
2022-2023 Annual Report

Covering October 1, 2022 – September 30,
2023

Submitted: November 1, 2023



Office of the Independent Police Auditor for the City of San Leandro

INTRODUCTION

On April 3, 2022, the San Leandro City Council enacted an ordinance creating the San Leandro Independent Police Auditor (the “IPA”), a contract position reporting directly to the City Manager. The IPA is responsible for reviewing and evaluating complaints against city police officers, examining local policing policy, and conducting assorted audits relating to the operations and activities of the San Leandro Police Department (“SLPD” or the “Department”).

In addition to the IPA, there was established a 9-member San Leandro Community Police Review Board (the “Board”), which is responsible for receiving community feedback and complaints about the SLPD, evaluating the Department’s policies, and making recommendations to the City Manager about the hiring of officers and prospective Chiefs of Police.

The IPA and the Community Police Review Board work closely together to ensure that community feedback is received and considered, that allegations of officer misconduct are investigated and reviewed, and that SLPD policies and practices are developed and implemented to make policing more effective and accountable in the City of San Leandro.

After issuing a solicitation for candidates, the City Council selected IntegrAssure to serve as the City’s first Independent Police Auditor.

IntegrAssure officially assumed its role as IPA in September 2022.

FOUNDATIONAL PHILOSOPHY OF THE INDEPENDENT POLICE AUDITOR

IntegrAssure embraces the notion that effective policing must be rooted in a philosophy of continuous improvement. The firm has subject matter experts drawn from policing, law, public policy and academia, all bringing their individual expertise to the City of San Leandro. The team brings with it a belief that for policing in America to be truly successful the basic principles of policing as first enunciated by Sir Robert Peele must be honored:

“The police are the public and the public are the police;” and

“The ability of police to perform their duties is dependent on public approval of police actions.”

A failure to abide by these principles has caused issues of public trust in cities throughout the nation. Distrust and adversarial relations with the community spawn a variety of harms that need to be addressed: Harm to the Community from criminal activity. Harm to the Community from poor police practices. And harm to police officers, the vast majority of whom want only to do the right thing and crave the guidance to do it, from failures of policy and training.

The City of San Leandro, through the creation of the CPRB and the IPA, is addressing these issues, and with the creation of the IPA, the City has provided a mechanism of police oversight that brings us back to the Peelian principles and builds public trust to create a healthy ecosystem of public safety, fairness, transparency, and officer wellness.

This ecosystem brings with it a relentless pursuit to make officers all they can and must be. As this happens, the Community feels better about its police department, which, in turn, yields

better collaboration with the Community and greater crime reduction; which, in turn, makes officers feel better about themselves; which, in turn, enhances officer safety and, which, in turn, makes policing in San Leandro Police Department a more attractive place to work, easing the burden of recruitment and hiring.

The goal of our oversight is to ensure that policies, training, operational integrity, and accountability all reflect best policing practices. Our approach to oversight is collaborative and we have been and will continue to work with the police department and the City to ensure that best practices are employed in every aspect of policing.

LEADERSHIP CHANGE

On September 11, Police Chief Abdul Pridgen began a period of administrative leave. The City Manager appointed Kevin Hart to fill in as Interim Chief during Chief Pridgen's with Assistant Chief Luis Torres serving as Acting Chief while Interim Chief designate Hart completes POST requirements. Until his post requirements are completed Interim Chief designate Hart was appointed by the City Manager to serve in an administrative capacity allowing him to swiftly familiarize himself with the department before formally assuming the role of Interim Chief. Interim Chief designate Hart has more than 35 years of experience in sworn law enforcement, including 15 years in leadership roles with city and county governments and previous experience as the Chief of Police in two other police agencies. The City Manager expressed confidence in Interim Chief designate Hart to lead the department while Chief Pridgen is on leave. The IPA will work closely with Acting Chief Torres and Interim Chief designate Hart in continuing its oversight role.

THE ROLE OF THE IPA

The role of the IPA is laid out in both the enabling legislation and the City's contract with IntegrAssure. The IPA's role includes:

- Review of all complaint investigations undertaken by the police department, including both internal and citizen complaints
- Direct Receipt of Complaints
- Review of Critical Incidents
- Audits of Complaints and Discipline
- Audits of Policies and Training
- Independent Investigations
- Public Reporting

As part of the above duties, the IPA has been tasked by the City Manager with two additional responsibilities as part of its role:

- Review of all reported uses of force, including the supervisory and internal review of those uses of force on or after April 1, 2023
- A first line analysis of data collected by SLPD under the California Racial and Identity Profiling (RIPA) Act.

STAKEHOLDER ENGAGEMENT

The IPA team spent significant time in the first 30 days of the IPA's tenure to establish collaborative relationships and familiarity with stakeholders, including the City Manager's Office, the City Attorney's Office, SLPD, and CPRB.

For the past year, City and SLPD leadership has cooperated and collaborated with the IPA in every way. It has been stated by leadership of both the City and SLPD that their goal is to make SLPD all that it can and should be. To facilitate open communication and collaboration, the IPA instituted bi-weekly meetings with SLPD leadership to review all pending complaint investigations as well as any pending requests for data, and to have timely discussions on events occurring within SLPD. During these meetings, the IPA team presented their preliminary findings and recommendations to SLPD and listened to any concerns expressed by the Department in response before finalizing the issuance of recommendations.

In addition to these bi-weekly meetings with SLPD leadership, the IPA team also participated in bi-weekly meetings with the City Manager's office, City Attorney's Office, City Clerk's office, and SLPD to update all stakeholders on the work of the IPA, prepare for upcoming CPRB meetings, and complete any pending tasks for the Board in between meetings. The IPA also meets with the Chief of Police on a monthly basis.

Lastly, the IPA participated in a monthly meeting with the City Manager and SLPD's Chief of Police to inform both of them on the status of the IPA's recommendations and findings and to address any barriers in implementing the recommendations.

REVIEW OF COMPLAINTS

The IPA is charged with reviewing all internal and external complaints regarding the conduct of its officers. The goal of the review is to ensure that they are complete, thorough, objective, and fair, and that they reach the right conclusions based on the facts and applicable policy. To this end, IPA has the ability to attend interviews of any witnesses, whether civilian or police. To the extent that any investigation is found to be deficient, the IPA consults with the Chief of Police and, if necessary, the City Manager, to ensure that those deficiencies are corrected. In addition, with respect to each complaint that is reviewed by the IPA, the IPA may make recommendations on broad issues of policy, training, and accountability, and other relevant issues uncovered through the review.

A compilation of those recommendations from the IPA's first year is included as Appendix A. These recommendations have been shared with the City and SLPD leadership. Chief Pridgen has shared all of the recommendations with the Department to promote transparency and to demonstrate continuing collaboration with the IPA.

In the period covered by this report, the IPA reviewed a total of six complaint investigations and made a total of 27 recommendations with respect to those reviews.

DIRECT RECEIPT OF COMPLAINTS

The IPA is charged with receiving direct complaints from the community regarding the conduct of its officers. The IPA established two different ways to directly receive complaints from the community. First was through a multilingual public website with information about the IPA and a form the community can use to submit any complaints about SLPD directly to IPA. Second, the IPA also has an email address (info@integrassure.com) that community members can use to directly submit a complaint to the IPA. Both the website and the email addresses were provided to the community at multiple CPRB meetings.

The IPA received one complaint directly from the community via its website and was forwarded another complaint from CPRB. Both of the complaints were reviewed and forwarded to SLPD for investigation. The complaint received via the IPA website came from a community member who complained about how an SLPD dispatcher handled an issue regarding an illegally parked vehicle. This complaint was immediately forwarded to SLPD for investigation. The investigation concluded within 62 days and was forwarded to the IPA for review.

The complaint received from CPRB was against a Police Service Technician who had responded to a community member's complaint of a dog bite. The complainant was the dog's owner. Similar to the complaint received via the IPA's website, this complaint was immediately forwarded to SLPD for investigation, which concluded its investigation within 15 days and forwarded it to IPA for review.

For both of these complaints, investigations were initiated immediately and the IPA was updated on the status of both investigations by SLPD throughout its investigations. For each investigation, the IPA generally agreed with the outcome of the investigation and offered recommendations to SLPD on how the department could further improve its investigations. The IPA provided a report with its findings and recommendations to SLPD.

REVIEW OF CRITICAL INCIDENTS

Critical incidents are defined to include all officer-involved shooting incidents, regardless of whether the person was injured; traffic collisions involving police officers that result in death or serious bodily injury to another person; uses of force resulting in death or serious bodily injury to another person; and all deaths of persons occurring while the deceased was in the custodial care of the police department. The IPA is charged with review of all officer-involved shooting incidents and all other critical incident investigations to determine if the investigation was complete, thorough, objective, and fair. Additionally, SLPD is obligated to provide IPA with timely notification of all critical incidents to provide the IPA with the ability to observe the scene at the IPA's discretion.

SLPD and the IPA established a mechanism for SLPD to notify the IPA in a timely manner when a critical incident occurs. As of the date of this report, there has not been a critical incident at SLPD.

AUDITS OF COMPLAINTS AND DISCIPLINE

One of the duties of the IPA is to review all complaint investigations conducted by, or on behalf of, the San Leandro Police Department along with the related remediation, if any. In some instances, the City has chosen to have misconduct conducted by an outside vendor. In other instances, the investigation has been completed in-house utilizing SLPD investigators. In either instance, it is the responsibility of the IPA to review the investigation, and to determine whether it is complete, thorough, objective and fair, and whether there are any aspects of the investigation with which the IPA disagrees. To the extent that there is any disagreement, it is incumbent on the IPA to work with the Department to address those issues. While, the IPA has the authority to attend interviews of the complainant and all civilian and Department witnesses, most reviews are conducted through a review of summaries and recordings of interviews after they have been conducted rather than through the in-person attendance of interviews as they are conducted.

There are several ways complaints can be filed against members of SLPD. Community members can file a complaint directly to SLPD against any of its members, sworn or civilian, by reporting it in person at SLPD headquarters, calling SLPD, and/or submitting an online complaint. Additionally, an internal complaint can be filed by any member of SLPD against another member of SLPD. Lastly, the San Leandro Chief of Police can direct that an internal investigation be conducted against any member(s) of SLPD. SLPD's internal policy (Policy #1012) governs the intake and the investigation process for all complaints made against any employees of SLPD.

In brief, if the complaint involves less serious allegations, including no allegation of prohibited harassment, then the subject employee's supervisor may attempt to resolve the complaint, provided that the investigation of the complaint would not require confidentiality and would not be jeopardized by the supervisor's involvement¹. More serious allegations are required to be investigated by the Department's Professional Standards Unit (PSU). PSU currently has one captain overseeing its operations with one PSU Lieutenant and two Sergeants reporting to him. However, the PSU Lieutenant position has been vacant for 15 months. Due to continuing staffing shortages, PSU has been augmenting its operations by outsourcing some of its investigations to ensure timely resolutions. Among the contractors used by PSU are the firms Titan Investigations and Jensen Hughes. Decisions on whether to use an outside firm to conduct an investigation are made on a case-by-case basis with considerations given to the seriousness of the allegation as well as staffing availability. In any complaint, however, the Chief can decide which unit (or outside

¹ While this is not indicated in Policy 1012, this is SLPD's practice per the captain of PSU. See Recommendation #1.

vendor) will investigate. All investigations must be conducted under the Public Safety Officers Procedural Bill of Rights (POBR) (Government Code Section 3303)².

There are four potential findings for a complaint: unfounded, exonerated, sustained, and not sustained. An unfounded complaint is one where the alleged acts are found to have not occurred or did not involve Department members. Complaints that are determined to be frivolous will fall within this classification. An exonerated complaint is one where the alleged act occurred but was justified, lawful, or otherwise proper. A sustained complaint is one where the actions of an accused officer were found to have violated the law, department policy, or both. Finally, a complaint is not sustained when there is neither sufficient evidence to sustain the complaint nor enough evidence to exonerate the subject officer.

Once SLPD concludes its investigation and issues associated discipline, the entire case is forwarded to the IPA for the IPA to conduct its review. Modern policing demands the development and implementation of multiple systems of accountability within a police department, including a transparent and responsive complaint investigation protocol for alleged officer misconduct. Ideally, members of the public should be able to navigate the complaint process easily, from intake through resolution. This requires departments to provide clear and conspicuous instructions for submitting complaints and to make efforts to keep complainants updated on the status and progress of the complaint's investigation. Complainants should further be provided with reasonable timeframes during which they can expect their complaint to be resolved and explanations of the basis for any resolution, regardless of outcome, or delay.

Meeting the demands of such a system requires investment in a department's Internal Affairs unit, which is integral to achieving and maintaining meaningful accountability. These units serve two communities simultaneously—law enforcement officers and the general public—and are essential in building and sustaining mutual trust and respect between the two. To this end, it is

² The bill requires that the interview of an accused member be conducted during reasonable hours and preferably when the member is on-duty. If a member is interviewed when off-duty, then the member must be compensated. Unless waived by the member, the accused member shall be interviewed at SLPD headquarters or other reasonable and appropriate place. There cannot be more than two interviewers who ask questions of an accused member. Prior to any interviews, the accused member must be informed of the nature of the investigation, and the name, rank, and command of the officer in charge of the investigation, any interviewing officers, and all other persons to be present during the interview. The interview must be for reasonable period of time and the members' needs should be reasonably accommodated. The member cannot be subjected to any offensive or threatening language, or any promises, rewards, or other inducements to obtain answers. An accused member who refuses to answer any questions directly related to the investigation may be ordered to answer questions administratively after being given a Lybarger advisement and may be subject to discipline for any continued failure to answer questions. No information or evidence administratively coerced from a member may be provided to anyone involved in a criminal investigation into the same allegations or to any prosecutor assigned to such an investigation. All interviews must be recorded, with a copy of the of the recorded interview provided to the accused member prior to any subsequent interviews. An accused member has to the right to have an uninvolved representative present during the interview but cannot consult or meet with the representative or attorney collectively or in groups prior to being interviewed. Finally, an accused member cannot be asked or compelled to submit a polygraph examination.

important for a department to define, in its written policies, the process by which a complaint will be received, documented, investigated, and reviewed, and to announce in advance the permissible timeframes for those steps to be taken. Such policies serve the interests of both officers and members of the public by allowing them to set their expectations appropriately and with confidence that the complaint is being assessed and resolved fairly. Only through this kind of system can officers and the public begin to develop confidence in a department's disciplinary process.

A well-functioning process promotes accountability in two ways. First, it addresses misconduct by appropriately punishing offending officers. Second, it prevents future misconduct by signaling and reinforcing organizational expectations both internally and externally and demonstrating both a department's expectations for officer conduct and the consequences of violating those expectations. An ineffective process, on the other hand, can undermine both officer morale and community trust. It is therefore imperative that the SLPD complaint process is fair, transparent, and authoritative in its determinations, and is seen and understood as such by officers and the community alike.

The IPA conducts its review of the investigation to determine the thoroughness, adequacy, and lack of bias of the investigation. In order to make a determination with respect to these benchmarks there are a number of different and specific areas that are evaluated for every case the IPA reviews. Some example of the areas that are assessed for each review are whether or not all relevant witnesses are interviewed, the quality of witness interviews, inspection of all relevant evidence including the body-worn camera footage, and whether the investigation was conducted fairly. In addition to assessing whether the investigation was conducted appropriately, the IPA also assessed whether the investigation be properly documented. The IPA also assesses whether there were appropriate internal quality control with respect to the investigation and the report. Lastly, if there was discipline issued in the case, the IPA assesses whether or not the discipline was appropriate and fair. Deficiencies in any of these areas are noted and may lead to broader findings and recommendations.

COMPLAINTS REVIEWED DURING THIS REPORTING PERIOD

In the six investigations reviewed by the IPA, the IPA agreed with the outcomes of four of the investigations despite finding some of the procedural issues that were identified to SLPD with accompanying recommendations to improve the investigative process. The IPA ultimately agreed with the finding that no misconduct occurred on the fourth investigation reviewed but disagreed with the adjudication as "exonerated" due to the IPA's assessment that unfounded would have been a more appropriate disposition. The IPA disagreed with the findings for the fifth investigation reviewed and issued recommendations on how to improve the investigative process.

The six investigations involved alleged violations of Policy 300 (Use of Force), Policy 302 (Handcuffing and Restraints), Policy 427 (Public Recording of Law Enforcement Activity), Policy 325 (Report Preparation), Policy 601 (Asset Forfeiture), Policy 705 (Cash Handling, Security and Management), Policy 802 (Property and Evidence), Policy 312 (Searches and Seizures), Policy 321 (Standards of Conduct), Policy 600 (Investigation and Prosecution), and Policy 811 (Animal

Control). Each investigation involved more than one allegation. Of the six investigations: two investigations had some of the allegations sustained, two investigations had all allegations exonerated, and two investigations had allegations determined to be either unfounded or exonerated.

Upon conclusion of each of the reviews of the investigations discussed above, the IPA issued recommendations on how SLPD should improve its investigative process and modify relevant policies and procedures. The IPA's recommendations mostly centered around modifications to Policy 1012 ("Personnel Complaints") to provide clarification on definitions and process, as well as recommendations on installing additional surveillance cameras inside SLPD facilities and changes to the Department's retention period of the surveillance footage. The IPA further recommended modifications to Policy 426 ("Portable Audio-Video Recorders") to limit discretion on when officers may, should, or must activate and terminate BWC recordings. Finally, the IPA offered recommendations for increasing transparency in the disciplinary process by adopting a disciplinary matrix, adopting policies to require officers to provide their names and badge numbers, and consider the issue of pretextual stops.

Two of these investigations are discussed above in the "Direct Receipt of Complaints" section. A brief summary of the remaining four investigations are below:

- 1) A complaint received from an individual who was convinced that there was a large conspiracy to poison him involving a large retailer and the police officers in question
- 2) Two unrelated complaints against SLPD police officers arising from a traffic stop
- 3) An internally initiated investigation against SLPD police officers based on discrepancies in record-keeping

Once the IPA concluded its review of the investigation, the IPA shared the report in draft form with SLPD to ensure factual accuracy and appropriate redaction of protected information. The IPA then discussed the findings and recommendations with SLPD and issued a final report to the City Attorney. Afterward, the IPA worked with SLPD and the City Manager's Office to discuss the implementation of the issued recommendations.

The full list of the IPA's recommendations are attached as Appendix A.

AUDIT OF POLICIES AND TRAINING

Among the IPA's most important responsibilities is the ability to review the internal policies and trainings of the SLPD and to evaluate how those policies and trainings conform to, or depart from, established best practices. Although SLPD policies and trainings span a broad array of subject areas—from patrol operations to departmental management—this audit focuses on areas of particular concern to San Leandro community members and officials.

These include those relating to stops, searches and seizures, pursuits, body-worn cameras, uses of force, and internal investigations and disciplinary procedures. These areas have been selected for audit because they directly govern how SLPD officers interact with community members when conducting investigations, enforcing laws, or responding to calls for service. Accordingly,

they, more than others, determine how SLPD officers perform their duties and how San Leandro residents, in turn, experience policing.

The goal of this audit is to help officials and community members better understand which SLPD policies and trainings already reflect current best practices, which need modification, and how the City can further improve SLPD's accountability to San Leandro's 90,000 residents.

The IPA is committed to a collaborative process in improving performance in the areas discussed below.

POLICIES AND TRAINING REVIEWED DURING THIS REPORTING PERIOD

Over the past year the IPA assessed and provided SLPD with recommended changes based on discussions with the SLPD executive team on issues identified by the IPA as well as best practices on the following topics: body-worn cameras, use of force, and internal investigations and disciplinary procedures. Once SLPD had an opportunity to review the recommendations, the IPA and SLPD executive team had lengthy but productive discussions on the basis for the recommendations, with the IPA having thoroughly considered SLPD's positions on each recommendation. On the vast majority of the recommendations, the SLPD executive team immediately accepted the recommendations, but there were a few recommendations that required more in-depth discussion. In each instance, The IPA and SLPD agreed upon a draft policy modification that would be sent to Department members for additional feedback before finalizing the policy. Drafts were also shared with the City management team, including the City Attorney's Office, for their feedback. This process is ongoing and the IPA anticipates that that updated policies will be published by SLPD.

For use of force policy, the proposed changes will be shared with CPRB as it was one of the policies that the Board identified as having a compelling community-wide concern during its July meeting.

The IPA will work with SLPD on policies relating to stops, searches, and seizures and foot and vehicular pursuits in the coming year.

As for trainings, the IPA reviewed and assessed SLPD's Field Training Officer ("FTO") training materials to better evaluate how officers are being trained in the field and provided feedback to SLPD. SLPD has accepted all of the IPA's recommendations, which are also discussed below. Furthermore, the IPA observed SLPD's Advanced Officer Course training on August 21 and August 24, 2023. These trainings are discussed more in depth below.

BODY-WORN CAMERAS

The deployment of body-worn cameras among officers has significantly impacted how officers do their job and how they are held accountable for their actions. Central to these developments is the implementation of policies that govern how body-worn cameras are used in the field and how the audio and video recordings they capture are used to investigate crimes and disciplinary complaints and to evaluate overall police performance. However, more importantly, reviewing

SLPD's BWC for compliance with such policy as well as other policies is critical in ensuring SLPD is functioning as they should be. SLPD is currently using Axon.

This section examines current SLPD policies on body-worn cameras and discusses recognized best practices.

CURRENT POLICY

The goal of Policy 426 ("Portable Audio/Video Recorders") is to create guidelines to instruct officers on the use of recording devices in the course of their duties. Such devices include body-worn, hand-held, or other forms of portable equipment for the purposes of recording audio and/or video.

