more likely than not to be interviewed. *See* Appendix 11. However, at level three, there was an instance of uncertainty about whether or not an interview took place, and two instances of this at level four.¹⁶ ***In summary, NOPD has not demonstrated compliance with the Consent Decree requirement involving use of force subject interviews.***

E. Relationship Between Use of Force and Use of Force Statements

The Consent Decree requires that Use of Force Reports identify all officers who were involved in the use of force. (CD 86) The Consent Decree further provides that “[a]ll officers using a Level 1 through Level 4 use of force, and officers observing a Level 2, Level 3, or Level 4 use of force, shall write a Force Statement before the end of shift, which shall be included in the Use of Force Report.” (CD 78) Of the 145 reports we reviewed, 94 of them (64.8%)

¹⁶ While Figure 8 suggests at least five Level 4 incidents lacked a subject interview, a separate review of FIT files confirmed that FIT did interview the subject in each of these cases.



included Force Statements by all involved and witness officers.¹⁷ Forty six Reports (31.7%) did not include a Force Statement by all officers.

As noted earlier in this Quarterly Report, however, 64 of the Use of Force Reports we reviewed involved a Level 1 use of force, which do not require a statement by witness officers. (CD 78) Thus, potentially, the Use of Force Reports without Force Statements by all officers could all be Level 1 uses of force. To determine whether that explained the 46 Reports missing required Force Statements, we segregated the data by Consent Decree force level.

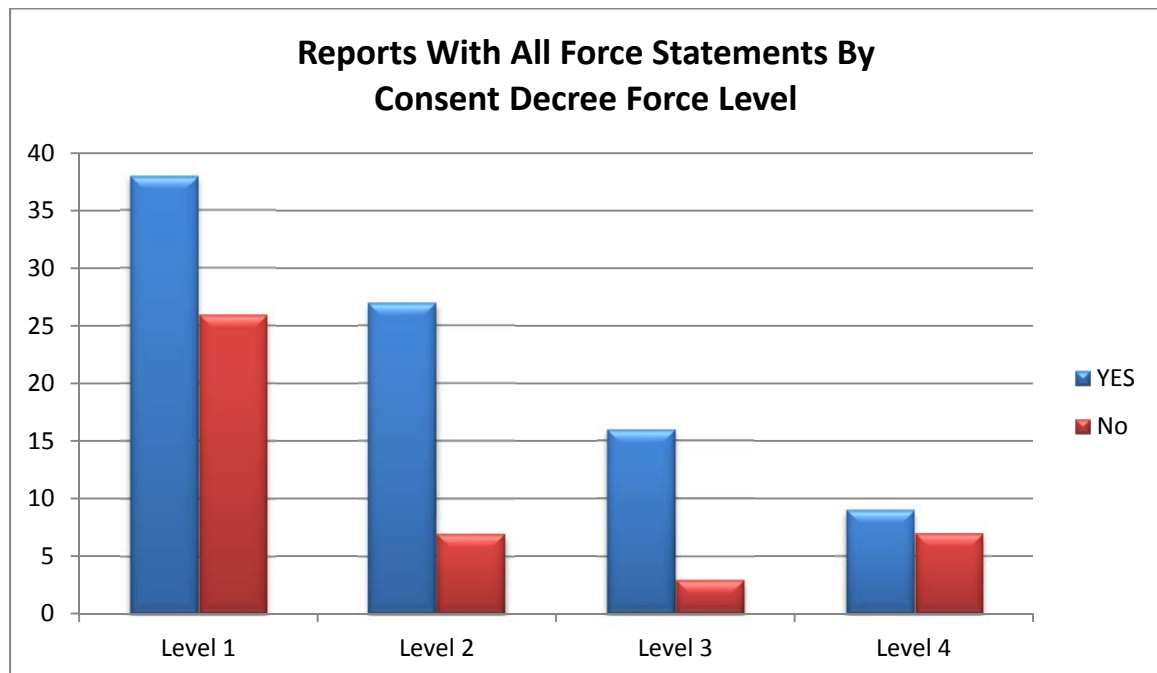


Figure 9

Figure 9 provides a “cross tabulation” of Consent Decree Force Level and whether or not Use of Force Reports were filed by all officers involved in the incident as required by the Consent Decree. The data show that the missing Force Statements do not all fall within a Level 1 use of force. At Level 2, 79% of all incidents had all involved officers filing Force Statements, compared to 21% of incidents where not all officers filed a Statement. At level three, 84% of all incidences resulted in all involved officers filing a Force Statement, compared to 16% of all incidents which did not. Finally, at level four, 56% of all incidents had all involved officers filing a Force Statement, compared to 44% of incidents which did not. ***Consequently, NOPD has not yet demonstrated compliance with this Consent Decree requirement.***

¹⁷ NOPD policy defines “involved officer” as any officer using force in the incident. A witness officer is any officer who witnessed the use of force, but was not directly involved in its application.



F. Force Factor Analysis

In addition to an analysis of reporting and injury variables found in the files, we were able to analyze subject/officer interactions. Based upon the available information in the files, we were able to classify each use of force event in the context of the degree of resistance by the subject of the use of force. The relationship between the degree of resistance and the degree of force is known as the “Force Factor.” The Force Factor compares the maximum level of force used by the officer to the maximum level of resistance encountered. The “Force Factor” methodology is used by academics, monitors, and police departments in the United States and beyond to evaluate the relative levels of use of force to subject resistance.¹⁸ While other variables obviously factor into force assessments, the comparison of force to resistance has proven to be highly informative analytical tool.

To calculate the Force Factor for the 145 Use of Force Reports made available to the Monitoring Team, we coded each uses of force by degree of resistance (Degree of Resistance 1 – Degree of Resistance 7) and degree of force (Degree of Force 1 – Degree of Force 7).¹⁹ Each scale goes from low to high. For example, a Degree of Force 1 might involve simply an officer’s presence in a uniform, while a Degree of Force 7 involves the intentional discharge of a firearm. Similarly, a Degree of Resistance 1 involves complete submission and compliance by the subject of the force, while a Degree of Resistance 7 involves the use of lethal force by a firearm. (Descriptions of the several degrees of resistance and force are described in Appendix 1.)

The data then can be analyzed in a number of ways, for example, over time, by geographic location, and by demographic information.

The Force Factor is calculated simply as follows:

$$\text{Officer Force Applied} - \text{Subject Resistance} = \text{Force Factor}$$

A negative value indicates a higher level of subject resistance as compared to the level of officer force. A value of 0 indicates proportional force to the level of resistance. Positive values indicate increasing levels of force being used vis-à-vis the level of subject resistance. Negative values indicate less force vis-à-vis the level of subject resistance. One expects to see most uses of force in the -1 to +1 range. In other words, one expects the level of officer force applied to be

¹⁸ Over the years, much research on use of force by police has focused on the highest level of force used by the officer or the highest level reached in an encounter. Our analysis focuses on the level of force used by the police *relative* to the resistance from the subject of the force, which we call the “force factor.” For additional information regarding the “Force Factor” methodology, *see* Alpert, Geoffrey and Dunham, Roger, “Force Factor: Measuring Police Use of Force and Suspect Resistance,” National Institute of Justice (1997).

¹⁹ Force levels 8 and 9 involve somewhat special circumstances. Force level 8 involves the use of a chemical agent for crowd dispersal – a very rare event. Force factor 9 involves the pointing of a firearm – an act for which it is difficult to determine the amount of force actually exerted, and therefore is treated separately.



equal to or no more than one step beyond the level of subject resistance. Our Force Factor assessment for this quarter gave us the following results:

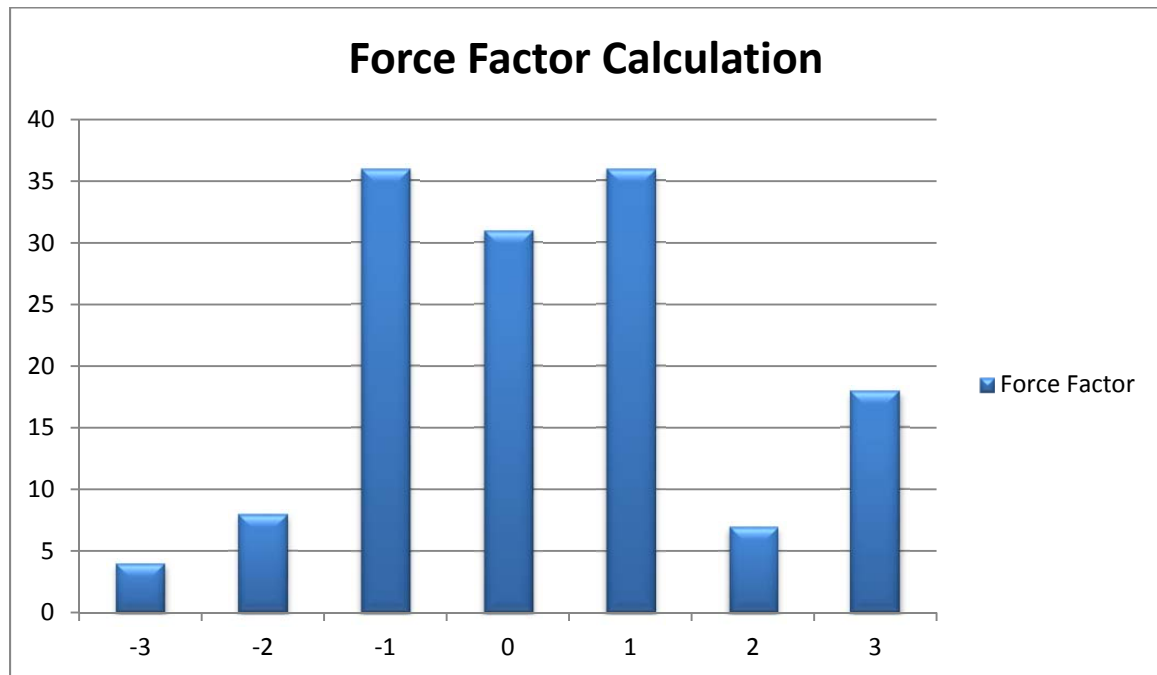


Figure 10

As Figure 10 illustrates, most of the use-of-force incidents we reviewed this quarter – based upon the information contained in the NOPD investigation file – involve a Force Factor of between -1 and +1. In other words, in this quarter, instances of disproportionate force to resistance existed, but did not dominate the data we reviewed. Importantly, ***this finding does not provide an assessment of the reasonableness of the officer's decision to use force in any given situation.*** The Monitoring Team will base those assessments upon a review of the totality of the available evidence, including reports, witness statements, video recordings, and more; not on a statistical analysis.

Further, as noted above, this finding goes only as far as the data reviewed. Obviously, police uses of force not reflected in Use of Force Reports are NOT reflected in our data. Likewise, Use of Force Reports that include inaccurate accounts of the events could skew the results of our assessment as well. In any event, the Monitoring Team is in the process of exploring methods to identify uses of force NOT reflected in Use of Force Reports, for example, by comparing PIB complaints to Use of Force Reports, IPM complaints to Use of Force Reports,

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as well as hospital reports to Use of Force Reports.²⁰ The Monitoring Team also is in the process of reviewing video footage and assessing information beyond the Use of Force Reports to reach a conclusion as to whether the specific uses of force were completely and accurately documented, and reasonable.

IX. Stops, Searches & Arrests (CD 122-162)

A. Background

The Consent Decree requires NOPD to ensure that all investigatory stops, searches, and arrests be “conducted in accordance with the rights secured or protected by the Constitution and laws of the United States.” (CD V) To implement this requirement, the Consent Decree mandates officers record certain of their interactions with citizens by completing a Field Interview Card, otherwise known as an FIC. The Consent Decree requires that “NOPD officers shall continue to require reasonable suspicion to conduct field interviews, and document investigatory field contacts, including field interviews, in accordance with the stop and search data collection requirements of this Agreement.” (CD 126)

For years, citizens in New Orleans have complained that police officers engage in racial profiling, conduct unreasonable stops and interviews, and make arrests with insufficient evidence. Accordingly, the practice of completing FICs is an important one because it gives NOPD management (and the Monitoring Team) insight into the reasonableness of stops, detentions, searches, and arrests. When captured correctly and consistently, the resulting data also give NOPD and the Monitoring Team the ability to identify positive or negative trends, patterns, and practices. When misused, however, FICs, at best, fail to achieve their intended purpose, and, at worst, give a false impression of the actions of NOPD’s officers.

NOPD’s current FIC policy falls short of giving officers meaningful guidance regarding the use of FICs. Current NOPD policy similarly fails to provide meaningful guidance regarding the completion of Electronic Police Reports (EPR). Indeed, this later point is one of the factors that may have led NOPD officers to not have a clear understanding of the administration, utility, and impact of the FIC program. While NOPD has drafted a revised FIC policy, which the Monitoring Team has reviewed, even this revised policy, in its current state, fails to provide adequate guidance to officers.²¹ The challenge, thus, remains that, if the FIC policy is not clear and the training on the usage of FICs is not effective, the perception and usage of FICs by NOPD officers will remain in its current confused state.

²⁰ As demonstrated by the formula above, force factor does not provide information concerning the level of force employed by the officer, but rather the difference between the level of force employed and the level of resistance encountered (*i.e.*, force factor is a relative measure, not an absolute measure).

²¹ Because the Monitoring Team’s evaluation of the NOPD’s revised FIC policy was not provided to NOPD until after the close of this reporting quarter, the Monitoring Team has not yet had the opportunity to see if and how the new NOPD Consent Decree Implementation Unit will act upon the evaluation.



In light of the importance of the FICs to a number of Consent Decree elements, including, among others, bias-free policing (CD 177-194), policing free of gender bias (CD 195-222), stops, searches, and arrests (CD 122-162), and use of force (CD 27-110), the Monitoring Team began reviewing NOPD's FIC processes and data this quarter.²² Our review is not the first close look at the FIC process by an independent body, however. In 2013, the New Orleans Office of Inspector General (OIG) conducted an in-depth audit of the NOPD FIC data. *See* "Inspection of the New Orleans Police Department Field Interview Data Reported from January to June of 2011: Final Report by the Office of the Inspector General" (March 12, 2013) (hereafter "OIG FIC Audit"). The OIG looked at data from January through June 2011, focusing primarily on the FIC data relating to "stops and frisks." The goal of the OIG FIC Audit was to determine whether NOPD officers were complying with legal requirements to stop individuals only upon "reasonable suspicion."

The OIG's findings were quite troubling. They revealed significant inadequacies in NOPD's FIC practices. In fact, the OIG concluded that NOPD's FIC practices made it "virtually impossible" for any entity to accurately review and assess the validity and reliability of the FIC program. OIG FIC Audit at iv-v. The OIG went on to note that its inspectors "*were forced to forego planned analyses due to the discovery of fundamental flaws with the NOPD's method of collecting and reporting field interview data.*" *Id.* at vi.²³

The OIG's concerns did not come as a surprise to the Monitoring Team. In our many interactions with NOPD officers and supervisors since our appointment in August 2013, we have witnessed a stunning lack of consistency among officers regarding when and how FICs should be completed. One task force officer who had placed a motorist in handcuffs in the course of a traffic stop informed us he would not be completing an FIC because FICs did not have to be completed for traffic stops. An FIC, however, should have been completed once the officer decided to detain the subject.²⁴

It is likely this sort of inconsistency in officer understanding of the FIC process that prompted DOJ to note in its findings letter that "officers reported that they rarely, if ever, find FIC data useful." Unfortunately, little has changed since DOJ's investigation and the OIG's subsequent audit. This is particularly troubling considering the critical role FICs *should play* in ensuring constitutional policing.

B. Methodology

The Monitoring Team randomly selected 101 FICs to review this quarter. This sample was selected from the total population of FICs reported by NOPD from October 1, 2013 to June

²² While this Report focuses on the FIC data from the perspective of monitoring police behavior, the FIC system was designed to protect citizens by facilitating the identification of suspects and enhance the overall system of law enforcement. OIG FIC Audit at iv.

²³ NOPD did make changes to the FIC form pursuant to recommendations from the OIG.

²⁴ The Monitoring Team did not observe the traffic stop or the placing of the individual in handcuffs.



26, 2014. The Monitoring Team reviewed each card in the sample, and examined any associated Electronic Police Reports (EPR). An EPR is an incident report submitted in an electronic format that an officer completes at the time of or shortly after an incident.

In order to provide a different perspective of the FIC program, the Monitoring Team also surveyed a random sample of NOPD officers to obtain their views of the FIC process. The academic literature strongly supports the measuring of police officers perception toward programs and initiatives. In law enforcement, as in most environments, perception often dictates action. Accordingly, the Monitoring Team surveyed 50 NOPD randomly selected officers. Each officer completed a short questionnaire relating to the FIC process. Some of the more notable findings have been incorporated into the various discussions below.

While our officer survey was met with cooperation and interest on the part of the officers, our review of the data was not so straightforward. From the outset, our analysis was hampered by the disorganization of the FIC data, the manner in which it is isolated from other databases, and the absence of a single database encompassing all arrest-related information, for example, FIC data and arrest reports. With the assistance of NOPD's Consent Decree Implementation Unit, however, we were able to gather the material needed to conduct a meaningful analysis.

C. Findings

1. *Field Interview Cards Are Not Being Completed Consistently*

Over the past quarter, the Monitoring Team met with many police officers, supervisors, and other NOPD personnel from every police district. These meetings involved discussions of – and observations of – the NOPD FIC process. The picture drawn by these discussions is consistent with the findings from our FIC survey. Specifically, most officers quite candidly indicated they did not know when a FIC card must be completed. And those who did claim to understand NOPD's FIC policy had it wrong as often as they had it right.²⁵

Our discussions with officers also suggested supervisors do not routinely review FIC data. Our survey of officers supports the accuracy of this observation. Sixty-two percent of the officers we surveyed believed supervisors were not reviewing FIC data regularly. Moreover, as discussed in greater detail below, our personal observations suggest that many within the NOPD community do not fully appreciate the importance of the FIC cards and the data they are intended to collect.

Unfortunately, we were not able to conduct a fully quantitative assessment regarding the completeness of the FIC database this quarter. In order to undertake such an analysis, one must be able to compare the FIC data to some other source that would indicate whether an FIC should

²⁵ It should be noted here, however, that we are talking only about the requirement to document the field interview – not the propriety of the field interview in the first place.



have been prepared. This is a difficult task since FICs are recorded in one database while the comparative sources are maintained elsewhere. The task is further complicated because the FIC designator (a unique number that identifies a specific FIC) at times does not match the corresponding data source locator. Despite these challenges, the Monitoring Team was able to analyze a sufficient sample of FICs and their corresponding EPRs. However, for the reasons discussed below, the available data, in its current format, did not permit a robust comparison of FIC data and EPR data. Future quarters, however, will include a more detailed multi-dimensional quantitative assessment. In addition to the current analysis involving the comparison of the FIC data to EPR data, the Monitoring Team also is considering comparing the data against IPM complaints, PIB complaints, jail records, and hospital records.

