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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: OPD Search Data Report

DATE: April 11, 2017

City Administrator
Approval

Date

4/27/17

RECOMMENDATION

Staff Recommends That The City Council Receive This Informational Report Regarding Oakland Police Department (OPD) Search Data That Provides "Successful" Searches Showing Numbers That Were Firearms, Numbers That Were Cannabis, And Numbers That Were Other Items.

EXECUTIVE SUMMARY

OPD was directed to produce an informational report regarding search results by category to include firearms, cannabis, and other items.

OPD stop data is qualitative and quantitative information which documents discretionary police-community contacts and outcomes. This collected information includes details pertaining to locations of law enforcement contacts¹, times and dates, the reasons for these contacts, the apparent race/ethnicity of individuals contacted, and results in terms of searches, search recoveries and other outcomes. This data is collected and queried by OPD to evaluate the causes and results of discretionary police-community encounters, to ensure constitutional policing practices, and to measure the impacts these policing practices may have on the Oakland community.

This report provides a statistical overview of discretionary police search and recovery data collected from January 1, 2016 through December 31, 2016. Although the request for information specifically sought the number of recoveries classified as marijuana, the OPD stop data program did not precisely document these results before October 11, 2016. A total number of cannabis related recoveries in 2016 could not be calculated due to the limited data. Table 1 below provides search results for 2016 using available data.

¹ Although "stop" data is the common term for the collected data, officers document encounters in which the persons contacted are not considered "stopped" (e.g., consensual encounters to confirm or dispel some level of suspicion of criminal activity and all consensual searches or requests to search).

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Table 1: 2016 OPD Search Result Data²

Search Result	Number of Results	Percent of Total Searches	Percent of Total Recoveries
No Recovery	7,767	66.6%	N/A
Narcotics and/or Marijuana	2,226	19.1%	57.1%
Other Weapon or Contraband / Evidence	1,424	12.2%	36.5%
Firearms	251	2.2%	6.4%
Total	11,668	100%	100%

BACKGROUND AND LEGISLATIVE HISTORY

The OPD stop data collection program has existed in various forms since 2005. Collection methods, collection requirements, and the methodologies for analysis have continuously evolved. The program is primarily required and informed by policies that have been deemed in "Phase 1" compliance with the Negotiated Settlement Agreement (NSA)³. The governing NSA Task (Task 34) and OPD Policy (Department General Order M-19) require, at a minimum, the collection of the following basic report information that shall be entered into a database that can be summarized, searched, queried and reported:

1. Time, date and location;
2. Identification of the initiating member or employee;
3. Reason for stop;
4. Apparent race or ethnicity, and gender of individual(s) stopped;
5. Outcome of stop (arrest, no arrest);
6. Whether a search was conducted, and outcome of search;
7. Offense categories (felony, misdemeanor or infraction).

California Penal Code Section 13519.4(e) (the statute historically prohibiting racial profiling by law enforcement officers) did not require the collection or reporting of stop data prior to the passage of Assembly Bill 953 (The Racial and Identity Profiling Act of 2015). Assembly Bill 953 expanded and better defined racial and identity profiling in addition to mandating an impending requirement for all California law enforcement agencies to collect and report stop data. Among the reporting requirements found in law are mandates to document and report are:⁴

1. A determination as to whether or not the peace officer searched the person or any property, and, if so, the basis for the search and the type of contraband or evidence discovered, if any, and;

² To simplify this report and customize stop data results to fit the nature of the informational request, OPD stop data search recovery categories were collapsed based on an ordered ranking of primary recovery: 1) firearms, 2) narcotics, 3) other items or weapons, and 4) marijuana specific categories for post October 11, 2016 data.

³ Delphine Allen, et al., v. City of Oakland, et al.

⁴ Government Code Section 12525.5(b)(7)(B)-(C)

2. A determination as to whether or not the peace officer seized any property and, if so, the type of property that was seized and the basis for seizing the property.