Officer Responsibilities

The Portable Video Recording System (PVRs)³ is an on-body video camera which must be worn by all personnel to which they have been assigned during any regular shift. The decision to activate the PVRs camera is left within the discretion of the officer, and they may do so whenever they feel that its operation would be valuable for documenting an incident. However, personnel must make a reasonable effort to activate the camera prior to incidents including, but not limited to, encounters with individuals suspected of involvement in criminal activities, probation or parole searches, service of searches and arrest warrants, K-9 deployments, and any contact that becomes adversarial. Personnel are not allowed to activate the camera to record personal conversations between other department personnel, to record the taking of reports or conducting preliminary investigations where no other criteria for activation are present, or when meeting with confidential informants. In addition, officers are not allowed to use the PVRs to record any non-business related activity. Although it is suggested that personnel inform citizens that they are being filmed, they do not need to acquire those persons' consent when the person is located in a public space or there is no reasonable expectation of privacy.

Officers are required to keep their PVRs in good condition, and are responsible for making sure that they remain functional. Upon their use, officers must properly document their use and identify the files by booking the recording into evidence and associating them with the relevant case for which they were collected.

Supervisor Responsibilities

The System Administrator, chosen by the Chief of Police, possesses general oversight responsibilities. The System Administrator is responsible for overseeing the operation and administration of the PVRs system. They are responsible for training officers on the policies and procedures related to the use of the PVRs, and must regularly review and evaluate the existing policies and procedures. The System Administrator is also responsible for ensuring that files are

³ SLPD refers to their body worn cameras as PVRs's. The national trend has been to refer to body worn cameras as BWC's. We use those two terms interchangeably.

properly stored and secured, and that information on PVRs files are reviewed and released in accordance with federal, state, and local law.

Individual supervisors and managers are responsible for ensuring that departmental members adhere to established policies when utilizing the PVRs. Supervisors may conduct periodic audits to determine whether or not department members are in compliance.

File Review

PVRs data is treated in the same manner as Criminal Offender Record Information (CORI). Access to individual files within the system is highly restricted, and permission to view the files is granted strictly on a “right to know, need to know” basis. The personnel who recorded the audio/video may view the file on a department desktop computer, and must document the reason for access. However, following a critical incident, an involved officer should not review the footage of the incident until after an initial statement has been taken from them. In such an incident, the officer’s lawyer may have the opportunity to review the footage prior to the initial interview.

Other employees within the department may also view footage of incidents which they did not personally record under a limited set of circumstances. Employees may review those PVRs files that relate to their personal involvement in an incident for which they must complete a criminal investigation and/or prepare official reports, in anticipation of a court appearance, or in the event of a critical incident. In addition, employees may review any video in which they were recorded, either audibly or visually, and may review footage if they were present on-scene and had a perspective similar to that of the PVRs.

BEST PRACTICES

Body-Worn Cameras (BWC) are a staple of modern policing. They provide a means for officers to clearly document information related to their activities, while also serving a necessary monitoring function by ensuring that the behavior of officers in performing their daily tasks is recorded and maintained for review. As the use of BWCs has become more prevalent throughout the country, best practices have been developed to ensure that their use, and the use of the data created by them, are as effective as possible in furthering the overall goals modern policing.

General Principles

The goals of any policy regarding the implementation and use of BWCs should be sixfold.⁴ First, the policy should be drafted, and the policies within chosen, in order to best promote the safety of department members. Second, the policy should reinforce the ability of law enforcement officers to effectively document incidents and to take statements from those involved. Third, BWCs should be used to support department members’ need to accurately recall an event for the purposes of report-writing and for courtroom appearances. Fourth, BWC data should be preserved for use in investigations, both current and future. Fifth, BWC data should be collected

⁴ *Body-Worn Camera (“BWC”) Recommended Best Practices*, Fraternal Order of Police. (March 2021), <https://files.fop.net/wp-content/uploads/2021/03/nfop-body-worn-camera-recommended-best-practices.pdf>

and used to enhance officer training and allow officers to critique their own performances. Sixth, the data should be used to improve community-police relations by demonstrating accurate representations of interactions between officers and citizens.⁵ Relatedly, in the spirit of improving police-community relations, all policies related to the use of BWCs should be published and made accessible to the public.⁶ Similarly, departments should seek to include community stakeholders in the decision to incorporate BWCs into the department and the policies surrounding their use.⁷

In addition, any policy should clearly specify the scope of the policy and to which department members it applies. This includes a clear statement regarding which personnel in the department will be required to equip themselves with BWCs, as well as the circumstances under which they will be expected to do so.⁸

When to Activate

Any BWC policy should clearly specify the circumstances under which officers will be expected to activate their cameras. Policymakers differ, however, on the best practices regarding when the camera should be turned on. Some scholars advocate for the camera being switched on during any and all interactions between the public and the police, except in very narrow circumstances.⁹ Others recommend leaving the decision to activate the camera within the discretion of the individual officers, depending on the circumstances in which the officers finds themselves.¹⁰ However, there are some areas in which scholars tend to overlap.

In general, the BWCs should only be activated in those situations where they are recording information connected to a legitimate law enforcement activity or purpose.¹¹ They should not be activated to record non-work related activity.¹² In addition, they should not be used to record personal conversations between department members which are unrelated to their official

⁵ *Id.*

⁶ *Principles on Law Enforcement Body-Worn Camera Policies*. American Bar Association. (May 2021), <https://www.americanbar.org/content/dam/aba/administrative/news/2021/08/annual-meeting-resolutions/604.pdf>

⁷ *Id.*

⁸ *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Police Executive Research Forum. (2014), https://www.policeforum.org/assets/docs/Free_Online_Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf

⁹ *Principles on Law Enforcement Body-Worn Camera Policies*, *supra* note 3

¹⁰ *Body-Worn Camera (“BWC”) Recommended Best Practices*, *supra* note 1

¹¹ *Id.*

¹² *Id.*

duties, encounters between confidential informants and undercover agents, and should not be activated in an area or situation in which the person being recorded has a reasonable expectation of privacy and the officer does not have a legal justification for their presence.¹³

Policies should also positively identify specific situations in which activation is appropriate. First, BWCs should be activated in any situation in which the officer believes that they are interacting with an individual who is suspected or known to be engaging or to have engaged in criminal behavior.¹⁴ Specific situations necessitating the activation of the camera include arrests, the issuance of citations, pursuits (on-foot and vehicular), searches, and motor vehicle stops, among more.¹⁵

In addition, there are general operational policies that officers should follow. Officers should wear their BWCs at all times while on duty and capture the entire incident.¹⁶ Officers are individually responsible for the upkeep of their BWC, and for ensuring that it remains operational.¹⁷ Finally, officers may not delete, edit, or otherwise alter or destroy the recordings.¹⁸

Reporting and Filing

Following the activation and use of a BWC, the use should be documented on any forms related to the incident. Similarly, where the recording contains a witness statement, that fact should be included in official documentation.¹⁹ Following the incident, all video files should then be downloaded to a secure server managed by the department within a reasonably short specified period of time. The files should be provided with reasonable identifiers allowing for them to be connected to the recording officer and the incident.²⁰ They should also be tagged and labeled in accordance with the department's filing and management scheme, allowing for their easy

¹³ *Body-Worn Cameras*. International Association of Chiefs of Police Law Enforcement Policy Center. (April 2019), <https://www.theiacp.org/sites/default/files/2020-06/BWCs%20June%202020.pdf>

¹⁴ *Body-Worn Camera ("BWC") Recommended Best Practices*, *supra* note 1; *Body-Worn Cameras*, *supra* note 10

¹⁵ *Body-Worn Cameras*, *supra* note 10

¹⁶ *Body-Worn Camera ("BWC") Recommended Best Practices*, *supra* note 1

¹⁷ *Id.*

¹⁸ *Body-Worn Camera ("BWC") Recommended Best Practices*, *supra* note 1; *Body-Worn Cameras*, *supra* note 10

¹⁹ *Body-Worn Camera ("BWC") Recommended Best Practices*, *supra* note 1

²⁰ *Body-Worn Cameras*, *supra* note 10

identification and access as necessary.²¹ Policies should specifically state the period of time for which data and recordings will be retained by the department.²²

Viewing

Finally, any BWC policies should have clear guidelines regarding which individuals will have access to BWC recordings, and under what circumstances.²³ In general, department members may review any BWC that they personally recorded.²⁴ This can be useful for investigating a critical incident, writing a report regarding an incident, for training and review purposes, and more.²⁵ Supervisors may review recordings for training purposes, to conduct performance reviews of officers, to investigate potential misconduct, and more.²⁶ Other department members may be allowed to request access to BWC recordings based on limited circumstances set by the individual departments in accordance with their established policies.²⁷ In addition, departments should take measures to ensure the security and confidentiality of their files. They should have robust protections in place to prevent unauthorized access, while still permitting timely access in all valid cases.²⁸

UPDATED DRAFT POLICY PREVIEW

The IPA provided SLPD with its initial assessment of the department's existing policy as well as recommendations on how to modify the policy to meet best practices. The recommendations centered around providing more clarity and definition on how and when officers are expected to activate their PVRS as well as how the department can maximize the value of PVRS recordings. The guiding principles behind the recommendations were to enhance first-line supervision of

²¹ *Id.*

²² *Principles on Law Enforcement Body-Worn Camera Policies, supra note 3*

²³ *Body-Worn Cameras, supra note 1*

²⁴ *Id.* It should be noted however, that with respect to critical incidents there is a divergence of opinion among experts as to whether officers should be able to view their video prior to giving a statement. The viewing of the video is thought to potentially contaminate the recollection of the officer of the event. In those jurisdictions which do not allow for viewing before observation of the video, the practice is generally to first obtain a statement without the officer having viewed the video, break to allow the officer to view the video, and then reconvene allow the officer to explain any discrepancies between their unvarnished recollection and that which the video may have brought to light. All statements of officers, of course, should be recorded.

²⁵ *Body-Worn Cameras, supra note 10*

²⁶ *Body-Worn Cameras, supra note 1*

²⁷ *Body-Worn Cameras, supra note 10*

²⁸ *Principles on Law Enforcement Body-Worn Camera Policies, supra note 3*

officers through review of PVRs recordings and to remove ambiguity from existing policy when the officers could benefit from more precise directions on how to comply.

For example, the recommendations call for more direction on the required use of “buffering mode,” which allows the camera to capture a 30 second, soundless video clip of the 30 seconds immediately before a PVRs is physically activated by the officer. The updated policy also provides clear instruction on when officers are expected to activate their PVRs, replacing the existing language in the policy which provides the officer with great discretion on when to do so. Specifically, the updated policy states that officers should activate their PVRs while en route to, and no later than upon arrival at, any call for service and provides additional examples of when the PVRs should be activated.

Most importantly, the recommendations emphasized the broader purpose of PVRs. The current policy limited the use of PVRs to recording law enforcement activities. However, the recommendations illustrated additional benefits of using PVRs, including allowing officers to capture and review statements and actions for reports, provide an impartial measurement for self-critique and field evaluation, refer to recordings for training purposes, demonstrate adherence to state law requirements and department directives, and evaluate the merits of citizen complaints and administrative matters arising from officer activity.

Additionally, the draft policy expanded the role of the supervisor in reviewing PVRs recordings, including reviewing relevant recordings any time the supervisor is investigating alleged misconduct, uses of force, stops, arrests, citations, pursuits or reports of meritorious conduct, or whenever such review would be beneficial in assisting in an ongoing investigation. Supervisors may also be assigned recordings for random review or may review videos at their own discretion in order to determine training needs or review an employee's performance. Finally, the policy requires that supervisors and managers will ensure personnel utilize the PVRs according to policy guidelines and may conduct periodic audits of recordings to ensure adherence to policy or assess performance. These measures were incorporated into the draft policy to not only identify areas for continuous improvement of officers but, just as importantly, to identify exemplary performances that may go unrecognized otherwise.

USE OF FORCE

Use of force policies have long been, and presently remain, a primary focus of contemporary conversations on policing. Virtually all controversies involving police-community interactions intersect in some way with use of force policy and practice, and no effort to improve policing can avoid addressing how, why, and whether force is used by police to achieve the public's safety goals.

This section examines current SLPD policies on use of force and discusses recognized best practices.

CURRENT POLICY

The goal of Policy 300 (“Use of Force”) is to provide adequate guidance to San Leandro police officers to ensure that they, at all times, are using force only in situations where such use is reasonable given the circumstances. Under the policy, “officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.” The reasonableness of force is determined by the amount of force that a reasonable officer, in those circumstances, would believe is warranted or necessary. However, given the highly variable nature of the policing profession, officers are given wide-discretion to choose those methods and levels of force that they reasonably believe are necessary.

Circumstances Authorizing Use of Force

Officers may use objectively reasonable force in order to effect an arrest, prevent the escape of a suspect, overcome resistance, to seize evidence, and to maintain the safety of citizens and officers. Highly relevant factors for determining the reasonableness of force include but are not limited to the severity of the threat to the officers, the conduct of the confronted individual, the characteristics of the subject and the characteristics of the officers (size, strength, skill level, etc.), presence of weapons, seriousness of the offense, degree of subject restraint, and the overall behavior of the subject.

Officers may reasonably rely on pain compliance techniques in order to maintain control of a resisting individual. Such uses must be discontinued once compliance has been achieved. Officers are generally not permitted to intentionally utilize techniques that restrict blood flow to the head or restrict respiration. Similarly, officers are prohibited from utilizing carotid restraint holds and choke holds under any circumstances.

Alternative Tactics – De-Escalation

Officers are required to utilize de-escalation tactics and techniques in those situations where, based on the totality of the circumstances, officers may do so safely. In doing so, officers are required to assess the underlying cause of a subject’s resistance to the instructions and authority of the officer. Such factors may include medical conditions, mental impairment, development disabilities, physical limitations, language barriers, drugs/alcohol impairment, and behavioral crises.

Where practical, officers are required to seek reasonable alternatives to the use of force in order to de-escalate situations. Such tactics include decreasing exposure to the threat, containing the threat, placing officers in safer positions, seeking assistance from specialists, and gaining compliance through verbal persuasion and warnings.

Deadly Force

Prior to the use of deadly force, officers are required to identify themselves as officers and warn that deadly force may be used. Deadly force may only be used by an officer to protect themselves or others from an imminent threat of death or serious bodily harm, or to apprehend a fleeing person for a felony that threatened or resulted in death or serious bodily harm and the officer

reasonably believes that the fleeing individual will inflict such harm on another individual unless apprehended immediately.

Where it is safe and feasible, officers are required to use other available resources and techniques prior to resorting to the use of deadly force. Such considerations should also take into account any potential risks to bystanders. For instance, officers should not discharge their firearms at a moving vehicle or its occupants unless the officer reasonably believes that there are no other means to avert the imminent threat of the vehicle, or if some other deadly force is being directed at the officer or others.

In displaying their firearms, officers are required to consider the surrounding circumstances prior to drawing their service weapons. If an officer does not perceive a threat, but believes the potential for one exists, the officer may draw their firearm but not point it at an individual. Where an officer reasonably perceives a threat, they may direct the firearm at the threat until the threat is abated.

Reporting the Use of Force

Following all use of force incidents, a report is required to be created that specifies the nature of the incident, the circumstances giving rise to the use of force, the factors relied upon by the officer in determining that the use of force was necessary, and all other relevant information. In addition, supervisors are required to be notified in certain circumstances, including whenever the use of force resulted in injury or harm to the subject or officers, certain departmental tools or weapons were utilized (TASER, OC spray, K-9 unit, etc.), the individual was struck or kicked, or there is an allegation of unreasonable force.

Medical Consideration

Once it is safe to do so, officers should provide or request medical assistance for anybody injured or claiming to be injured in a use of force incident. Medical assistance may consist of examination by fire personnel, paramedics, hospital staff, or medical staff at the jail. Persons may refuse medical attention, but the refusal is required to be witnessed by medical personnel. Any refusal are required to be properly documented. All injuries, or the lack of injuries, are required to be photographed. The on-scene supervisor is responsible for informing all persons providing medical care or receiving custody of the person that the individual was subjected to force.

Supervisor Responsibility

If available, a supervisor are required to respond to the scene of an incident in which there has been an application of force that requires a use of force review. The supervisor is required to obtain facts from involved officers, ensure that medical attention is provided for all injured persons, obtain a recorded interview with the subject (taking into consideration whether or not the individual has waived their *Miranda* rights), ensure that photographs are taken, identify witnesses, review reports, review any footage, and determine whether or not the actions taken were in alignment with Department policies. The Watch Commander is required to review all pertinent reports to ensure compliance within fourteen days of the incident.

Training

All officers, investigators, and supervisors are required to receive regular training on the policy and be able to successfully demonstrate knowledge and understanding of its provisions. Such training is required to also include instruction on appropriate de-escalation tactics.

Use of Force Analysis

At least once per year, the Bureau of Services Captain is required to create and submit to the Chief of Police an analysis report on all use of force incidents.

BEST PRACTICES

Over the past few years, use of force incidents involving police officers have frequently garnered the media's and the nation's attention. These high-profile situations have led to calls for reform and change through the implementation of fairer, safer, and more equitable legislation, policies, and training.

Policy Changes

Recently, six robust policy changes have been suggested in order to create meaningful reform and curtail the improper use of force²⁹. First, it is suggested that police departments significantly alter the guidance given to officers regarding the amount of force that is necessary to gain compliance or effect an arrest. This is accomplished by switching from a use of force continuum to a decision-making model. A use of force continuum is a highly rigid model. Officers are instructed to respond to a specific situation with a specific weapon or tactic and, should that prove unsuccessful, steadily utilize more severe tactics until the situation is resolved. This rigidity hurts the discretion of officers, and may require them to jump from point to point on the continuum as determined by the inflexible policy, rather than by using their discretion to adapt to the nuances of the situation. By contrast, force decision-making models operate based on the officer's assessment of the totality of the circumstances. Officers may consider multiple factors in making their ultimate decisions, including the nature of the threat, how circumstances change over the course of the interaction, and alternatives to the use of force for a successful resolution. Based on these assessments, officers are provided with a range of force options which the officers may exercise at their own discretion. This model allows officers to choose the best course of action, rather than one rigidly required by strict policy.

Second, it is recommended that police departments adopt a policy requiring accurate reporting of incidents in which an officer points a firearm at an individual. The documentation should be comparable to that required for other use-of-force incidents.

Third, it is recommended that police departments create standards and policies enforcing upon officers a duty to report and intervene in incidents involving excessive uses of force by fellow

²⁹ Legislative Responses for Policing-State Bill Tracking Database (ncsl.org); [Duke Center for Science and Justice Tracking Police Reform Legislation by State – Duke Law Center for Science and Justice Blog](#)

officers or supervisors. An officer who witnesses one of their fellow officers engaging in the excessive use of force must intervene and attempt to prevent the use and mitigate the harm. Additionally, any officer witnessing such an event or subsequently learning of such an event must report the incident.

Fourth, police departments are highly encouraged to ban chokeholds and vascular restraints that restrict individuals' ability to breathe and/or cut off blood flow to the brain. These techniques pose a high risk of harm to the individual upon whom they are being applied, and can often result in rendering the person unconscious with potentially lethal consequences.

Fifth, it is suggested that police departments restrict the use of no-knock warrants and unannounced police raids. Such restrictions may take the form of either an outright ban, or allowing their continued use in very limited circumstances.

Sixth, it is recommended that police departments introduce policies that mandate the use of de-escalation tactics in lieu of the use of force in all feasible situations. Where it is possible for a situation to be resolved peaceably and without the use of aggressive or forceful tactics, such tactics should not be used. This does not mean, however, that officers may not arrest or pursue a person if force is necessary in doing so. Rather, they must exhaust all nonviolent means of achieving their reasonable goals before resorting to more forceful options.

Training

In addition to making necessary policy changes, providing robust training opportunities to officers is a best practice for reducing excessive and unnecessary uses of force. Four types of training have been proposed: de-escalation training, peer intervention training, procedural justice training, and implicit bias training.

De-escalation training revolves around providing officers with the knowledge, skills, and procedures necessary to stabilize volatile situations and reduce the threat so that proper resources and techniques can be used to resolve the situation without resorting to the use of force. Dozens of variations of these trainings have been implemented.

Peer intervention training involves training officers to effectively intervene in situations in which they witness a fellow officer or a supervisor engaging in unethical behavior, violations of department policy, and the use of excessive use of force. The training provides officers with the necessary background knowledge and tactics to effectively resolve these situations.

Procedural justice training teaches officers how to engage in more equitable policing, thereby bolstering community-police relations and improving the legitimacy of the policing profession. The trainings emphasize four key components of police legitimacy: voice (citizens must feel that they have the capacity to have their own opinions and stories heard), neutrality (officers must act objectively and without bias), dignity (citizens must be treated with courtesy and compassion, with respect for their rights), and trustworthiness (officers must demonstrate that they are to be trusted, and operate in the best interests of the community).

Finally, implicit bias training assists officers in reducing their unconscious prejudices in order to act in fairer, more equitable ways. The goal is to reduce the disparate treatment of citizens based on these unconscious biases. These trainings generally provide officers with information

regarding the existence of these biases, and techniques for how to successfully manage them while on duty.

Departmental Practices

In addition to the prior policy and training recommendations, there have been recent attempts to incorporate new, broad departmental practices that serve to better reduce excessive use of force incidents. First, agencies have begun developing extensive data collection regimes that collect and catalogue any information related to all use of force incidents. The data should be comprehensive, in order to give the department the most accurate view of the current policing landscape. In addition, agencies should utilize collected data to analyze policing trends, especially racial and ethnic disparities in the use of force, to best understand where future reform efforts should be directed.

Second, departmental policies should be directed towards improving community-police relationships, including by increasing transparency with the public. Collected data should be made publicly available, as well as annual reports demonstrating the recent efforts and activities of the department. Current and new policies should be made easily accessible, and changes in policies should be rapidly communicated. In addition, departments should seek to involve community stakeholders in conversations and decision-making processes, allowing them a say in how the department attempts to resolve use of force concerns.

Lastly, departments should incorporate both internal and external oversight mechanisms regarding the use of force. Internal mechanisms are directed towards identifying and holding accountable those officers who engage in unreasonable and excessive use of force. External review may be conducted by a Use of Force Review Board, comprised partially of civilian members fulfilling a variety of oversight roles. However, despite the benefits of providing civilians with some degree of control over the review process, external review procedures have been a controversial subject. Officers are often opposed to providing civilians with that level of oversight and authority.