2. Information on Field Interview Cards

NOPD's FIC cards require the officer to record certain key information regarding the policy/citizen encounter. This information includes gender, race, time, date, and more. While *the accuracy* of the information was difficult to assess due to the absence of corresponding records, the sample of FICs reviewed did appear to have been completed correctly by the officers. In other words, information that was supposed to be included generally was included, and information explained in a narrative was consistent with information recorded in check boxes. One indicator of inaccurate data is inconsistencies between the check boxes and the text. Our review did not reveal any such inconsistencies, at least with respect to the sample reviewed. Although encouraging, this finding is not a conclusion the information on the FICs is accurate or the FICs are consistently being completed when they should be. As noted above, the Monitoring Team is in the process of engaging in a larger examination of FICs with different baselines, will allow for a more precise assessment on the accuracy and completeness of the cards.

3. NOPD's Policy Regarding FIC Completion is Not Clear

As mentioned previously, the current FIC policy falls short of providing effective guidance for NOPD officers. This lack of guidance is reflected in our conversations with officers and in the results of the officer survey. While the FIC program has been operational for some time, officers still lack a clear appreciation of the administration, utility, and impact of the FIC program. Even the proposed policy continues to incorporate significant shortcomings, but the Monitoring Team is encouraged that NOPD's new Consent Decree Implementation Unit understands those shortcomings and is working to remedy them.

In addition to revising its current policy, NOPD also should make a greater effort to communicate the importance of the FIC process to officers and supervisors. Almost one quarter of the respondents conceded they have not yet reviewed NOPD's FIC policy. *See* Appendix 15.

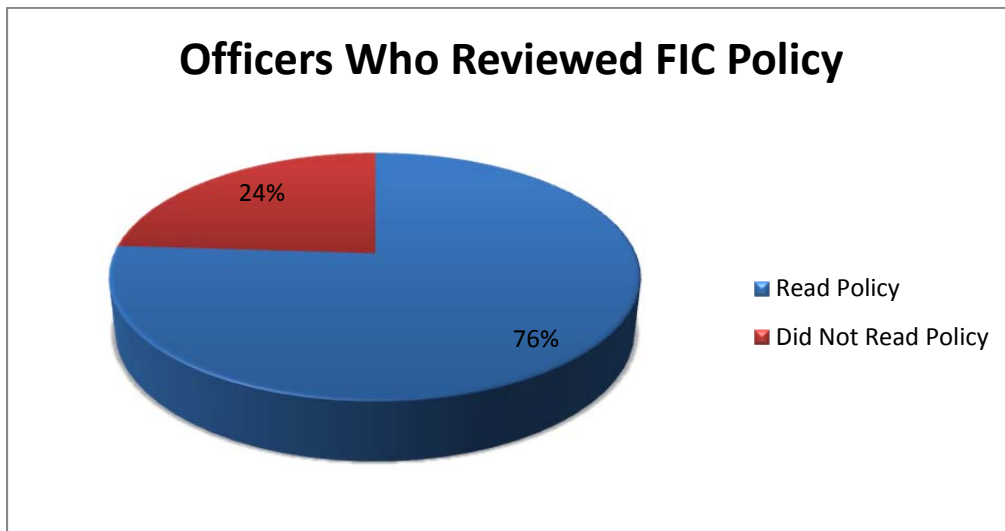


Figure 11

When this statistic is coupled with the fact that almost 25% of the officers we surveyed did not believe the FIC process played an important role in constitutional policing, one is left with the distinct impression that NOPD is not doing an adequate job communicating the reasons for and importance of the FIC process. Indeed, 96% of the officers surveyed believed that better education and communication is warranted in this area. *See* Appendix 15. As noted above, these findings are consistent with what we are seeing on the street with respect to the inconsistency of when the FICs are being filled out. Without effective communication, officers are likely to view the requirement as “just another report.” But, for all the reasons discussed above, the FIC process is not “just another report.” It is a report that permits those who care to take a close and meaningful look at the manner in which the NOPD is interacting with citizens – an issue that goes to the very heart of the Consent Decree.

The inconsistent application of the FIC process shows itself again in the views officers hold regarding the disciplinary process. Almost 1/3rd of the officers in our survey believed they would not be disciplined for failing to complete the FICs correctly. *See* Appendix 15.

Finally, as noted earlier, the NOPD is currently in the process of updating its FIC Policy and that a new software regarding FICs is going to be in place in the near future. Although this is encouraging, the confusion among officers regarding the FIC process highlights a need for immediate action.

4. *NOPD’s Policy Regarding Arrest Reports Makes a Full Field Interview Card Review Difficult*

Our preliminary findings identified a significant number of FICs involving an arrest, but for which we could find no associated electronic police report. NOPD explained that the “missing” reports were not missing at all; they never were created. Apparently, NOPD does not



require an EPR in all instances where an arrest is made. NOPD provided the Monitoring Team with a process diagram (below) purporting to explain when electronic arrest reports are not required. Our review of the policies cited by NOPD, coupled with the process diagram, gives us concern that NOPD does not have a clear policy regarding the completion of arrest reports.

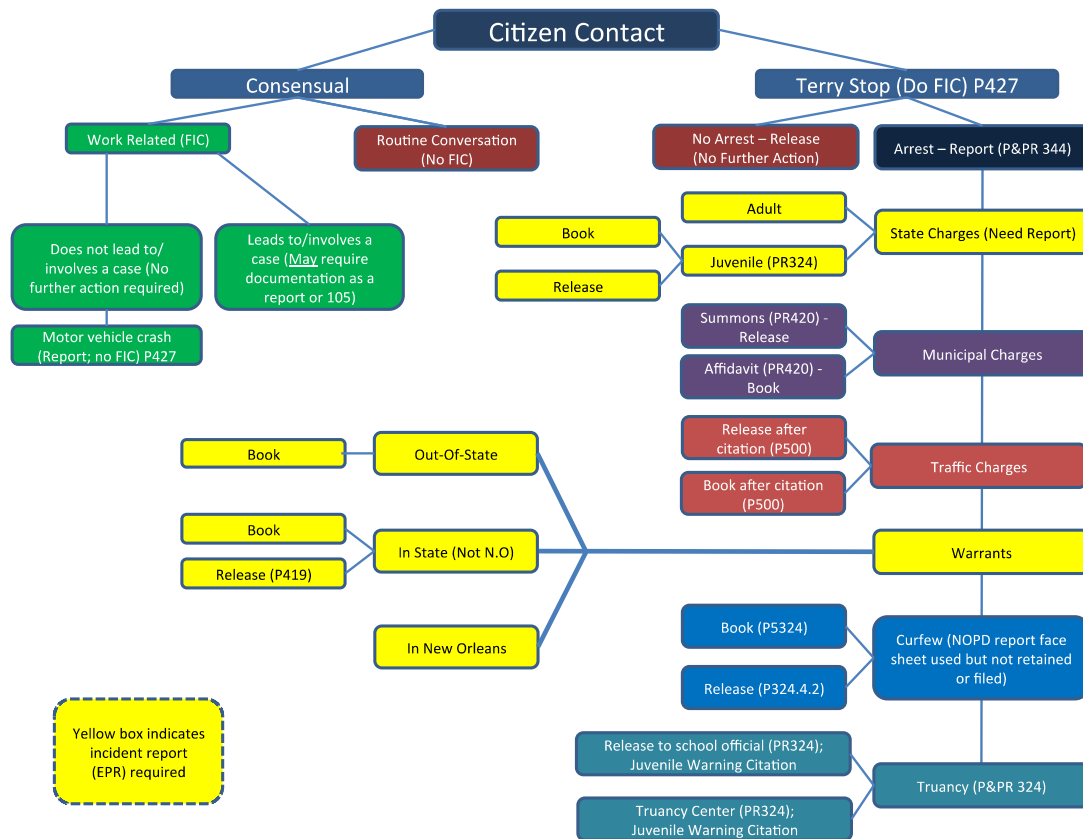


Figure 12

It is the view of the Monitoring Team (as it was the view of the OIG) that NOPD’s current processes make it extremely difficult (if not impossible) for any entity (the Monitoring Team, the IPM, the OIG, or NOPD itself) to monitor the FIC process in its current form. With multiple policies providing exemptions to the completion of supporting documentation (e.g., EPRs) and searches for supporting FIC information having to be performed in different data bases, it is a challenge for any competent authority to validate the FIC process. For instance, the Monitoring Team found that of the total FICs reviewed, 34% of them showed that an arrest was made even though a supporting EPR was not immediately located. While NOPD has noted a supporting EPR is not required in every arrest, the absence of EPRs adds to the challenge of evaluating the FIC process.

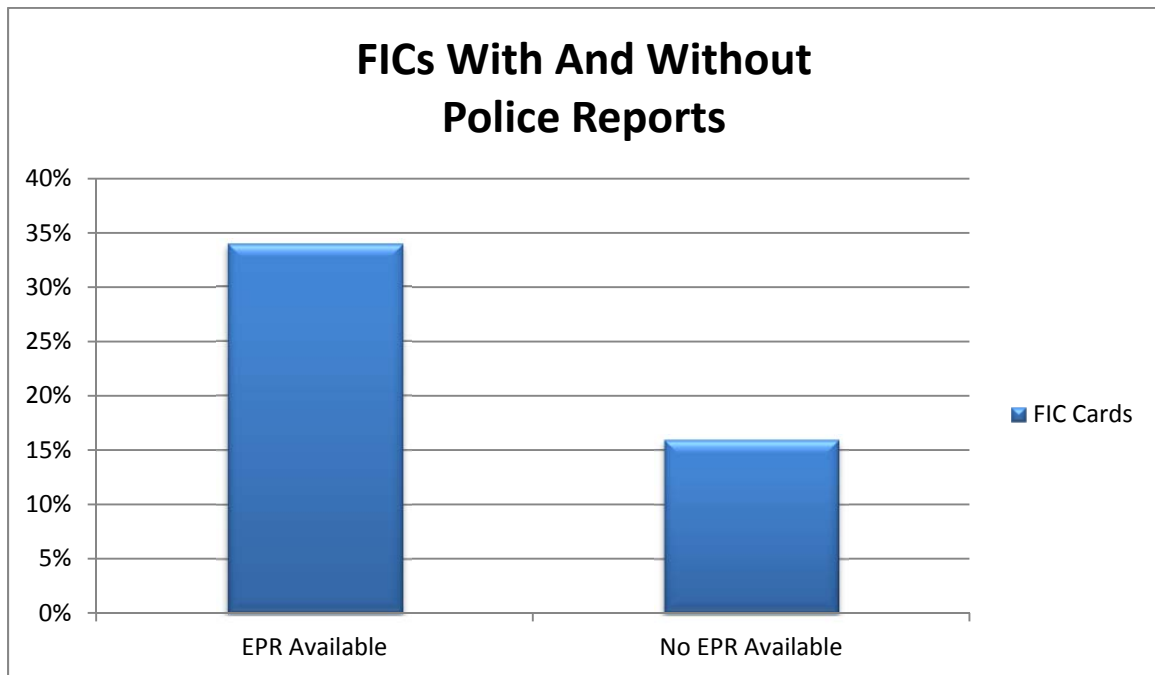


Figure 13

While we will leave for another quarter the wisdom of making arrests without an EPR (as well as the confusion caused by multiple policies regarding the making of such reports), the absence of that information negatively impacts critical analysis of the FIC data.

D. Recommendations

Based upon the Monitoring Team's preliminary observations and analyses this quarter, we recommend NOPD consider the following improvements to its FIC process.

- Develop a FIC policy that clearly states when FICs must be completed and that delineates in a clear manner the instances where an EPR would be required (or not).
- Develop an arrest report policy that requires an arrest report be completed for all arrests.
- Train all officers on when and how to use FICs.
- Consider developing a single database that houses FIC data and arrest report data or adding an arrest component to the new FIC system currently under development.
- Develop an internal audit protocol that will permit the internal review and analysis of FIC data.

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The Monitoring Team believes taking these steps will help ensure the FIC process plays the important role contemplated by the Consent Decree – and by the NOPD.

X. Custodial Interrogations (CD 163-170)

Custodial interrogations, as the name implies, are interviews (interrogations) of suspects while in police custody. They are typically, but not always, conducted in an NOPD interrogation room, in a police station, by one or more officers. To ensure the fairness and constitutionality of such interrogations, most interrogations must be recorded by audio and video.

The Consent Decree requires NOPD to take certain steps to ensure officers conduct custodial interrogations in accordance with the subjects' constitutional rights. To meet the requirements of the Consent Decree, custodial interrogations must be conducted professionally and effectively so as to elicit accurate and reliable information. (CD VI)

Due to the direct impact on citizen constitutional rights, the Monitoring Team reviews custodial interrogation material every quarter. Such material include databases, logs, and, of course, recordings of actual interrogations. Our findings for this quarter follow.

A. Structure, Location, and Recording (CD 163-165)

Paragraph 163 of the Consent Decree requires that officers not “use physical violence or make threats to carry out harm to the individual or the individual’s family during custodial interrogations.” Paragraph 164 provides, among other things, that “all custodial interrogations that take place in a police facility, and all interrogations that involve suspected homicides or sexual assaults, shall be video and audio recorded. All recorded custodial interrogations will be recorded in their entirety.” Paragraph 165 provides that, “any equipment failure shall be explained and documented in the case report, the case file, and in a memo to the Deputy Chief of the Investigation & Support Bureau.”

The Monitoring Team reviewed multiple recordings in each NOPD District this quarter and did not observe any indication of physical violence or threat of physical violence. However, of the eight districts visited by the Monitoring Team, only four districts were able to retrieve all the audio/video recordings of custodial interrogations requested by the Monitoring Team.²⁶ This obviously is a concern and it has been brought to the attention of the NOPD Consent Decree Implementation Unit.

Of those Districts that were able to produce at least some recordings for our review, we made the following findings:

²⁶ One District could not be assessed because platoon personnel were unavailable when we visited.



- One District was able to retrieve only one recording requested by the Monitoring Team.
- One District conceded it did not know how many recordings were available.
- Most Districts did not maintain complete and accurate logs of their recordings.
- One District was able to produce some recordings for the Monitoring Team's review, but, when these were reviewed, the recordings were mostly static without audio.
- One District was capable of video recording, but had to rely on hand-held recorders to record audio. This made it very hard to review video and audio at the same time.
- One District produced recordings that began while the interrogation already was in progress – a clear non-compliance with the terms of the Consent Decree.

In the face of these obvious shortcomings, the Monitoring Team did not find any materials documenting equipment failure in either the case files or in NOPD's central files.

Obviously, the foregoing findings are of great concern. While we are encouraged by what we saw on the tapes we were able to review, we are discouraged by the (i) lack of accurate logs maintained by the Districts and (ii) by the high number of unavailable recordings.

Accordingly, NOPD has not yet demonstrated compliance with its obligations under the Consent Decree.

B. Interview Notes in Case Files (CD 166)

Closely related to NOPD's obligations regarding recording custodial interrogations is its obligation to "maintain in the case file their notes taken during interviews and interrogations." (CD 166) Of the recordings the Monitoring Team was able to review this quarter, no officer was observed taking notes. That being said, we did attempt to review the case files associated with the interrogations to look for notes there. Unfortunately, none of the Districts were able to provide case files to determine whether notes were included in the case files. Some case files were not produced because the Districts were unable to tie the recording to the case and failed to keep a log as required by the Consent Decree. Other cases weren't available since some District personnel stated they didn't keep the case file on hand but packaged it for delivery as evidence to Central Evidence and Property. ***Accordingly, NOPD has not yet demonstrated compliance with this element of the Consent Decree.***



C. Physical Location of Interrogations (CD 167)

With respect to the physical location of interrogations, the Consent Decree provides that NOPD must “designate interview rooms for all Districts and specialized units, and ensure that interview rooms are equipped with functioning audio and video recording technology that allows for recording and maintenance of all phases of interrogations.” (CD 167) Our review confirmed all Districts have at least one designated interview room. As noted above, however, not all are equipped with functioning audio/video recording technology.

D. Interpreters (CD 168)

Paragraph 168 of the Consent Decree requires NOPD to use “qualified interpreters for any interrogation of an LEP individual, and Miranda warnings shall be provided to the subject in his or her primary language.” The Consent Decree further provides that, “because of the dual role bilingual NOPD employees may have when conducting an interrogation and simultaneously acting as an interpreter, they should only be used as an interpreter during an interrogation if they have identified themselves as officers or employees of the Department, are authorized as NOPD interpreters, and are trained in using interpretation protocols consistent with best practices, as required by this Agreement and NOPD’s language assistance policy and plan.” (CD 168)

The Monitoring Team was unable to assess compliance with this Consent Decree requirement this quarter because we are awaiting an authorized list of interpreters from NOPD and evidence of their training. Moreover, of the few recordings we had access to this quarter, all were conducted in English.

E. Detective Training (CD 169-170)

Paragraph 169 of the Consent Decree requires NOPD to “post all detective openings throughout the Department” and to “revise eligibility criteria for detectives in Districts and specialized units to require appropriate experience, writing samples, supervisor recommendations, and an interview.” While there were not many detective openings this quarter to observe, the ones we did review generally complied with this requirement. The one deficiency we consistently identified was the requirement for a supervisor’s recommendation. The Monitoring Team discussed the deficiency with the Consent Decree Implementation Unit and was assured that, going forward, a Supervisor’s recommendation would be required.

Paragraph 170 of the Consent Decree requires NOPD to have developed and delivered “at least 24 hours of formal training for newly assigned detectives on interrogation procedures and methods” by August 9, 2014. The required training must include “legal standards, ethics, the mechanics of conducting effective and constitutional investigations, and causes for investigative failures and false confessions. We note NOPD’s current detectives have not yet received in-service training on updates and changes to the law regarding interrogations and



confessions. We also note that NOPD has not yet conducted detective training, nor has such training been scheduled.²⁷

XI. Photographic Line-Ups (CD 171-176)

The Consent Decree requires NOPD “to ensure that photographic line-ups are conducted effectively and in accordance with the rights secured or protected by the Constitution and laws of the United States, so as to elicit accurate and reliable information.” (CD VII) To meet this obligation, NOPD must undertake a number of specific activities, including ensuring no officer who is involved in the investigation participates in administering the photographic lineup and the individual who administers the lineup has no knowledge as to which photograph depicts the suspect in the investigation. (CD 171)

Unfortunately, the Monitoring Team was not able adequately to assess NOPD’s compliance with these requirements this quarter because NOPD’s records are not complete. In many of the Districts we visited, NOPD was unable to provide us with a list of cases that involved a photographic line-up. These constraints notwithstanding, the Monitoring Team was able to draw the following conclusions from its observations this quarter.

- In one District, only one of fourteen cases we reviewed demonstrated the lineup officer was different from the investigation officer as required by the Consent Decree. (CD 171) Similarly, only one of the fourteen cases we reviewed demonstrated the lineup officer was not involved in the underlying investigation as required by the Consent Decree. (CD 171)
- In another District, only three of sixteen cases demonstrated compliance with the lineup officer being different from the investigation officer; and only two of sixteen cases demonstrated the lineup officer was not involved in the investigation. (CD 171)
- In one District, on multiple occasions, the officer administering the photographic line-up informed the witness he/she would be reviewing multiple photographs to identify a suspect, but then showed the witness only a single photograph. (CD 173)
- Several districts did not consistently keep “a complete record of each display procedure and results” as required by the Consent Decree (CD 174). One district did keep a log, but it was confusing and the department-wide forms recently

²⁷ Subsequent to the close of the current quarter, the NOPD Implementation Unit advised the Monitoring Team that a schedule for new detective training had been put in place, and that lesson plans would be provided to the Monitoring Team. The Monitoring Team will evaluate the substance of the training materials and the effectiveness of the training in the fourth quarter.