State of California stop data reporting requirements and format have not yet been finalized by the Office of Attorney General's Racial and Identity Profiling Advisory Board (RIPA). The distinction between contraband discovery and seizures may indicate that the current OPD practice of noting recoveries and other outcomes of seizures may meet future requirements without requiring adjustment.

OPD has applied considerable effort and time to create consistent recovery definitions and stop data collection standards across thousands of annual incidents and among hundreds of officers. Different search types have varying levels of discretion, expected outcomes and purposes; therefore, the data is differentiated by various types of outcomes. The consistency and accuracy of department-wide stop data definitions and documentation are major variables when reviewing aggregate search recoveries and outcomes; irregularities with definitions and applications were evident in the past but were standardized within OPD training and practice in 2016.⁵ OPD does not define any search result or outcome as inherently "successful," but only considers items discovered as the result of a search and retained by OPD at the conclusion of the encounter as search "recoveries." Many additional objective outcomes of searches and stops are documented. An example of an outcome not considered a recovery would be a temporarily seized but lawfully possessed tool, weapon or item (including marijuana) which is ultimately returned to the person searched at the conclusion of the stop.

Higher search recovery rates (number of recoveries/number of searches) may generally tend to demonstrate a higher level of effectiveness and legitimacy; however, this is not necessarily true for all search types, search circumstances, or search results. The purpose of certain searches within some circumstances is to assure the absence of contraband or weapons or to conduct an inventory of property as opposed to producing a recovery. Similarly, the recovery of a small amount of marijuana would not be evaluated through the same lens as a recovery of an unlawfully possessed firearm. Because of these contextual distinctions, current use of stop data utilizes a much more thorough understanding and appraisal beyond simple recovery rates: The lawfulness of encounters and searches, the intent of encounters and searches in light of OPD mission and goals, the accuracy and consistency of documented results, the level of fairness and respect exhibited during encounters, and the presence of fair and equitable outcomes are also imperative.

Recent analyses of stop data trends and patterns have helped shape direction to more effectively use crime information and intelligence within patrol deployments. Internal discussion and strategy around the topic of stop data and risk management has produced several improvements and the need for further analysis:

- Conditions to create better informed stops and searches;
- Improved communication and coordination between OPD investigative or intelligence units and field officers;

⁵ The Monthly OPD OIG Progress Report for February 2017 evaluated a sample of completed and approved stop data documentation and found documentation to be accurate at a rate of 95%.

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- A review of probation and parole searches and their measurable effectiveness at increasing public safety; and
- Evaluation of activities and outcomes resulting from increased numbers of patrols within high-crime areas and what effect patrols may have on neighborhoods, community members, and police-community trust.