UPDATED DRAFT POLICY PREVIEW

The IPA provided SLPD with its initial assessment of the existing policy as well as recommendations on how to modify the policy to meet best practices. The recommendations were formulated to further emphasize de-escalation and the objective reasonableness of use of force. For example, the recommendations included language on using the minimum amount of force necessary to accomplish lawful objectives based on attending circumstances and on respecting the sanctity of all human life. The language also instructs officers to act in all possible respects to preserve human life by using distance and cover, when possible, to gain time to consider alternatives to avoid unnecessary uses of force and minimize the force used while still protecting themselves and the public.

Additionally, the IPA recommended that SLPD further define disengagement and its officer relief protocol. Disengagement refers to a tactic designed to avoid or minimize potentially violent or otherwise unsafe outcomes for the individual being contacted and/or the officer. Disengagement may be a viable option for individuals who pose no additional threats to others, there is no crime,

or for offenders who may later be apprehended under safer conditions. Officer relief protocol refers to the removal of an officer who has been engaged with a subject from further contact with the subject by an on-scene officer who has not engaged in a use of force with the subject. Moreover, the duty to report excessive force was also recommended to be in compliance with Government Code § 7286(b) and best practices. Further emphasis was also added to prohibit discriminatory conduct on the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

The last two recommendations centered around defining a standard in which an officer may point a firearm. The existing policy did not have an explicit criteria regarding pointing of a firearm and a proposed standard was shared with SLPD for inclusion in the updated version of the policy. Lastly, the IPA recommended adding a prohibition, with very narrow exceptions, on shooting at or from moving vehicles as they are rarely effective and may involve additional considerations and risks.

All of these recommendations are being considered by SLPD and the IPA anticipates that a new updated use of force policy will be published in the near future by SLPD. As noted above, CPRB indicated during its July 19, 2023 meeting that the Board believes that the use of force policy is a policy of compelling community-wide concern. Accordingly, once the draft is further developed after discussion with the SLPD rank and file and the City management, it will be shared and discussed with CPRB before being finalized.

INTERNAL INVESTIGATIONS AND DISCIPLINARY PROCEDURES

Effective internal accountability processes, including investigations into alleged misconduct and related disciplinary procedures, are ultimately rooted in policies that clearly lay out when and how they apply. Further, they describe the kinds of activities that could trigger disciplinary actions and describe what those disciplinary actions include. In short, effective systems give notice to both complainants and accused officers about how and when misconduct investigations are commenced, conducted, and resolved, so that each side can effectively navigate the process.

This section examines current SLPD policies on internal investigations and disciplinary procedures and discusses recognized best practices.

CURRENT POLICY

There are several ways complaints can be filed against members of SLPD. Community members can file a complaint with SLPD against any of its members, sworn or civilian, by reporting it in person at SLPD headquarters, calling SLPD, and submitting an online complaint. Additionally, an internal complaint can be filed against by a member of SLPD against another member of SLPD. Lastly, the Chief of Police can authorize an internal investigation to be conducted against any members of SLPD.

All complaints made to SLPD are received and tracked by the Department's Professional Standards and Training Unit ("PSU"). PSU typically handles the investigation of these complaints,

though lower-level complaints may be handled by the subject employee's immediate supervisor. PSU currently has one captain overseeing its operations with one PSU Lieutenant and two Sergeants reporting to him. However, the PSU Lieutenant position has been vacant for 15 months.

Due to continuing staffing shortages, PSU has been augmenting its operations by outsourcing some of its investigations to ensure timely resolutions. Among the contractors used by PSU are the firms Titan Investigations and Jensen Hughes. These services have also been secured in part to provide assurance to the community that the investigations are being conducted in an independent and objective manner, and in part to address staffing shortages. Decisions on whether to use an outside firm to conduct an investigation are made on a case-by-case basis with considerations given to the seriousness of the allegation as well as staffing availability.

SLPD's Policy 1012 governs the intake and the investigation process for all complaints made against any employees of SLPD. Pursuant to its policy, a complaint can be generated either externally by a member of the public or internally by a member of SLPD. Formal complaints are accepted by any department member and are promptly transferred to the appropriate supervisor (in most cases, the accused member's immediate supervisor). The supervisor, once notified, is tasked with ensuring that a complaint form is properly completed in IA Pro. IA Pro is the system SLPD currently uses as a database to enter and track all complaints against department personnel. The original complaint form is sent to the accused member's immediate manager, which in most cases is a supervising Lieutenant.

If the complaint involves allegations of a potentially serious nature, the Chief of Police is notified through the Department's chain of command. If the complaint involves sexual, racial, ethnic, or other forms of prohibited harassment, the supervisor contacts Human Resources and the appropriate police manager. If the complaint involves less serious allegations, including no allegation of prohibited harassment, then the subject employee's supervisor may attempt to resolve the complaint, provided that the investigation of the complaint would not require confidentiality and would not be jeopardized by the supervisor's involvement. In these instances, the supervisor must contact the complaining witness within 24 hours and forward the report to the supervisor's immediate lieutenant or police manager. If the complaint is resolved, the supervisor will note the resolution on IA Pro and route the report to the lieutenant or police manager.

All unresolved complaints are then forwarded to the lieutenant or police manager of the accused officer. The lieutenant or police manager will then take appropriate actions, which may include determining who will investigate the complaint. The investigation can be assigned back to the officer's supervisor or the PSU. The determination is based on the seriousness of the allegation, the complexity of the investigation, or other factors such as the number of accused members. Regardless, the complainant must be informed of the name of the assigned investigator and the complaint number within three days after assignment. In investigating a complaint, the investigator is tasked with making reasonable efforts to obtain names, addresses, and telephone numbers of witnesses, ensuring that any necessary medical attention is immediately provided and documented, the procedural rights of the accused members are followed, and interviews of the complainant are conducted during reasonable hours.

Regardless of who conducts the investigation, investigators must adhere to the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code Section 3303). The bill requires that the interview of an accused member be conducted during reasonable hours and preferably when the member is on-duty. If a member is interviewed when off-duty, then the member must be compensated. Unless waived by the member, the accused member shall be interviewed at SLPD headquarters or other reasonable and appropriate place. There cannot be more than two interviewers who ask questions of an accused member. Prior to any interviews, the accused member must be informed of the nature of the investigation, and the name, rank, and command of the officer in charge of the investigation, any interviewing officers, and all other persons to be present during the interview. The interview must be for reasonable period of time and the members' needs should be reasonably accommodated. The member cannot be subjected to any offensive or threatening language, or any promises, rewards, or other inducements to obtain answers. An accused member who refuses to answer any questions directly related to the investigation may be ordered to answer questions administratively after being given a Lybarger advisement³¹ and may be subject to discipline for any continued failure to answer questions. No information or evidence administratively coerced from a member may be provided to anyone involved in a criminal investigation into the same allegations or to any prosecutor assigned to such an investigation. All interviews must be recorded, with a copy of the of the recorded interview provided to the accused member prior to any subsequent interviews. An accused member has to the right to have an uninvolved representative present during the interview but cannot consult or meet with the representative or attorney collectively or in groups prior to being interviewed. Finally, an accused member cannot be asked or compelled to submit a polygraph examination.

Every investigation must be thorough, complete, and include the following:

- An introduction, including the identity of the accused member or members, the identity of the assigned investigators, the initial date of the complaint, and the source of the complaint
- A synopsis of relevant facts
- A summary that separately details each allegation, including references to applicable policy sections, comprehensive summaries of relevant evidence, and recommended findings
- A conclusion that summarizes the final findings of the report
- Copies of any exhibits referenced in the report

Each investigator is required to proceed with due diligence and complete the investigation within one year from the date of discovery of the underlying complaint by an individual authorized to initiate an investigation. If an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor must ensure that any extension or delay is warranted and not the result of a failure to proceed with due diligence.

There are four potential findings for a complaint: unfounded, exonerated, sustained, and not sustained. An unfounded complaint is one where the alleged acts did not occur or did not involve

department members. Complaints that are determined to be frivolous will fall within this classification. An exonerated complaint is one where the alleged act occurred but was justified, lawful, or otherwise proper. A sustained complaint is one where the actions of an accused officer were found to violate law or department policy. Finally, a complaint is not sustained when there is insufficient evidence to either sustain the complaint or exonerate the subject officer.

BEST PRACTICES

A comprehensive disciplinary should describe disciplinary consequences that an officer may face when an adverse disposition is filed against them. This is an issue that can be addressed with the implementation of a disciplinary matrix. The disciplinary matrix can offer complete guidelines describing potential disciplinary infractions and the specific disciplinary actions that may be taken against offending officers. For example, the New York Police Department has a complete disciplinary matrix on its website, available at <https://nypdonline.org/link/1024>, that details the kinds of actions that may result from adverse disciplinary findings. Such guidelines substantially enhance the transparency of the process for both complainants and officers subject to potential discipline.

The policy should also provide set requirement for notice, and a clear timeline for doing so, so the policy does not leave the investigators with substantial discretion on whether and how to keep complainants informed of developments in the investigations into their complaints, including, potentially, the complaint's ultimate disposition.

The policy should distinguish and provide guidance on complaints that may be appropriate to be immediately resolved. Lastly, notwithstanding the appropriate abbreviated process of such an investigation, all investigative reports should include specific details and information rather than a summary of the event and should specify sources that are relied upon to determine findings of fact and final conclusions.

Moreover, it is often the case that additional potential misconduct is uncovered during the investigation of a complaint. This often happens, as in this case, with compliance failures which would be otherwise unknown to a complainant, including those relative to PVRs activation and termination and the filing of required paperwork, such as RIPA. In such cases, the other misconduct needs to be identified and investigated. In certain cases, this may lead to additional charges being brought against the officer with appropriate notification procedures being followed and policies should include the requirement to identify and investigate other potential misconduct. Lastly, the policy should clearly indicate when interviews of officers and other witnesses are required.

UPDATED DRAFT POLICY PREVIEW

The IPA provided SLPD with its initial assessment of the existing policy as well as recommendations on how to modify the policy to meet best practices. The guiding principles behind the recommendations made to this policy were to provide more detailed guidance on how the investigations should be conducted and a clear workflow for different categories of complaints.

The recommendations provided more clarity on complaints that can be resolved immediately and are exempt from formal investigation. This is intended to streamline the workload as well as prevent unnecessary delays in concluding investigations. While the existing policy allowed for immediate resolution of some complaints, it did not define or provide guidance on which complaints are appropriate to be resolved in that manner. As such, the policy did not provide sufficient guardrails against the abuse of this method to avoid otherwise appropriate formal investigations.

Additional recommendations centered on providing more specificity for expectations and a timeline for all formal investigations. This includes providing specific details and information rather than a summary of the event, specifying the sources for findings of fact and final conclusions, and clearly indicating when interviews of officers and other witnesses are required. The recommendations also advised that SLPD should be required to identify all potential violations during an investigation and for those to be noted, regardless of whether or not they were initially reported by the complainant. Lastly, the IPA admonished that all requirements regarding status updates to complainants be followed to increase trust with the community.

All of these recommendations were accepted by SLPD and the IPA anticipates that a new updated policy will be included in the next annual report. Once the draft is further developed after discussion with the SLPD rank and file and City management, the updated policy will be published.

FIELD TRAINING OFFICER TRAINING MATERIALS

Field training is intended to facilitate a peace officer's transition from the academic setting to the performance of uniformed law enforcement patrol duties. In California, an officer graduating from the POST Regular Basic Course (the Academy) has received a thorough introduction to basic law enforcement subjects. However, that officer cannot be expected to immediately assume the full responsibility of an experienced officer. This is why newly assigned officers receive additional training in the field, through response to actual calls for service, allowing them to learn from officers with patrol experience. Field training introduces a newly assigned officer to the personnel, procedures, policies, and purposes of the police department and provides the initial formal and informal training specific to the department and the day-to-day duties of its officers.

In order to make the new officers' field training as effective as possible, the new officers are assigned to a dedicated Field Training Officer ("FTO"). Ideally, the FTO is an experienced officer selected and trained to conduct this type of training. It is the responsibility of the FTO to thoroughly review the field training program guide materials with the new officers and to demonstrate proper patrol procedures.

Field training has been a useful training tool for police departments, both large and small, and continues to benefit the officers and agencies that use it properly. Field training programs are designed to help a recruit officer develop the necessary skills to perform the job duties required by the police department. Police departments that do not have an adequate field training program have an increase in officer negligence and a poor quality of customer services. Field training can help reduce civil liability incidents and complaints and increase the overall ability and

confidence of the police officers. Field training programs can help departments cultivate leadership skills for younger officers, and a strong program can help those same officers develop the necessary communication skills to be better leaders as they move up the ranks.

Field training can imprint officers with certain attitudes, styles, values, and ethics when carrying out their duties, which can remain with the officer throughout their career. Because of this, it is probably the most effective influence on the future direction of the department. The law enforcement agency must be certain that their FTO program not only develops necessary technical skills but also reflects the policing philosophy of the department and the community it serves.

A reasonable argument can be made that the enduring quality of a police department is directly correlated to the quality of its Field Training Officer (“FTO”) program. For FTOs, teaching young officers the right way to do the job can be one of the most significant and fulfilling assignments in all of law enforcement. For departments, FTO programs can be perhaps the single greatest avenue for developing and reinforcing the department’s professional culture and burnishing its reputation. FTO programs are critical for socializing new employees into the core values and principles of the organization and the profession. It is therefore one of the most direct and effective ways to create transformational change within a policing organization.

CURRENT TRAINING

The objective of SLPD’s FTO program is to train and evaluate all recruit officers in preparation for solo patrol duty. The training that was evaluated by the IPA was training geared at training newly appointed FTO and sergeant in preparation for their new duties.

The new officers are required to perform various law enforcement duties under the guidance and supervision of their assigned FTO and a Field Training Program Supervisor, Administrator, and Coordinator (“FTP SAC”). The new officer’s performance is evaluated by the FTO and monitored by the FTP SAC through daily and/or weekly reviews. This one-on-one style of training in actual law enforcement situations sets it apart from any prior academic endeavor.

SLPD’s philosophy toward its FTO program is that the FTO staff has the responsibility of building the future of the department through the people they train³⁰. The FTO program must therefore ensure that each trainee is given the maximum opportunity to show that they can do the job. To accomplish this, the program must create a positive environment in which learning is maximized and in which trainees are able to perform to the best of their ability. Evaluation must be sincere and straightforward, emphasizing the positive as well as the negative aspects of an officer’s performance.

SLPD also emphasizes that the department and the FTO program staff have a responsibility to the community they serve, requiring the department to train and retain only the most competent

³⁰ San Leandro Police Department, Field Training Program Manual - Phase Book 1 (Sept. 2019), available at <https://www.sanleandro.org/DocumentCenter/View/2044/Phase-1-PDF> .

officers. If, after sufficient training, the officer does not meet the acceptable standards, they must be removed from patrol duties since to do otherwise would do injustice to the department, the community they serve, and to the trainee themselves.

The FTO program is presented in such a way as to provide maximum flexibility in the time required to present its objectives. To this end, SLPD's FTO program is divided into four separate phases that are scheduled to be completed within a sixteen week time frame.

Phase 1 is the introductory phase. It consists of an orientation period followed by several weeks of instruction and training. During this time, the trainee will be taught certain basic skills.

Phase 2 is somewhat more complex than the first phase and is the phase where trainees become more adept with their new role. During this phase, it is expected that trainees will begin handling calls for service with less input required from the FTO and that they will begin to master the skills they have been developing.

Phase 3 is the last phase of formal training. During this phase, trainees are expected to handle all patrol details except those they have not yet been exposed to, without assistance. They should be initiating all patrol activities on their own.

Phase 4 is the test phase. It is predominantly an evaluation only phase. It generally consists of one week of observed patrol activity. If it is determined that the trainee has demonstrated a pattern of difficulty or an inability to perform to the established standards of achievement in any phase, they should either receive an extension of training, be given a remedial training assignment, or "contract," or be terminated from the program.

BEST PRACTICES

The selection of field training officers is an important first step in developing and maintaining a quality FTO program. Proper selection can directly impact a program in a positively, while poor selection of training officers can lead to negative outcomes. The selection of an FTO should therefore be based upon proper qualifications to provide quality training to new officers.

Implementation of an FTO program is key, with a structure of checks and balances within the department's chain of command being crucial. Such a structure ensures that recruits are learning effectively and that FTOs are offering appropriate training that reinforces, rather than undermines, the department's priorities.

Documentation of poorly performing recruits is a key in both of these programs, and departments must be prepared to terminate officers with unsatisfactory performance. Having a new officer be evaluated by multiple different supervisors throughout the program allows for the comprehensive evaluation of recruits and ensures that performance evaluations are based on the viewpoints of multiple experienced officers rather than the assessment of a single person.

Once a performance issue is identified, there should be a robust remedial process in place within the proper chain of command. This process should be designed to allow the department to make an appropriate employment decision regarding the evaluated recruit after reasonable opportunities for remediation have been offered.

An effective FTO program recognizes that field training officers are supervisors, and that, as such, field training helps build supervisory skills on the part of the FTO that build as the officer moves up the ranks. In a 2010 survey of officers, 55% of FTOs reported that they felt that they assumed the role with at least some degree of unpreparedness, with some reporting either that they relied on “native” teaching skills, that they “flew by the seat of their pants,” or even that they were “basically unprepared” and that their performance was “less than what [they] hoped.”³¹

On the trainee side, 30% of respondents reported that their FTOs were inflexible in their instruction, leaving the trainees feeling as if there was no accommodation for how the trainees learned best.³² Additionally, 20% of trainees felt that their FTO program prepared them inadequately.³³ These factors no doubt erode both the experience and the efficacy of FTO programs, and should be areas of concern for departments seeking to maximize the positive impact of their programs. An efficient and effective field training system not only puts recruit officers in the best position for success, but it also minimizes the possibility of poor or negligent retention and may decrease the likelihood of agency liability due to training or documentation mistakes.

Therefore, it is critical that FTO programs are structured and built on the department’s values, mission, and vision, and that they reinforce what was taught at the academy so as to build the desired department culture through its incoming class of officers.

IPA’S ASSESSMENT AND RECOMMENDATIONS

The IPA only evaluated the written curriculum of the FTO program during this time period. It is the intent of the IPA to evaluate the FTO program in action and to publish its findings and recommendations, if any, in the next annual report.

Recommendations offered as a result of the review of the curriculum centered around ensuring that SLPD’s mission, vision, values, and philosophy are sufficiently reflected throughout the FTO program. Specifically, the IPA recommended that, during the program, more emphasis should be put on SLPD’s commitment to community policing, its code of ethics, and its commitment to sanctity of life. Additional recommendations included exposing trainees to certain assignments, including assignments with the detective and investigation bureau and other special assignments, as well as additional considerations for FTO and FTP SAC selection.

³¹ Ronald H. Warners, “The Field Training Experience: Perspectives of Field Training Officers and Trainees,” *The Police Chief* 77 (November 2010): 58–64, <http://www.nxtbook.com/nxtbooks/naylor/CPIM1110/#/58>.

³² *Id.*

³³ *Id.*

Moreover, recommendations were made on making the end of FTO programs more robust for those trainees who are not meeting expectations, such as involving additional departmental personnel in the remediation and termination process to ensure that such decisions are given full and thorough consideration. Lastly, there were recommendations made to incorporate significant developments into the curriculum, such as the enactment of the Racial and Identity Profiling Act (RIPA) and the establishment of the IPA.

These recommendations were discussed with SLPD, which was receptive to all of them. The IPA and SLPD are in the process of implementing these recommended changes.

ADVANCED OFFICER COURSE TRAINING

SLPD conducted an annual department-wide training to provide updates and refresher training to all sworn members of the department. These were all-day trainings with half of the department training on August 21 and the second half of the department training on August 24.

The IPA presented on the 2022 RIPA data analysis (discussed further below) at both of these sessions. In addition to the IPA presentation, there were other sessions presented by SLPD instructors, including a session on defensive tactics, a session on report writing, and a three hour block dedicated to Active Bystandership for Law Enforcement (ABLE).

There was also a session presented by the City's outside litigation counsel which was meant to provide an overview of the litigation process when an officer is the defendant in a lawsuit. The IPA team observed this presentation on August 21 and immediately raised concerns with the City Attorney's Office about the tone of the presentation and use of force examples that were utilized in the presentation. Both the tone and examples were inconsistent with best practice and the need for de-escalation of situations before use of force is utilized. Our concerns were immediately addressed by the City Attorney's office such that the presentation when presented on August 24 was revised so as to remove the inconsistent parts of the presentation. The IPA appreciated the City Attorney's quick response and the revision of the program. The City recognized the issue and assured the IPA that any significant future trainings would be sent to the IPA for vetting to ensure consistency with best practices. Specifically, with regard to Use of Force Training, both the IPA and CPRB are involved in a review of the current Use of Force policy, which will, when complete, lead to revisions of that policy and additional training that will be developed with input and review by the IPA.

SLPD is implementing a standardized writing format for reports. This was rooted in the department's desire to standardize the practice of how officers document incidents and investigations in police reports. Until this effort, SLPD did not have a common format for ensuring that all police reports present information in a standardized way. Such standardization would streamline the ability of any reader, including supervisors and investigators, to quickly identify relevant information within the report. This is SLPD's first foray into standardizing its report writing process by providing officers with templates and check-lists of information that each report should contain.

SLPD provided a two-hour session on defensive tactics, which had officers learn and practice a system of controlled defensive and offensive body movements to respond to a subject's aggression or resistance. California POST regulations requires peace officers to obtain 24 hours of In-Service Certified Continuing Professional Training, or CPT, during every two-year POST training cycle. Fourteen of the 24 hours must be in five areas: Arrest and Control; Tactical Firearms; Driving; Strategic Communications; and Use of Force. The course was designed to help the officers develop necessary tactical knowledge, skills to safely and effectively, arrest and control a suspect through hands-on practical application. The main emphasis was of the training was on "control/takedowns."