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developed and distributed by the NOPD Compliance Bureau were not being completed in full.

In addition to the foregoing obligations, the Consent Decree also provides that, before any lineup is administered, eyewitnesses shall be admonished that the suspect might or might not be present in the lineup. (CD 172) Only two of the four Districts observed this quarter were able to provide information regarding their photographic line-ups. Of those, one District was able to provide recordings of cases regarding photographic line-ups, which permitted an audit of whether the individual administering the lineup had knowledge as to which photograph depicted the suspect in the investigation. In each of those cases, the eyewitness was admonished that the suspect might or might not be present in the lineup. The officers/detectives appropriately read that information from a form developed by the department. The other Districts, however, were unable to demonstrate compliance with this requirement.

The absence of consistent logs and the unavailability of recordings also hindered the Monitoring Team's ability to fully assess compliance with Paragraph 173 of the Consent Decree. Paragraph 173 requires that NOPD incorporate "filler" photographs—those that do not depict the suspect—of individuals who generally fit the witness's description of the perpetrator into any photographic lineups. The Consent Decree provides further that "when there is a limited or inadequate description of the perpetrator provided by the witness, or when the description of the perpetrator differs significantly from the appearance of the suspect, fillers should resemble the suspect in significant features." (CD 173) While we did see some evidence of proper use of filler photographs in more than one district we monitored, insufficient evidence was available to draw fair conclusions regarding the NOPD's overall level of compliance with this requirement.

Paragraph 174 requires NOPD to "keep a complete record of each display procedure and results. The record shall include the time, date, location, identity of the viewing person, photograph numbers, and name of the administrator of the line-up." Here again the Monitoring Team observed the absence of records, incomplete records, and in one case inaccurate records. NOPD has not yet demonstrated compliance with this requirement.

Finally, paragraph 175 provides that NOPD must document other information pertinent to a photographic display procedure, "including any statements made by the viewing individual and identities of other persons present during the procedure." Paragraph 176 provides that "if a suspect selection is made, NOPD agrees to mark and maintain as evidence the photographs used in the lineup, including a copy of the photo array if one was used. It shall be kept as evidence until the final disposition of the case, at which time it shall become a part of the permanent case file." While the available records made a thorough assessment of these requirements impossible, the records we were able to review demonstrate inconsistent compliance with this requirement – although we do note that some Districts were able to document compliance with this Consent Decree requirement.



XII. Academy and In-Service Training (CD 245-288)

The Department of Justice’s investigation of the NOPD resulted in harsh criticism of NOPD’s training program. Among other things, DOJ found “the training NOPD has for the past several years provided to its officers is severely deficient in nearly every respect, compromising officer and public safety, effective crime reduction, and the credibility and reputation of the Department as a whole.” DOJ Findings Letter at xiv. Consequently, the Consent Decree incorporates significant and extensive provisions regarding training.

Ideally, the Monitoring Team would be able to focus on NOPD training *after* the approval and implementation of the Department’s new policies. This is not possible here. But even though most of NOPD’s policies have yet to be approved by DOJ and the Monitoring Team, the issue is too important to let the absence of compliant policies delay our review of the training program. Officers continue to be trained by NOPD even in the absence of new policies, and the Monitoring Team has spent significant time observing that training.

Over the course of this quarter, the Monitoring Team focused on NOPD training from two different perspectives. First, we personally observed the Department’s New Sergeant’s Training, which took place in May 2014. Second, we observed a number of Academy training programs covering a number of topics.

As a result of these efforts, we are of the opinion that NOPD’s training program is a mixed bag. Some of the instruction we observed was substantively high quality, taught by a dynamic instructor using teaching techniques appropriate for an adult audience. On the other hand, some of the instruction we observed was substantively inadequate, dry, and ineffective. A major shortcoming of the training we reviewed was the absence of meaningful lesson plans. While NOPD has notified the Monitoring Team that all lesson plans and curriculum are available at the Training Academy, our observations did not corroborate this representation. We did not see lesson plans for the courses we monitored, nor did we see evidence that the instructors used a lesson plan even if one did exist. Importantly, the members of the Academy staff with whom we spoke conceded that *most instructors did not have lesson plans*.

The absence of some lesson plans and the lack of quality of others strongly contribute to the risk that training will be inconsistent and ineffective – or at least not as effective as it could be. We have made our views regarding the availability of lesson plans known to NOPD’s Consent Decree Implementation Unit and have been assured the Team is attending to the shortcoming.²⁸

With this as background, our more detailed findings are set forth below.

²⁸ NOPD hired a Training Academy Curriculum Director just after the quarter came to a close. Additionally, subsequent to the close of this quarter, the Consent Decree Implementation Unit provided the Monitoring Team with all training materials currently in their possession.



A. New Sergeant Training

In May 2014, NOPD held its first ever “New Sergeants Training Class.” In addition to giving the new class of supervisors the tools they will need to perform their new responsibilities, the training also was intended to meet the NOPD’s obligations under the Consent Decree. Specifically, Paragraph 314 of the Consent Decree requires NOPD to “develop and implement mandatory supervisory training for all new and current supervisors.” The Consent Decree also sets out a list of elements that must be incorporated into the supervisory training.

The new sergeants training took place over the course of four weeks, and comprised approximately 160 hours of instruction. The first week comprised 40 hours of traditional in-service training. The second week was taught by the Department’s Public Integrity Bureau and involved conducting investigations and imposing discipline. The third week covered general duties and responsibilities of supervisors in the field. The final week of the program focused on leadership in accordance with standards promulgated by the International Association of Chiefs of Police. The classes we attended hosted 32 newly promoted sergeants.

Among other things, our team observed supervisor training with an eye toward (i) the correctness of the message, (ii) the appropriateness and organization of the materials, and (iii) the effectiveness of the instruction. We also focused on the instructor’s attitude, knowledge of the subject matter, and use of adult learning techniques.

A summary of our findings follows:

1. Lesson Plans

The Consent Decree requires that NOPD “shall submit all new or revised training curricula and lesson plans for training required by this Agreement to the Monitor and DOJ for review and comment at least 90 days prior to the scheduled date of training delivery.” (CD257) As noted above, we saw no evidence of lesson plans for any of the classes we reviewed. We were provided with a general, 40-week lesson plan overview for FTO training, however, the Instructor was given only two hours for an FTO overview, which obviously rendered the 40-hour lesson plans irrelevant.

2. Handouts and other visuals

Many, but not all, of the classes we observed did use handouts and other visuals, particularly when covering a written directive. This is a best practice and an important component of effective adult teaching. Some of the Instructors we monitored used PowerPoint presentations, which further contributed to the effectiveness of the training. Not all instructors used supporting materials, however, and students clearly were bothered by the absence. One instructor, recognizing the benefits of supporting materials mid-lesson, even apologized to the students for not having handouts.



3. *Hands-On Activities*

Another best practice in teaching adults is the use of “hands-on” activities. We were pleased that the new sergeant classes that involved teaching of new technologies, for example, body worn cameras, did involve hands-on activities. We also observed other officers incorporate such activities into their training programs even though they were not technology related. For example, one instructor teaching about effective supervision, had the students come up with a list of traits for an effective supervisor. With the help of the instructor, the students developed an impressive list of traits and then interactively discussed the importance of each. Unfortunately, not all instructors were this dynamic, but those that were clearly were rewarded by attentive students.

4. *Reference to the Availability of Health Professionals*

The Consent Decree requires NOPD to “develop and offer a centralized and comprehensive range of mental health services that comports with best practices and current professional standards, which include: readily accessible confidential counseling services with both direct and indirect referrals; critical incident debriefings and crisis counseling; peer counseling; and stress management training.” (CD 289) We were pleased the new sergeants training included references to the availability of mental health professions within the NOPD. At least one instructor made it a point to recognize that supervising is draining intellectually and physically. He emphasized the importance of recognizing and dealing with stress. He reminded the students that the Department offers access to mental health care professionals, and even described a personal experience to drive home the point. While more could have been said regarding the NOPD-wide Health and Wellness program and regarding the Consent Decree paragraphs relating thereto, we were pleased to see the issue included in the training.

5. *Policemen vs. Police Officers*

Many if not most of the instructors we observed use the term “policeman” in male terms while teaching. While not an issue rising to the level of an improper use of force, it is worth mentioning here. The term is antiquated and bothersome to the Monitoring Team. Equally bothersome was the response from the several female sergeants we asked about the term during a class break. Each sergeant told us the term did not bother them and even suggested they did not even hear the term anymore. We find this troubling. Word choice has consequences whether people think they “hear it” or not. Women have been in policing long enough that instructors and supervisors should be referring to employees as police “officers.” Women and others should not be made to feel excluded by the words some within the NOPD choose to use.

6. *The Facility*

In many ways, the NOPD’s training facilities are not conducive to effective study. Like many of the District stations we visited, the Training Academy has obvious evidence of age and over-use, with missing ceiling tiles in the bathrooms, paint peeling from numerous walls, and old



and uncomfortable desks. The Academy classrooms we visited were warm, if not hot. While fans occasionally were brought in to cool the room, their noise was distracting and often made it difficult to hear the instructor. To the extent the building had air conditioning, it was apparent it was not working. Moreover, the Academy lacks modern computers, which serve as a useful teaching tool in other departments. While we appreciate NOPD's financial constraints, we nonetheless would be remiss if we did not mention the condition of the facilities and the impact that typically has on effective teaching.

7. *The Students*

The students generally were attentive throughout the training program and appeared to take the training seriously. Most clearly enjoyed the training, if not the facilities. The new sergeants with whom we spoke were quite willing to share their views not only on the training program, but on the NOPD generally. Consistent complaints included manpower shortages, poor pay, confusing written directives and policies, broken equipment, and inadequate and/or infrequent training. Officers, however, also had many positive things to say, including giving accolades to the new sergeants training program in general.

8. *The Instructors*

The quality of the instructors we observed varied, as is to be expected. Many, but not all, used effective adult learning techniques. Many, but not all, used handouts and visuals. Importantly, we observed very little negativity among the instructors toward the NOPD, the training, or the Consent Decree. We observed no rolling of the eyes, no sarcasm, and no inappropriate comments detracting from the sincerity of the lessons. The Monitoring Team identified only one instructor who presented his lesson in a negative light, and brought that incident to the attention of the NOPD Consent Decree Implementation Unit. On the negative side, with some notable exceptions, most of the instructors did not involve the students in hands-on activities; although, as described above, some did with great success. And, as noted above, few, if any, appeared to use a lesson plan.

9. *The Instruction*

The most obvious gap in the substance of the instruction was the absence of approved policies. As we have said in prior reports, NOPD cannot have effective training without approved, effective policies. That being said, the instruction did cover many issues critical to constitutional policing, and often did so quite well. The following provides illustrative findings from our review of the various courses offered during the new sergeants training. This list is NOT all inclusive, but does provide a fair summary of our findings.

a. *Overview Session*

Overall, this session was effective, if somewhat dry and outdated. The lack of an actual lesson plan likely contributed to its sometimes meandering structure. Likewise, the lack of

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current examples contributed to the dry and outdated feel. But most of the points raised were on target and ethically and professionally based.

Among other things, the instructor discussed the importance of clear instructions from supervisor to officers. He gave meaningful examples of good and bad communication, which drove home the point to the students. He explained the importance of telling officers “why” as opposed to simply commanding them to do something. He counseled the new sergeants to take time to explain their decisions, when appropriate, and to meet with and become involved in officers’ daily activities.

The instructor advised the sergeants to “strive for perfection,” and always adopt policing best practices. While we did not like a description of Constitutional Policing as the “new catch word,” we did appreciate the instructors seemingly sincere focus on the importance of the issue. He stressed the importance of accurately documenting actions, including stops, to ensure citizens were treated fairly and officers were protected.

b. *Roll Call and Inspections Session*

Although again there was no lesson plan to guide this training session, which, as already noted, is quite concerning, we nonetheless had a positive impression of this training session. The instructor took time to remind the new sergeants that they should treat all employees with respect and keep relationships professional. He discussed everything that should be worn on an officer’s duty belt and each item’s importance. He involved the students in the discussion and even took the class outside and had them form lines for inspection. He walked the lines and reviewed the officers. He reminded the sergeants about saluting appropriately when wearing a hat or without, and cautioned them about always being respectful of the American flag, particularly during public events and in uniform.

c. *SWAT Session*

Overall, this class was quite good. While the quality of instruction was mixed, it generally was acceptable – and, in some respects, quite commendable. The instructors introduced themselves, discussed their backgrounds and history with the NOPD, provided an overview of their specialized training, and clearly outlined the topics to be discussed at the outset of the class. The instructors did not appear to have a lesson plan, but did provide and discuss NOPD Policy 414 relating to SWAT call-outs. While these policies have not yet been approved by the Monitoring Team and/or the Department of Justice, the material being taught did comply with applicable law and the United States Constitution. The instructors were energetic and credible and had the full attention of the class. The information provided was relevant, appropriate, and the class was attentive throughout. The instructors even provided their cell numbers, advising the class to call anytime for advice.



d. *Vehicle Pursuits*

We did not have a positive view of the session concerning Vehicle Pursuits. The discussion of NOPD's current policy was not well presented and, at times, the substance was concerning. The instructors handed out the policy and asked the class go around the room and take turns reading paragraphs. Since each reader read at a different pace and at a different volume, this approach proved ineffective. Of greater concern is that, in our view, the instructors approached the topic from a very negative perspective. Rather than focusing on the benefits to the officers, the citizens, and the Department of properly conducting vehicle pursuits, the instructors continually focused on the negative consequences to the officers if they do it wrong. For example, the instructors more frequently told officers they would be investigated if they did it wrong than they promoted the advantages to personal and public safety if they did it right.

The Monitoring Team also was concerned that the instructors seemed to believe reading the policy is a sufficient surrogate for effective training. While reading the policy obviously is important, effective training is supposed to go beyond the policy. One instructor, for example, told the students to simply read the policies because they are self-explanatory. This is not an effective teaching technique. It is especially inadequate when the policies and procedures themselves have not been approved yet. At one point, for example, multiple students commented on the confusing nature of NOPD Procedures 314.3 regarding vehicle pursuits. Another area that seemed to confuse the students, and the instructors, related to Procedure 314.5, which refers to the "Platoon Commander" regarding supervision of a vehicle pursuit. The students and the instructors struggled over whether the Lieutenant or the Sergeant was the "Platoon Commander." The class left confused over this issue, which makes it evident this issue must be clarified in the approved policy.

We also noted a tendency on the part of the instructors to fall into what we call the "back in the day" approach to teaching. One instructor during his discussion of vehicle pursuits, for example, commented that "back in the day, we used to switch to another channel during pursuits so we wouldn't be taped." While this sort of anecdote can be effective when it is followed by a firm discussion of the dangers of the old way and the benefits of the new way, such discussion did not follow here.

While instructors did play some pursuit recordings to prompt class discussion, which generally is a good training technique, it appeared to us the resulting class discussion was not focused and the instructors' message seemed to be lost. The lack of any break during the two-hour session probably contributed to the lack of class discipline.

Finally, we noted some substantive deficiencies in the material being taught. The discussion regarding who can call off a chase and under what circumstances, for example, raised more questions than it answered.



e. *Crime Scene Management Session*

While the Monitoring Team did not observe substantive flaws in the instruction, overall, this class was below average. The instructor did have a PowerPoint presentation, but the Monitoring Team did not see evidence of a lesson plan. While the PowerPoint generally kept the class moving and focused, it clearly was not tailored to supervisors. The lack of such tailoring contributed to the instructor's inability to keep the attention of the class.

On the positive side, the instructor clearly stated the goals and objectives of the class at the outset. He used practical exercises throughout the class, and effectively discussed the types of actions that can cause problems at a crime scene. The class also would have benefited from handouts and real-life examples. The sergeants seemed interested in the content but the delivery fell short of their expectations.

f. *Field Training Officer ("FTO") Program Session*

The instructor began class by telling the students he had to cover 40 hours of material in two hours. While perhaps an inauspicious start, the instructor focused on the key points of relevance to supervisors and did a good job holding the attention of the class throughout. He shared the course content and scope of the objectives at the outset, and used projected slides, which, while rather dry, admittedly made the class material easier to follow by the students. Throughout the class the instructor answered questions and gave meaningful real-life examples of the points he was making. He discussed the Consent Decree and explained the new sergeants training was an outgrowth of the Consent Decree. He properly mentioned also that the Consent Decree requires the recruits to evaluate the FTO's and the FTO Coordinator.

The instructor described the NOPD's current FTO program as being "in shambles" due to a lack of manpower and inadequacies of several current FTOs. The instructor then used this point to emphasize the importance that sergeants take on more field training responsibilities.

g. *Use of Force Session*

As a preliminary matter, we note the NOPD Use of Force policy has not yet been approved by the DOJ or the Monitoring Team. This significant deficiency notwithstanding, we monitored the Use of Force training to assess the consistency of the information being taught with the Consent Decree and with best practices. While the absence of an approved policy certainly contributed to a less than fully effective session, we generally were pleased by the substance of the instruction. The class clearly was beneficial, well received by the students, and, notwithstanding the lack of an approved policy, was in line with the Consent Decree. We also were pleased with the instructor's description of a police officer's job as "a thinking person's job" rather than a "muscle job."

The Use of Force session began with a discussion of supervisory responsibilities regarding uses of force. The instructor reviewed the various levels of use of force with the

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sergeants and emphasized the documentation required following a use of force. He provided samples of redacted Use of Force Reports, and engaged in effective discussions of them with the class. The instructor did a good job keeping the class involved in the subject matter.

The instructor clearly referenced the Consent Decree throughout the session. The Consent Decree was cited, for example, to highlight the requirement that no boilerplate language be used in Use of Force Reports. He emphasized that it always is best to report a use of force if there is any doubt about whether a report is required. The instructor walked through the key Consent Decree terminology and provided useful examples of various levels of force. He engaged the class in a discussion of various use of force scenarios.

h. *District Attorney Session*

Consistent with the Consent Decree requirement that NOPD should incorporate guest speakers as part of its training, the new sergeants training featured an investigator with the New Orleans District Attorney's Office. (CD 259) The instructor was able to draw upon his time with the DA and his prior 34 years on the NOPD to teach an effective class. He used an effective PowerPoint presentation and provided the class with handouts. The class was attentive. The Instructor was well-prepared and gave good examples based on prior experience and his current job. He answered class questions and provided his phone number so the sergeants could call him with questions.