ANALYSIS AND POLICY ALTERNATIVES

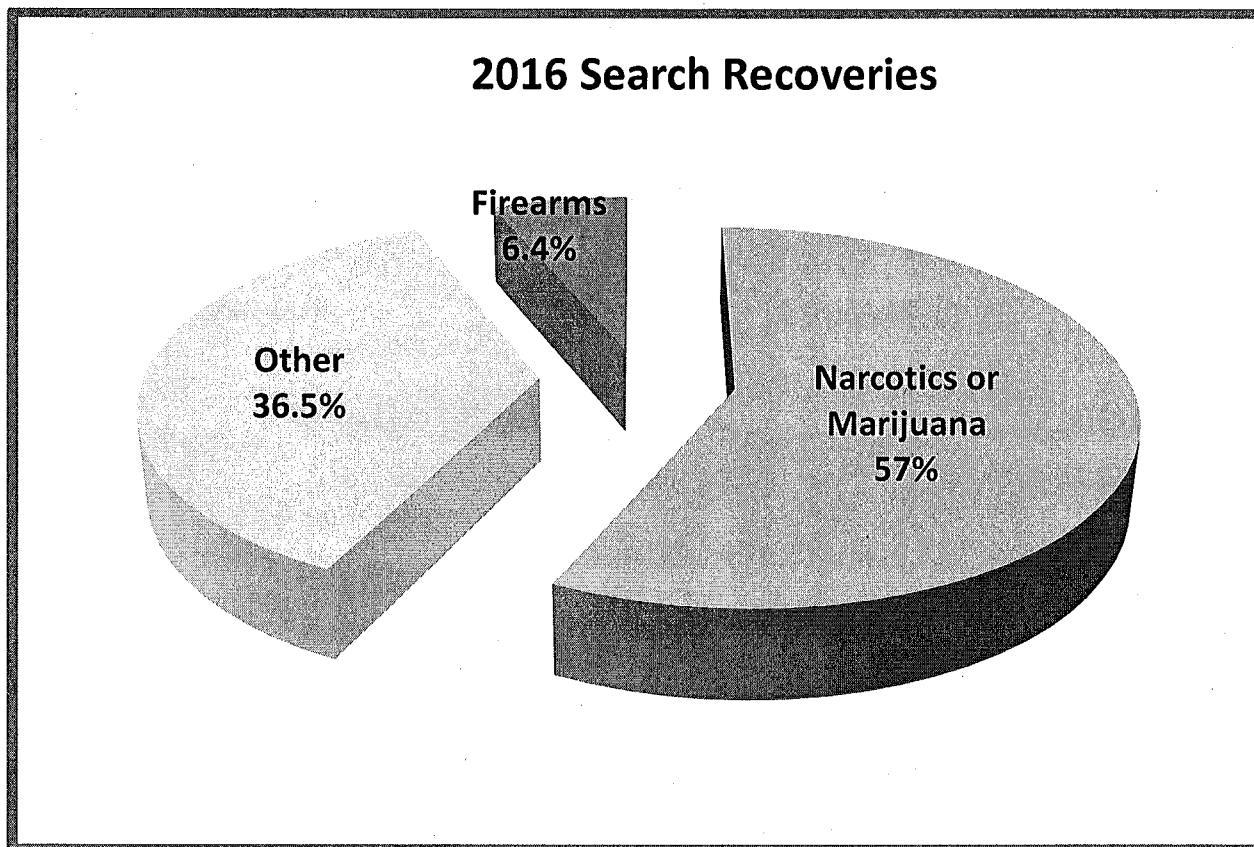
OPD uses a variety of constantly evolving methods and views to assess stop data and examine searches by type of stop, search and disposition. Understanding that searches are fundamentally intrusive and that an aspect of a search's legitimacy may be subjectively measured by a search result, the intent of many reviews may be to evaluate rates of search recovery. Certain search types and results may be isolated or negated from data sets depending on the design and intent of a review. No matter the specific methodology or reason for stop data analysis, overall concepts of stop data review from past lessons are applicable:

- Analysis of stop data information is not viewed as "Pass or Fail." Rather, the information gathered enables the Department to learn where a disparity in enforcement may exist. OPD must pay extra attention to policies and procedures in affected areas and provide additional training or direction to staff.
- OPD must use the knowledge gained in community outreach efforts and partnerships to discuss enforcement strategies and stop data statistics.
- Direct engagement and discussion of stop data will show transparency in OPD actions and a willingness to discuss this important information.
- Continued progress, evolution and adjustment are essential. Holistic reviews of data and the policies, direction, practices and culture that may help produce outcomes and data need to be evaluated. Actions, intent and results should serve to achieve the OPD mission of crime reduction through ways that promote community trust and relationships.
- Stop outcomes are not one dimensional and must be viewed through lenses of procedural justice, legitimacy, and community trust. Each stop and search is an opportunity to demonstrate commitments to strong community partnerships and fair, quality policing.

A total of 32,569 discretionary stops of persons and 11,668 subsequent searches were conducted by OPD officers in 2016 (a 35.8 percent total search rate). Of the total number of searches in 2016, 3,901 searches were associated with the discovery of one or more items which were recovered and retained by officers at the conclusion of the incident (a 33.4 percent total search recovery rate).⁶ Of these 3,901 search results, 2,226 produced recoveries described as either narcotics or marijuana (57 percent), 1,424 searches produced recoveries defined as other illegal weapons or evidence (36.5 percent), and 251 searches primarily produced firearm recoveries (6.4 percent) (see Figure 1 for detail).