There were four stations that was led by a department use of force instructor. At each station the use of force instructor went over the safety protocols and demonstrated the expected take down and control hold techniques to the officer. Each officer was evaluated on the following criteria:

- a. Judgment and Decision Making
- b. Officer Safety
- c. Body Balance, Stance, and Movement
- d. Equipment/Restraint device (WRAP)

The stations covered a suspect's actions and how to respond when the suspect was (1) Compliant; (2) passive non-compliant; (3) actively resistant; or (4) assaultive. The instruction also emphasized the importance of "Body Balance, Stance, and Movement" utilizing footwork and how to fall to the ground safely and assume a position of advantage after exercising a takedown. Once on the ground, officers were taught control holds, joint manipulation, pain compliance techniques for non-cuffed suspect and single officer and/or multiple officers working together. Finally, students were given the proper instruction on how to apply the "WRAP" restraint device to a combative suspect.

The IPA's team thought the scenarios were well thought out and achieved the desired objectives. The officers seemed to really enjoy the training because it allowed them to practice the demonstrated techniques and discover what would or would not work best for them in a "real life" incident. However, it may make the class better if there was a short pre and post written tests on the department use of force policy. Finally, the department should consider purchasing the following additional equipment:

- More premium "crash" gym mats so the entire floor of the training room is covered
- Wrestling headgear and/or padded football helmets to prevent head injuries
- Soft duty gun belts and plastic guns as a reminder of officer safety and "weapon retention"

SLPD also provided a three-hour course on Active Bystandership for Law Enforcement (ABLE). This is a program developed to teach officers effective ways to step in when they witness misconduct and help agencies create a culture that supports such intervention. It was developed in collaboration with a working group that included law enforcement, community members, and

legal professionals. It teaches officers how to stop a wrongful action and also empowers them to do so.

Lastly, the IPA presented its findings based on the analysis of 2022 RIPA data, which is discussed in detail below. The IPA stressed the difference between disparities and bias and that, given the limitations of the data, conclusions could not be drawn about the causation of the disparities. This engendered thoughtful discussions with the department about the appropriate denominator to benchmark the RIPA data to, including whether San Leandro population is the appropriate benchmark since there is some indication within the department that many SLPD traffic stops are of non-residents. The presentation was a great start to a complex discussion with the department on how to improve the effectiveness of its current policing tactics, especially in the light of continuing departmental staffing shortages.

Most importantly, in these discussions, it was discovered that there was insufficient training on the implementation of RIPA forms within SLPD. The officers shared that they were uncertain of the meaning of certain questions listed in the RIPA form and that officers tended to rely on their own subjective understanding of these questions, something that clearly impacts the integrity of the data. The IPA recommends that SLPD immediately develop and implement a training to provide clear and consistent definitions and guidance on the meaning of each question on the RIPA form.

Lastly, the officers had great recommendations on additional data sets that can be added to the RIPA form to provide more context to the data SLPD is collecting. These recommendations should be considered by SLPD and quickly communicated to the vendor for potential incorporation into its 2024 data collection.

INDEPENDENT INVESTIGATIONS

There were no independent investigations conducted by the IPA in this reporting period.

USE OF FORCE ANALYSIS

More than any other characteristic, police officers are defined by their unique authority to use coercive force to induce compliance with the law and protect public safety. The advent of social media and the ubiquity of camera-enabled smartphones has made police force more visible than ever. As such, use of force encounters, more than any other police-community interaction, shape the public's perception of policing at large. Instances of excessive, abusive, and unjustifiable force can therefore quickly ignite outrage and protest locally and nationally, while those uses of force seen as justifiable or necessary can reassure community members that their values align with those of the sworn officers that patrol their streets. Its centrality to both public perception and police identity and authority requires police departments to take seriously how their officers use force.

Beginning in April 2023, the City Manager has tasked the IPA with conducting reviews and assessments of SLPD uses of force in order to ensure that SLPD officers are using their authority consistent with the law, established best practices, and the expectations of the community.

Among the questions to be considered by these reviews are not just whether force was legally justifiable, but whether force was necessary or advisable, and whether less forceful means could have been used to achieve a similar—or better—result.

In each review, the IPA reviews the supervisory review of the incident conducted by a first line supervisor of the involved officer as well as independently reviewing body worn camera footage of the incident. The IPA review of the incident determines whether the incident comports with policy, procedures, and state and federal law, as well as determining whether the supervisory investigation was conducted appropriately and reached the right conclusions, not only with respect to whether the use of force was justified and within policy, but whether the action of the involved officers comported with best practice in a number of different areas.

The justifiability of police use of force is a critical aspect of ensuring accountability and maintaining public trust. While the specific requirements may vary based on the circumstances, the following general principles apply to the analysis of use of force:

1. **When Force Can Be Used:** The use of force by police officers must be objectively reasonable and must be limited to overcoming resistance to arrest or detention or be in response to an imminent threat of physical harm to the involved officer(s) or others. Officers must be able to articulate the resistance posed by an individual to arrest or detain and the reasonableness of the degree of force used to overcome that resistance, or the reasonableness of the officer's belief in an imminent threat of physical harm.
2. **Reasonable Belief and Objectivity:** The officer's use of force must be based on a reasonable belief that such force is necessary under the circumstances as they appeared at that moment. Any assessment of the used of force should be made objectively, taking into account the information available to the officer at the time, rather than relying on hindsight.
3. **Proportional Response:** The level of force employed must be proportionate to the threat faced. Officers should use no more force than necessary to effectively address the situation. This principle emphasizes the importance of considering the severity of the threat, the potential for harm, and the availability of alternative, less-lethal options.
4. **Exhaustion of Alternatives / De-escalation:** Before resorting to force, officers should make reasonable efforts to de-escalate the situation and employ non-violent means of resolving conflicts. This includes verbal commands, warnings, and the use of techniques aimed at calming the situation and minimizing the need for physical force.

5. Continuous Evaluation: Throughout any use of force, officers should continuously reassess the situation and adjust their tactics accordingly. If the threat diminishes or ceases, the use of force should likewise be de-escalated or discontinued.
6. Reporting and Documentation: Any use of force by police officers must be promptly reported, thoroughly documented, and subject to review. Clear and comprehensive reporting ensures transparency and enables comprehensive evaluation of the incident to determine whether the use of force was justifiable.

These requirements aim to strike a balance between the legitimate need for law enforcement officers to effect arrests and detentions and to protect themselves and others, while safeguarding the rights and safety of individuals they interact with. Adhering to these principles can help ensure that police use of force is justified, accountable, and aligned with the principles of constitutional policing.

In the case of *Graham v. Connor*, the United States Supreme Court established a standard for evaluating the reasonableness of police use of force under the Fourth Amendment. The case involved an incident where Dethorne Graham, a diabetic, was forcefully detained by a police officer outside a convenience store. Graham sued the officer, alleging excessive force.

The Court's ruling in 1989 emphasized that the use of force should be evaluated based on the perspective of a reasonable officer on the scene, rather than through the lens of hindsight. The court stated that the "reasonableness" of a particular use of force should be judged from the perspective of an objectively reasonable officer facing the same circumstances, taking into account the facts and information available at the time.

The Court established several factors to consider when determining the reasonableness of force, including the severity of the crime or suspicion, the immediate threat posed to officers or others, and whether the suspect is actively resisting or attempting to evade arrest. The Court also recognized that officers must make split-second decisions in tense and rapidly evolving situations, allowing for some leeway in their judgment. This ruling has since been widely cited and serves as a guiding principle in evaluating claims of excessive force by law enforcement.

There were thirty-four incidents that were reviewed by the IPA, encompassing all of the reported uses of force incidents from April through June of 2023. Reviews of uses of force are continuing and comments relative to those that occurred after June 2023 will be included in our next annual report. The IPA believes these reviews are critical to a department philosophy of continuous improvement and the desire to be a "learning department." The philosophy emphasizes the ongoing effort to always get better through the enhancement of processes, systems, and outcomes. Simply put, embedding a culture of continuous improvement is critical to ensuring that a police department functions as it should.

With this philosophy in mind, our reviews are conducted in a 360-degree going beyond mere examination as to whether a particular use of force is within policy and examining every aspect of the encounter from the constitutionality of the encounter itself, to the tactics employed, the professionalism of the officers, and whether any other breach of policy such as failure to

complete a RIPA form or failure to properly activate a body worn camera, has occurred. We also review the supervisor's investigations both in terms of completeness and its conclusions.

Our findings and recommendations from these reviews were shared and discussed at length with SLPD leadership. There were no disagreements relative to those findings and recommendations.

While there was no incident that IPA found to be out of policy, there were certain incidents where IPA made findings and recommendations on how the incidents could have been handled better, or more specifically, whether in any given incident different approach by officers could have potentially yielded a better outcome.

The review revealed that, in general, officers were courteous and professional in their interactions with members of the public. Indeed, there were several extraordinary performances by officers in handling challenging and difficult circumstances that were noted by the IPA. However, there were also several incidents where certain tactics could have been better with potentially better outcomes, and several incidents where remedial training in certain aspects of constitutional policing was suggested. Specifically, issues with respect to when handcuffing is permissible and appropriate were discussed.

SLPD leadership expressed its commitment to remedial training, coaching and mentoring of officers and supervisors so as to ensure that the philosophy of continuous improvement becomes embedded in the agency. Our reviews will be part of the process that helps to ensure that small issues are addressed at the first opportunity through a non-disciplinary remediation program, recognizing that in some cases discipline is, in fact, called for. SLPD leadership expressed its commitment to having supervisors include in their investigations the question of what could have been done differently to potentially have achieved a better outcome.

During this review process, the IPA did not have an independent access to SLPD's records systems, with the exception of the Axon body-worn camera system, putting a strain on SLPD resources in extracting and providing the necessary information to the IPA. The IPA is hopeful that this limitation and strain on resources can be alleviated through a VPN providing direct access to the records systems for the IPA.

RIPA ANALYSIS

The IPA was requested by the Chief of Police to examine the RIPA data from the calendar year 2022. The findings from the analysis were shared with SLPD in late May and the IPA, SLPD, and the City Manager's Office, and the City Attorney's Office have discussed the findings.

The purpose of the Racial and Identity Profiling Act (RIPA) of 2015 is to combat racial and identity-based profiling by police officers in California. RIPA requires officers to record details of each stop they conduct, including the gender, age, and perceived race of the person stopped by the officer, the reason for the stop, its outcome, and the actions taken by the officer during the stop. A RIPA Board analyzes collected data, produces annual reports, and provides recommendations to address identified issues. It also mandates new training for officers to promote fair and impartial policing and requires that the data is made publicly available to ensure community trust and engagement. The first set of RIPA data statewide is scheduled to be published in January of 2024.

In Calendar Year 2022, the San Leandro Police Department prepared **3,059** RIPA Forms for individuals, documenting **2,921** unique RIPA encounters. The reasons provided for these encounters can be broken down into seven categories, as follows:

	Persons Stopped for this Reason	% of Total Stops
Traffic Violation	2,247	73.5%
Reasonable Suspicion that Person was Engaged in Criminal Activity	751	24.6%
Known to be on Parole/ Probation/ PRCS/ Mandatory Supervision	9	0.3%
Knowledge of Outstanding Arrest Warrant/ Wanted Person	32	1.0%
Investigation to Determine if Person is Truant	2	0.1%
Consensual Encounter Resulting in Search	15	0.5%
Unspecified	3	0.1%

DEMOGRAPHIC SUMMARY

In preparing a RIPA form, officers are intended to document both the perceived race of the subject prior to the stop, and the perceived race of the subject at the time of the stop. Officers are able to document a subject's race across 7 unique categories, also providing the preparer with the ability to select multiple categories. On **2,979** reports (97.4%), preparing officers indicated a single race and on **67** reports (2.2%), officers selected between 2 and 6 categories. On **11** reports (0.3%), officers selected all 7 race categories, and on **2** reports (0.1%), the preparing officer selected no perceived race. For the purpose of measuring accurate demographics of persons stopped, those 13 noted reports will be excluded from subsequent totals.

For those RIPA encounters on which 1-6 perceived races were documented, the reason for the stop, and the percentage of stops within that category by demographic, can be broken down as follows:

	Asian		Black/ African American		Hispanic/ Latino(a)		Middle Eastern or South Asian		Native American		Pacific Islander		White		2-6 Races Selected	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Traffic Violation	137	6.1%	808	36.0%	746	33.2%	81	3.6%	9	0.4%	60	2.7%	347	15.4%	49	2.2%

Reasonable Suspicion that Person was Engaged in Criminal Activity	36	1.6%	270	36.0%	210	28.0%	16	2.1%	2	0.3%	14	1.9%	185	24.6%	17	2.3%
Known to be on Parole/ Probation/ PRCS/ Mandatory Supervision	0	0.0%	3	33.3%	4	44.4%	0	0.0%	0	0.0%	0	0.0%	2	22.2%	0	0.0%
Knowledge of Outstanding Arrest Warrant/ Wanted Person	1	11.1%	13	40.6%	3	9.4%	1	<0.1%	0	0.0%	2	6.3%	12	37.5%	0	0.0%
Investigation to Determine if Person is Truant	0	0.0%	0	***	2	100%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Consensual Encounter Resulting in Search	0	0.0%	1	6.7%	7	46.7%	0	0.0%	0	0.0%	0	0.0%	6	40.0%	1	6.7%
Unspecified	0	0.0%	1	33.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	***
TOTALS	174	5.7%	1096	36.0%	972	31.9%	98	3.2%	11	0.4%	76	2.5%	552	18.1%	67	2.2%

The entire analysis is attached as Appendix B.

While there are in some categories significant disparities, it is important to note, that there is a clear and important distinction between disparities and bias. Disparities refer to differences or inequalities that exist between groups. Disparities are purely descriptive. They highlight differences but do not, on their own, indicate the reasons for those differences. Inherent Disparity means differences of some kind wholly within the data being examined. Disparities may also arise through comparison with external data that is used as a baseline. For example, a disparity may be revealed when the breakdown of stops by race is compared with the racial breakdown of the population.

Bias, on the other hand, refers to prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair. In the context of police stops, bias would imply that officers are making decisions based on personal, societal, or systemic prejudices rather than objective or legal reasons. Bias implies a level of intentionality or systemic influence that results in unfair treatment.

There is nothing in the data examined which points to any disparities being a result of bias. There are multiple potential reasons for disparities in police stop data. These include the following:

- **Crime Rates:** Areas with higher crime rates or specific types of crimes might naturally have more enforcement actions. This can lead to disparities when comparing different regions or demographics.
- **Resource Allocation:** Law enforcement resources might be allocated differently based on crime trends, community needs, or historical data, leading to disparities in enforcement.
- **Community Policing Strategies:** Different areas might have unique policing strategies, such as proactive policing, which can influence enforcement data.
- **Socioeconomic Factors:** Areas with different economic conditions, employment rates, educational opportunities, or other social determinants can influence both crime rates and enforcement patterns.
- **Transient Population:** The number of non-resident commuters and their demographic data can impact the assessment where the denominator is based on resident demographics

As discussed above, the integrity of SLPD's RIPA data is in question based on the fact that there was inconsistencies in the degree of compliance of officers filling out the forms and when filled out, inconsistent interpretations of some of the questions. This is, in the opinion of the IPA, a result of poor training and understanding of the requirements of the statute and policy. The IPA will work with SLPD in the coming year on achieving compliance with RIPA requirements as well as providing officers with clear instructions on the meaning of certain required fields so as to improve data integrity.

ALL OPERATIONAL AUDIT

The IPA conducted an all-purpose operational audit and to assess the Department's compliance with use of force, RIPA, arrest protocols, personnel complaints, pursuit, and BWC policies. The goal of the audit was to provide the Department with a snapshot of any identified compliance issues. The audit contains recommendations to the Department on how to potentially remediate those issues found.

While the Department was very cooperative and collaborative in providing the necessary data to conduct the audit, there were some noted data limitations. The IPA team did not have direct access to any department records, except body worn camera video and meta data through Axon's evidence.com. Instead, the IPA relied on SLPD personnel downloading necessary forms and documentation from their systems and sharing it with the IPA team. In many cases, the IPA team did not initially request data which it was not aware existed. The IPA team and the Department are working on solutions to provide the IPA team direct access to the Department's databases to overcome some of the data limitations experienced during this audit and anticipate that the solution may be available in July of 2023.

The audit revealed that, almost universally, officers were courteous and professional in their interactions with members of the public. However, there were some significant issues that were identified during the audit:

- There were significant issues with Racial and Identity Profiling Act (RIPA) compliance. There were fifteen incidents from the audit period where it appears that RIPA forms should have been filled out but were not.
- There were multiple incidents where RIPA forms did not accurately document all actions taken by officers.
- There was one use of force incident that was not reported or documented and did not appear to have been reviewed by a supervisor since there was no supervisor's review report form filled out for it.
- There were multiple incidents where handcuffing during temporary detentions did not appear to be based on an objectively reasonable belief that the individual being handcuffed was a danger to others or was a flight risk.
- There was one personnel complaint that was identified, which was not documented or investigated.
- There appeared to be multiple incidents where pat-downs were conducted without a reasonably objective basis to believe that the subject of the search was dangerous and armed.
- There were multiple incidents in each day of the audit period where BWC recordings were activated late or terminated early.
- There were multiple vehicular stops which appeared to be pretextual stops, many of which were not the subject of a citation for any violation of the traffic code.

The IPA team believes that this audit can provide a roadmap for addressing those areas identified that may need remediation, and provide indicators of areas warranting further examination. It is the intention of the IPA team to continue to conduct such audits periodically with the hope that those problem areas are shown to have indeed been remediated. The findings from the audit were provided to SLPD and the City, and the IPA and the City are in active discussions on how to remediate the issues identified by the IPA during the audit. The efforts to remediate will be reported in the next annual report.

ASSISTANCE TO THE CPRB

The IPA serves as the law enforcement subject matter expert for the Community Police Review Board. The Board's function include receiving community feedback and complaints and referring them for further review, as appropriate, to the IPA or the internal affairs function of SLPD. The Board also receives reports from the IPA regarding personnel discipline and complaints, critical incidents, police department policies, and other law enforcement matters. The Board also evaluates the police department policies of compelling community-wide concern based on the trends and data, which is provided by the IPA to the Board. CPRB implements an annual work

plan that consists of a community outreach plan to assure all members of the community to have an opportunity to share concerns about policing.

CPRB members are required to complete 30 hours of training in relevant subject matters within 90 days after appointment by Ordinance 1-3-1730. In its role as the law enforcement subject matter expert, the IPA developed and implemented a 30-hour curriculum for CPRB, which included courses on the Public Safety Procedural Bill of Rights, Public Records Act, and Brown Act as well as Policing in America, policing oversight overview, and best practices in policing. In addition, the IPA developed and implemented training on SLPD's processes, including internal investigations and use of force investigations. These courses were provided to CPRB via an e-learning platform to fulfill CPRB's training mandate under

CPRB started having monthly meetings in September of 2022 and the IPA has been in attendance every month. The IPA has provided the Board with monthly updates on the IPA's activities as well as provided training on the role of the IPA during the Board's November 2022 meeting. In order to familiarize ourselves with CPRB, the IPA team met with individual members of CRPB in advance of the inaugural meeting in September in-person. The purpose of the meeting was to understand each member's concerns and objectives in joining CPRB and to better understand how the IPA could be helpful to the Board. The IPA has attended three of the nine CPRB meetings in-person and attended the rest virtually.

Moreover, in its role as the law enforcements subject matter expert, the IPA assisted CPRB and the City staff in drafting the Administrative Procedure for CPRB to provide better guidance on the functions of the Board beyond what is mandated in the Ordinance.

Lastly, the IPA assisted CRPB in drafting its first annual report. CPRB's first annual report can be found at <https://www.sanleandro.org/1187/Community-Police-Review-Board-CPRB>

CONCLUSION

During the first year of operation, significant issues have been uncovered through the IPA's auditing and review processes. These issues have yielded specific recommendations for improving the Department's policies and practices, all of which have been accepted by the City. These issues are clearly addressable through modifications made to policies and training and to coaching and mentoring of officers. The IPA is working with the City and SLPD to ensure the timely implementation of these recommendations so as to keep the SLPD on a path of continuous improvement. Progress on the implementation of these recommendations will be evaluated and reported in the next annual report of the IPA.

APPENDIX A

The following recommendations have been made by the Independent Police Auditor (IPA) for the City of San Leandro. The list is current as of August 1, 2023.