The instructor used the prosecution process as a vehicle for emphasizing the importance of a quality investigation, effective report writing, and good overall policing. He explained to the officers that everything about a case is scrutinized by the DA's office prior to prosecution and throughout the judicial process.

i. *Body Worn Cameras Session*

The Monitoring Team was pleased with the substance and effectiveness of the training, and recognized it was consistent with the approved policy. The instructor focused primarily on NOPD's new Body Worn Camera policy, approved by DOJ and the Monitoring Team in March 2014. He reviewed the key elements of the Policy and answered questions about the cameras. He had the cameras available on the students' desks and gave them the opportunity to operate them to upload footage from the cameras. The instructor discussed key privacy issues relating to cameras and stressed that they could be used only for professional work purposes. The students were engaged in this lecture and asked good questions.

j. *FOB Session*

This session introduced the students to the day-to-day job functions of a new sergeant. The instructor addressed the basic duties of a sergeant, including things as mundane as checking e-mails regularly, completing activity logs, and writing reports. Topics also included more complicated topics like supervising pursuits by radio and use of body worn cameras. The



instructor did an excellent job. He was very well-versed in the subject matter and appeared to maintain the full attention of the new sergeants throughout the session. The students appeared to enjoy the opportunity to ask questions of an active sergeant.

B. Observations on Racial Profiling Training

In addition to the new sergeants training, the Monitoring Team also personally observed NOPD's in-service training to officers regarding racial profiling. Where legal issues were covered, the training was consistent with the law; however, the training overall was weak and ineffective. Rather than giving the issue the prominence it deserves by making it a stand-alone class topic, NOPD currently teaches the issue in in-service training in the context of community policing. Further, of the three hours devoted to the entire class, only a small segment covered "impartial policing." The rest covered "community policing" – an important issue to be sure, but an issue that is distinct from racial profiling. The Monitoring Team also was unimpressed by the video NOPD currently presents during the class. Not only is the information in the video dated, but it largely ignores the contemporary literature on racial profiling, which includes case law, practices, methods of deterrence, and the inclusion of gender identity, place of origin, and religious affiliation in the overall discussion. The Monitoring Team is working closely with the Consent Decree Implementation Unit to bring NOPD's racial profiling training up to national standards.

XIII. Supervision (CD 306-331)

The Consent Decree requires that NOPD and the City "ensure that an adequate number of qualified first-line supervisors are deployed in the field to allow supervisors to provide the close and effective supervision necessary for officers to improve and grow professionally; to police actively and effectively; and to identify, correct, and prevent misconduct." (CD XV) To achieve these outcomes, the Consent Decree identifies a number of specific actions that NOPD and the City must take.

The Monitoring Team spent significant time this quarter focusing on NOPD supervision and supervisors. As a preliminary note, we received the full cooperation of the supervisors with whom we dealt and generally observed a genuine desire to achieve and maintain compliance with the provisions of the Consent Decree. Our requests for records were responded to promptly and where records were not available, the supervisors indicated they would implement enhancements to their systems to ensure such records were available in an organized state on our next visit. With this as general background, our specific findings are set out below.

A. Duties of Supervisors (CD 306)

Paragraph 306 of the Consent Decree requires that NOPD supervisors "be held accountable for providing the close and effective supervision necessary to direct and guide officers." The paragraph goes on to explain that "close and effective supervision requires that supervisors: respond to the scene of certain arrests; review each arrest report; respond to the

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scene of uses of force as required by this Agreement; investigate each use of force (except those investigated by FIT); review the accuracy and completeness of officers' Daily Activity Reports; respond to each complaint of misconduct; ensure that officers are working actively to engage the community and increase public trust and safety; and provide counseling, redirection, and support to officers as needed, and that supervisors are held accountable for performing each of these duties." (CD 306)

While the Monitoring Team was unable to fully assess compliance with the supervision requirements this quarter due to the unavailability of complete records, we were able to draw several conclusions based upon the available data.

- We did see evidence that supervisors responded to the scene of arrests as required by the Consent Decree, however, we could not assess the consistency of such responses.
- Our preliminary reviews of police reports suggest that supervisors do review such reports as required by the Consent Decree. Likewise, we did see evidence that supervisors were reviewing officer daily activity reports. Again, however, the team will have to review a larger universe of data before drawing definitive conclusions regarding compliance.
- The Districts we visited were unable to produce sufficient evidence to demonstrate counseling or redirection. Nor were the Districts able to produce sufficient evidence of disciplinary action to hold officers accountable for violations of rules and regulations. The Monitoring Team was unable to locate a list of counseling memos or disciplinary actions initiated, which prevents us from assessing whether NOPD is in compliance with this requirement. Moreover, the absence of such a list in the Districts raises the question of how the supervisors are able to provide the "close and effective" supervision required of the consent decree.
- We did not identify evidence in the Districts that supervisors worked to engage the community as required by the Consent Decree. While such engagements may have taken place – and we suspect some did – such activities were not included in the supervisor activity reports we reviewed. Nor did we see evidence that supervisors were held accountable for performing or not performing such duties.²⁹

²⁹ Each NOPD District has a sergeant who serves as the District's designated "community-oriented liaison." Known as Community Affairs Coordinators, or CoCos, these sergeants serve an important role in educating the public, engaging the community, and generally promoting police/community relations. CoCos, however, are not a substitute for officer and supervisor involvement in community matters. The Consent Decree requires that supervisors provide "close and effective supervision necessary to direct and guide (footnote continued)



- One particular District Platoon Lieutenant we observed was able to produce a file for each officer assigned to his platoon. The file contained letters of appreciation from the public, written counseling, awards, disciplinary reports, use of force reports, and job enhancement performance reports. The lieutenant and his sergeants on that shift appeared to maintain quite good documentation of good and poor performance and the actions they took as supervisors to address the performance of officers under their command. The Monitoring Team commends this team's efforts and has brought the accomplishment to the attention of NOPD management. The vast majority of shift supervisors, however, could not produce any documentation or subordinates' performance.
- Most Districts were unable to provide evidence of responding to citizen complaints. Most simply referred the Monitoring Team to PIB. While we recognize the important role PIB plays in taking, investigating, and responding to citizen complaints, supervisors also play a critical role in such matters. If supervisors are unaware of citizen complaints, we question how they can provide "close and effective" supervision of the officers under their command.
- The supervisor activity reports we reviewed failed to capture meaningful information to facilitate "close and effective supervision." The reports do not document whether the supervisor responded to the scene of certain arrests, reviewed each arrest report, responded to the scene of uses of force, investigated each use of force, responded to each complaint of misconduct, ensured that officers were working actively to engage the community and increase public trust and safety, or provided counseling, redirection, and support to officers as needed. Indeed, in our review, the supervisors' activity reports we reviewed were little more than officer activity report with the word "supervisor" replacing the word "officer" in the title of the form. The form fails to differentiate the responsibilities of a supervisor and signifies the supervisor completes the same duties as an officer. In short, the supervisor's activity report is inadequate to document the function of a supervisor.

While we have seen evidence that many supervisors do the foregoing things (as well as evidence that some do not), without adequate documentation we cannot find NOPD in compliance with its Consent Decree obligations in this area.

In addition to our review of the District files, we also sought to gain a better understanding of supervisor performance by surveying the officers being supervised. While the details of this survey are discussed elsewhere in this report, at least one finding is worth mentioning here. Specifically, a majority of officers surveys agreed that their supervisor gives

officers," including ensuring "that officers are working actively to engage the community and increase public trust and safety" (CD 306)

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them regular feedback on their quality of work (73.7%). Of course, this also means that 1 in 4 believed they were not receiving regular feedback.

B. Single Supervisor (CD 307)

Paragraph 307 of the Consent Decree provides that, by May 6, 2014, “all Field Operations Bureau District officers (including patrol, task force, district investigative, and narcotics units) shall be assigned to a single, consistent, and clearly-defined supervisor.” In general, NOPD’s personnel records provide evidence that NOPD officers are assigned to a single supervisor in most districts. We observed at least 3 supervisors assigned to each platoon of 8 -12 officers. Additionally, four Districts (1, 2, 3, and 8) were able to demonstrate compliance with this obligation this quarter. While Districts 5, 6, and 7 may actually be in compliance, they were unable to produce adequate documentation to demonstrate compliance to the Monitoring Team.

During the course of this quarter, NOPD restructured its task forces. Specifically, the Department merged its District level narcotics group and its District level task force into a single unit. As a result of this merger, the NOPD reduced supervision from two sergeants to one sergeant. The officers assigned to this new unit work various days and shifts that differ from the hours and shifts the supervisor is scheduled to work. The result of working these overlapping shifts and different days is that the officers assigned to general assignments are supervised by various platoon supervisors. This violates paragraph 307 of the Consent Decree.

C. Supervisor Hours (CD 308)

Paragraph 308 of the Consent Decree provides that “task force and narcotics supervisors shall actually work the same days and hours as the officers they are assigned to supervise absent unusual circumstance or when the supervisor is on vacation, in training, or ill.” Paragraph 308 goes on to provide that “investigative unit supervisors shall work generally the same days and hours as the officers they are assigned to supervise, taking into account that shift differences will not permit complete supervisory overlap.” Five Districts (1, 2, 3, 4, and 8) were able to demonstrate compliance with this obligation this quarter. While Districts 5, 6, and 7 may actually be in compliance, they were unable to produce adequate documentation to demonstrate compliance to the Monitoring Team.

One *potential* concern we note involved NOPD’s narcotics and task force units. When a sergeant is not on duty in those units, a platoon supervisor serves as the unit’s supervisor. With the merger of task force and narcotics personnel into the General Assignments section of the district, the sole supervisor for these officers no longer works the same shift and days as the officers assigned to the supervisor. This violates section 308 of the Consent Decree.

D. Platoon Supervisor Assignments (CD 309)

Paragraph 309 of the Consent Decree provides that “District Platoon Patrol supervisors shall be assigned to the same platoon as the officers they supervise and shall actually work the

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same days and hours as the officers of that platoon absent unusual circumstances or when the supervisor is on vacation, training, or ill.” Five Districts (1, 2, 3, 4, and 8) were able to demonstrate compliance with this obligation this quarter. While Districts 5, 6, and 7 may actually be in compliance, they were unable to produce adequate documentation to demonstrate compliance to the Monitoring Team.

E. Supervisor Ratios (CD 310)

Paragraph 310 of the Consent Decree provides that “first-line patrol supervisors shall be assigned to supervise no more than eight officers. On duty patrol supervisors shall be available throughout their shift to respond to the field to provide supervision to officers under their direct command and, as needed, to provide supervisory assistance to other units.”

NOPD was able to demonstrate compliance with this requirement in Districts 1, 2, 3, 4 and 8. Due to changes in the structure of the NOPD assignments relating to Task Forces, NOPD was not able to demonstrate consistent compliance in Districts 5, 6, and 7. In Districts 6 and 7, which have implemented a new “general assignment” unit in each district, there is not yet enough documentation to determine whether the detectives assigned to this unit will be supervised by platoon supervisors. The new assignments may require platoon supervisors to supervise more than eight officers.

The general assignments designation for officers previously assigned to task forces and narcotics have been implemented city wide. Although no instances of a supervisor supervising more than eight subordinates occurred during this audit due to this reassignment, there exists the possibility that there could be more than eight personnel reporting to one supervisor if the entire narcotics unit or task force unit worked while reporting to a platoon supervisor when there was only one platoon supervisor on duty.

F. Fill-In Supervisors (CD 311)

Paragraph 311 of the Consent Decree requires NOPD develop and implement by May 6, 2014 “a program to identify and train acting patrol supervisors who can fill-in, on a temporary, as-needed basis, for assigned supervisors who are on vacation, in training, ill, or otherwise temporarily unavailable. NOPD shall ensure consistent supervision by acting supervisors for supervisors who are on extended leave, and shall reassign officers to a new permanent non-acting supervisor when the currently assigned supervisor has been or is expected to be absent for an extended period of over six weeks.” NOPD was not able to demonstrate compliance with this requirement. The Training Academy has not developed such a program nor has it trained any personnel as acting patrol supervisors. Our review revealed that no personnel in Districts 1, 2, 3, 4, 5, 6, 7, or 8 had attended training for acting supervisors.



G. Close and Effective Supervision (CD 312)

Paragraph 312 of the Consent Decree requires that District commanders and platoon lieutenants be responsible “for the close and effective supervision of officers under their command.” The Consent Decree goes on to provide that “All NOPD commanders and platoon lieutenants shall ensure that all subordinates under their direct command comply with NOPD policy, state and federal law, and the requirements of this Agreement.” Our review this quarter revealed NOPD has taken steps to achieve this requirement, but cannot yet demonstrate full compliance.

One reason NOPD cannot yet demonstrate compliance with this requirement is that the supervisors’ activity reports used in the Districts are not designed to capture information showing “close and effective” supervision of officers. The supervisors’ activity sheets do not include direction they provided at roll call, any orders that were conveyed to officers, their expectations while interacting with the public, any counseling they provided, any disciplinary actions initiated, any complaints to which they responded, any monitoring of officer activity on calls for service or traffic stops, or other actions taken by a supervisor to ensure compliance with paragraph 312 of the consent decree. One platoon lieutenant in one district was able to provide some evidence of compliance with Paragraph 312 by maintaining personnel files on each subordinate officer, which did suggest more oversight that we observed in other Districts.

H. Supervisor Accountability (CD 313)

Consent Decree paragraph 313 requires NOPD to hold its commanders and supervisors³⁰ “directly accountable for the quality and effectiveness of their supervision, including whether commanders and supervisors identify and effectively respond to misconduct, as part of their performance evaluations and through non-disciplinary corrective action, or through the initiation of formal investigation and the disciplinary process, as appropriate.” NOPD was not able to demonstrate compliance with this requirement this quarter. In fact, NOPD was able to produce few documents suggesting a supervisor was given counseling or redirection, and only a few documents were produced to provide evidence of disciplinary action to hold supervisors accountable. Most commands did not have a list of counseling memos or disciplinary actions initiated. Supervisors’ reports did not include information concerning orders relayed from higher authority, counseling provided to officers, direction to officers regarding engagement of the public, or discipline. Supervisors’ performance evaluations were generally not available, few counseling memos were available, and few disciplinary reports were available. Moreover, the performance evaluations we viewed were not adequate to assess supervisors’ performance. The evaluations did not include a section to evaluate “whether commanders and supervisors identify and effectively respond to misconduct, as part of their performance evaluations” as required by

³⁰ The Consent Decree defines a “supervisor” as “a sworn NOPD employee at the rank of sergeant or above (or anyone acting in those capacities) and non-sworn NOPD personnel with oversight responsibility for other officers.” (CD C.14.bbbb)

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paragraph 313 of the consent decree. While we recognize NOPD PIB likely maintains evidence of such actions, we question how NOPD can meet with this requirement if the leadership within a District is blind to such data.

In the course of this review, the Monitoring Team did discover one incident worthy of mention here. During a Mardi Gras parade, an officer reported that a young woman ran into him. In contrast, the woman stated she was pushed by the officer. The officer's supervisor responded to the scene for a complaint registered by the woman's mother and father. Neither, however, wanted to file a formal complaint with PIB. The officer did complete a Use of Force Report, which indicated the officer was counseled. The Monitoring Team, however, was able to locate no formal counseling memo, or other evidence of counseling. In addition, the parents' complaint to the sergeant was not passed on to PIB. In short, none of the actions that should have been taken were taken and no supervisor beyond the initial reporting sergeant took any further action to address this matter.

Another incident of lax supervision is worth mentioning here. The Monitoring Team spent a significant amount of time in the various NOPD districts this quarter, observing the officers, the supervisors, and the station surroundings. In District 5, we noticed a 2013 goal on the Roll Call room board that stated "Increase the number of lawful vehicle stops." The statement, however, was altered with graffiti to read "Increase the number of unlawful vehicle stops." While we understand every organization has its share of childish behavior, we are concerned that the supervisors did not immediately erase the graffiti and chastise the platoon. Moreover, three different reviews of this same district indicated similar immature behavior. Open displays of undisciplined conduct like this within a district, frequented by district supervisors, fails to comply with commanders and supervisors identifying and effectively responding to misconduct.

I. Early Warning Systems (CD 316-326)

Pursuant to Paragraph 316 of the Consent Decree, the City and NOPD agreed to "develop, implement, and maintain an [Early Warning System] to support the effective supervision and management of NOPD officers and employees, including the identification of and response to potentially problematic behaviors as early as possible." An effective Early Warning System is a staple of modern police departments and is a critical tool to ensure effective supervision of officers, identification of problem officers, and identification of patterns and practices that could suggest constitutional and professional policing. An effective system will permit NOPD to "manage risk and liability and to evaluate the performance of NOPD employees across all ranks, units, and shifts." While NOPD has made progress toward meeting this requirement, NOPD has not yet demonstrated compliance with this requirement.

Over the course of this quarter, NOPD evaluated three vendors that responded to a solicitation issued on March 11, 2014. On July 8, 2014 the New Orleans Selection Committee selected Sierra Systems as its preferred vendor to develop the Early Warning System, and entered into contract negotiations. This selection followed a review of three proposals, and



subsequent oral presentations from two of the three candidates. Members of the Monitoring Team reviewed the two “finalists” and determined that either could meet the requirements of the Consent Decree. The Monitoring Team also noted that both offers incorporated features that went beyond the strict requirements of the Consent Decree. For example, the City wants the system it purchases to incorporate data relating to tax forms, employment verification forms, domicile forms, payroll information, and examination applications, among other things. While these features add cost and complexity to the project, they do not violate the terms of the Consent Decree. As of the conclusion of this quarter, NOPD had not made a final vendor selection.³¹

The City’s efforts to select an EWS vendor evidence progress. Moreover, the City has developed an implementation plan as required by Consent Decree Paragraph 317 and has engaged a “qualified information technology specialist” required by the same paragraph. The creation of an effective EWS is a Consent Decree priority and we believe it to be a priority of the NOPD as well. Currently, District personnel have no database to identify patterns of conduct of officers. This gap impacts many areas of the Consent Decree beyond the EWS requirement itself, including discipline, supervision, bias free policing, use of force and more.

J. In-Car Cameras (CD 327-331)

1. Background

In its 16 March 2011 Findings Letter following its investigation of the NOPD, the Department of Justice recognized NOPD had taken steps to implement technologies designed to promote constitutional policing and officer and citizen safety, including in-car video cameras. The DOJ found, however, that the cameras “are reportedly underused and, particularly with in-car cameras, often in disrepair. The DOJ recognized this as an issue of great importance not only to the community, but to the NOPD officers as well. According to DOJ, “[r]ecordings of officer-civilian interactions nearly always exonerate an officer, and in any event they allow a department and a community a better opportunity to learn what really happened during controversial incidents.” NOPD itself recognizes this fact, which was impressively demonstrated by an instructor training the Department’s new sergeants who used in-car video footage that exonerated an officer from what appeared to be an unjustified shooting from one camera angle, but clearly was not when the in-car footage of another camera was reviewed.

Consistent with DOJ’s findings, the Consent Decree provided that, by August 2015, NOPD will operate video cameras in all marked or unmarked vehicles that are assigned to routine calls for service, task forces, tactical units, prisoner transport, and SOD canine. (CD 327) The Consent Decree further provides that one-half of those vehicles will be equipped with video cameras by August 2014. (CD 327) NOPD further agreed “to ensure that recordings are captured, maintained, and reviewed as appropriate by supervisors, in addition to any review for

³¹ Subsequent to the close of this quarter, the City did make a final vendor selection. The City then entered into contract negotiations with that vendor.