⁶ 25.4% of persons searched and associated with a "no recovery" result were ultimately arrested (1,971 arrests)

Figure 1: 2016 Search Recoveries by Type



Prior to October 11, 2016, marijuana that was discovered and retained as the result of a search was listed in the general category of "Narcotics" and there was no differentiation between numerous substances within this category other than what was described in the report narrative. In order to attempt to estimate the potential relationship between the recovery category of "narcotics" and marijuana prior to this date, a sample of 1,599 "narcotic" search recoveries occurring between January and September 2016 was selected and cursorily reviewed for mention of the word "marijuana." This narrative key word search showed that 780 of the narratives (48.7 percent) supporting the recovery of narcotics contained a reference to marijuana. An informal spot inspection of these narratives revealed that officers included the mention of marijuana for a variety of reasons and not necessarily to indicate that marijuana was recovered. Examples of such circumstances included the recovery of a listed narcotic along with the odor of marijuana detected within a vehicle, a parole or probation condition related to the sale of marijuana, the absence of marijuana, or the presence or absence of a medicinal marijuana card.⁷ Without further large scale examination of associated stop data reports, there

⁷ Perhaps a primary cause of this mention is the fact that a frequent, objective and obvious indication of potential unlawful activity is the distinct odor of marijuana from within a vehicle. Despite recent changes in law regarding recreational marijuana, the open possession and smoking of marijuana in a vehicle in public remains unlawful.

is no reliable way to associate discretionary search data with the documented recovery of marijuana prior to October 11, 2016.

A review of October 11, 2016 to December 31, 2016 data shows that a total number of 5,540 discretionary stops occurred during the 82 day period that ultimately led to 2,285 subsequent searches (a 41.2 percent search rate). The average daily rate of stops was 68, and the average daily rate of searches was 28.

Of the 2,285 searches conducted, 539 searches were associated with the discovery of one or more items recovered and retained by officers at the conclusion of the incident (a 23.6 percent total search recovery rate). Of these 539 documented search results, 159 (29.5 percent) involved the sole recovery of some amount of unlawfully possessed marijuana, 154 (28.6 percent) involved the recovery of miscellaneous evidence or contraband described as "Other," 121 (22.4 percent) were documented as involving the recovery of narcotics, and 47 (8.7 percent) involved the recovery of marijuana along with some other narcotic, non-firearm weapon, or other piece of miscellaneous evidence or contraband. Additionally, 45 searches were documented as primarily producing firearm recoveries (8.3 percent), and 13 (2.4 percent) conducted searches within the period discovered lawfully possessed marijuana in combination with some other recovered and seized non-firearm weapon, evidence or miscellaneous contraband. (See Table 2 below for details).

Table 2: Search Recovery by Type: October 11, 2016-December 31, 2016

Search Result	Number of Results	Percent of Total Searches	Percent of Total Recoveries
No Recovery	1,746	76%	N/A
Marijuana Only	159	7%	29.5%
Other	154	6.7%	28.6%
Narcotics	121	5.3%	22.4%
Marijuana + Other Non-Firearm Recovery	47	2.1%	8.7%
Firearms	45	2%	8.3%
Medicinal Marijuana + Other Non-Firearm Recovery	13	0.6%	2.4%
Total	2,285	100%	100%

Of the 45 firearm search recoveries recorded between October 11 and December 31, 2016, seven involved the recovery of a firearm and an unlawfully possessed amount of marijuana, one involved the recovery of a firearm along with a documented amount of medical marijuana, five incidents involved a firearm and some amount of unlawfully possessed narcotic, and one firearm was recovered along with another piece of miscellaneous evidence.