Number	Recommendation	Text of the Recommendations	Priority Level
1	SLPD should modify Policy 1012.		1
1a	SLPD should revise policy 1012.5.1(c) to provide more definition on complaints that can be resolved immediately and exempt from formal investigation.	Policy 1012.5.1(c) allows for immediate resolution of some complaints. However, it does not define or provide guidance on which complaints are appropriate to be resolved in that manner. More importantly, while not specified in the policy, it is the practice of SLPD that if the complaint involves less serious allegations, including no allegation of prohibited harassment, then the subject employee's supervisor may attempt to resolve the complaint, provided that the investigation of the complaint would not require confidentiality and would not be jeopardized by the supervisor's involvement. More serious allegations are required to be investigated by the PSU. However, again, less serious allegations are not specified nor defined in practice to provide sufficient guardrails to guard against abusing this as a method of resolution rather than initiating a formal investigation that needs to follow the requirements under Policy 1012.5.2- Administrative Investigation Procedures and Policy 1012.5.3- Administrative Investigation Format. The policy should also be revised to make it explicit that if the complaint is resolved immediately, then it does not require initiating a formal investigation.	1
1b	Notwithstanding the appropriate abbreviated process of this investigation, all investigative reports should include specific details and information rather than a summary of the event and should specify sources that are relied upon to determine findings of fact and final conclusions.	While the investigation report contained a summary of the situation, it did not provide details regarding basic information. Also, the investigator did not provide any explanation or basis for his conclusion with regard to the first allegation. Although the relatively simple nature of the investigation into this complaint made it less critical that specific references to sources of information be included in the investigation report, the lack of such references could undermine reports relating to larger, more complex matters.	1
1c	SLPD should require that all potential violations identified in an investigation are noted and investigated during that investigation in Policy 1012.	It is often the case that additional potential misconduct is uncovered during the investigation of a complaint. This often happens, as in this case, with compliance failures which would be otherwise unknown to a complainant, including those relative to PVRS activation and termination and the filing of required paperwork, such as RIPA. In such cases, the other misconduct needs to be identified and investigated. In certain cases, this may lead to additional charges being brought against the officer with appropriate notification procedures being followed. It is recommended that SLPD modify existing policies to include the requirement to identify and investigate other potential misconduct.	1

1d	<p>SLPD should identify delay points that can be prevented in future investigations and should consider establishing time frames for completion of different tiers of complaints based on the complexity of the complaint investigation.</p>	<p>Although the investigation into the complaint against Officer B was completed within one year, as required by SLPD policy 1012, the available information in this case indicates that the investigation could have been completed in a much shorter time frame than it actually took. While there may have been reasons for each delay, it would appear that this matter should have been recorded as a formal complaint by the supervisor on the day the complaint was received or a few days after October 16th, and immediately assigned to a PSU investigator for investigation. The IPA absolutely understands that SLPD is experiencing an unprecedented staffing shortage and that every sworn officer is juggling many duties and responsibilities. These factors undeniably played at least some role in the delays. The IPA understands that in this specific case, the PSU investigator was not a full-time PSU investigator but a sergeant who is tasked with recruitment and hiring as well as other tasks and had limited available time to devote to this investigation. Additionally, there was not a lieutenant for the sergeant to confer and receive guidance from during the investigation as well due to the staffing shortage. Having said that, any and all additional delays in the workflow should be identified and explained. While Policy 1012's standard period of time for the completion of a complaint investigation within one year is derived from the POBR, the quicker that investigations can be resolved the better off all parties will be. Officers will not have an open complaint hanging over their heads, and complainants will have a quicker resolution to their concerns. We recommend that the Department consider establishing tier levels of complaints by their complexity and establish standard times for completion for each tier. It is further recommended that the least complex of investigations be completed within 60 days, with only the most complex investigations taking a year to complete.</p>	1
1e	<p>The investigation report should include specific references to sources of information that are relied upon to determine findings of fact and final conclusions.</p>	<p>While the investigation report for the complaint against Officer B is written clearly, it is unclear which evidence the investigator relied upon to draw his final conclusions. Although the relatively small scale of the investigation into this complaint made it less critical that specific references to sources of information be included in the investigation report, the lack of such references could undermine reports relating to larger, more complex matters. It is therefore recommended that PSU investigators be trained to clearly cite which evidence they are relying on in their final investigative conclusions.</p>	1
1f	<p>Compliance with Policy 1012 should be prioritized to increase trust with the community</p>	<p>While the IPA understands SLPD's ongoing staffing shortage, there are tools that can be utilized to provide additional touchpoints with the complainant, so the complainant understands that the case is actively being investigated and that their complaint is being taken seriously. The IPA recommends that SLPD investigate efficient and effective ways to keep the lines of communication open with the complainant during the pendency of an investigation, including through the use of such tools.</p>	1
1g	<p>Allegations should contain the conduct being complained of and investigated and the specific</p>	<p>It is unclear from the allegations which specific conduct is alleged to have violated which specific policy. In the future, this should be clearly delineated</p>	1

	policy which alleged to have been violated.	and a separate allegation drawn for each alleged policy violation even where the same conduct gives rise to multiple policy violations.	
1h	SLPD should review policy 1012 to provide clarity on the expectations of supervisors to document and track all complaints received	SLPD Policy 1012 should provide more clarity on how a supervisor who receives a complaint alleging misconduct by an officer must document and track the complaint, even when provided with limited information by the complainant.	1
1i	SLPD should review Policy 1012.5 (Administrative Investigations) for appropriate dispositions when conducting an internal review	SLPD Policy 1012.5.4 contains the definitions of exonerated and unfounded which should be followed when adjudicating each allegation to ensure appropriateness of the disposition. Each personnel complaint shall be classified with one of the following dispositions: Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8). Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.	1
1j	Policy 1012 should clearly indicate when interviews of officers and other witnesses are required.	SLPD policy currently does not mandate interviews of officers and does not provide guidance on when the investigator can rely on reports in lieu of interviews of pertinent witnesses.	1
1k	An officer's performance evaluation should not be used as indicating a propensity to commit an alleged act of misconduct	Neither performance evaluations or acts of prior sustained or alleged misconduct should be used as evidence of guilt.	1
2	SLPD should work with the IPA to develop a system that will allow all evidence in an administrative investigation to be tracked and stored in one system and timely transferred to the IPA when required.	The IPA appreciates the staffing constraints under which the Department is currently working and will work with the Department to design the most efficient and effective way for the IPA to have access to all relevant evidence and documentation in an investigation. This process will not only benefit the work of the IPA, but also to ensure that all investigation evidence is collected, stored, and retained as appropriate.	2
3	SLPD should equip the evidence room with a surveillance camera facing the evidence lockers.	We recommend that this be addressed as soon as possible.	2
4	SLPD should change the retention policy for surveillance recordings in the property room.	We recommend revision of the retention policy as soon as possible to ensure the recording is retained for at least a year to allow the City to preserve relevant footage for any complaints or investigations that may arise, or come to the attention of SLPD, after the current 7-day retention window.	2
5	SLPD should install a surveillance camera directly over the floor safe.	The lack of a camera mounted directly over the floor safe creates a significant gap in capturing the chain of custody, especially since the area near the floor safe is where currency envelopes are unsealed and counted. We recommend that the City addresses this as soon as possible.	2
6	SLPD should revise its body-worn camera policy	The current body-worn camera policy leaves what may be interpreted as near unfettered discretion to officers as to when and what to record. We recommend that SLPD should revise the policy which will provide clear guidance to all parties relative to the rules regarding the use of the body-worn camera.	1
7	SLPD should examine relevant policies and provide further guidance on the detention of passengers of vehicles and the extent to which such passengers	Although constitutionally permissible under certain circumstances, the detention, pat down, and restraint of a passenger of a vehicle will ultimately be determined by the objective reasonableness of the actions of officers. Included in a determination of reasonableness will be the necessity for and length of time of any pat down, detention, or physical restraint. To the	1

	may be searched and physically restrained.	extent that any detention includes handcuffing or officer-directed action on the part of the passenger such as being made to lie down or sit in a prescribed location, those actions must likewise be objectively reasonable. Reviews of complaints in such instances must include a determination of the objective reasonableness of such actions. SLPD should also examine its policies and training to ensure that officers fully understand the circumstances in which passengers may permissibly be detained, patted down, or restrained.	
8	SLPD should work with the external investigators to conform their allegations and findings with SLPD's format	SLPD should work with the external investigators to format allegations in a manner consistent with SLPD's internal investigations, where there is one allegation associated with each possible violation of policy.	1
9	SLPD should consider adopting a policy addressing pre textual stops.	A large number of the incidents reviewed for this day appear to be pretextual stops. A pretextual stop occurs when an individual is validly stopped for an offense so that officers may investigate that individual for an unrelated offense for which the officers have no legal basis to conduct a stop. Although pretextual stops have not been ruled unconstitutional and may, in controlled situations, serve a valid law enforcement purpose, the growing trend across the country has been to limit when such stops are conducted, if not to prohibit them outright. This trend has grown in recognition of significant disparities on different racial groups that have arisen from the unbounded use of pretextual stops by officers. SLPD should consider adopting a policy addressing pretextual stops to provide officers with appropriate guidance on how and when such stops should occur, if at all.	3
10	SLPD should conduct additional training with respect the booking of currency including the requirements for two-person counting and booking and supervisor approval for amounts more than \$1000	The booking of evidence and the maintenance of chain of custody of such evidence is vitally important. It is recommended that training be provided relative to the requirements of booking of currency as evidence. This should include a modification of the Evidence Booking Guidelines to conform with policy and the need to obtain a supervisor's signature in any case in which more than \$1000 is being booked.	3
11	SLPD should consider adopting a disciplinary matrix.	The penalty determination when there is a sustained finding should be made based on an officer's entire personnel file, including all pending investigations and disciplinary history. The IPA understands that SLPD is currently piloting a new process for the Chief to determine the final penalty, which includes two lieutenants reviewing the case and making disciplinary recommendations to the Chief as well as the captain of PSU for the Chief to have diverse input before determining the final penalty. However, SLPD should consider adopting a disciplinary matrix with presumptive ranges of penalties for each type of infraction of policy. The matrix considered could provide for presumptive minimum and maximum penalties, with the ability of the Chief to depart from such presumptive penalties after considering mitigating or aggravating circumstances and providing a written explanation of the reason for the departure. The matrix should also take into account prior disciplinary and performance history of the member and could have progressively higher degrees of discipline for repeated violations or violation types.	3
12	SLPD should devote the necessary resources to ensure efficient and effective internal affairs investigations	SLPD has had significant staffing issues which have impacted every area of the Department. The investigation of complaints has not escaped the staffing problems. PSU currently has one captain overseeing its operations with one PSU Lieutenant and two Sergeants reporting to him. However, the PSU Lieutenant position has been vacant for 15 months. Most importantly, without the staffing shortage, a lieutenant would have been tasked with	1

		finding whether or not the allegations were sustained or not, not the sergeant. Therefore, it is likely with the right controls in place, the violation may have been identified before the case went to the captain for his review.	
13	SLPD should adopt a policy requiring officers to provide their names and badge numbers when requested or in the alternative to provide a business card containing that information.	Current policies do not mandate that officers provide their name and badge number to individuals upon request. The lack of such a policy is a significant omission of a basic building block of community trust. SLPD should adopt a policy which requires officers to provide their names and badge numbers in response to any request for that information. In addition, SLPD officers should consider providing business cards for distribution to the public. Such business cards would ideally have information about how a member of the public can file a complaint and a space for officers to insert the case number related to the particular matter. The Department should consider mandatory distribution for any instance involving a detention, pat down or search of an individual who otherwise would not directly receive the officer's identifying information.	2
14	SLPD should provide refresher training on RIPA compliance.	The officers must be retrained on their obligation to fill out a RIPA form for all stops regardless of whether an arrest is made or a citation is issued. There were fifteen incidents identified during this audit where no RIPA forms were filled out when they should have been. Additionally, there were multiple incidents where the officers did not completely document on the form all of the actions they took during the stop. The officers should be reminded of their obligations under RIPA and the duty to document all actions taken during the incident.	1
15	SLPD Should Revise Policy 423.4-Pat-Down Searches	The current policy lists five circumstances that may justify performing pat-downs, including "the hour of the day and the location or neighborhood where the stop takes place." While that may be one factor in some cases, the policy should be revised to comport with current case law which requires a reasonable suspicion that the person is presently armed and dangerous.	1
16	SLPD should provide refresher training to supervisors on when use of force investigation is necessary per policy 300 and how to conduct a quality use of force investigation	SLPD Policy 300.5 states when notification to supervisors are required and Policy 300.7 states the supervisor's responsibilities when they are notified of a use of force, specifically the review the responding supervisor is mandated to conduct. The supervisors should be provided with a refresher training on when they are required to conduct a use of force review and how to properly conduct such reviews in compliance with Policy 300.7.	1
17	SLPD should review policy 302 to provide clarity on when it is appropriate to handcuff during temporary detentions	SLPD Policy 302 should provide more clarity on when it is objectively reasonable for officers to handcuff individuals during temporary detentions. While the current policy states that handcuffing is discretionary and "not an absolute requirement of the Department," there is not sufficient guidance on the standard the officers should deploy to assess whether handcuffing is appropriate in given circumstances. Handcuffing should only be employed where there is a reasonably objective belief that the person being detained is a danger to themselves or others or that there is an objectively reasonable concern relative to flight.	1

APPENDIX B

RIPA DATA ANALYSIS

Calendar Year 2022

The Independent Police Auditor

- The Office of the Independent Police Auditor was established by ordinance of the City of San Leandro.
- Jeff Schlanger and the IntegrAssure Team were engaged by the City of San Leandro to serve in the capacity of IPA
- We come to the assignment with a philosophy of continuous improvement working with the Department to make the Department all it can be
- The way to make the Department all it can be is make each of you all that you can be
- That happens by addressing issues at the earliest possible opportunity—correcting small issues before they become larger issues.
- Address issues as much as possible through coaching, mentoring and training



What is RIPA

Racial and Identity Profiling Act (RIPA) of 2015

- **Purpose:** Combat racial and identity profiling in California policing.
- **Data Collection:** Officers record details of each stop, including perceived race, gender, age, reason, outcome, and actions taken.
- **RIPA Board:** Analyzes collected data, produces annual reports, and provides recommendations to address identified issues.
- **Training:** Mandates new training for officers to promote fair and impartial policing.
- **Transparency:** Data made publicly available, ensuring community trust and engagement.

Disparities

- Definition: Disparities refer to differences or inequalities that exist between groups. In the context of police stops, this could refer to the difference in the number of stops made for different racial or ethnic groups.
- Example: If 70% of police stops involve individuals from Group A, while Group A only makes up 50% of the population, there is a disparity.
- Key Point: Disparities are purely descriptive. They highlight differences but do not, on their own, indicate the reasons for those differences.
- Inherent Disparity: Differences of some kind wholly within the data being examined. Group A has 70% of the stops and Group B has 10% of stops. That is a inherent disparity.
- Disparity when compared to external data: If 70% of police stops involve individuals from Group A, while Group A only makes up 50% of the population, there is a disparity relative to population distribution. Population is denominator. Many denominators possible.



Bias

- Definition: Bias refers to prejudice in favor of or against one thing, person, or group compared with another, usually in a way considered to be unfair. In the context of police stops, bias would imply that officers are making decisions based on personal, societal, or systemic prejudices rather than objective or legal reasons.
- Example: If officers are more likely to stop individuals from Group A because of a stereotype rather than any objective reason, that would be indicative of bias.
- Key Point: Bias implies a level of intentionality or systemic influence that results in unfair treatment.

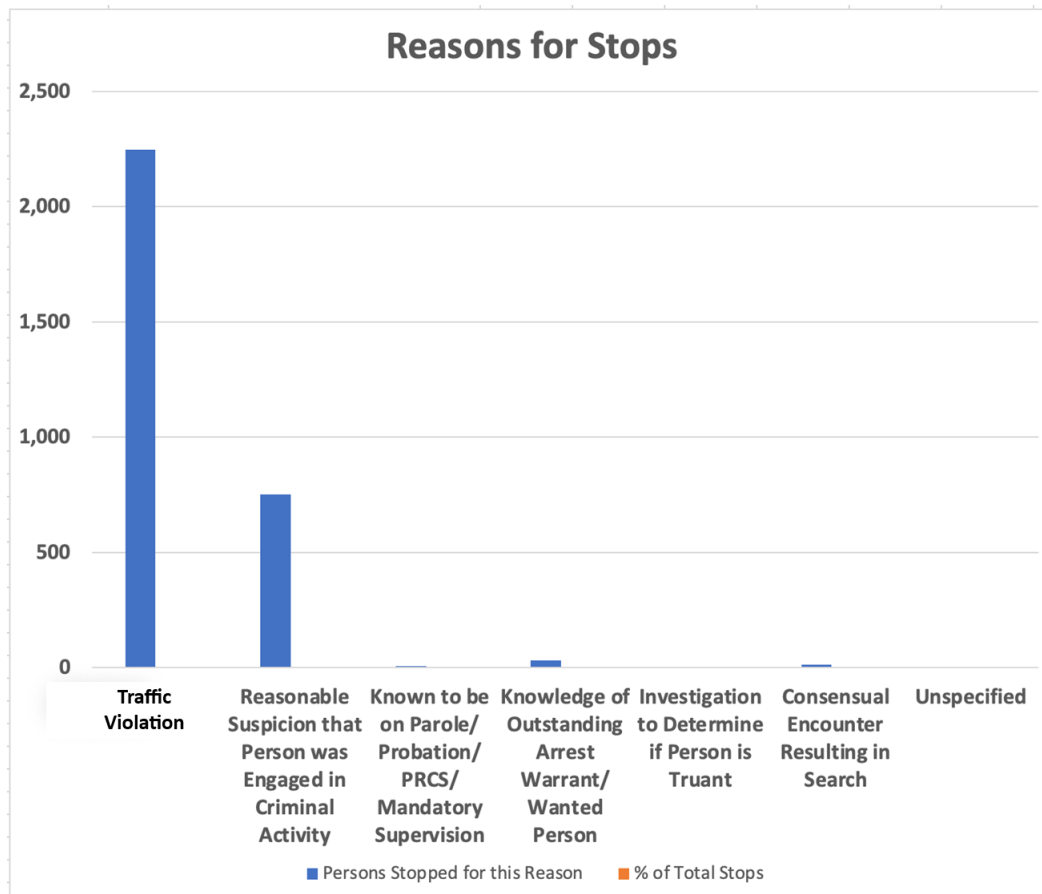
IPA Role and Scope of Analysis

- Asked by the City to report out on the 2022 RIPA data
- Created detailed charts and a few summary slides. No conclusions drawn from the data. The numbers are the numbers.
- **Total Forms:** 3,059 (2,921 unique encounters)
- **Race Documentation:**
 - 97.4% indicated a single race
 - 2.2% chose 2-6 categories
 - 0.3% selected all 7 categories
 - 0.1% selected none
- **Limitations:**
 - Potential underreporting
 - No data on perceived race before the stop

Total Stops By Stop Reason for Stop (Chart)

	Persons Stopped for this Reason	% of Total Stops
Traffic Violation	2,249	73.5%
Reasonable Suspicion that Person was Engaged in Criminal Activity	750	24.6%
Known to be on Parole/ Probation/ PRCS/ Mandatory Supervision	9	0.3%
Knowledge of Outstanding Arrest Warrant/ Wanted Person	32	1.0%
Investigation to Determine if Person is Truant	2	0.1%
Consensual Encounter Resulting in Search	15	0.5%
Unspecified	3	0.1%

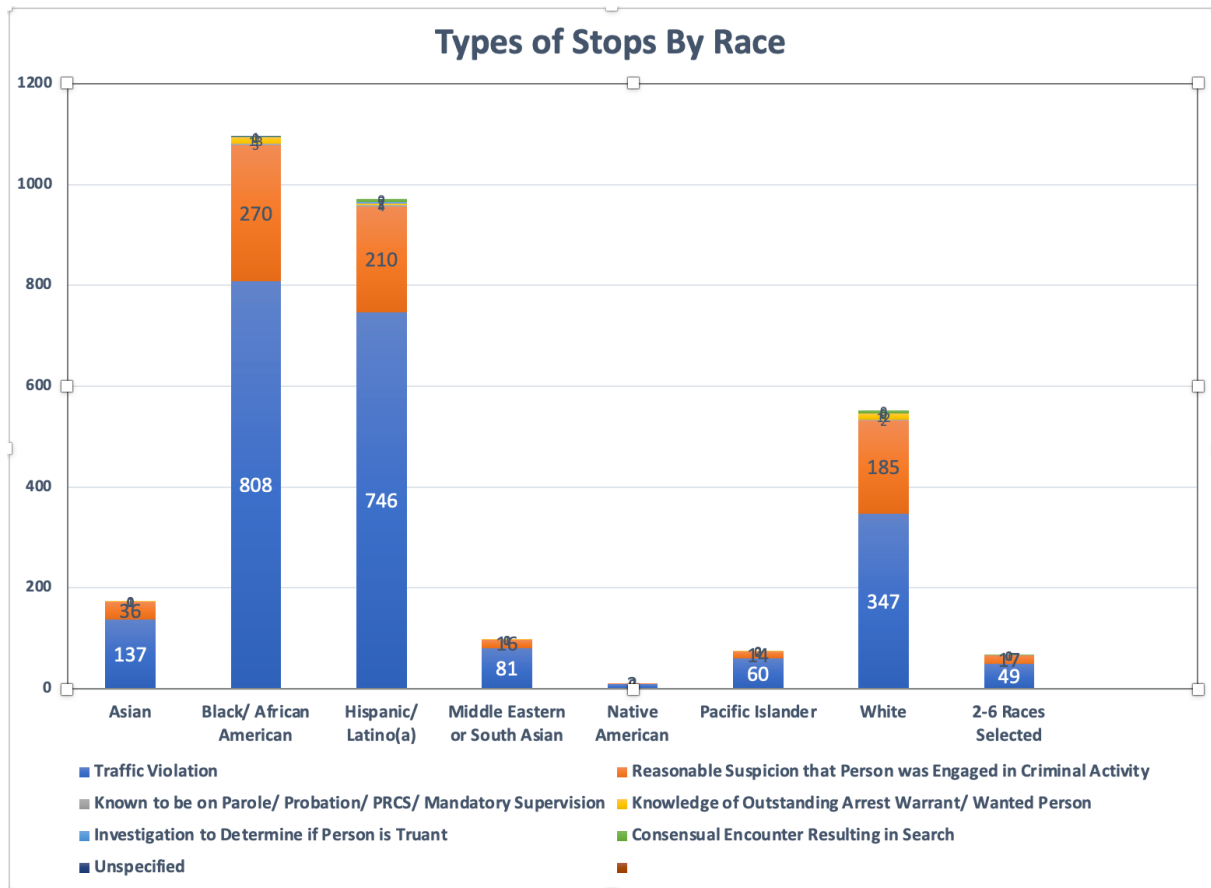
Total Stops By Stop Reason for Stop (Graph)



All Stops By Race (Chart)