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investigatory or audit purposes, to assess the quality and appropriateness of officer interactions, uses of force, and other police activities.” (CD 327)

To ensure the effectiveness of the in-car cameras, the Consent Decree required NOPD to develop and implement a schedule for testing the cameras to confirm they are in proper working order by November 7, 2013. (CD 329) The Consent Decree provides that “Officers shall be responsible for ensuring that recording equipment assigned to them or their car is functioning properly at the beginning and end of each shift and shall report immediately any improperly functioning equipment.” (CD 329) The Consent Decree further provides that “supervisors shall report equipment problems and seek to have equipment repaired as needed.” (CD 329)

Our review this quarter revealed that, more than three years after DOJ expressed concern over the functioning of the NOPD’s in-car cameras, those camera still often are in disrepair. Indeed, as detailed below, our review found that a significant percentage of the Department’s in-car cameras were non-functional. This not only violates the Consent Decree, but it puts citizens and officers at risk. It also fosters an unhealthy cynicism among officers. For example, following the newer sergeants training regarding in-car cameras, several officers approached the Monitoring Team and described the training as “BS” because “the cameras never work anyway.”

2. Methodology

In order for in-car cameras to be effective, they obviously must function. In order to assess the functionality of NOPD’s in-car cameras, the Monitoring Team personally inspected more than 100 in-car camera. We inspected cameras in each police district.

3. Findings

Our review identified two different problems with the Department’s in-car cameras. First, some cameras simply did not work. Second, some cameras appeared to work, but could not capture video because its storage medium was full. Both problems prevent the cameras from capturing video. The following table summarizes the Monitoring Team’s findings:

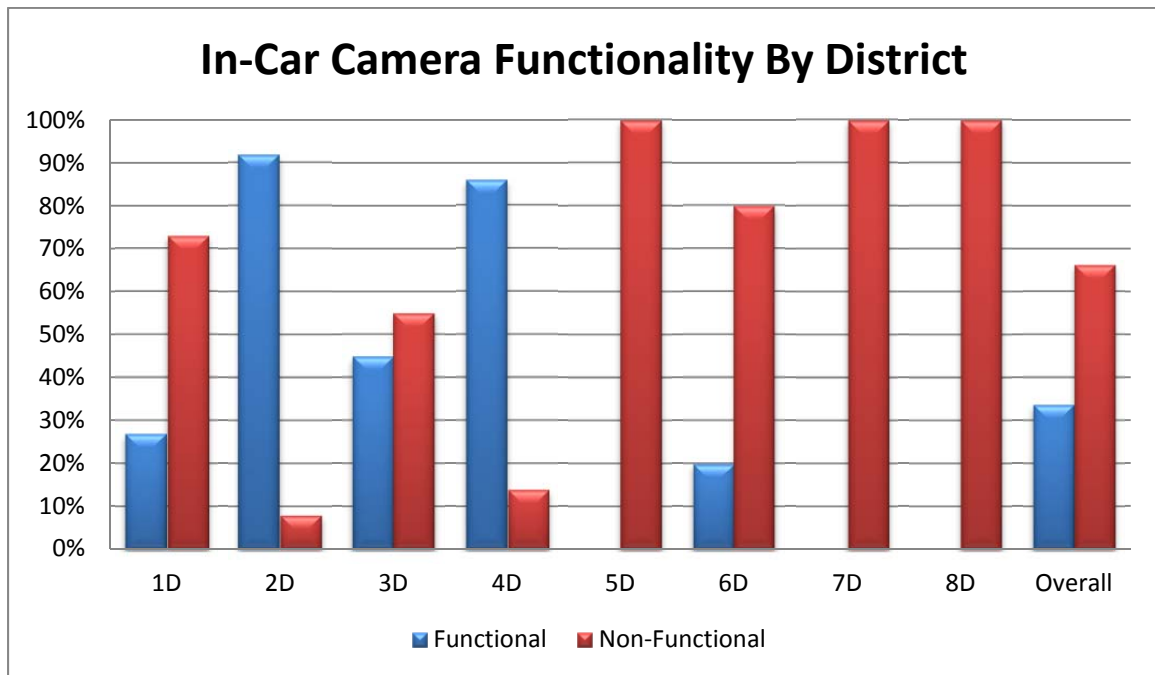


Figure 14

Our review revealed several causes for the high levels of non-functional cameras. First, some cameras simply were not functional and our discussions with NOPD officers revealed significant difficulty in getting them fixed by the Department’s technical experts. Second, in many cases, the camera worked, but the storage media was full preventing the camera from capturing additional video.

The in-car cameras are designed to capture video whenever the car has its lights or siren activated or whenever the officer manually turns on the camera. The camera captures video and stores it on an on-board storage unit (similar to the hard drive of a computer). Once the car returns to the District Station, the video footage automatically downloads to the Station’s server. Once the downloading process has completed, the footage is deleted wirelessly from the on-board hard drive and the camera is ready to record new video. For this process to work, however, it appears the car (i) must be in the “correct” District station and (ii) must be in the Station parking lot long enough for the video to download. If either condition is not satisfied, the video will not download. It appears this may be the cause of the non-functionality we observed in the 5th, 7th, and 8th Districts.

In light of the above, we conclude NOPD has failed to demonstrate compliance with the elements of the Consent Decree relating to the functionality and use of in-car cameras. The Monitoring Team brought the non-functionality issue to the attention of NOPD’s new Consent Decree Implementation Unit and we understand the Department is working to remedy the non-compliance. The Monitoring Team meets regularly with the Implementation Unit and is independently evaluating the effectiveness of the remedy.



In this context, it also should be pointed out that Paragraph 330 of the Consent Decree provides that Supervisors “shall report equipment problems and seek to have equipment repaired as needed. While some Districts were able to produce informal email messages regarding malfunctioning cameras, no District had any formal records of malfunctioning equipment. Indeed, most of the supervisors we spoke to generally claimed to believe their cameras were in working order.

Nor did we find evidence that supervisors were reviewing the recordings of their officers on a consistent – or even periodic – basis. Had they been doing so, they very quickly would have recognized the problems with the cameras.

4. *Supervisor Use of Recording Devices*

Paragraph 331 of the Consent Decree requires NOPD to “provide each supervisor with handheld digital recording devices and require that supervisors use these devices to record complainant and witness statements taken as part of use of force or misconduct complaint investigations.” NOPD must comply with this requirement by August 2014.

While not at the due date yet, our review confirmed that recording devices have been issued in each District. Only one supervisor, however, provided evidence that he used the recorder to investigate a use of force incident which is required by this paragraph. No other supervisors indicated use of the recorder nor did they provide evidence of using the recorder to investigate citizen complaints or uses of force. Some supervisors were unable to explain when they are required to use the recorder. One veteran supervisor, when asked to demonstrate use of the recorder, had to open the plastic package in which the recorder was delivered and read the instructions on its proper use.

5. *Conclusion*

In-car cameras now are staples of police departments across the country. It now is well accepted that cameras play a critical role in promoting transparency, securing officer safety, improving officer ability to respond to citizen complaints,³² and in improving a citizen’s ability to ensure effective investigation of potential officer misconduct. Historic evidence shows – and our own findings confirm – that video recording reduces the aggressiveness of officers and of citizens. Prosecutors also overwhelmingly favor the use of in-car cameras. In one survey, 91% of the prosecutors surveyed said they have used in-car camera evidence in court.³³ Cameras also are overwhelmingly supported by the public. In one of the largest studies of the subject, more than 94% of citizens surveyed support the use of such video recording.

³² According to a DOJ study, in 93% of the time a complaint against an officer is filed regarding police conduct and there is video evidence available, the officer is exonerated. IACP/COPS Report at 28.

³³ See IACP/COPS Report for a thorough discussion of the benefits of and perceptions of police use of in-car cameras.

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In-car (and Body Worn) cameras also provide supervisors with an essential tool to do their jobs. The DOJ COPS report correctly described the issue this way:

The majority of police work is accomplished out of the supervisor's view and control, and this is more prominent in state police and highway patrol agencies due to the vast geographic area to be patrolled. In many instances, the officer/trooper may only return to the barracks once every 30 days, so an additional level of agency trust is afforded to them. Video evidence captured by in-car cameras provides the supervisors with an additional tool to monitor personnel performance, especially the performance of those officers working in remote areas.

The Impact of Video Evidence on Modern Policing (IACP/COPS Study) at 22 (hereafter IACP/COPS Report).

It is precisely the multi-faceted use and importance of in-car cameras that makes the non-functioning of NOPD's camera for so long such a problem. While we recognize NOPD's Compliance Bureau's prompt response to the problem once it had been raised by the Monitoring Team, we express great concern that the issue had not been identified and resolved by NOPD on its own without the Monitoring Team's intervention. The issue should have been dealt with by District supervisors, and, if they lacked the ability to get it done, the issue should have been escalated within the NOPD to a level where something could be done about it. This did not happen here, which, more than a technology breakdown, highlights a supervision breakdown.

Subsequent to our findings, NOPD's Consent Decree Implementation Unit did take on this issue as a priority. The NOPD Compliance Bureau now states they monitor and audit the functionality of in-car camera regularly, and the Implementation Unit confirms that all Districts, less one, have a working camera system. The Monitoring Team, obviously, will continue to monitor this issue to confirm the statements of the Compliance Bureau and to ensure ongoing compliance with this Consent Decree requirement.

XIV. Secondary Employment System (CD 332-374)

The prior Quarterly Report observed the City largely had met the Consent Decree's requirements regarding creation and implementation of an Office of Police Secondary Employment ("OPSE"). One requirement for which the Monitoring Team was unable to confirm compliance in the prior Quarterly Report concerned Consent Decree paragraph 338, which requires the OPSE to "maintain a searchable list of off-duty secondary employment opportunities, which can be access through either the existing NOPD employee web site or another accessible database." In this Quarter, the OPSE demonstrated to the Monitoring Team that it maintains a searchable list of secondary employment opportunities that can be addressed through the NOPD's ISELINK Employee Self Service Portal, which can be accessed through any internet-connected device using any modern web browser including Windows, MAC OS, IOS, and Android. (Officers who are not registered with the OPSE can access the site but cannot view



any jobs.) *Accordingly, the City has demonstrated compliance with Consent Decree paragraph 338.*

Generally, the OPSE continues to make progress toward managing all police secondary employment in New Orleans. The number of secondary employment jobs the OPSE is managing continues to increase, as does the number of secondary employers using the OPSE and the number of officers registered with and working through the OPSE. The OPSE Director, Col. Salomone, and the OPSE staff continue to meet with both police officers and current and potential secondary employers to explain the program and address misconceptions and misunderstandings about it, which were noted in the last Quarterly Report. Additionally, those discussions also yielded information that the OPSE has been able to use to improve the secondary employment program for both employers and officers, which will be addressed in future reports.

Although acceptance and understanding of the OPSE is growing, there are indications some officers and secondary employers are circumventing the systems. The OPSE, the NOPD, and the Monitoring Team continue to pay close attention to this issue. Officers that are found to be in violation of NOPD secondary employment policies will be subject to discipline.

XV. Misconduct Complaint Intake, Investigation, and Adjudication (CD 375-426)

As indicated in the Second Quarterly Report, the Monitoring Team spent significant time this quarter focusing on NOPD's disciplinary process. We attended hearings, reviewed files, spoke with investigators and hearing officers, and initiated a detailed statistical analysis. The Monitoring Team requested Disciplinary Officer Hearing Memoranda from every disciplinary hearing conducted during the quarter. NOPD provided 134 Disciplinary Hearing Officer Memoranda, representing all such memoranda. The Monitoring Team analyzed all 134 disciplinary hearing memos and is in the process of compiling our observations. Our review, which includes a statistical analysis of the NOPD data, is ongoing and our findings will be presented in a future Report.

XVI. Community Engagement – Police Officer Survey (CD 223-233)

Paragraph 230 of the Consent Decree requires the completion of a biennial survey of members of the New Orleans community “regarding their experiences with and perceptions of NOPD and of public safety.” To meet this requirement, the Monitoring Team worked closely with the City, NOPD, and the Department of Justice to develop a three-part survey that would measure public satisfaction with policing, attitudes among police personnel, and the quality of police-citizen encounters, and that would include a representative sample of City residents, police personnel, and detained arrestees. (CD 231)

The first phase of the survey process was conducted this quarter and included more than 400 police department sworn officers and supervisors. To conduct the survey, members of the Monitoring Team personally administered the survey to police officers in their duty locations.

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Officers were requested to complete the 95-question survey before leaving the room and the completed survey was handed directly to the Monitoring Team member administering the survey in an envelope. The survey responses then were coded and analyzed by the Monitoring Team. The aggregated findings of the Police Officer Survey are set forth in Appendix 17 to this Report.

The Monitoring Team witnessed a very high response rate among officers surveyed, and also observed seemingly genuine interest among most officer participating in the survey. The average years of service for our sample was 16.36. Officers in the sample had between 1 and 45 years of service with NOPD. A majority of the sample is comprised of police officers (44.1%). 12.5% are detectives, 13.1% are Sergeants, about 6% are a Lieutenant or Captain, and about 3% are Commanders. About one-third of respondents indicated that they live in New Orleans (32.3%), whereas over half do not (51.9%). Most respondents are male (66.4%) (Female = 12.0%). The average age was 43.7 years with a range of 24 to 67 years. About 40% of the sample is classified as a racial minority and 27% of the sample is White. These demographic data, however, are likely not totally accurate because many officers did not provide their demographic information. This is common in self-report surveys of police officers and should not come as a surprise. For instance, over 30% of respondents did not provide the year in which they were hired, 21% did not provide their rank, 22% did not indicate their gender, 41% did not provide the year they were born, 30% did not provide their ethnicity, and 33% did not provide their race.

With that as background, here is a summary of some of the survey findings. While the particular findings will be analyzed in greater detail and in proper context in one or more future reports as appropriate, some of the findings relate to areas of this report and are summarized below. Before considering these findings, however, it is important to keep in mind that our survey measures police officer *perceptions* – not facts. For example, an officer's view of the fairness of media coverage may or may not reflect the reality of media coverage. Recent media coverage could affect an officer's response. Understanding an officer's perception, however – just like understanding a citizen's perception – is an important component of the survey project. Measuring changes in perception over time gives the Monitoring Team an additional data element with which to assess the effectiveness of the various requirements of the Consent Decree. Additionally, identifying perceived problems allows the Monitoring Team to focus its resources to determine whether the perceptions equate with reality.

A. Perception of Bias Within the NOPD

We asked several questions designed to get at officer perception of bias within the police department. (Obviously, the citizen survey will focus on citizen perception of bias as between police and residents.) Four out of ten officers believe supervisors treat officers differently based on gender.³⁴ With respect to race/ethnicity, about 60% of officers feel that supervisors treat officers the same regardless of race or ethnicity, although, obviously, this means 40% may not so

³⁴ These findings are particularly interesting considering only twelve percent of the respondents were female.



believe. As reflected in Figure 15 below, most officers also felt that superiors treat officers the same regardless of their sexual orientation (71.4%). *See* Appendix 17, Table 2.

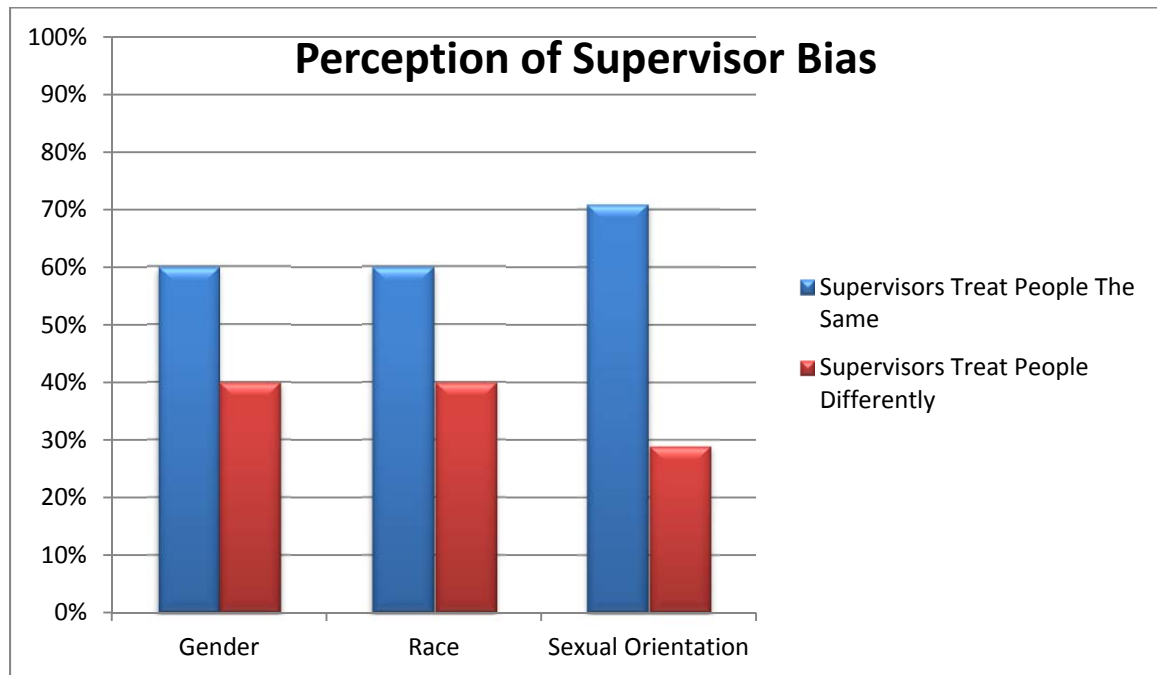


Figure 15

While the majority of respondents believed supervisors are not biased, a significant minority believes otherwise, which highlights the importance of continued focus on this area by the NOPD and the Monitoring Team.

