



Department of Justice

STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

FOR A HEARING CONCERNING
NEW ORLEANS: HOW THE CRESCENT CITY BECAME A
SANCTUARY CITY

PRESENTED
SEPTEMBER 27, 2016

Good morning, Chairman [Trey] Gowdy, Ranking Member [Zoe] Lofgren, and distinguished members of the Subcommittee. Thank you for the opportunity to speak before you today about the Justice Department's work to advance public safety and promote effective, constitutional, and community-oriented policing. The Department of Justice works tirelessly to protect the civil rights and physical safety of all people in America. State and local law enforcement serve as the first line of defense for public safety. In communities around the country, police, sheriffs, and other law enforcement officers fight crime on our streets. They keep our families safe from harm. They save lives. And – as recent events painfully remind us – they do this demanding and often dangerous work at great personal risk and sacrifice. They deserve our deepest respect, our highest praise, and our steadfast support.

The Justice Department invests substantial resources and oversees a range of programs to support law enforcement agencies around the country. Through these efforts, we strive to advance constitutional policing, to protect officer and public safety, and to bolster trust in community-police relations. Our work spans an array of areas: providing funding and equipment, issuing guidance and technical assistance, conducting training, and leading enforcement actions. In New Orleans alone, the Department has awarded more than \$11.3 million in local grants through its Office of Community Oriented Policing Services (COPS) to create or preserve positions for 80 officers since 2009.

New Orleans is also one of several cities adopting crime-fighting strategies as part of the [Violence Reduction Network](#) (VRN). The initiative is a comprehensive approach to reducing violent crime that complements the Attorney General's Smart on Crime Initiative and leverages existing Justice Department resources in communities around the country. A major focus area for New Orleans since it joined the VRN has been building its crime analysis capabilities to make better use of data in order to prevent, predict, and deter crime. In addition, in New Orleans and the greater New Orleans area, under the Bureau of Justice Assistance's VALOR Initiative, the VALOR Officer Safety and Wellness Program has trained approximately 261 law enforcement officers in officer safety, wellness, and resilience and approximately 87 law enforcement officers have received active shooter response training.

Let us make no mistake. The vast majority of men and women who wear the badge serve our communities with professionalism, with integrity, and with distinction. Yet when police departments engage in a pattern or practice of unconstitutional policing, their actions can severely erode community trust and profoundly undermine public safety. More than two decades ago, Congress recognized the connection between constitutional policing and public safety and charged the Justice Department with the responsibility of enforcing 42 U.S.C. § 14141, part of the Violent Crime Control and Law Enforcement Act of 1994. This statute authorizes us to investigate local law enforcement agencies for a pattern or practice of misconduct – such as excessive force or discriminatory policing – that violates federal law and, where necessary, to file litigation to ensure reform. A critical part of all § 14141 investigations is hearing directly from officers and community members. If we identify a pattern or practice of unlawful conduct, we try to negotiate a settlement agreement with the jurisdiction. These agreements typically are entered as court-approved consent decrees, overseen by an independent monitor to ensure lasting reform that serves the community's interests in public safety and equitable treatment.

While common themes tend to emerge during these investigations, we also know that each jurisdiction faces unique challenges and requires tailored remedies. Today, I'll discuss our work with NOPD by explaining the problems we found and the reforms the city agreed to implement. In May 2010, New Orleans Mayor Mitch Landrieu requested that the Justice Department conduct an independent investigation of NOPD's systems and operations. In a letter, Mayor Landrieu acknowledged that he "inherited a police force ... described by many as one of the worst police departments in the country," referencing "the number of violent crimes, incidents of rape, and malfeasance by members of the police department" and calling for a "complete transformation" of NOPD. During the next 10 months, we conducted a careful, fact-driven investigation. As we do in every investigation, we interviewed NOPD officers, supervisors, and command staff. We spoke with community members and government officials. We participated in more than 40 community meetings with advocates, civic leaders, and public officials. We reviewed a wide range of NOPD documents, policies, and data. And we observed police activity, including by participating in ride-alongs with officers and supervisors.

Following our investigation, in March 2011 we published our [findings in a detailed 141-page letter](#). We found patterns of conduct by NOPD that violated the law and caused unnecessary harm to residents: excessive force and unconstitutional stops, searches, and arrests; biased policing, including racial and ethnic profiling; and a failure to effectively communicate with, and provide policing services to, residents with limited English proficiency (LEP). We found a failure to adequately investigate sexual assault and domestic violence. And we found that the police department failed officers themselves, providing inadequate training, supervision, and support. Taken together, these failures significantly undermined public safety.