	Total	Asian		Black/ African American		Hispanic/ Latino(a)		Middle Eastern or South Asian		Native American		Pacific Islander		White		2-6 Races Selected	
		#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Traffic Violation	2237	137	6.1%	808	36.0 %	746	33.2 %	81	3.6 %	9	0.4%	60	2.7%	347	15.4 %	49	2.2%
Reasonable Suspicion that Person was Engaged in Criminal Activity	750	36	1.6%	270	36.0 %	210	28.0 %	16	2.1 %	2	0.3%	14	1.9%	185	24.6 %	17	2.3%
Known to be on Parole/ Probation/ PRCS/ Mandatory Supervision	9	0	0.0%	3	33.3 %	4	44.4 %	0	0.0 %	0	0.0%	0	0.0%	2	22.2 %	0	0.0%
Knowledge of Outstanding Arrest Warrant/ Wanted Person	32	1	11.1 %	13	40.6 %	3	9.4%	1	<0.1 %	0	0.0%	2	6.3%	12	37.5 %	0	0.0%
Investigation to Determine if Person is Truant	2	0	0.0%	0	***	2	100 %	0	0.0 %	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Consensual Encounter Resulting in Search	15	0	0.0%	1	6.7%	7	46.7 %	0	0.0 %	0	0.0%	0	0.0%	6	40.0 %	1	6.7%
Unspecified	1	0	0.0%	1	33.3 %	0	0.0%	0	0.0 %	0	0.0%	0	0.0%	0	0.0%	0	***
TOTALS	3046	174	5.7%	1096	36.0 %	972	31.9 %	98	3.2 %	11	0.4%	76	2.5%	552	18.1 %	67	2.2%

All Stops By Race (Graph)

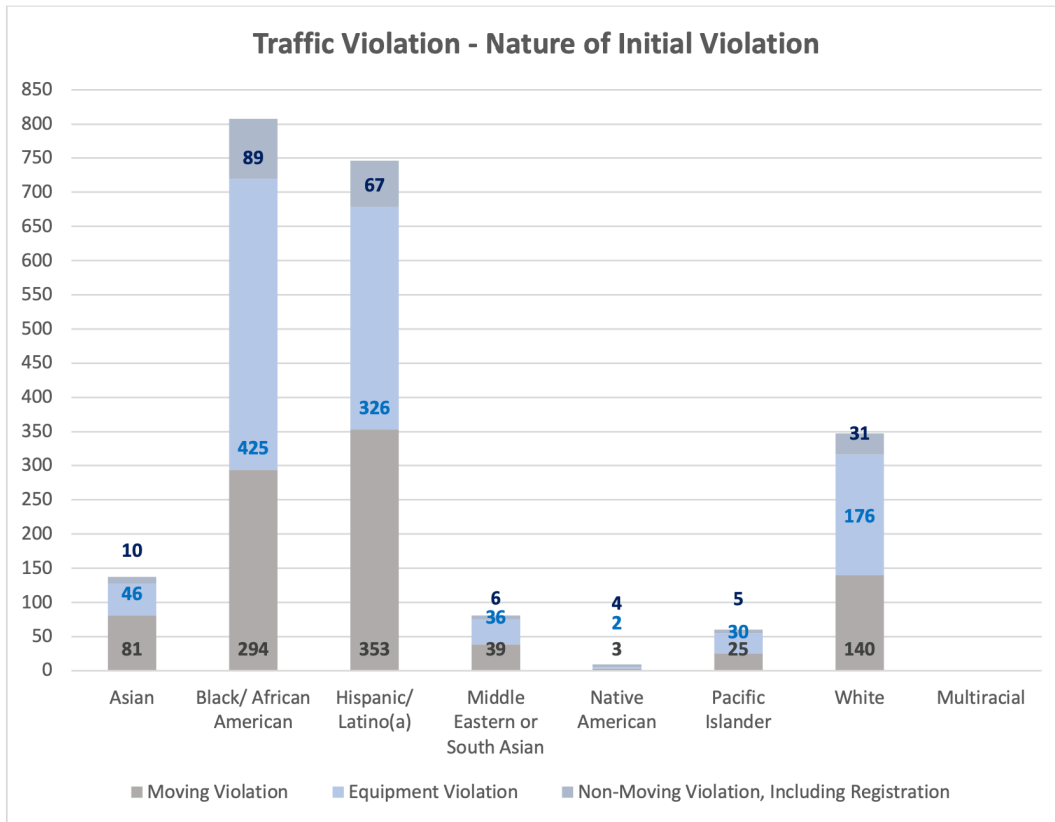




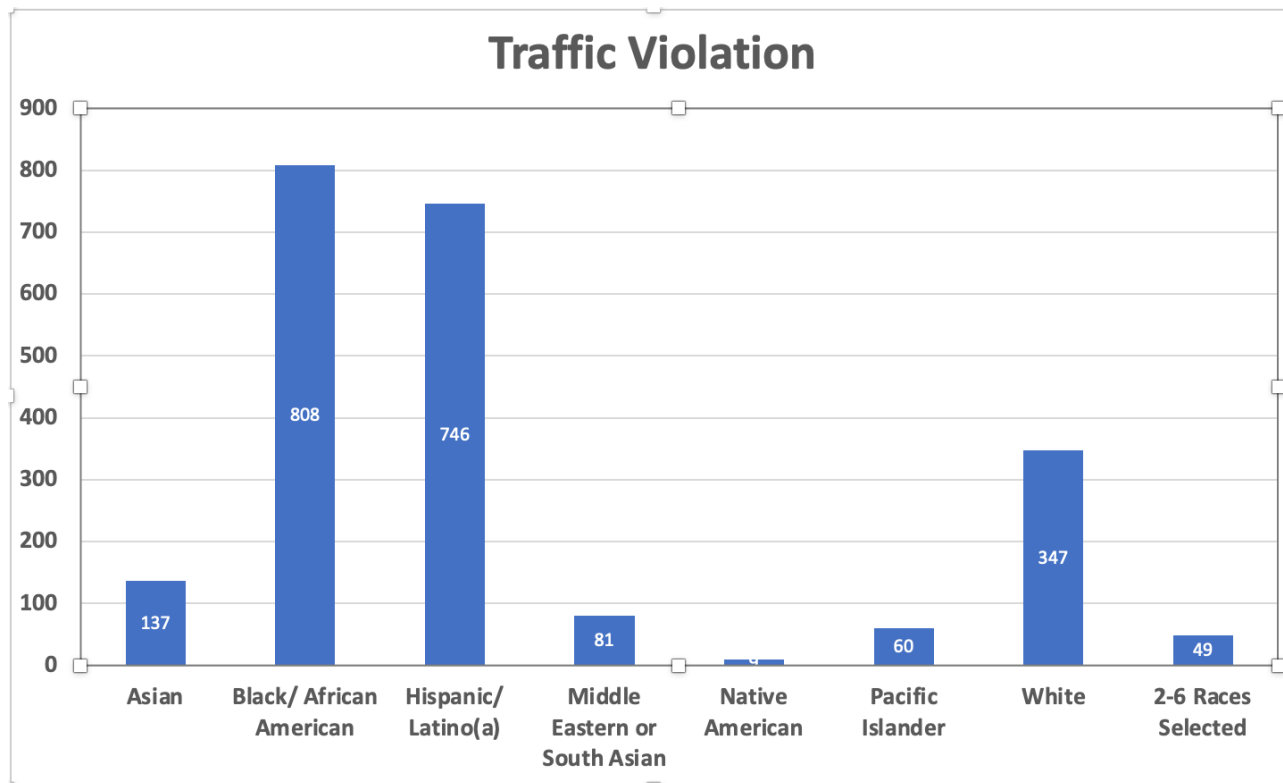
Traffic Stops By Type

Moving Violations:	956
Equipment Violations:	1071
Non-moving Violations (including registration):	<u>222</u>
Total	2249

Traffic Stops By Race and Violation Type

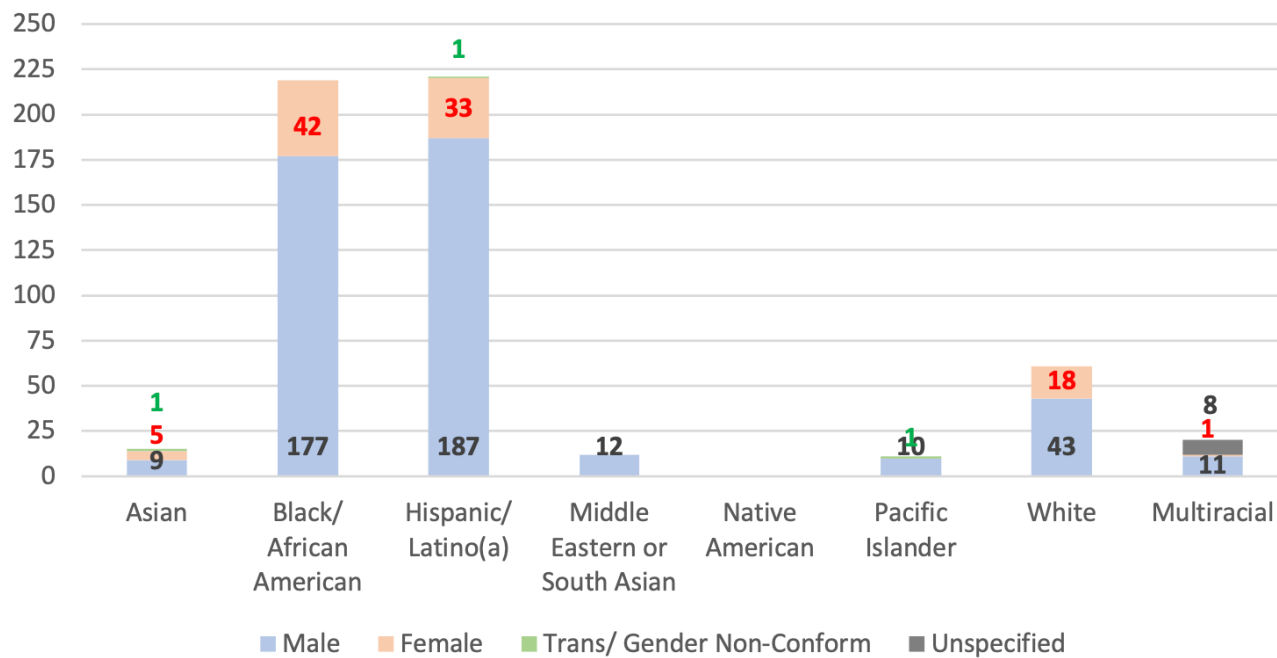


Traffic Stops By Race and Gender



Traffic Stops By Actions Taken

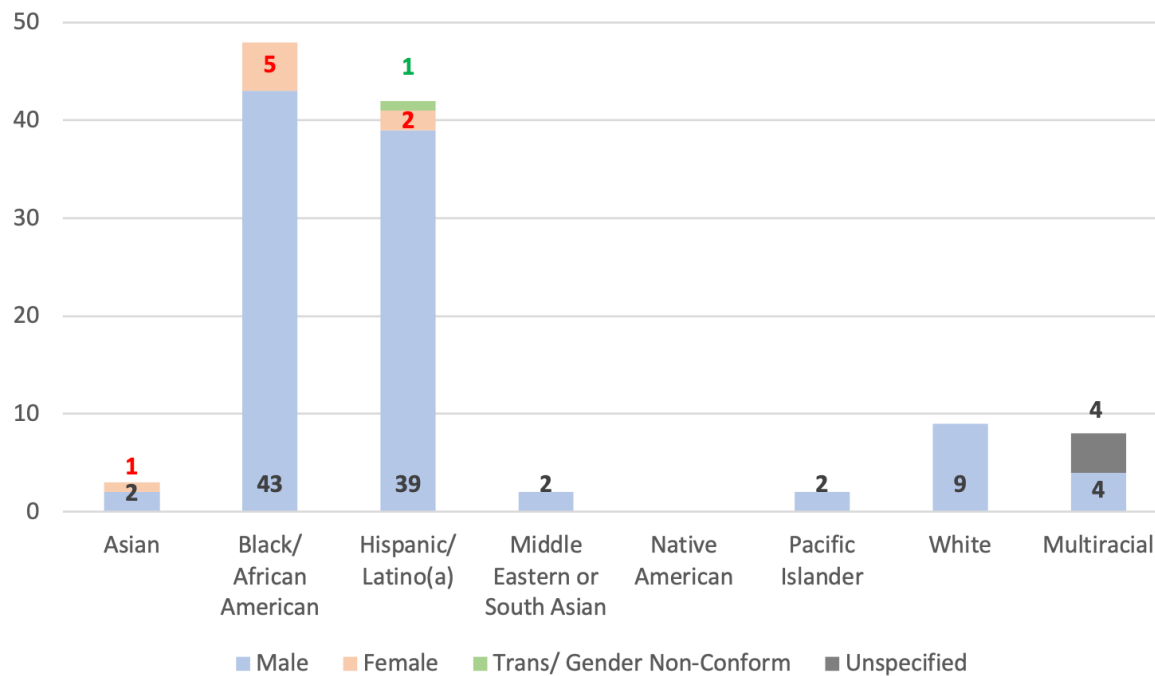
Person Removed From Vehicle by Order



Total:
559
(24.8%)

Traffic Stops By Actions Taken

Person Removed From Vehicle by Physical Contact



Total:

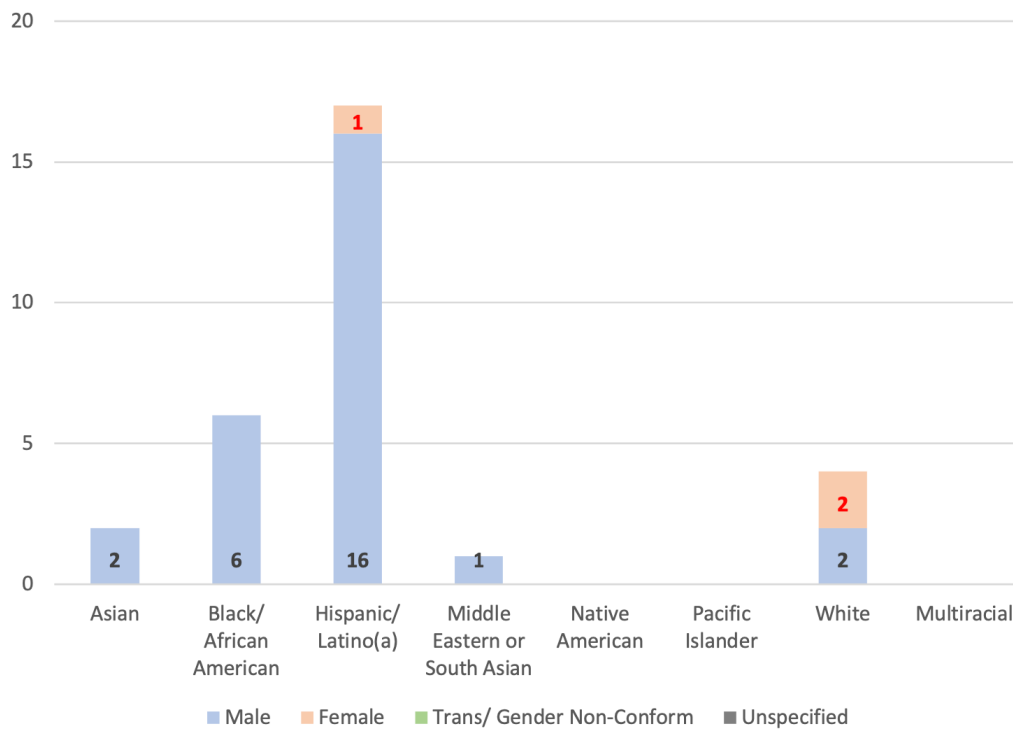
114

(5%)

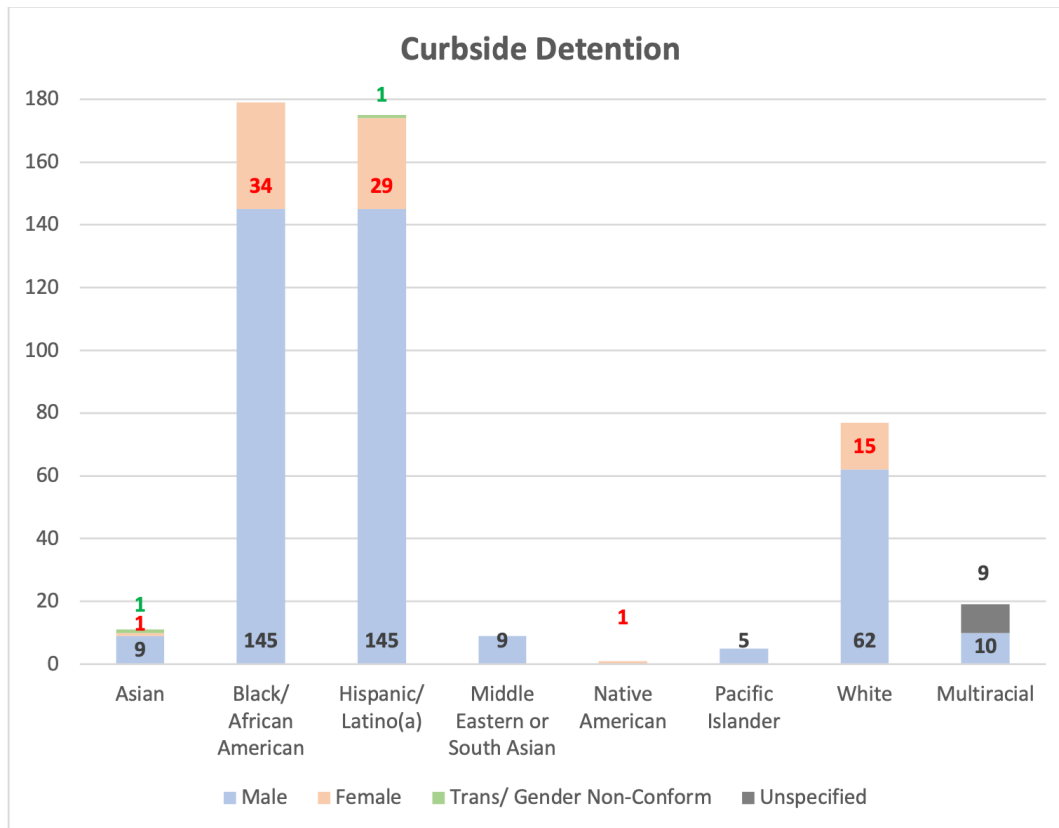
Traffic Stops By Actions Taken

Field Sobriety Test Conducted

Total:
30
(1.3%)

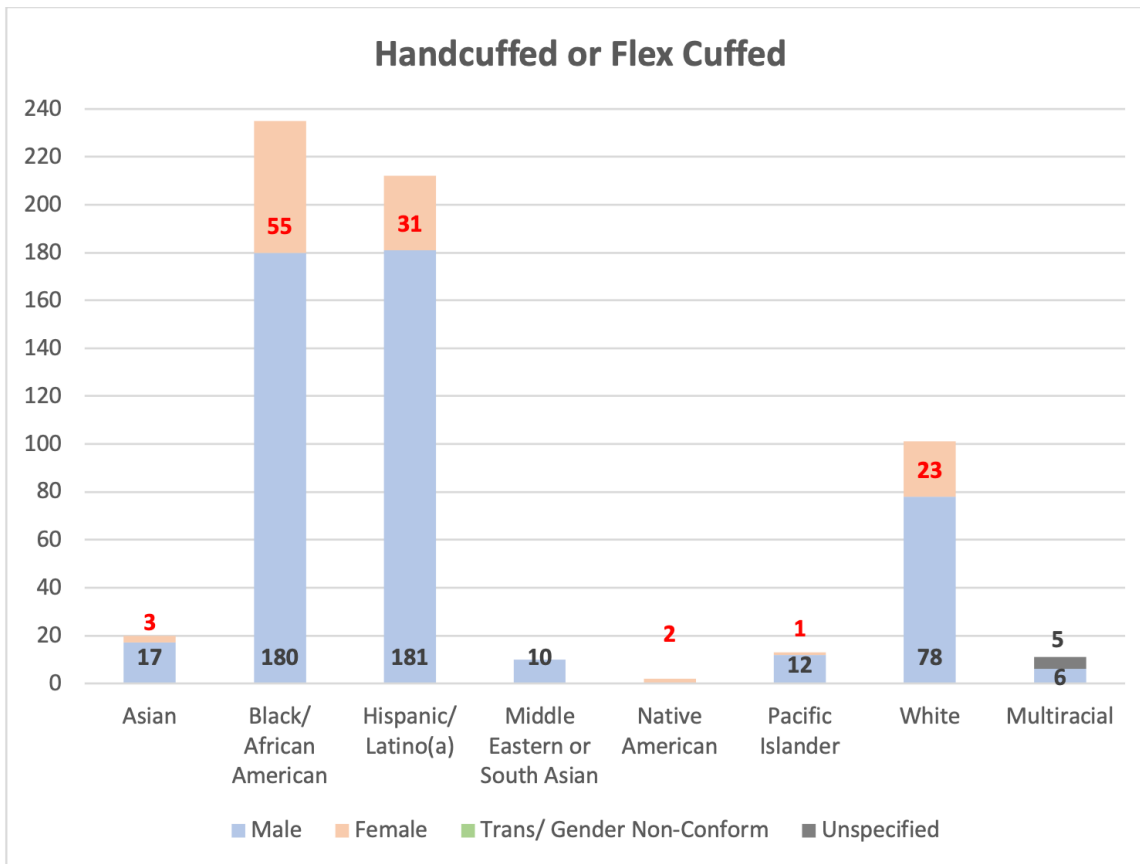


Traffic Stops By Actions Taken



Total:
476
(21.1%)