B. Officer/Citizen Trust/Mistrust

Our findings, depicted in Figure 16, shed significant light on the current level of trust (or mistrust) between NOPD and the citizens of New Orleans. While officers have a strong positive perception that they are treated with respect by other officers (91.3% believe that to be true), fewer (but still a majority) believe citizens treat officers with respect (68.1% believe that to be true). *See* Appendix 17, Table 4. As a starting point, the following chart shows officer perception of the relationship between citizens and the police:

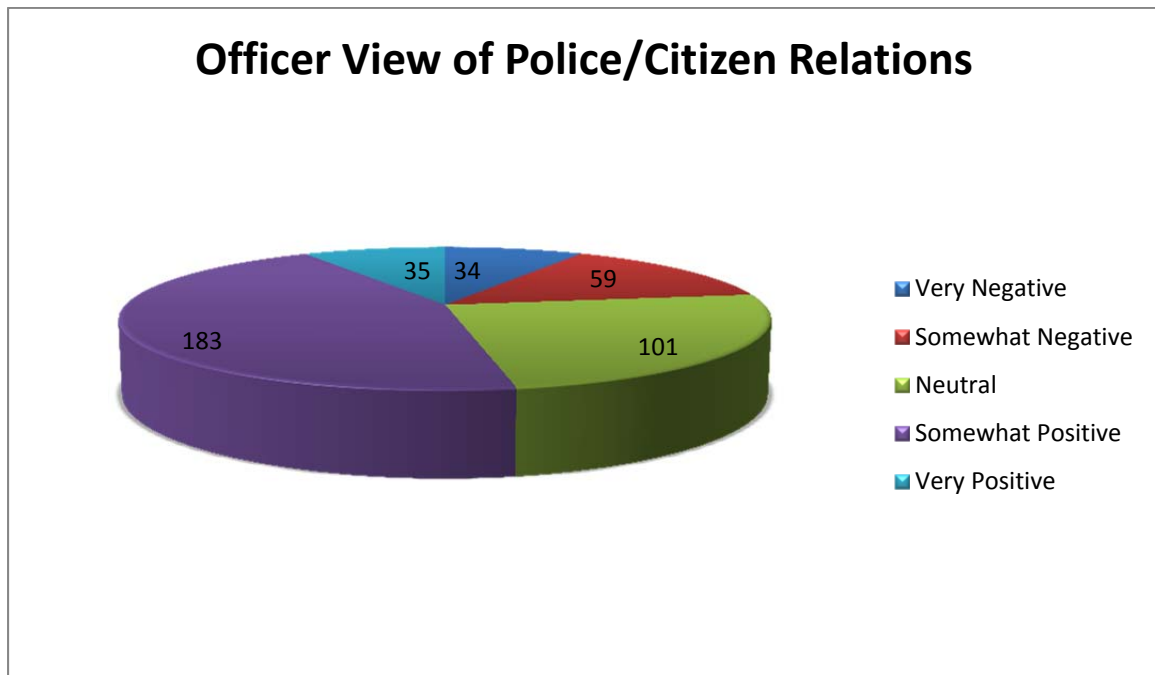


Figure 16

When asked a different way, our survey revealed that 43% of the officers believe citizens in their communities do not trust the NOPD. And only about 25% of officers surveyed believe community relations have improved over the past three years, whereas about one-third feel they have remained the same. Further, about one-third believe community relations have gotten worse over this time period.

A vast majority of officers agree that residents do not understand the problems officers face (86.9%) and believe the community doesn't appreciate what NOPD does for them (53.4%).

Importantly, over half of officers said they would *not* be satisfied with police services if they lived in their district (54.2%). Similarly, more than half of the officers say that police services in New Orleans are either only fair (34.1%) or poor (22.9%).

Tied to these survey findings likely is the fact that a majority of officers, however, stated they felt the investigation of citizen complaints was *unfair* (73.3%). Similarly, about 72% of respondents disagree/strongly disagree that PIB investigations are fair. (In contrast, more 70% of the officers surveyed believe their commander administers discipline in a fair manner.) See Appendix 17 for all survey responses.

One of the drivers of this distrust in NOPD's disciplinary system could be a widely held belief within the NOPD that a majority of respondents believe that most citizen complaints are frivolous (77.1%) and many indicated that a citizen complaint had negatively affected their career (66%) and that officers would be punished for making an honest mistake. In fact, while

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74.6% of the officers indicated that they clearly know what type of behavior will result in discipline, 75.2% were afraid that they would be punished for making an honest mistake.

While we are hopeful that implementation of the Consent Decree and the number of eyes watching every step of NOPD's progress (the Monitoring Team, the IPM, the DOJ, and NOPD itself) will lead to an increase in mutual trust over time, it is clear NOPD has a long way to go to build that trust. We are encouraged, however, by the fact that officers clearly believed that the manner in which they interact with citizens influences the way the community perceives the agency. Indeed, in our survey, 84.6% of the officers agreed with that statement. At the moment, each group blames the other for much of underlying interactions.

C. Conclusion

The Police Officer Survey has provided the monitoring team with essential information regarding the perceptions of those within the NOPD Police Department. But more important than this particular snap shot is our ability to look at changes in those views over time. This is precisely what the "outcome measurements" component of the Consent Decree contemplates, and precisely what we will do over the course of the coming years. Additional findings will be examined in the context of specific discussions included in future quarterly reports.

XVII. Transparency and Oversight (CD 427-443)

The Consent Decree provides NOPD "shall develop and implement a system of formal coordination between a command-level NOPD official and the DA, municipal and state court judges, the Orleans Public Defenders, the FBI, the USAO, and the IPM." (CD 430) The Consent Decree goes on to provide this "Coordination Group" "shall be convened by the USAO and shall meet monthly to share regular feedback regarding the quality of NOPD arrests and indicia of misconduct; to refer specific allegations of misconduct for investigation; and to receive an update on the status of previous referrals."

In our First Quarterly Report we noted that, while the Consent Decree requires the Coordination Group be developed and implemented by February 2014, the group already had been meeting for several months at the outset of our monitoring activities. We further noted the NOPD was a regular attendee and participant at the meetings.

As part of our ongoing monitoring of the structure and effectiveness of the Coordination Group, the Monitoring Team attended the Group's June 2014 meeting and, again, was quite impressed with the structure and substance of the meeting. The meeting was attended by the First Assistant of the New Orleans District Attorney's Office, a Municipal Court Judge, two deputy New Orleans City Attorneys, two Assistant United States Attorneys the Executive Assistant of the USAO, two FBI agents, and a Deputy Independent Police Monitor. Representing the NOPD was Compliance Bureau Deputy Chief Ginsberg, PIB Commander Tami Brissett, and Superintendent's Chief of Staff Danny Cazenave. The meeting was chaired by Assistant United States Attorney Steve Parker.

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To facilitate the shared goals of sharing feedback regarding the quality of NOPD arrests and the indicia of misconduct; referring specific allegations of misconduct for investigation; and receiving updates on the status of previous referrals, the First Assistant DA came prepared with a detailed agenda. The agenda described actual cases handled by the DA's office and segregated those cases into meaningful categories, including Individual Misconduct, Judicial Credibility Findings, and Training Opportunities.

- **Individual Misconduct.** In this portion of the meeting, the DA made observations about specific individual misconduct on NOPD personnel, and identified training issues for the group's consideration.
- **Judicial Credibility Findings.** In this portion of the discussion, the DA raised the issue of court findings of officer credibility and, among other things, discussed the problems caused by judicial findings made without a stated rationale and/or without identifying the specific supporting evidence.
- **Training Issues.** In this portion of the discussion, the DA raised and the group discussed areas for improved training based upon lessons learned from actual cases. Topics included report writing, investigation techniques, police cooperation with probation and parole officers, cooperation with the DA's office, search and seizure, and policies regarding the tagging of evidence.

Each topic was discussed in detail with most members of the group contributing. The shared commitment to improve the policing and criminal justice system was obvious from every attendee.

In our view, the Coordination Group is serving its intended function and is contributing to positive change within the NOPD. *We find NOPD continues to demonstrate compliance with this area of the Consent Decree.*

XVIII. Agreement Implementation and Enforcement (CD 444-492)

A. Coordination with IPM (CD 459)

The Consent Decree provides that the Monitoring Team shall coordinate and confer with the Independent Police Monitor. (CD 459) The Monitoring Team and IPM communicated frequently during this quarter and coordinated their efforts to the extent practicable. Additionally, the Monitoring Team and the IPM began working together on a joint analysis of racial profiling complaints filed with PIB. The Monitoring Team remains pleased with and grateful for the level of cooperation it continues to receive from IPM and the Office of the Inspector General.

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B. NOPD Consent Decree Implementation Unit (CD 467)

Paragraph 467 of the Consent Decree provides that the City and NOPD will “hire and retain, or reassign current NOPD employees to form, an inter-disciplinary unit with the skills and abilities necessary to facilitate implementation” of the Consent Decree. The Consent Decree goes on to explain this unit “will serve as a liaison between the Parties and the Monitoring Team and will assist with the implementation of and compliance with this Agreement.” Among other things, the Consent Decree Implementation Unit is intended to

- Coordinate the City and NOPD’s compliance and implementation activities;
- Facilitate the provision of data, documents, materials, and access to the City and NOPD personnel to the Monitoring Team and DOJ, as needed;
- Ensure that all data, documents, and records are maintained as provided in this Agreement; and
- Assist in assigning implementation and compliance related tasks to NOPD personnel, as directed by the Superintendent or his designee.

As noted in the Monitoring Team’s Second Quarterly Report, “a fully functioning, adequately staffed, and properly resourced Consent Decree Implementation Unit is a critical component of NOPD’s ability to come into compliance with the terms of the Consent Decree.”

Last quarter, the Monitoring Team found that NOPD was not in compliance with this requirement. This quarter, we are pleased to report that things have changed.

Following the creation of the NOPD Compliance Bureau, the City funded, created, and advertised for a series of Compliance Manager positions in March and April 2014. All five positions were filled by June 2014. As a result, the Compliance Bureau and Consent Decree Implementation Unit now is fully staffed. Each compliance manager reports directly to the leader of the Compliance Bureau, Deputy Superintendent Jay Ginsberg. The Compliance Managers and Deputy Superintendent Ginsberg are civilian personnel.

While the Monitoring Team has had little more than one month to work closely with the newly appointed Implementation Unit, we so far have been impressed by the team’s knowledge, skill level, and demonstrated commitment to the Consent Decree process. Just as we previously believed the absence of a qualified team was an indicia of a lack of commitment, we find the current team equally to be an indicia of a genuine commitment. The Monitoring Team commends the Department and particularly Deputy Chief Ginsberg for the selection of a quality and committed team, and looks forward to working closely with the NOPD Implementation Unit over the coming months and years to ensure that every element of the Consent Decree is carried out in a timely and effective manner.



C. City's Semi-Annual Report (CD 469)

The Consent Decree required NOPD to prepare and submit a "Status Report" to the Monitoring Team and DOJ by February 5, 2014. (CD 469) On June 27, 2014, the Court extended the deadline for the submission of the Status Report to July 2, 2014. The City filed its Report on July 2, 2014. The Report is titled the "Biannual Report of the New Orleans Police Department," and covers the period August 9, 2013 to July 2, 2014.

The purpose of the City's Semi-Annual Status Report is to "delineate the steps taken by NOPD during the reporting period to implement [the Consent Decree]; the City's assessment of the status of its progress; plans to correct any problems; and response to any concerns raised in the Monitor's previous quarterly report." The City's Status Report achieved this purpose.

In its introduction, the City recognizes the breadth and scope of the Consent Decree, characterizing it as an "extensive blueprint for positive change." Status Report at 3. Recognizing it may take the City years to accomplish all the reforms identified in the Consent Decree, the City states it has made progress. The Monitoring Team agrees.

The areas in which the City cites its progress include its creation of a Compliance Bureau and a five person Implementation Unit. The City correctly notes the Implementation Unit now is fully staffed, which it was not at the time of our Second Quarterly Report. According to the City, its Consent Decree Implementation Unit "timely delivery of projects, implementation of Consent Decree requirements, and determination of compliance with NOPD policy as well as verification of Consent Decree compliance through the federal Monitor."

D. NOPD and City Cooperation (CD 470 – 476)

The Consent Decree provides that the City and NOPD shall fully cooperate with the Monitoring Team in all aspects of its responsibilities. We are pleased to report that the City and NOPD did cooperate with the Monitoring Team throughout this reporting quarter.

XIX. What Are We Doing Next Quarter?

Our primary focus for the fourth quarter remains NOPD's policies. As we have said in each prior report, the absence of approved policies impacts most every other element of the Consent Decree. The Monitoring Team is hopeful, with the staffing of its Consent Decree Implementation Unit, NOPD may have turned the corner with respect to developing understandable, effective, and compliant policies. The drafting and revision process certainly has improved over the course of the last quarter, and we are hopeful this translates into quality policies.

Even without a full complement of approved policies, the Monitoring Team has been continuously monitoring NOPD's training. We will continue such observations and evaluations throughout the fourth quarter, including giving particular attention to NOPD's new detective

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training program. We also will be reviewing and evaluating NOPD's instructional lesson plans. As noted in this report, the Monitoring Team has come across very few compliant lesson plans, but we appreciate the Consent Decree Implementation Unit has made the development of such plans a priority this quarter. It likewise is a priority of the Monitoring Team.

Consistent with our approach this quarter to conduct data-driven assessments of certain key Consent Decree areas (*e.g.*, in-car cameras, Use of Force reports, etc.), our fourth quarter efforts likewise will involve several data driven monitoring exercises. One such project, which is being undertaken in conjunction with the Independent Police Monitor, involves a close review of PIB racial profiling complaints. Among other things, the Monitoring Team will analyze whether such complaints are being accurately coded and properly investigated by PIB.

With the broad implementation of body worn cameras (BWC) throughout the uniformed members of the NOPD, the Monitoring Team now has access to a wealth of real-time evidence of police/citizen encounters. This quarter, the Monitoring Team will be reviewing BWC video footage to assess compliance with NOPD recording policy, as well as the accuracy of NOPD Field Interview Cards, arrest reports, and/or police activity logs. We are particularly interested in ensuring NOPD officers are using their cameras properly, are recording the activities that are required to be recorded by NOPD policy and by the Consent Decree, and are using the recordings for their intended purposes. The Monitoring Team also will begin incorporating BWC footage into its ongoing assessments of a number of other Consent Decree provisions, including Supervision, Use of Force, Bias Free Policing, and more.

A significant task this quarter is the initiation of the "outcome assessments" outlined in the Consent Decree. The Consent Decree requires the Monitoring Team to perform annual assessments "to measure whether implementation of [the Consent Decree] is resulting in constitutional policing. (CD 448) These assessments are highly data-driven and, as its name suggests, highly outcome focused. They include things like assessing and comparing over time canine bite ratios (CD 448(a)(2)), stops and searches (CD 448(b)), clearance rates in domestic violence cases (CD 448(a)(5)), and much more. The Monitoring Team will be working closely with the NOPD Consent Decree Implementation Unit, the New Orleans Inspector General, and the Independent Police Monitor to secure the data it needs to undertake these measurements.

Finally, our fourth quarter will continue to involve the close monitoring of NOPD's ongoing practices in a number of Consent Decree areas, including disciplinary hearings, bias free policing, Use of Force events, misconduct investigations, secondary employment, and more. Such activities will remain a core component of our monitoring activities in every reporting quarter.

XX. Conclusion

The City recognized in its recent "Biannual Report" it may take years to accomplish all the reforms identified in the Consent Decree. That is to be expected. Meaningful and lasting change does not come about overnight; it comes about over time. But that does not mean the

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citizens of New Orleans have to wait years to see change. Some changes already are upon us. The NOPD's broad implementation of body worn cameras, the work being done by a committed Force Investigation Team, the creation of the Independent Police Monitor, the creation of the Office of Secondary Employment, and the appointment of a dedicated, skilled, and committed NOPD Consent Decree Implementation Unit all are extremely positive developments.

As we said in our Second Quarterly Report, the Monitoring Team believes the New Orleans Police Department is committed to the promises it made to the citizens of New Orleans (and its officers) in the Consent Decree. We remain optimistic this commitment ultimately will result in a rejuvenated police department that, to borrow a phrase from the Department of Justice, prevents crime more effectively, serves all parts of the New Orleans' community more fairly, respects the rights of all New Orleans' residents, and better prepares and protects officers. *See* DOJ Findings Letter at 115. The positive developments noted throughout this report and our prior reports fuel our optimism.

Our optimism, however, is not without reservation. The lack of written instructional lesson plans in the Police Academy, the problems submitting compliant policies to the Monitoring Team, the failure to recognize and solve a wide-spread problem with non-functioning in-car cameras, the absence of thorough investigations into uses of force and the incompleteness of the Use of Force Report files, and the lack of effective record keeping in so many Districts serve to remind us of how much work there is still to do. But these things do not crush our optimism; they do temper it, however. While some officers and managers certainly long for "the good old days," a growing number of NOPD personnel are embracing change and the benefits that such change will bring to all.

The Monitoring Team recently made an unannounced visit to the NOPD Homicide Division. We walked into the office of one sergeant and asked to see how he logs custodial interrogation video recordings. With deserved pride, he showed us a database he had created to log his entire team's interrogations, the recordings of those interrogations, and the disposition of the investigation. We asked him what prompted him to create such a system. (We had not seen a similarly effective effort in the various Districts we visited.) He pulled out a copy of the Consent Decree from his desk in which he had circled those paragraphs that related to his team. "Because we have to comply with the Consent Decree," he answered.

Change is coming. Some will resist it, but it is coming regardless. Those who embrace it, like the Homicide sergeant mentioned above and like countless others across the City, will be able to tell their kids and their grandkids, they played a role in protecting the constitutional rights of 370,000 people. And at the end of the day, that is what we all are doing here. It's not about checking off boxes on a Consent Decree. It's about the United States Constitution, and its promise of fairness, equality, and due process to all people.

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APPENDIXES

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Appendix 1

Degree of Subject Resistance and Officer Force on the Force Factor

Degree	Description	Degree	Description
Resistance 1	No resistance. The Subject is offering no resistance or threat.	Force 1	Officer presence in uniform or marked police vehicle.
Resistance 2	Verbal resistance to complying with lawful orders. Subject may challenge authority or standing and may present as “dead weight.”	Force 2	Issuance of lawful orders and light physical contact to include guiding, leading and/or handcuffing. No intentional infliction of pain for the purpose of compliance.
Resistance 3	Use of posture and verbal threats of physical violence – as threat or intimidation. Physical non-compliance including refusal to give up hands for cuffing and attempts to flee. Spitting at an officer.	Force 3	Physical control tactics such as pain compliance holds, joint manipulation, open handed strikes and forcible handcuffing.
Resistance 4	Active physical resistance to compliance. Subject may attempt to strike officers, kick and struggle free from holds and compliance positions.	Force 4	Advanced physical control tactics including closed fist strikes, knee and elbow strikes to the body and the extremities, and a forcible takedown.
Resistance 5	Use of non-lethal weapons to injure or otherwise actively assault officers. Drug paraphernalia, beverage containers and rocks may be employed as cutting and impact weapons.	Force 5	Intermediate weapon use, deployment of electronic control weapons and impact weapons for pain compliance and strikes to the body and extremities. Canines and use of Chemicals (OC) when suspect is apprehended.
Resistance 6	Use of lethal force by whatever means other than firearms, including knives and motor vehicles.	Force 6	Use of lethal force including carotid artery holds, head strikes and other uses of deadly force other than a firearm.
Resistance 7	Use of lethal force by firearms	Force 7	Intentional discharge of firearms.
		Force 8	Chemical agents for the purpose of crowd dispersal or distraction.
		Force 9	Firearm pointed at a suspect.



Appendix 2
 Descriptive Statistics for Use of Force Information.

Variable	N	Frequency (%)
Date		
January	26	17.9
February	27	18.6
March	25	17.2
April	31	21.4
May	30	20.7
June	6	4.1
Unit Involved		
1 st	11	7.6
2 nd	9	6.2
3 rd	11	7.6
4 th	11	7.6
5 th	16	11.0
6 th	7	4.8
7 th	11	7.6
8 th	34	23.4
K-9, Specialty, Multiple, Other	35	24.1
How the Encounter was Initiated		
Traffic Offense	19	13.1
Fine or Civil Offense		
Minor Offense, Minor Potential Danger	51	35.1
Moderate Offense, Warrant Service, Moderate Potential Danger	57	39.4
Major Offense, Hi-Risk Warrant Service, Major Potential Danger	13	8.9
Missing Information	5	3.5



Appendix 3
 Descriptive Statistics for Officer-Based Information.