Given the Subcommittee's interests, I want to focus my testimony specifically on the problems of discriminatory policing that we identified in New Orleans and the remedies that followed. People of many different races, ethnicities, and national origins live in New Orleans. African-American residents constitute roughly 60 percent of the city's population. Beginning in the mid-1970s, many Vietnamese immigrants began to settle in New Orleans. And in the years after Hurricane Katrina, New Orleans saw a significant number of Latino immigrants move to the city.

During our investigation, we found reasonable cause to believe that NOPD engaged in a pattern or practice of discriminatory policing. We found evidence that NOPD unfairly enforced the law – or failed to enforce the law – based on one's race, ethnicity, national origin, sex, sexual orientation, or gender identity. We found evidence that many officers engaged in biased policing by deciding whom to stop, search, or arrest based on a subject's race or ethnicity, rather than how she behaved or credible information that she engaged in criminal activity. And we found evidence that NOPD denied policing services to – or failed to take meaningful steps to communicate with – some communities because of biases or stereotypes. The discriminatory policing practices we documented broke the law. They also eroded trust between the police force and the city's residents. As a result, residents were less willing to share information with officers – information critical to solving and preventing crime – making the residents and the officers less safe.

Police officers cannot solve crimes – and therefore cannot help victims, prosecute criminals, or help federal law enforcement deport violent criminals – if victims and witnesses feel afraid to share information. In New Orleans, we heard from crime victims and community members who told us of the Latino community’s strong belief that reporting crime may lead to unwanted attention or harassment from the police. Crime victims said that when they called the police for help, officers only asked about their immigration status, instead of addressing the physical safety threat they faced, or the other specific reason they called the police in the first place. Latino residents became afraid to encounter and interact with the police because they knew NOPD officers regularly stopped Latinos for minor offenses – behavior that would not ordinarily merit police activity – solely to question them about their immigration status. Interactions like these created fear and eroded trust. As one man testified in court at a fairness hearing about the problems facing day laborers, “these are the most common problems within our community: [t]hat my purse was stolen, they assaulted me, they robbed me, and we simply stay quiet, we don’t call the police because we are afraid to call them, we don’t trust them.” As one community member told us: “Out of fear, we stay quiet.” When communities fear the police, it undermines the officers’ ability to fight crime and protect public safety.

Similarly, when police officers cannot effectively communicate with an entire group of community members, it undermines officers’ ability to protect public safety and fight crime. In New Orleans, we found that the inability of NOPD officers to effectively communicate with LEP individuals – including Latino and Vietnamese immigrants – had harmful consequences. At the time of our investigation, NOPD relied primarily on just two officers – one fluent in Spanish and one fluent in Vietnamese – to assist on all service calls and investigations involving LEP residents. Testifying at a fairness hearing, one Spanish-speaking immigrant told the court about the problems caused by officers’ inability to communicate with many residents: “[W]e don’t feel safe, we don’t feel supported. We, the immigrants don’t feel support from them [the police]. We cannot call them for any kind of problem for help.”

Law enforcement leaders around the country recognize the critical connection between community trust and crime prevention. As Tom Manger, Chief of Police for the Montgomery County, Maryland, Police Department and President of the Major Cities Chiefs Association (MCCA), said in his [testimony before the Senate Judiciary Committee last year](#): “Whether we seek to stop child predators, drug dealers, rapists[,] or robbers – we need the full cooperation of victims and witness[es].” And he continued to explain the specific challenges facing immigrant communities: “When immigrants come to view their local police and sheriffs with distrust because they fear deportation, it creates conditions that encourage criminals to prey upon victims and witnesses alike.” Other police chiefs and leaders of law enforcement professional associations have made similar comments, highlighting the importance of community trust to advance public safety.

In 2012, New Orleans and the Justice Department entered into a [comprehensive consent decree](#) – approved by the federal court in 2013 – to resolve our allegations of unlawful police misconduct. The decree requires NOPD to make important changes in policies and practices related to the use of force; stops, searches, and arrests; the prevention of discriminatory policing; and officer training, oversight, and supervision. The agreement requires NOPD to prioritize community interaction and partnerships, ensuring that its core operations support community

policing. It requires NOPD and the city to develop and implement a comprehensive recruitment program to attract and hire a diverse group of qualified officers. And it requires NOPD to ensure that officers get access to mental health services, crisis counseling, and stress management training.