Also documented after October 11, 2016 were 340 additional search results which document that no contraband or evidence was seized and retained but that medicinal marijuana, lawfully possessed marijuana (after passage of Proposition 64), or lawfully possessed weapons or items which may reasonably be used as weapons were discovered but ultimately retained by the

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person(s) searched at the conclusion of the encounter. As previously discussed, new stop data reporting classifies these dispositions as factual outcomes of encounters that can be evaluated within contextual circumstances. These search results are not considered recoveries as the item(s) were not collected by officers at the conclusion of the encounter.

If stop data analyses indicate that the OPD mission is not being met through use of OPD goals and in a manner consistent with OPD values, then the direction, processes, policies, training or procedures which contributed to the actions and subsequent results are evaluated. This evaluation of data takes place within the OPD Risk Management Meetings where outlying data and deviations are reviewed in concert with other measurements of risk, performance and results. These reviews and discussions are multi-faceted and do not simply rely on search recovery rates.

For example, in late 2015, as the result of a newly developed definition for search "recovery" (a discovered item which is required to be retained by police at the conclusion of the encounter), coupled with the general view that higher recovery rates were regarded favorably, a measurable increase in the recovery of small amounts of marijuana was observed. These recoveries typically did not result in citation nor did they result in an arrest. Unlawfully possessed and recovered marijuana was instead generally turned in for destruction with a warning issued to the possessor. This data regarding increased recoveries of marijuana was not necessarily viewed as evidence of success within a wider review of the search and recovery trend.

In March 2016, OPD's Office of the Inspector General (OIG) provided a briefing to the Office of Chief of Police regarding a sample of 2015 data that was evaluated in relationship with officer direction and advisement regarding serious crime and crime reduction strategies.⁸ The evidence-based approach relied on the analysis of past stop activity and subsequent results above and beyond search recovery rates. The briefing relayed an interpretation of stop data that suggested officer deployment strategies that were primarily producing a high number of discretionary vehicle stops within areas of high crime. Results showed that close to half of the assessed stops were made for observed vehicle equipment violations and that a warning was issued in about 50 percent of stops. A high number of associated searches resulted from either the detection of the odor of marijuana or were based on probation or parole search conditions. Not only did data demonstrate that these stops led to racially disproportionate stop and search rates, they also often lacked a specifically articulated connection to a comprehensive crime reduction strategy. Stanford University corroborated and echoed many of these findings in its June 2016 Report, *Data for Change*.⁹

As a result, commanders received direction to better communicate and evaluate patrol strategies that both help reduce crime and build community relationships in line with the 2016 OPD Strategic Plan. The overall strategy in use was acknowledged to have resulted, in the words of the Chief of Police at the time, in "a well-meaning focus on neighborhoods where crime

⁸ OPD OIG Monthly Progress Report for March 2016 (Assessment of Stop Data Compared to Field-Based Communication, Strategy, or Direction)

⁹ Hetey, R. C., Monin, B., Maitreyi, A., & Eberhardt, J. L. (2016). Data for change: A statistical analysis of police stops, searches, handcuffings, and arrests in Oakland, Calif., 2013-2014. Stanford University, SPARQ: Social Psychological Answers to Real-World Questions.

has grown the worst and numbers of officers have been deployed to those neighborhoods for high visibility patrols, enforcement, and stops. Unfortunately, these neighborhoods are also where the highest amounts of mistrust for our intent exist. From a command perspective, when measuring outcomes (true impact on crime) rather than outputs (number of stops), our use of time and the value these stops bring deserved attention.”

The neighborhoods suffering from the most disproportionate rate of serious crime were found to also receive increased patrol presence – either by design or by the proximity to high call volume beats – and are generally also neighborhoods in which educational achievement and opportunity is lower, poverty may be more significant, and trust in police may be lowest. The analysis led to new focuses on direction. All officers were advised that more meaningful patrol activities may be more effective at increasing public safety and may also help to create more positive interactions and relationships with others. Examples include:

- Preliminary investigation enhancement or follow-up;
- ShotSpotter response or follow-up operations;
- Security checks;
- Walking assignments with community education or engagement;
- Measured participation and collaboration on Community Resource Officer and community projects;
- Active follow-up and follow through on described or named suspects or suspect vehicle wants;
- Problem-oriented policing projects;
- Stop activity that is closely aligned to person or gang based intelligence, problem solving constructed, or where a public safety issue (i.e., dangerous traffic violations, stop reason is well understood and the cause for enforcement is well reasoned);
- Increased real-time crime communication and patrol coordination with Ceasefire; and
- Added ability to track and assess stops that are knowingly articulated to crime information and crime intelligence.