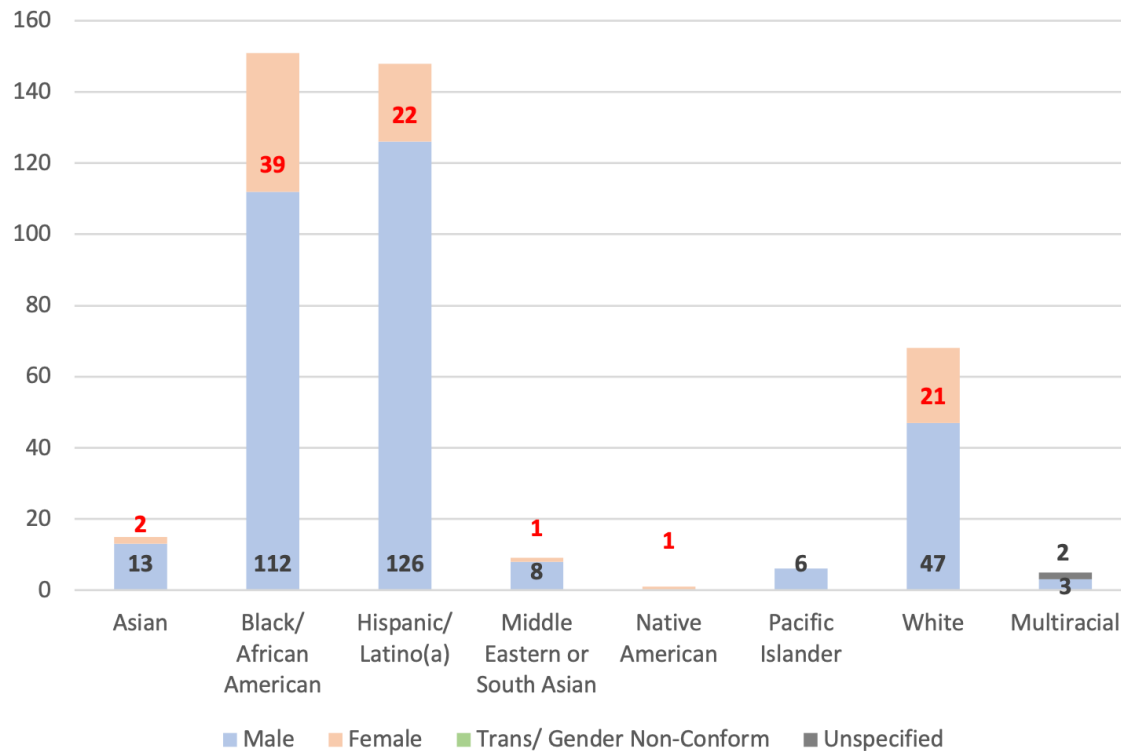
Traffic Stops By Actions Taken



Total:
604
(26.8)

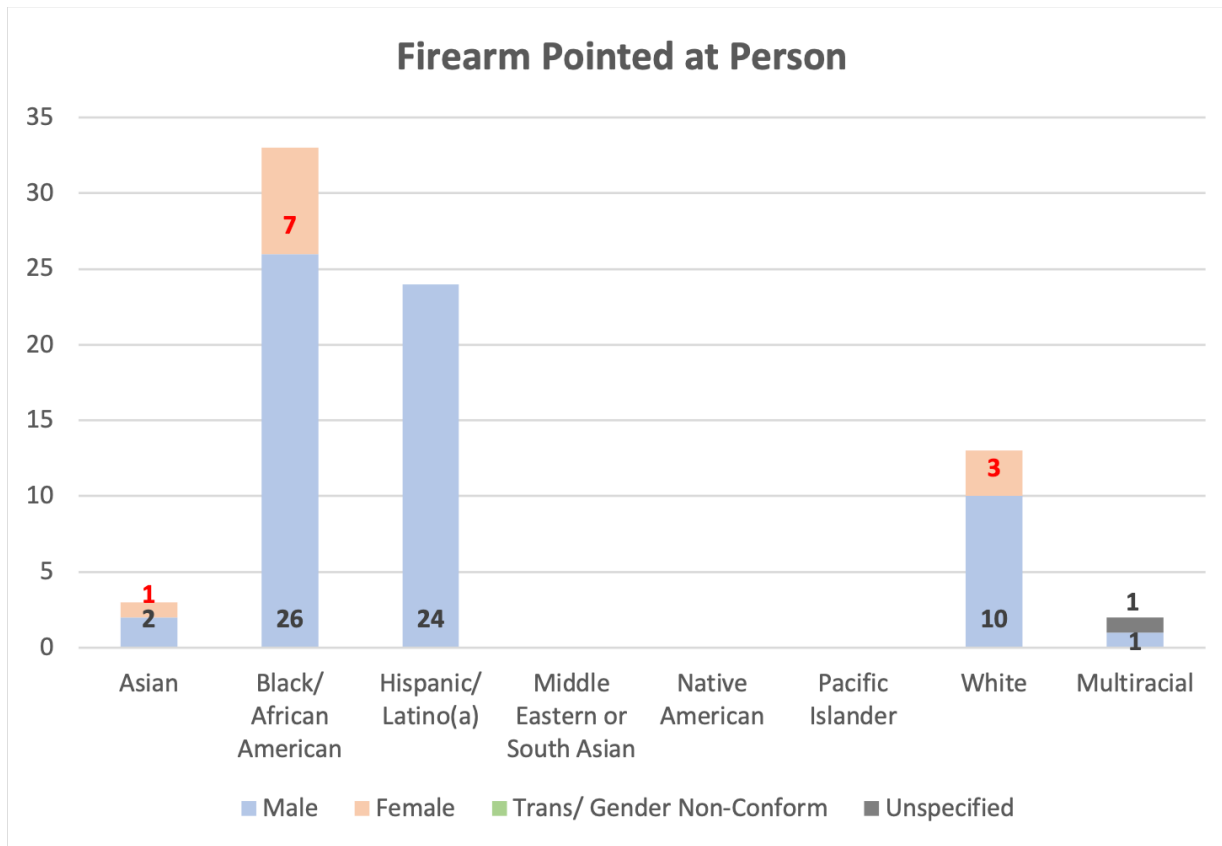
Traffic Stops By Actions Taken

Patrol Car Detention



Total:
402
(17.9%)

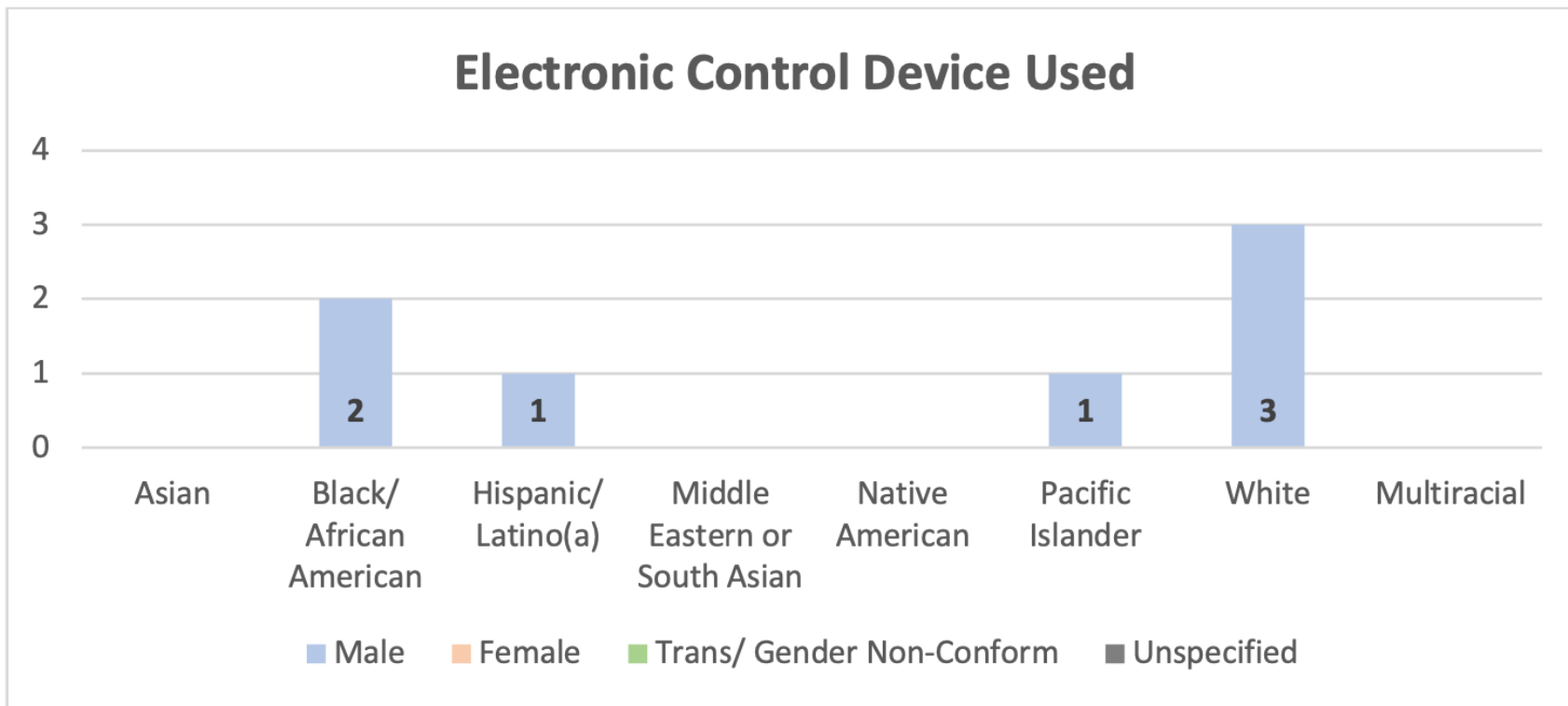
Traffic Stops By Actions Taken



Total:
75
(3.3%)

Traffic Stops By Actions Taken

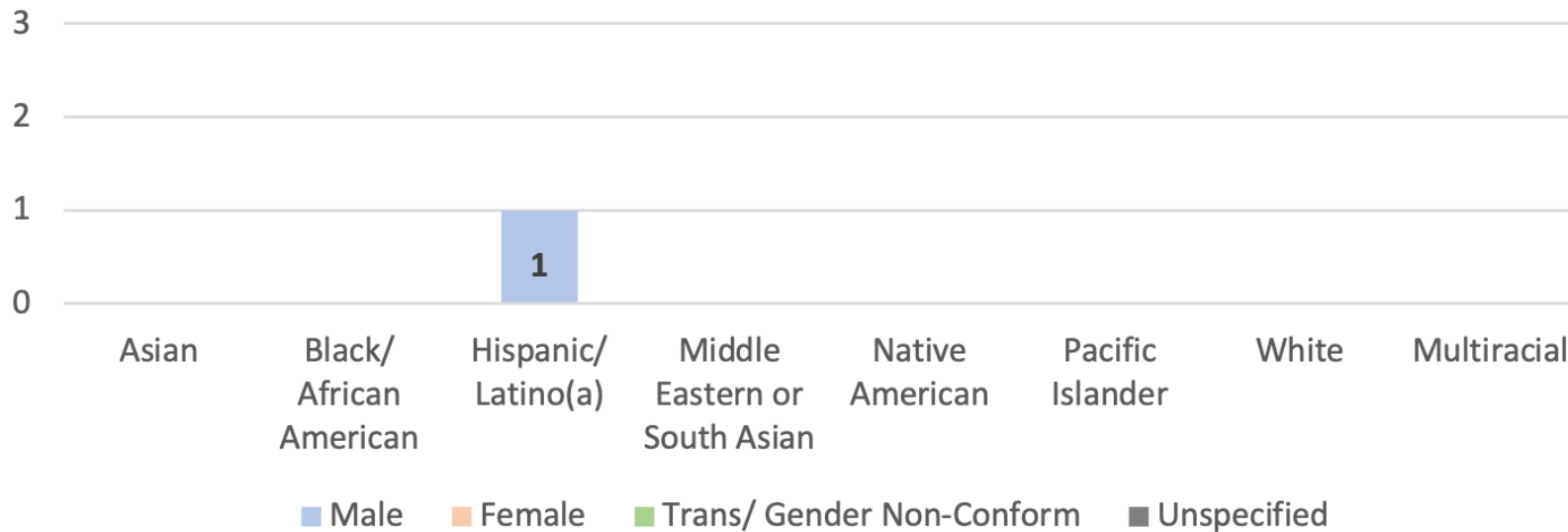
Electronic Control Device Used



Total:
7
(.3%)

Traffic Stops By Actions Taken

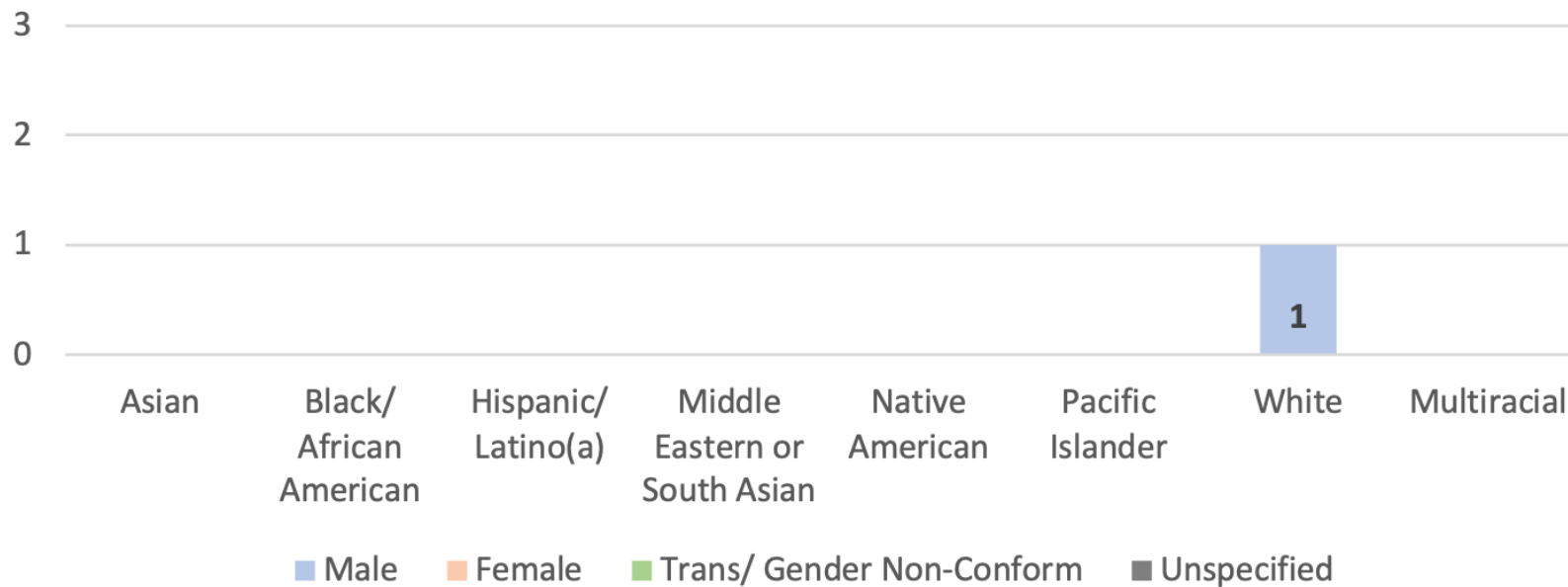
Impact Projectile Discharged or Used



Total:
1
(.04%)

Traffic Stops By Actions Taken

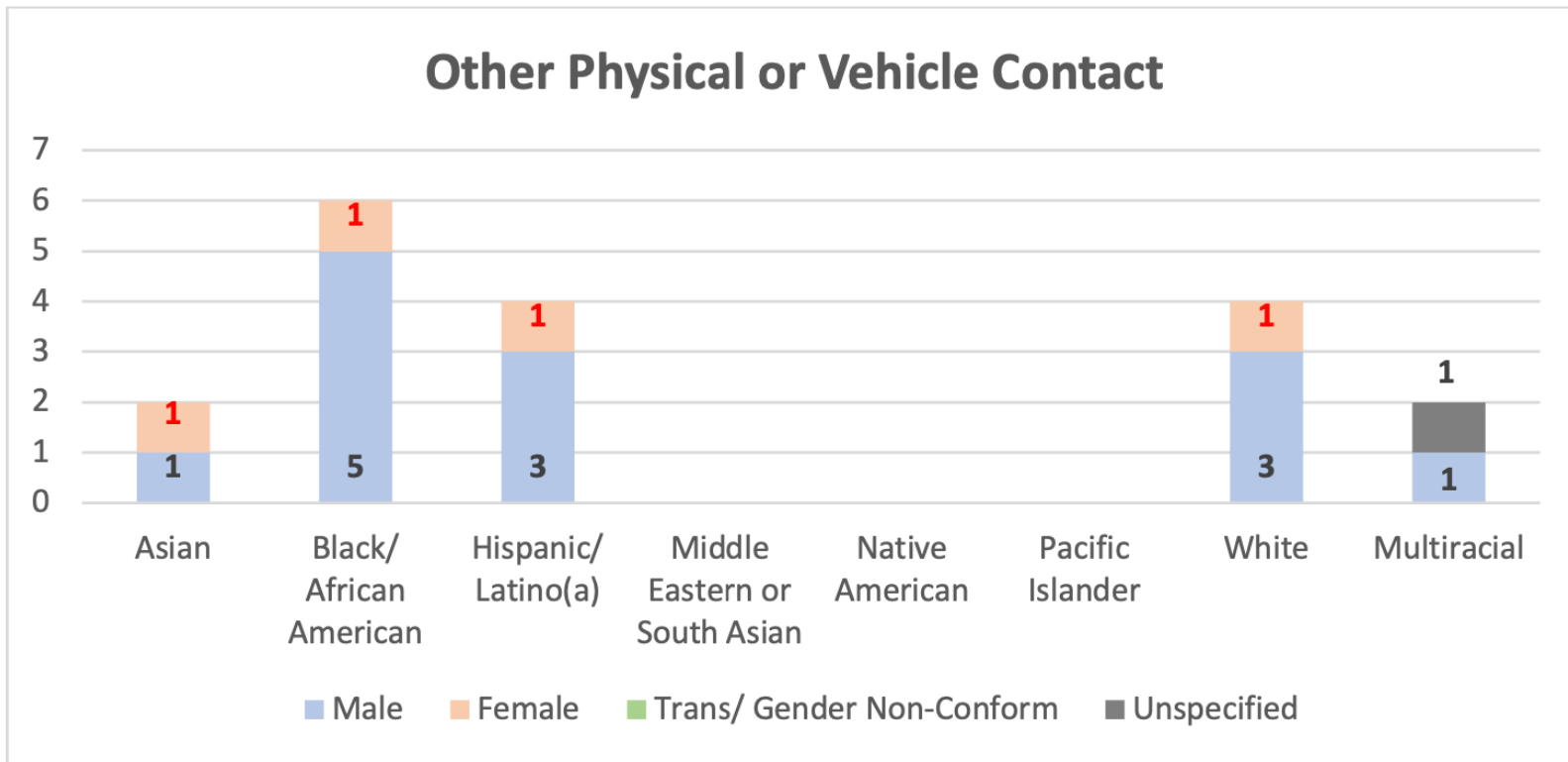
Baton or Other Impact Weapon Used



Total:
1
(.04%)