To prevent discriminatory policing, our consent decree requires NOPD to deliver policing services in an equitable, respectful, and bias-free manner. NOPD must ensure that all members of the public receive the equal protection of the law. To implement these changes, NOPD must effectively communicate with – as well as provide timely policing services to – all members of the community, regardless of their national origin or their ability to speak English. Accordingly, NOPD agreed to provide all officers with four hours of comprehensive training on bias-free policing.

In addition, to more effectively prevent and solve crimes, NOPD will provide all individuals in the city – regardless of immigration status – with essential police services. In practice, this means NOPD officers won't conduct investigations, make arrests, or take other law enforcement actions merely *because of* a subject's immigration status or the color of one's skin. This means officers won't question victims or witnesses about their immigration status unless for a legitimate law enforcement reason relevant to the investigation. NOPD officers can still take law enforcement action where individuals, whatever their immigration status, are wanted for a crime or where they have independent law enforcement reasons for doing so. For example, police can, of course, question or arrest someone suspected of committing a crime; assist with executing a criminal immigration warrant; share information and cooperate with federal authorities during criminal investigations, including in situations that might put officers and federal agents in danger; and enforce driving laws. NOPD agreed to widely distribute a written policy incorporating the requirements highlighted above. Clear and effective policies foster mutual trust and respect between officers and the residents they serve.

In February of this year – after seeking input from the New Orleans community, the court-appointed monitor, and the federal district court, as well as the U.S. Departments of Justice and Homeland Security – NOPD issued a new policy to help officers provide services effectively and fairly to all people in the city, regardless of their immigration status or the color of their skin. After this new policy was released, local officials and members of Congress raised concerns about NOPD's policy on immigration status, specifically regarding its compliance with a federal statute, [8 U.S.C. § 1373](#), which states that government entities and officials “may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.” In July, the Justice Department [wrote to all recipients](#) of the Edward Byrne Memorial Justice Assistance Grant (JAG) program and the State Criminal Alien Assistance Program (SCAAP), reaffirming that Section 1373 is an applicable federal law for the purposes of the JAG program and SCAAP. Following the issuance of the Department's guidance, the Civil Rights Division began working with New Orleans officials to update NOPD's policy on immigration status to clarify that the policy complies with Section 1373 and to most effectively advance non-discriminatory policing. Earlier this month, the parties and the independent monitor approved the revised language, and [NOPD formally adopted it](#), clarifying that “[t]his policy is to be construed in accordance with 8 U.S.C. § 1373(a).”

The policy on immigration status (Chapter 41.6.1 in NOPD's Operations Manual) – along with several additional policies on the use of force, sexual assault, domestic violence, and crisis intervention, among other topics – provides officers with clear guidance to ensure non-discrimination in policing and to build trust between law enforcement and the entire New Orleans community. Of course, NOPD continues to investigate crimes and work with federal officials to arrest violent criminals regardless of their immigration status. This policy explicitly permits NOPD to assist victims and witnesses in obtaining U visas and T visas, where appropriate. These programs serve an important function in allowing victims and witnesses to help law enforcement prosecute violent crimes and human trafficking. By facilitating a culture of trust and cooperation – the new policy will help local and federal law enforcement advance, not impede, these critical goals of fighting crime, identifying and prosecuting people who have committed violent crimes, and protecting public safety. Under the decree, NOPD also agreed to annually review each new policy to ensure it provides clear direction to officers, remains consistent with the agreement, and complies with current law. And – as we do with every jurisdiction where we negotiate a consent decree – the Justice Department continues to work closely with NOPD, the city, the monitor, and the court as we engage in this rigorous review process for all policies.

As we engage on these issues, we must recognize the reality that thousands of immigrants and their families live in the city of New Orleans. Under our Constitution and laws, police must protect all people from violence and from harm. The hard-working men and women of the New Orleans Police Department continue to do precisely that by fighting crime and partnering with federal law enforcement to identify and prosecute people who have committed violent crimes. In New Orleans, and in any city the Justice Department works with, real and lasting reform can't happen overnight. We often get involved in communities precisely because systemic policy failures and constitutional violations – built up over decades – have created a culture of mistrust and disrespect. While we see promising signs of progress in New Orleans, we also know that real reform takes time. And we recognize the vital role of sustained collaboration and cooperation with the entire community: from public officials, to police officers, to community members. I want to commend Mayor Landrieu and NOPD Superintendent [Michael] Harrison for their partnership, their collaboration, and their cooperation throughout this process. And I view our dialogue today, with this Subcommittee, as an important part of that same process about how police reform can make the residents and officers of New Orleans safer for generations to come. Thank you, once again, for inviting me to speak with you today. I look forward to your questions.