Sergeants and commanders attended a stop data and risk management class designed to discuss stop data, search and recovery rates, and how stop data may be used to assess field performance and quality decision making in line with Department mission, goals and values. This training continues for all officers for the remainder of 2017.

Although further analysis is required, an overall change to the landscape of total stops and searches is easily observed and may be evidence that stop data analysis may be successfully used to assess and influence current and future results. (See Figures 2 through 5 for detail).

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Figure 2, Total Stops by Month, 2015 – 2016

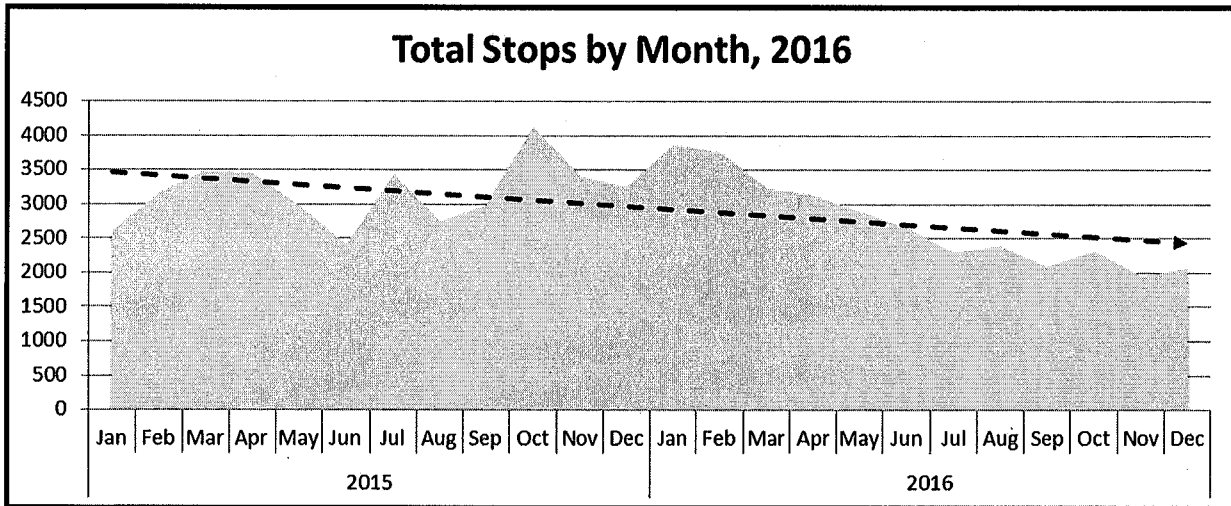


Figure 3, Total Stops by Month, 2016

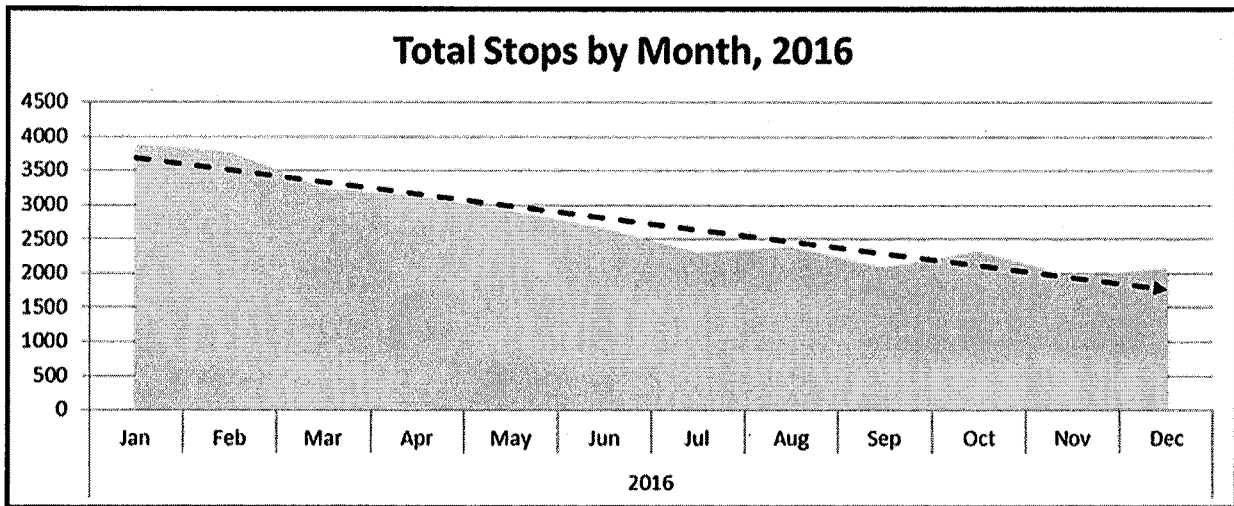


Figure 4, Total Searches by Month, 2015 – 2016

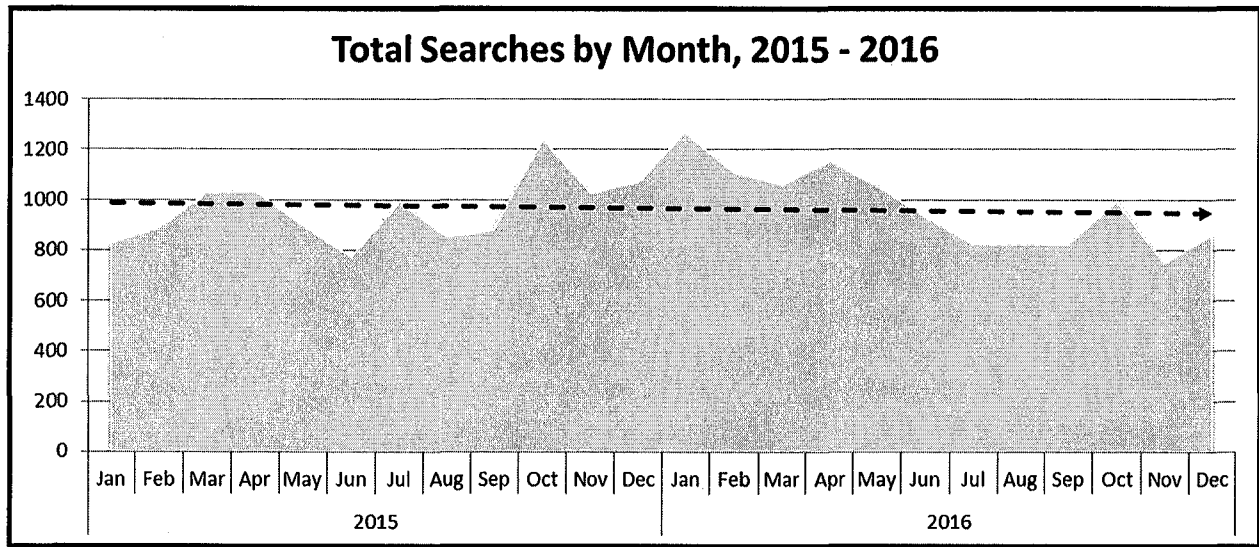
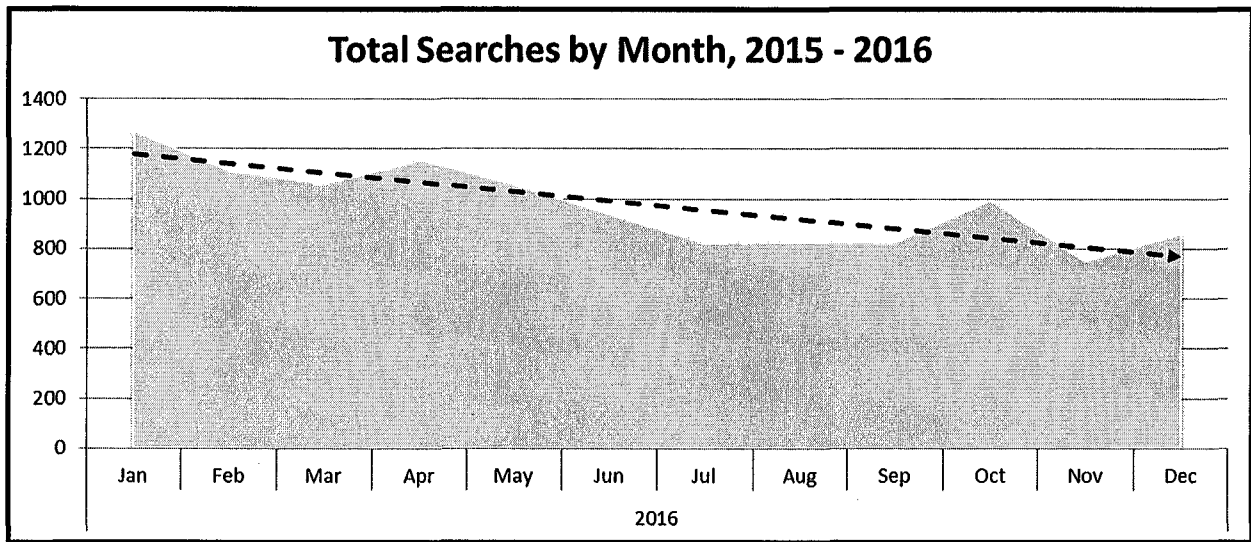