Variable	N	Frequency (%)
Paid Detail		
Yes	14	9.7
No	131	90.3
Extent of Officer Injuries		
None	118	81.4
Minor	12	8.2
Moderate	10	6.9
Major	0	0.0
Missing Information	5	3.5
Number of Officers at the Scene		
One	36	24.8
Two	63	43.4
Three	24	16.6
Four	9	6.2
Five	6	4.1
Six	7	4.8
Force Reports by All Involved Officers		
Yes	94	64.8
No	46	31.7
Missing Information	5	3.5
Sergeant at the Scene		
Yes	81	55.8
No	53	36.5
Not Applicable	3	2.1
Unknown	8	5.6



Appendix 4
 Descriptive Statistics for Subject- Based Information.

Variable	N	Frequency (%)
Race of the Primary Subject		
Non-White	114	78.6
White	26	17.9
Missing Information	5	3.5
Sex of the Primary Subject		
Male	116	80.0
Female	24	16.5
Missing Information	5	3.5
Primary Subject Interviewed		
Unknown	4	2.7
Yes	63	43.4
No	64	44.2
Refused	9	6.2
Missing Information	5	3.5
Primary Subject Arrested		
Yes	118	81.4
No	27	15.1
Missing Information	5	3.5
Subject Photograph Taken		
Not Applicable	13	8.9
Yes	12	8.2
No	105	72.5
Unknown	10	6.9
Missing Information	5	3.5

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Appendix 5
Descriptive Statistics for Conclusion of the Force Incident.

Variable	N	Frequency (%)
Was the Force Justified by a Sergeant?		
Yes	106	73.1
No	2	1.3
Unknown	31	21.5
Missing Information	6	4.1



Appendix 6
 Descriptive Statistics for “Other” Information.

Variable	N	Frequency (%)
Was the Event Recorded?		
Yes	49	33.8
No	86	59.6
Unknown	5	3.5
Missing Information	5	3.5
Was the Recording Reviewed?		
Not Applicable	84	57.9
Yes	25	17.2
No	26	17.9
Unknown	5	3.5
Missing Information	5	3.5
Was the non-NOPD witness identified?		
Yes	59	40.6
No	66	45.5
Unknown	15	10.4
Missing Information	5	3.5
Was the Witness Interviewed?		
Not Applicable	75	51.7
Yes	23	15.8
No	33	22.8
Unknown	9	6.2
Missing Information	5	3.5
Was the Interview Recorded?		
Not Applicable	106	73.1
Yes	5	3.5
No	22	15.2
Unknown	6	4.1
Missing Information	6	4.1

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Appendix 7

Cross Tabulation of Force Factor Degree and the Presence of a Supervisor at the Scene

Force Degree	Supervisor at the Scene			Total
	Yes	No	Unknown or n/a	
One	3	1	0	4
Two	23	11	0	34
Three	19	20	2	41
Four	7	9	1	17
Five	15	6	2	23
Six	10	6	1	17
Seven	4	0	0	4
Total	81	53	6	140

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Appendix 8

Cross Tabulation of the Force Factor Degree and the Interview of a Primary Subject.

Force Degree	Interview of the Primary Subject				Total
	Yes	No	Unknown	Refusal	
One	2	2	0	0	4
Two	17	14	0	3	34
Three	16	20	2	3	41
Four	7	10	0	0	17
Five	15	5	0	3	23
Six	4	13	0	0	17
Seven	2	0	2	0	4
Total	63	64	4	9	140



Appendix 9

Cross Tabulation of the Force Factor Degree and whether or not the Primary Subject was Photographed at the Scene.

Force Degree	Photograph of the Primary Subject			Total
	Yes	No	Unknown or n/a	
One	1	2	1	4
Two	9	13	12	34
Three	0	38	3	41
Four	0	17	0	17
Five	2	20	1	23
Six	0	15	2	17
Seven	0	0	4	4
Total	12	105	23	140

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Appendix 10

Cross Tabulation of the NOPD Force Level and the Presence of a Supervisor at the Scene

Force Level	Supervisor at the Scene			Total
	Yes	No	Unknown or n/a	
Level One	34	27	3	64
Level Two	17	16	1	34
Level Three	10	8	1	19
Level Four	13	2	1	16
Total	74	53	6	133

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Appendix 11

Cross Tabulation of the Consent Decree Force Level and the Interview of a Primary Subject.

Force Level	Interview of the Primary Subject				Total
	Yes	No	Unknown	Refusal	
Level One	25	36	0	3	64
Level Two	15	15	1	3	34
Level Three	11	6	1	1	19
Level Four	9	5	2	0	16
Total	60	62	4	7	133

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Appendix 12

Cross Tabulation of Consent Decree Force Level and whether or not the Primary Subject was Photographed at the Scene.

Force Level	Photograph of the Primary Subject			Total
	Yes	No	Unknown or n/a	
Level One	5	55	4	64
Level Two	2	27	5	34
Level Three	2	14	3	19
Level Four	1	9	6	16
Total	10	105	18	133

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Appendix 13

Additional Statistical Information Regarding The “Force Factor”

In order to make some of our observations regarding Use of Force issues, we organized the available Use of Force data into two dichotomous categories: “Lesser Uses of Force,” which encompassed Level 1 and Level 2 uses of force, and “Greater Uses of Force,” which encompassed Level 3 and Level 4 uses of force. We then used these data to measure the impact of a multitude of variables (*e.g.*, race of the subject, presence of multiple officers on the scene, etc.) on the level of force used. The Monitoring Team performed this analysis using Consent Decree Force Levels as the measure of force and using our own “Force Factor” as the measure of force. No one method of analysis is “correct.” Accordingly, for those with a statistics bent, the following tables provide additional details regarding our four analyses in order to help paint a broader picture about what influences higher and lower use of force levels.



Binary Logistic Regression on the Force Level as a Binary Variable

Variable	b	SE	Exp(B)
Paid Detail	-1.109	.761	.330
Officer Injury	.040	.403	1.041
Sgt. At Scene	-.026	.386	.975
Race	-.269	.645	.975
Gender	-1.794*	.810	.764
Encounter Initiation	-.067	.267	.166
NOPD Susp. Resist.	.128	.090	.936
Event Recorded	-.896*	.420	.451
Unit	.063	.083	1.270
Total Officers	.479**	.176	1.615
Sup. Justification	.239	.270	1.270
Constant		.366	
Nagelkerke R ²		.225	
Cox and Snell R ²		.153	
† p < .10. * p < .05. ** p < .01. *** p < .001			

This table presents an initial look into the use of force based on the Consent Decree's use of force levels.



Binary Logistic Regression on the Force Factor as a Binary Variable

Variable	b	SE	Exp(B)
Paid Detail	-.560	.761	.571
Officer Injury	.051	.373	1.052
Sgt. At Scene	-.829*	.402	.436
Race	-.492	.563	.611
Gender	-.771	.622	.463
Encounter Initiation	-.085	.274	.919
FF Susp. Resist.	-.646***	.195	1.907
Event Recorded	1.012*	.443	2.752
Unit	-.058	.489	.943
Total Officers	-.034	.161	.966
Sup. Justification	-.186	.274	.830
Constant		.150	
Nagelkerke R ²		.170	
Cox and Snell R ²		.237	
† p < .10. * p < .05. ** p < .01. *** p < .001			

This table presents the same equation as the prior table, with one minor change: The Monitoring Team's "Force Factor" is used as the dependent variable and subject resistance is measured according the Force Factor instead of the Consent Decree force levels. The Force Factor, much like in the previous table, has been transformed into a binary variable that classifies force as "lesser" (levels 1 through 4) or "greater" (levels 5 through 7). Levels 8 and 9 were examined independently to determine whether or not they should be codified as "lesser" or "greater."



Appendix 14

Consent Decree Use of Force Levels

Level 1 uses of force include pointing a firearm at a person and hand control or escort techniques (*e.g.*, elbow grip, wrist grip, or shoulder grip) applied as pressure point compliance techniques or that result in injury or complaint of injury.

Level 2 uses of force include use of an ECW (including where an ECW is fired at a person but misses); use of an impact weapon to strike a person but where no contact is made; use of a baton for non-striking purposes (*e.g.*, prying limbs, moving or controlling a person); and weaponless defense techniques (*e.g.*, elbow strikes, kicks, leg sweeps, and takedowns).

Level 3 uses of force include any strike to the head (except for a strike with an impact weapon); use of impact weapons where contact is made (except to the head), regardless of injury; or the destruction of an animal.

Level 4 uses of force include all serious uses of force, as defined by [the Consent Decree], and shall be investigated by NOPD's Force Investigation Team.

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Appendix 15
 Police FIC Survey Responses

<u>Survey Question</u>	<u>Yes</u>	<u>No</u>
Have you ever read the NOPD FIC Policy?	76%	24%
Do you know under what circumstances an FIC should be completed?	88%	12%
Do you complete an EPR each time you complete an FIC?	6%	94%
Would you be disciplined at NOPD for not completing an FIC in an appropriate manner?	70%	30%
Have you heard of any officer being disciplined at NOPD for not completing an FIC in an appropriate manner?	48%	52%
Do you think that FICs are reviewed by supervisors in order to determine their accuracy?	38%	62%
Do you think that FICs serve an important role?	76%	24%
Do you think NOPD should educate officers on the importance of completing an FIC accurately?	96%	4%

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Appendix 16
 FIC Survey Data

OCDM FIC Tracking Number	Arrest Noted on FIC and NO EPR Available	Arrest Noted on FIC and EPR Available	No Arrest Noted on FIC and no EPR Available	FIC Showed Arrest on Narrative, but FIC Arrest Checkbox was not Marked and EPR was not Available
1.				X
2.				X
3.				X
4.				X
5.			X	
6.			X	
7.			X	
8.			X	
9.			X	
10.			X	
11.			X	
12.			X	
13.			X	
14.			X	
15.			X	
16.			X	
17.			X	
18.			X	
19.			X	
20.			X	
21.			X	
22.			X	
23.		X		
24.			X	
25.			X	
26.			X	
27.	X			
28.	X			
29.	X			

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OCDM FIC Tracking Number	Arrest Noted on FIC and NO EPR Available	Arrest Noted on FIC and EPR Available	No Arrest Noted on FIC and no EPR Available	FIC Showed Arrest on Narrative, but FIC Arrest Checkbox was not Marked and EPR was not Available
30.	X			
31.	X			
32.	X			
33.	X			
34.	X			
35.	X			
36.	X			
37.	X			
38.	X			
39.	X			
40.	X			
41.	X			
42.	X			
43.	X			
44.	X			
45.	X			
46.	X			
47.	X			
48.	X			
49.	X			
50.	X			
51.	X			
52.	X			
53.	X			
54.	X			
55.	X			
56.	X			
57.	X			
58.	X			
59.		X		
60.		X		
61.		X		
62.		X		
63.		X		
64.		X		

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OCDM FIC Tracking Number	Arrest Noted on FIC and NO EPR Available	Arrest Noted on FIC and EPR Available	No Arrest Noted on FIC and no EPR Available	FIC Showed Arrest on Narrative, but FIC Arrest Checkbox was not Marked and EPR was not Available
65.		X		
66.		X		
67.		X		
68.		X		
69.			X	
70.		X		
71.			X	
72.			X	
73.			X	
74.			X	
75.			X	
76.			X	
77.		X		
78.			X	
79.			X	
80.			X	
81.		X		
82.		X		
83.			X	
84.			X	
85.			X	
86.			X	
87.			X	
88.			X	
89.			X	
90.			X	
91.	X			
92.			X	
93.			X	
94.			X	
95.			X	
96.		X		
97.		X		
98.			X	
99.	X			

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OCDM FIC Tracking Number	Arrest Noted on FIC and NO EPR Available	Arrest Noted on FIC and EPR Available	No Arrest Noted on FIC and no EPR Available	FIC Showed Arrest on Narrative, but FIC Arrest Checkbox was not Marked and EPR was not Available
100.			X	
101.			X	

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Appendix 17
Police Survey Responses



Table 1. Distribution of Responses for Section 1: "Police Work and Your Working Environment"

Response categories:	Strongly disagree (1)	Disagree (2)	Agree (3)	Strongly Agree (4)
	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)
<i>Survey questions (Mean in parentheses):</i>				
1. Generally, civilians in my district treat me with respect. (<i>M</i> = 2.75)	33 (7.3)	89 (19.8)	260 (57.9)	46 (10.2)
2. Generally, in my District, my fellow officers treat me with respect. (<i>M</i> = 3.36)	6 (1.3)	13 (2.9)	231 (51.4)	179 (39.9)
3. Generally, in my District, my supervisors treat me with respect. (<i>M</i> = 3.24)	14 (3.1)	34 (7.6)	215 (47.9)	164 (36.5)
4. My district/division provides a quality work environment. (<i>M</i> = 2.50)	63 (14.0)	134 (29.8)	194 (43.2)	43 (9.6)
5. I receive training from the Police Department that helps me do my job effectively. (<i>M</i> = 2.49)	52 (11.6)	148 (33.0)	205 (45.7)	31 (6.9)
6. I receive quality equipment from the Police Department that helps me do my job effectively. (<i>M</i> = 1.87)	162 (36.1)	178 (39.6)	86 (19.2)	9 (2.0)
	Very bad (1)	Somewhat bad (2)	Somewhat good (3)	Very good (4)
8. Overall, how would you rate the relationships among the racial and ethnic groups in NOPD? (<i>M</i> = 2.86)	31 (6.9)	82 (18.3)	242 (53.9)	78 (17.4)

Note: Entries are the frequency for each response category (*N*) and the percentage of respondents who fell into the category in parentheses (%). Percentages do not sum to 100% because of missing values (i.e., nonresponse). The mean (i.e., average) score is reported in parentheses next to each question (*M*). Survey question #7 is not included in this table because it featured different response categories.

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Table 2. Distribution of Responses for Section 2: “Managers and Supervisors”

Response categories:	Strongly disagree (1)	Disagree (2)	Agree (3)	Strongly Agree (4)
	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)
<i>Survey questions (Mean in parentheses):</i>				
9. Most officers treat other officers the same regardless of gender. (<i>M</i> = 2.79)	25 (5.6)	103 (22.9)	244 (54.3)	63 (14.0)
10. Most superiors treat officers the same regardless of gender. (<i>M</i> = 2.62)	42 (9.4)	134 (29.8)	203 (45.2)	54 (12.0)
11. Most officers treat other officers the same regardless of their race/ethnicity. (<i>M</i> = 2.79)	24 (5.3)	98 (21.8)	258 (57.5)	56 (12.5)
12. Most superiors treat officers the same regardless of their race/ethnicity. (<i>M</i> = 2.68)	37 (8.2)	125 (27.8)	211 (47.0)	61 (13.6)
13. Most officers treat other officers the same regardless of their sexual orientation. (<i>M</i> = 2.87)	21 (4.7)	81 (18.0)	266 (59.2)	67 (14.9)
14. Most superiors treat officers the same regardless of their sexual orientation. (<i>M</i> = 2.85)	22 (4.9)	90 (20.0)	253 (56.3)	68 (15.1)
15. My immediate supervisor gives me regular feedback on the quality of my work. (<i>M</i> = 2.97)	33 (7.3)	69 (15.4)	210 (46.8)	121 (26.9)
16. I consistently work with the same supervisor. (<i>M</i> = 3.24)	11 (2.4)	44 (9.8)	206 (45.9)	172 (38.3)
17. My district/division commander is open to new ideas and ways of working. (<i>M</i> = 2.87)	44 (9.8)	64 (14.3)	207 (46.1)	99 (22.0)

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18. My district/division commander has improved relations with the community in which I work. ($M = 2.91$)	25 (5.6)	61 (13.6)	223 (49.7)	75 (16.7)
19. My district/division commander is a good leader. ($M = 3.04$)	33 (7.3)	43 (9.6)	211 (47.0)	124 (27.6)
20. The current Superintendent of Police is leading us in the right direction. ($M = 1.73$)	225 (50.1)	110 (24.5)	61 (13.6)	25 (5.6)

Note: Entries are the frequency for each response category (N) and the percentage of respondents who fell into the category in parentheses (%). Percentages do not sum to 100% because of missing values (i.e., nonresponse). The mean (i.e., average) score is reported in parentheses next to each question (M).



Table 3. Distribution of Responses for Section 3: “Personnel and Management Systems”

Response categories:	Strongly disagree (1)	Disagree (2)	Agree (3)	Strongly Agree (4)
	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)
<i>Survey questions (Mean in parentheses):</i>				
21. The Department today hires qualified people. (<i>M</i> = 2.35)	75 (16.7)	140 (31.2)	189 (42.1)	17 (3.8)
22. The performance evaluation system is fair. (<i>M</i> = 2.25)	95 (21.2)	141 (31.4)	175 (39.0)	14 (3.1)
23. The investigation of civilian complaints is fair. (<i>M</i> = 1.85)	183 (40.8)	146 (32.5)	77 (17.1)	20 (4.5)
24. The investigations now conducted by NOPD’s Public Integrity Bureau (PIB) are fair. (<i>M</i> = 1.86)	170 (37.9)	154 (34.3)	84 (18.7)	13 (2.9)
25. The way my Commander administers discipline is fair. (<i>M</i> = 2.88)	29 (6.5)	58 (12.9)	250 (55.7)	66 (14.7)
26. I understand clearly what type of behavior will result in discipline. (<i>M</i> = 3.06)	30 (6.7)	63 (14.0)	188 (41.9)	147 (32.7)
27. I am afraid I will be punished for making an honest mistake. (<i>M</i> = 3.20)	24 (5.3)	69 (15.4)	134 (29.8)	204 (45.4)
28. Most civilian complaints against officers are frivolous. (<i>M</i> = 3.12)	11 (2.4)	65 (14.5)	207 (46.1)	139 (31.0)
29. My career has been negatively affected by civilian complaints. (<i>M</i> = 2.19)	104 (23.2)	192 (42.8)	75 (16.7)	55 (12.2)

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30. The complaint system makes the Department more accountable to the public. ($M = 2.41$)	72 (16.0)	144 (32.1)	165 (36.7)	40 (8.9)
31. The Early Warning Program (PPEP) helps the Department identify risky behavior among officers. ($M = 2.29$)	89 (19.8)	152 (33.9)	154 (34.3)	30 (6.7)
32. The Early Warning Program (PPEP) helps the Department prevent police misconduct. ($M = 2.13$)	106 (23.6)	173 (38.5)	127 (28.3)	16 (3.6).

Note: Entries are the frequency for each response category (N) and the percentage of respondents who fell into the category in parentheses (%). Percentages do not sum to 100% because of missing values (i.e., nonresponse). The mean (i.e., average) score is reported in parentheses next to each question (M).