Figure 5, Total Searches by Month, 2016



The most recent and extensive results of the OPD stop data program are found in the work conducted by Stanford University's SPARQ (Social Psychological Answers to Real-world Questions) and the Department's continued progress in pursuing SPARQ's recommendations in Strategies for Change – Research Initiatives and Recommendations to Improve Police-Community Relations in Oakland, Calif.¹⁰ Additional recent examples of stop data analysis and

¹⁰ Eberhardt, J. L. (2016). Strategies for change: Research initiatives and recommendations to improve police-community relations in Oakland, Calif. Stanford University, SPARQ: Social Psychological Answers to Real-world Questions

collaboration with Stanford University can be found in OPD Office of Inspector General Monthly Progress Reports¹¹.

PUBLIC OUTREACH / INTEREST

No formal public outreach occurred for the development of this report; however, to support transparency and future collaboration, the stop data used to inform this report will be posted and publically available at <https://app.box.com/v/OPDStopData>.

COORDINATION

This Informational Report was reviewed by the City Attorney's Office.

FISCAL IMPACT

There is no fiscal impact associated with this report.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

Social Equity: When the perception exists that discretionary policing is based on bias, racial or identity profiling, or that stops, searches and search recoveries are arbitrary, the negative impact on community trust is profound. Through accurate collection and careful review and analysis of stop data, OPD hopes to demonstrate its efforts to ensure equitable public safety services. OPD is committed to continuously evaluating how police stops relate to operational efficacy as well as equity and law enforcement legitimacy, especially in Oakland neighborhoods where police-community relationships deserve continued improvement.


¹¹ <http://www2.oaklandnet.com/government/o/OPD/a/publicreports/DOWD004998>

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive This Informational Report Regarding Oakland Police Department (OPD) Search Data That Provides "Successful" Searches Showing Numbers That Were Firearms, Numbers That Were Cannabis, And Numbers That Were Other Items.

For questions regarding this report, please contact Lieutenant Chris Bolton, Oakland Police Department Office of Inspector General, at (510) 238-3533.

Respectfully submitted,



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