Table 4. Distribution of Responses for Section 4: "Community Policing and Police/Community Relations"

Response categories:	Strongly disagree (1)	Disagree (2)	Agree (3)	Strongly Agree (4)
	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)
<i>Survey questions (Mean in parentheses):</i>				
33. Officers in my district are respected by residents in the community. (<i>M</i> = 2.61)	31 (6.9)	114 (25.4)	243 (54.1)	17 (3.8)
34. Generally, NOPD receives more support from the community than a year ago. (<i>M</i> = 2.23)	70 (15.6)	189 (42.1)	122 (27.2)	20 (4.5)
35. The manner in which I interact with civilians influences the way the community perceives NOPD. (<i>M</i> = 3.38)	5 (1.1)	32 (7.1)	180 (40.1)	200 (44.5)
36. Law enforcement strategies in my district negatively affect community relations. (<i>M</i> = 2.22)	40 (8.9)	242 (53.9)	86 (19.2)	19 (4.2)
37. Police Community Coordinating (CoCo) Sergeants do valuable work for the Department. (<i>M</i> = 2.56)	61 (13.6)	95 (21.2)	177 (39.4)	49 (10.9)
38. Quality of Life Officers do valuable work for the Department. (<i>M</i> = 2.76)	45 (10.0)	72 (16.0)	225 (50.1)	64 (14.3)
39. Youth programs improve relations between the NOPD and the community where I work. (<i>M</i> = 2.61)	48 (10.7)	109 (24.3)	171 (38.1)	56 (12.5)
40. Youth programs help reduce crime. (<i>M</i> = 2.82)	41 (9.1)	89 (19.8)	188 (41.9)	81 (18.0)
42. The NOPD today is a better organization than it was three years ago. (<i>M</i> = 1.74)	199 (44.3)	139 (31.0)	50 (11.1)	22 (4.9)
47. NOPD today brings offenders to justice while respecting their rights and complying with the law.	14 (3.1)	43 (9.6)	250 (55.7)	99 (22.0)

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($M = 3.07$)

51. Residents in the community I work in trust the NOPD. ($M = 2.45$)	43 (9.6)	148 (33.0)	186 (41.4)	16 (3.6)
52. If I lived in my district I would be satisfied with the police services. ($M = 2.17$)	104 (23.2)	139 (31.0)	131 (29.2)	21 (4.7)
	Almost never (1)	Only some of time (2)	Most of the time (3)	Always (4)
43. The officers in my district/division treat all individuals (regardless of racial, ethnic, gender, sexual, or other affiliation) equally. ($M = 3.12$)	14 (3.1)	66 (14.7)	187 (41.6)	142 (31.6)
44. The officers in my district/division treat all individuals (regardless of racial, ethnic, gender, sexual, or other affiliation) fairly. ($M = 3.15$)	15 (3.3)	51 (11.4)	202 (45.0)	142 (31.6)
	Poor (1)	Fair (2)	Good (3)	Excellent (4)
41. Overall, the services of the police in New Orleans are ($M = 2.20$)	103 (22.9)	153 (34.1)	142 (31.6)	22 (4.9)
	Very badly (1)	Somewhat badly (2)	Somewhat well (3)	Very well (4)
48. Overall, how would you say that racial and ethnic groups in New Orleans are getting along with one other these days? ($M = 2.67$)	38 (8.5)	88 (19.6)	255 (56.8)	25 (5.6)
	No	Yes		
49. Is there a group that is treated unfairly by officers in NOPD?	105 (23.4)	295 (65.7)		

Note: Questions are not in the same order as the survey to allow for groupings of response categories. Entries are the frequency for each response category (N) and the percentage of respondents who fell into the category in parentheses (%). Percentages do not sum to 100% because of missing values (i.e., nonresponse). The mean (i.e., average) score is reported in parentheses next to each question (M).

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Table 5. Distribution of Responses for Section 5: “Expectations about the Police Role”

Response categories:	Not Important At All (1)	Not Important (2)	Not So Important (3)	Important (4)	Very Important (5)
	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)
<i>Survey questions (Mean in parentheses):</i>					
53. Testifying in court. (<i>M</i> = 4.61)	3 (0.7)	3 (0.7)	10 (2.2)	117 (26.1)	274 (61.0)
54. Handling drunk driving offenders. (<i>M</i> = 4.45)	3 (0.7)	4 (0.9)	26 (5.8)	163 (36.3)	235 (52.3)
55. Obtaining statements from witnesses. (<i>M</i> = 4.67)	1 (0.2)	0	7 (1.6)	123 (27.4)	299 (66.6)
56. Making arrests. (<i>M</i> = 4.10)	6 (1.3)	7 (1.6)	74 (16.5)	194 (43.2)	147 (32.7)
57. Dealing with domestic disputes. (<i>M</i> = 4.29)	3 (0.7)	5 (1.1)	46 (10.2)	187 (41.6)	187 (41.6)
58. Working with community to make neighborhoods safer. (<i>M</i> = 4.57)	1 (0.2)	1 (0.2)	14 (3.1)	151 (33.6)	261 (58.1)
59. Responding to calls for service. (<i>M</i> = 4.57)	3 (0.7)	2 (0.4)	10 (2.2)	145 (32.3)	268 (59.7)
60. Talking to civilians to help identify problems. (<i>M</i> = 4.50)	0	3 (0.7)	20 (4.5)	166 (37.0)	240 (53.5)
61. Dealing with street crime. (<i>M</i> = 4.64)	0	0	8 (1.8)	136 (30.3)	284 (63.3)
62. Completing criminal offense reports. (<i>M</i> = 4.47)	0	3 (0.7)	23 (5.1)	172 (38.3)	232 (51.7)
63. Conducting foot patrol. (<i>M</i> = 3.55)	18 (4.0)	38 (8.5)	140 (31.2)	152 (33.9)	79 (17.6)
64. Providing crime prevention education to the public. (<i>M</i> = 4.18)	3 (0.7)	11 (2.4)	51 (11.4)	202 (45.0)	161 (35.9)
65. Working with juveniles. (<i>M</i> = 4.24)	5 (1.1)	6 (1.3)	54 (12.0)	181 (40.3)	182 (40.5)
66. Conducting drug raids. (<i>M</i> = 4.16)	5 (1.1)	9 (2.0)	56 (12.5)	197 (43.9)	159 (35.4)
67. Maintaining crowd control. (<i>M</i> = 4.27)	3 (0.7)	5 (1.1)	45 (10.0)	199 (44.3)	178 (39.6)
68. Stopping and searching suspects. (<i>M</i> = 3.99)	7 (1.6)	11 (2.4)	76 (16.9)	215 (47.9)	115 (25.6)
69. The legality/constitutionality of stops and searches. (<i>M</i> = 4.61)	1 (0.2)	3 (0.7)	14 (3.1)	127 (28.3)	281 (62.6)
70. Patrolling the streets. (<i>M</i> = 4.57)	2 (0.4)	2 (0.4)	10 (2.2)	148 (33.0)	265 (59.0)
71. General patrol duties. (<i>M</i> = 4.47)	3 (0.7)	2 (0.4)	14 (3.1)	181 (40.3)	227 (50.6)

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72. General traffic duties. ($M = 3.92$)	4 (0.9)	12 (2.7)	81 (18.0)	247 (55.0)	82 (18.3)
73. Controlling traffic. ($M = 3.85$)	5 (1.1)	15 (3.3)	96 (21.4)	231 (51.4)	78 (17.4)
74. Issuing traffic tickets. ($M = 3.48$)	11 (2.4)	32 (7.1)	172 (38.3)	160 (35.6)	49 (10.9)
75. Handling neighborhood disputes. ($M = 4.16$)	4 (0.9)	5 (1.1)	40 (8.9)	247 (55.0)	128 (28.5)
76. Controlling the crowds at public events. ($M = 4.36$)	6 (1.3)	7 (1.6)	30 (6.7)	167 (37.2)	217 (48.3)
77. Dealing with noisy parties. ($M = 3.34$)	17 (3.8)	34 (7.6)	194 (43.2)	143 (31.8)	35 (7.8)

Note: Entries are the frequency for each response category (N) and the percentage of respondents who fell into the category in parentheses (%). Percentages do not sum to 100% because of missing values (i.e., nonresponse). The mean (i.e., average) score is reported in parentheses next to each question (M).



Table 6. Distribution of Responses for Section 6: “General Questions about the Public and the Department”

Response categories:	Strongly disagree (1)	Disagree (2)	Not Sure (3)	Agree (4)	Strongly Agree (5)
	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)	<i>N</i> (%)
<i>Survey questions (Mean in parentheses):</i>					
78. Many people in society will harm you if you give them the opportunity. (<i>M</i> = 3.22)	16 (3.6)	130 (29.0)	87 (19.4)	136 (30.3)	61 (13.6)
79. Most people are honest. (<i>M</i> = 3.18)	19 (4.2)	102 (22.7)	110 (24.5)	183 (40.8)	18 (4.0)
80. In an emergency, most community members would come to the aid of a police officer who needs assistance. (<i>M</i> = 3.11)	36 (8.0)	76 (16.9)	147 (32.7)	154 (34.3)	21 (4.7)
81. In general, you should be suspicious of people. (<i>M</i> = 3.19)	7 (1.6)	139 (31.0)	78 (17.4)	176 (39.2)	29 (6.5)
82. The community shows a lot of respect for the police. (<i>M</i> = 2.68)	66 (14.7)	143 (31.8)	94 (20.9)	123 (27.4)	7 (1.6)
83. Residents do not understand the problems that we face as police officers. (<i>M</i> = 4.36)	7 (1.6)	14 (3.1)	23 (5.1)	161 (35.9)	229 (51.0)
84. Many residents try to make us look bad. (<i>M</i> = 3.45)	8 (1.8)	96 (21.4)	94 (20.9)	161 (35.9)	72 (16.0)
85. Most civilians have confidence in the police. (<i>M</i> = 3.06)	24 (5.3)	106 (23.6)	134 (29.8)	152 (33.9)	15 (3.3)
86. I get tired of listening to civilians complain about everything. (<i>M</i> = 2.66)	36 (8.0)	215 (47.9)	59 (13.1)	93 (20.7)	24 (5.3)
87. The community doesn't appreciate what we at NOPD do for them. (<i>M</i> = 3.48)	14 (3.1)	100 (22.3)	78 (17.4)	143 (31.8)	97 (21.6)
88. Police officers could do a better job if upper management did not interfere so much. (<i>M</i> = 3.70)	10 (2.2)	81 (18.0)	66 (14.7)	143 (31.8)	128 (28.5)
89. Rarely do officers get rewarded for doing a good job. (<i>M</i> = 4.25)	7 (1.6)	30 (6.7)	21 (4.7)	164 (36.5)	209 (46.5)
90. Landing a good assignment is based on whom you know. (<i>M</i> = 3.96)	8 (1.8)	56 (12.5)	54 (12.0)	139 (31.0)	171 (38.1)

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91. If you make a mistake, the department will give you a second chance. ($M = 2.33$)	98 (21.8)	159 (35.4)	109 (24.3)	54 (12.0)	8 (1.8)
92. If you work hard, you can get ahead in NOPD. ($M = 2.70$)	85 (18.9)	127 (28.3)	78 (17.4)	111 (24.7)	28 (6.2)
93. Police officers could do a better job if politicians did not interfere. ($M = 3.96$)	9 (2.0)	36 (8.0)	87 (19.4)	127 (28.3)	170 (37.9)
94. In general, the news media treat the police fairly. ($M = 1.74$)	226 (50.3)	136 (30.3)	32 (7.1)	25 (5.6)	11 (2.4)
95. The media are interested in stories about the police only when a police officer gets in trouble. ($M = 4.49$)	11 (2.4)	13 (2.9)	18 (4.0)	100 (22.3)	286 (63.7)

Note: Entries are the frequency for each response category (N) and the percentage of respondents who fell into the category in parentheses (%). Percentages do not sum to 100% because of missing values (i.e., nonresponse). The mean (i.e., average) score is reported in parentheses next to each question (M).



Table 7. Respondent Characteristics

	<i>N</i>	Missing	Average or percent	Minimum	Maximum
Years of service	311	138	16.36	1	45
Rank:	355	94	--	--	--
Police officer	198	--	44.1%	--	--
Detective	56	--	12.5%	--	--
Sergeant	59	--	13.1%	--	--
Lt. or Capt.	28	--	6.2%	--	--
Commander	14	--	3.1%	--	--
Reside in New Orleans:	378	71	--	--	--
Yes	145	--	32.3%	--	--
No	233	--	51.9%	--	--
Sex:	352	97	--	--	--
Female	54	--	12.0%	--	--
Male	298	--	66.4%	--	--
Age	266	183	43.7	24	67
Hispanic:	313	136	--	--	--
Yes	15	--	3.3%	--	--
No	298	--	66.4%	--	--
Racial minority:	300	149	--	--	--
Yes	180	--	40.1%	--	--
No	120	--	26.7%	--	--
Racial group breakdown:	300	149	--	--	--
White	120	--	26.7%	--	--
African American	149	--	33.2%	--	--
Asian	5	--	1.1%	--	--
Vietnamese	3	--	0.7%	--	--
Latino	4	--	0.9%	--	--
Other	19	--	4.2%	--	--

Note: Percentages do not sum to 100% because of missing values (i.e., nonresponse).



Appendix 18

Summary of Consent Decree Elements

The Consent Decree is comprehensive in nature and details specific areas for corrective action including: use of force; stops searches, seizures and arrests; photographic lineups; custodial interrogations; bias-free policing; policing free of gender bias; community engagement; recruitment; training; performance evaluations; promotions; officer assistance and support; supervision; secondary employment; and misconduct-complaint intake, investigation and adjudication.

The Consent Decree represents a proactive and robust mandate for reform of the policies, training, and practices of the NOPD with specific agreed-upon corrective actions and timeframes for implementation. What follows is a summary of NOPD's core obligations under the Consent Decree.

Policies and Training

NOPD agrees that its policies and procedures shall reflect and express the Department's core values and priorities, and provide clear direction to ensure that officers and civilian employees enforce the law effectively and constitutionally. NOPD and the City agree to ensure that all NOPD officers and employees are trained to understand and be able to fulfill their duties and responsibilities pursuant to NOPD policies and procedures.

Use of Force

NOPD agrees to develop and implement force policies, training, and review mechanisms that ensure that force by NOPD officers is used in accordance with the rights secured or protected by the Constitution and laws of the United States and that any unreasonable Use of Force events are identified and responded to appropriately. NOPD agrees to ensure that officers use non-force techniques to affect compliance with police orders whenever feasible; use force only when necessary, and in a manner that avoids unnecessary injury to officers and civilians; and de-escalate the use of force at the earliest possible moment.

Crisis Intervention Team

NOPD agrees to minimize the necessity for the use of force against individuals in crisis due to mental illness or a diagnosed behavioral disorder.

Stops, Searches, and Arrests

NOPD agrees to ensure that all NOPD investigatory stops, searches, and arrests are conducted in accordance with the rights secured or protected by the Constitution and laws of the United States. NOPD agrees to ensure that investigatory stops, searches, and arrests are part of



an effective overall crime prevention strategy; are consistent with community priorities for enforcement; and are carried out with fairness and respect.

Custodial Interrogations

NOPD agrees to ensure that officers conduct custodial interrogations in accordance with the subjects' rights secured or protected by the Constitution and laws of the United States, including the rights to counsel and against self-incrimination. NOPD agrees to ensure that custodial interrogations are conducted professionally and effectively, so as to elicit accurate and reliable information.

Photographic Lineups

NOPD agrees to ensure that photographic lineups are conducted effectively and in accordance with the rights secured or protected by the Constitution and laws of the United States, so as to elicit accurate and reliable information.

Bias-Free Policing

NOPD agrees to deliver police services that are equitable, respectful, and bias-free, in a manner that promotes broad community engagement and confidence in the Department. In conducting its activities, NOPD agrees to ensure that members of the public receive equal protection of the law, without bias based on race, color, ethnicity, national origin, religion, gender, disability, sexual orientation, or gender identity, and in accordance with the rights secured or protected by the Constitution and laws of the United States.

Policing Free of Gender Bias

NOPD agrees to respond to and investigate reports of sexual assault and domestic violence professionally, effectively, and in a manner free of gender-based bias, in accordance with the rights secured or protected by the Constitution and laws of the United States. NOPD agrees to appropriately classify and investigate reports of sexual assault and domestic violence, collaborate closely with the DA and community partners, including the New Orleans Family Justice Center, and apply a victim-centered approach at every stage of its response.

Community Engagement

NOPD agrees to promote and strengthen partnerships within the community, and to engage constructively with the community, to ensure collaborative problem solving and ethical and bias-free policing, and to increase community confidence in the Department.

Recruitment

NOPD and the City, working with the Civil Service Commission, agree to develop and implement a comprehensive recruitment program that successfully attracts and hires a diverse



group of highly qualified and ethical individuals to be NOPD police officers. NOPD and the City, working with the Civil Service Commission, agree to ensure that NOPD's recruit program assesses each applicant in a manner that is valid, reliable, fair, and legally defensible.

Academy and In-Service Training

NOPD is committed to ensuring that all officers and employees receive adequate training to understand the law and NOPD policy and how to police effectively. NOPD training shall reflect and instill agency expectations that officers police diligently, have an understanding of and commitment to the constitutional rights of the individuals they encounter, and employ strategies to build community partnerships to more effectively increase public trust and safety.

Officer Assistance and Support

NOPD agrees to provide officers and employees ready access to the mental health and support resources necessary to facilitate effective and constitutional policing.

Performance Evaluations and Promotions

NOPD agrees to ensure that officers who police effectively and ethically are recognized through the performance evaluation process, and that officers who lead effectively and ethically are identified and receive appropriate consideration for promotion. NOPD shall further ensure that poor performance or policing that otherwise undermines public safety and community trust is reflected in officer evaluations so that NOPD can identify and effectively respond.

Supervision

NOPD and the City agree to ensure that an adequate number of qualified first-line supervisors are deployed in the field to allow supervisors to provide the close and effective supervision necessary for officers to improve and grow professionally; to police actively and effectively; and to identify, correct, and prevent misconduct.

Secondary Employment System

The City shall completely restructure what is currently known as its Paid Detail system to ensure that officers' and other NOPD employees' off-duty secondary employment does not compromise or interfere with the integrity and effectiveness of NOPD employees' primary work as sworn police officers serving the entire New Orleans community. To achieve this outcome, the City shall develop and implement an off-duty secondary employment system that comports with applicable law and current professional standards.

Misconduct Complaint Intake, Investigation, and Adjudication

NOPD and the City agree to ensure that all allegations of officer misconduct are received and are fully and fairly investigated; that all investigative findings are supported using the

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preponderance of the evidence standard and documented in writing; and that all officers who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent.

Transparency and Oversight

To ensure comprehensive, effective, and transparent oversight of NOPD, NOPD and the City agree to develop, implement, and maintain systems that are meant to be sustained after the completion of the Consent Decree. To facilitate effective and constitutional policing and increase trust between NOPD and the broader New Orleans community, these oversight systems shall ensure that improper incidents, practices, or trends are identified and corrected in an equitable and timely manner.