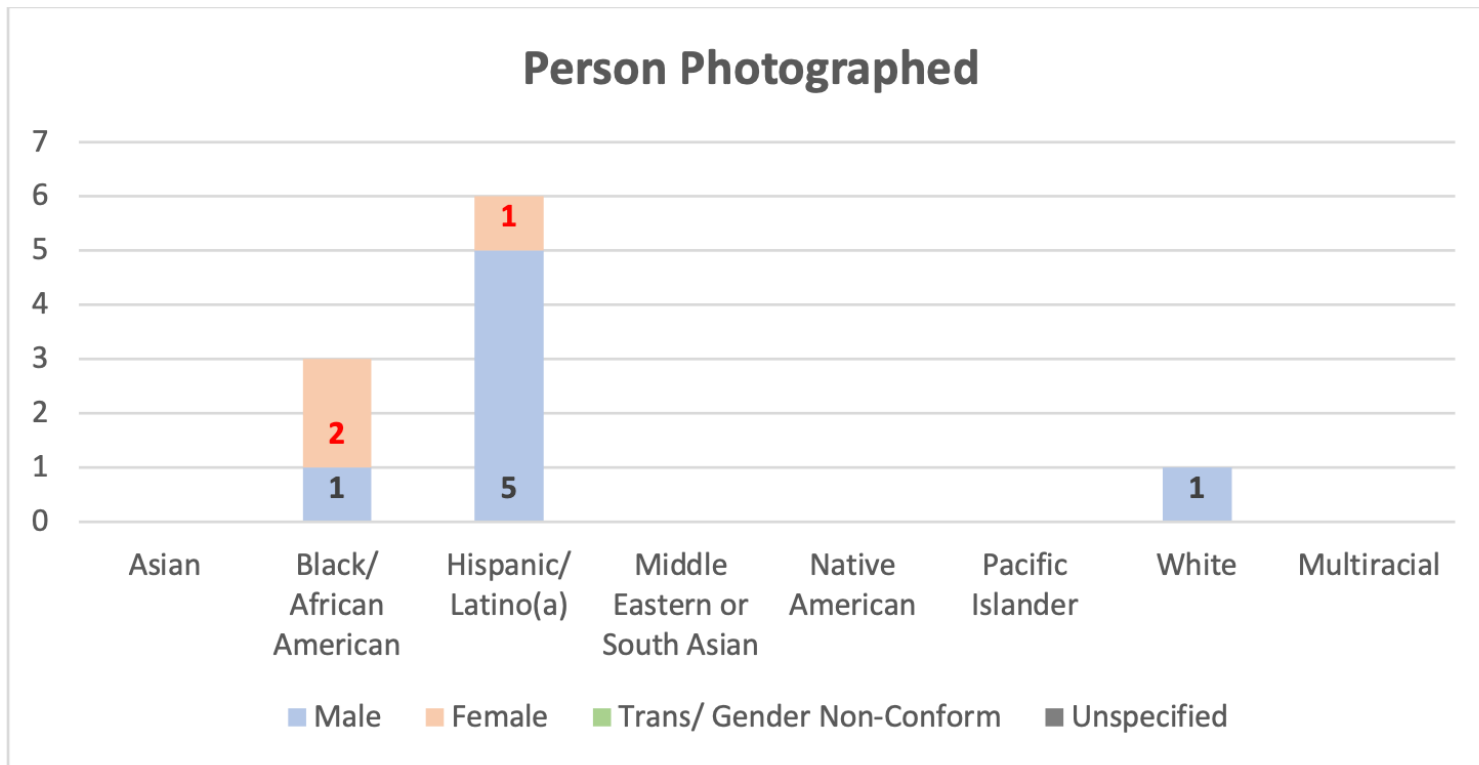
Traffic Stops By Actions Taken

Other Physical or Vehicle Contact



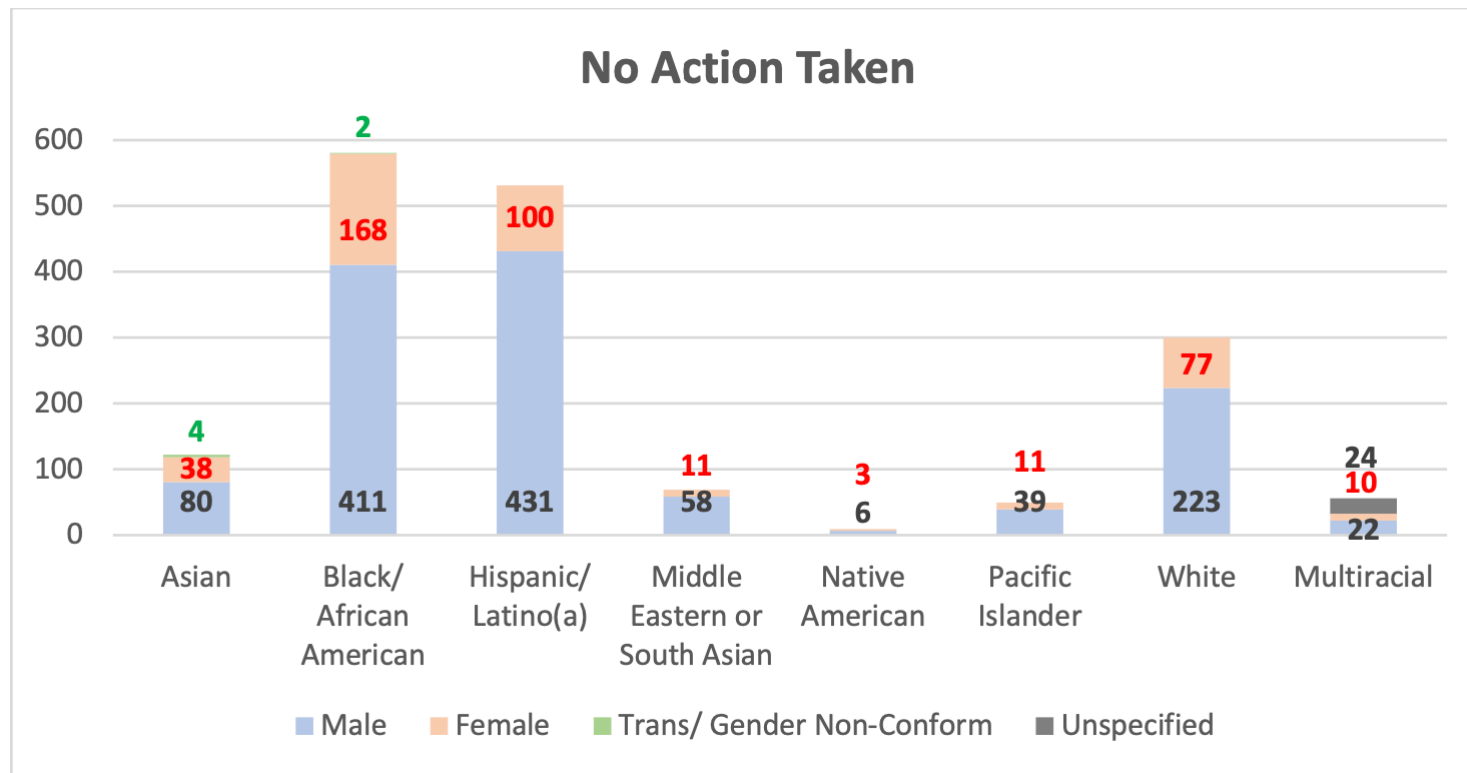
Total:
18
(.8%)

Traffic Stops By Actions Taken



Total:
10
(.4%)

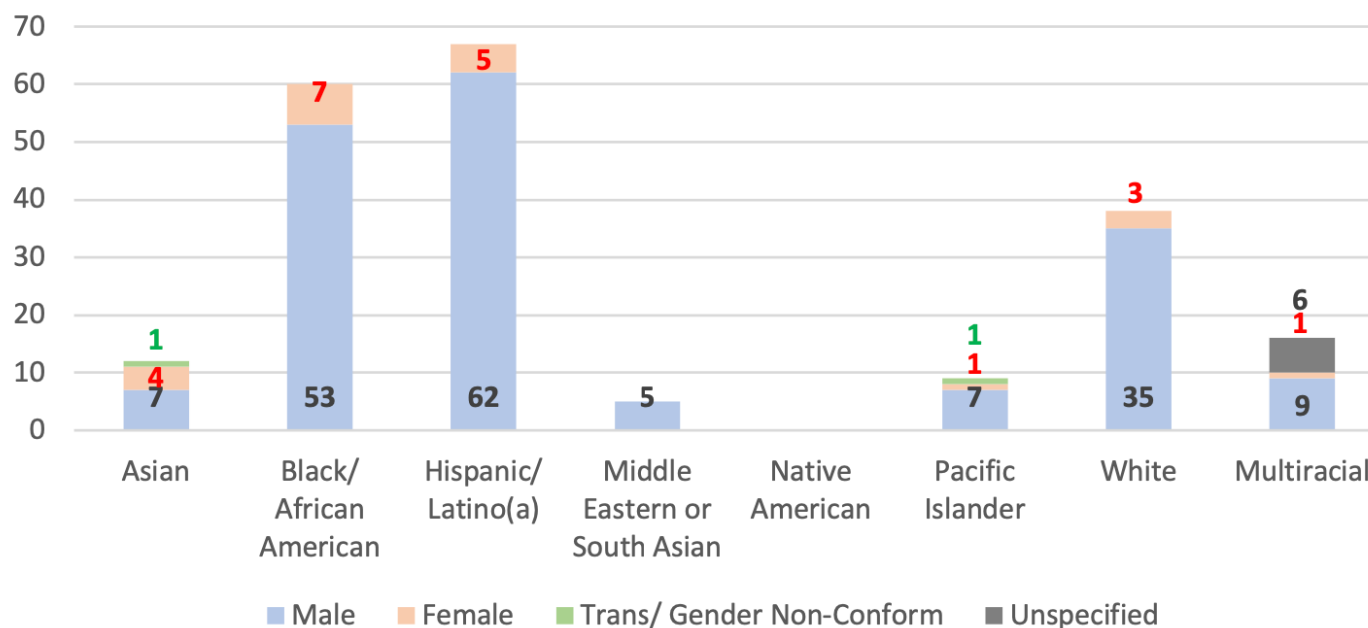
Traffic Stops By Actions Taken



Total:
1718
(76.4%)

Stops Involving Searches of Persons and Property

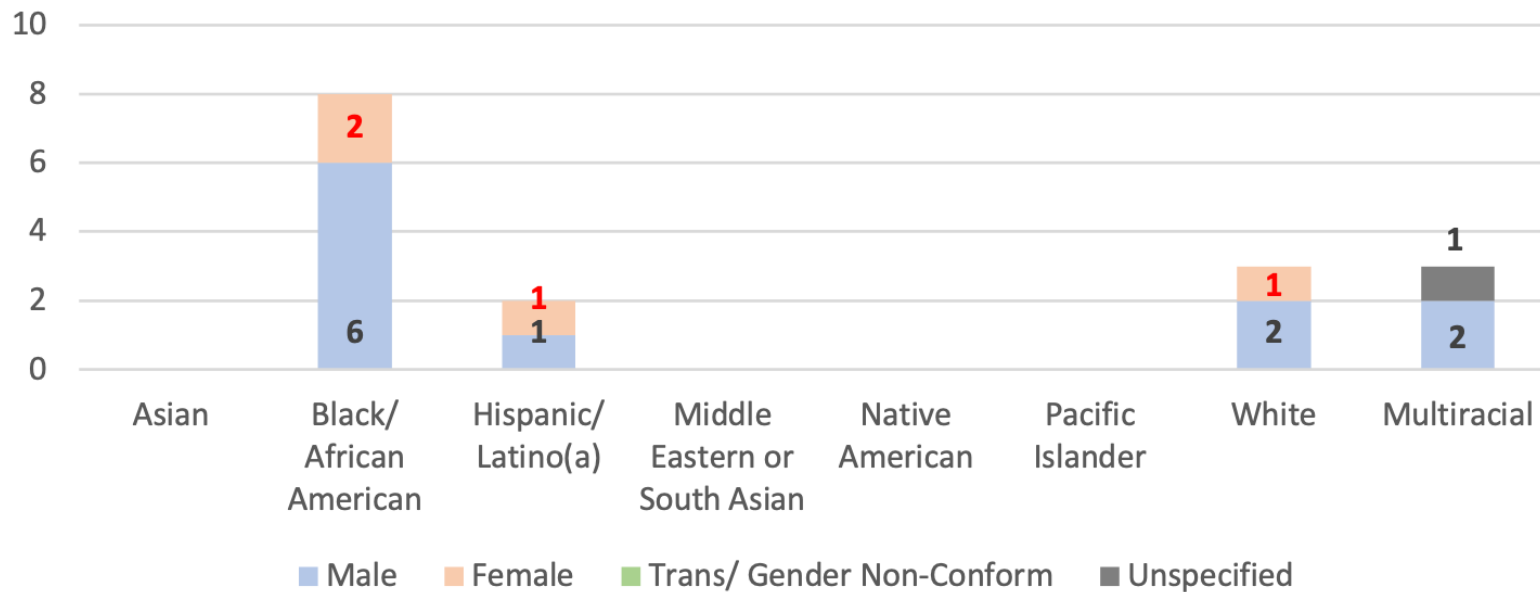
Asked for Consent to Search Person (Granted)



Total:
207
(9.2%)

Stops Involving Searches of Persons and Property

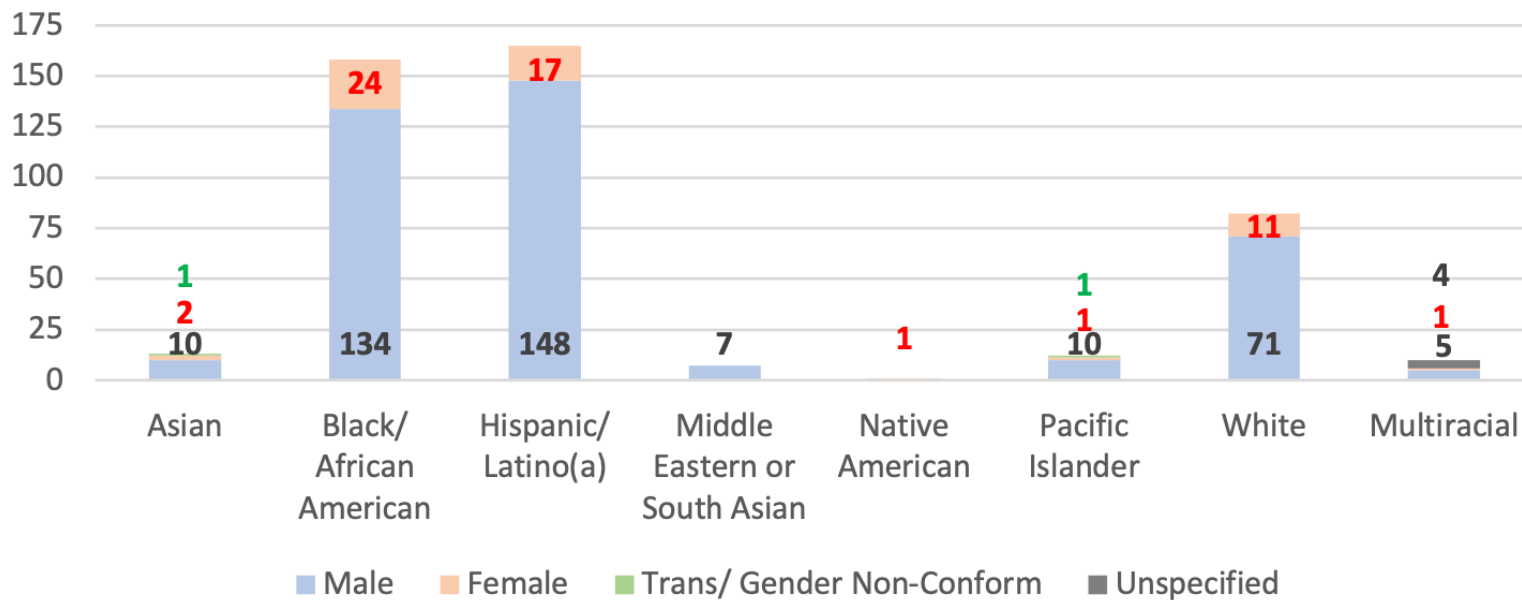
Asked for Consent to Search Person (Refused)



Total:
16
(.7%)

Stops Involving Searches of Persons and Property

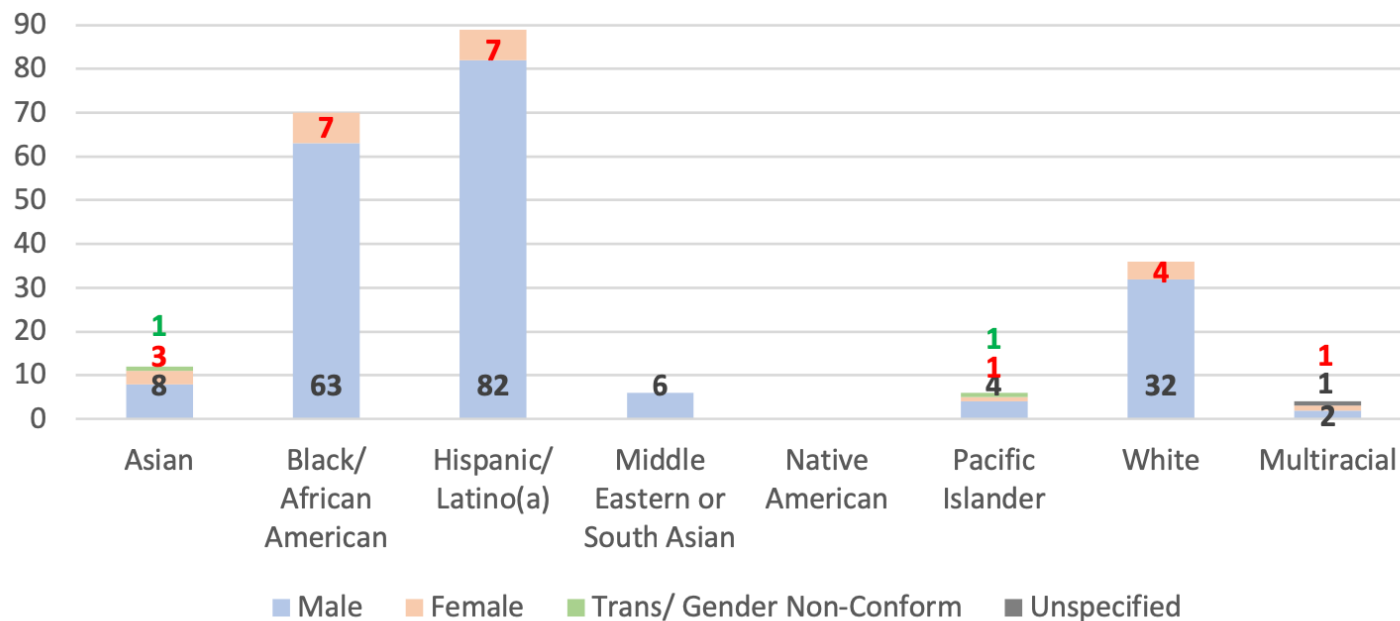
Search of Person was Conducted



Total:
448
(19.9%)

Stops Involving Searches of Persons and Property

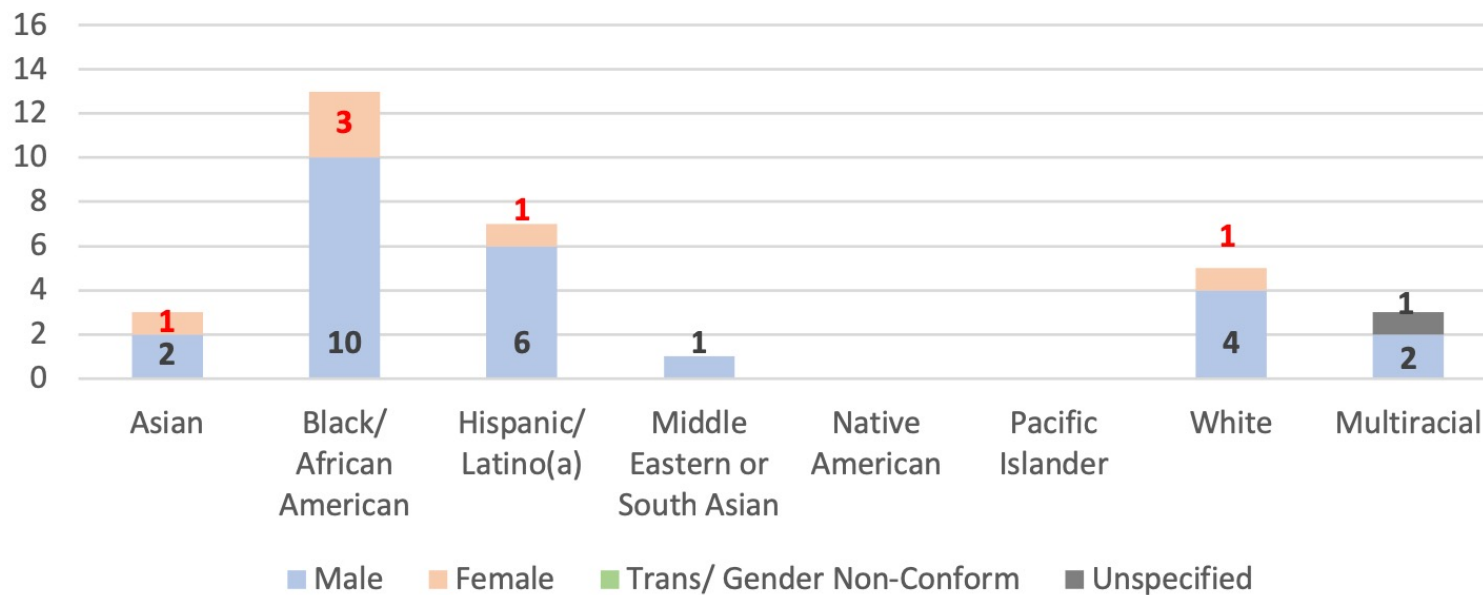
Asked for Consent to Search Property (Granted)



Total:
223
(9.9%)

Stops Involving Searches of Persons and Property

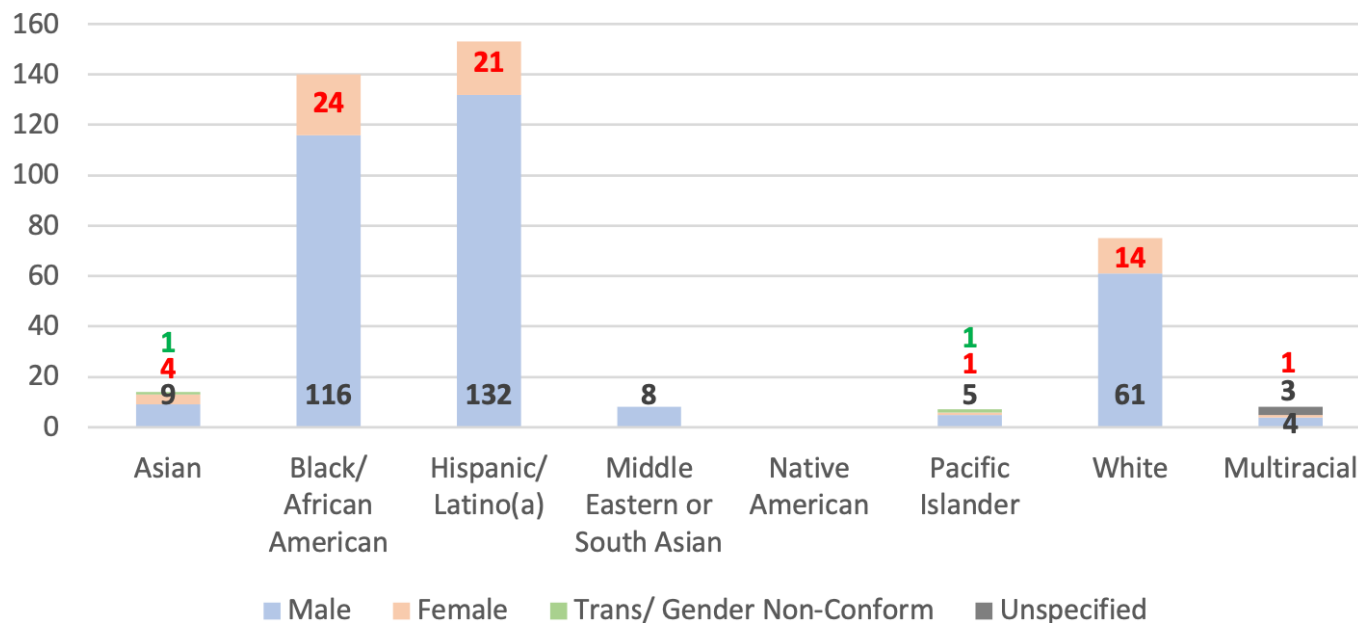
Asked for Consent to Search Property (Refused)



Total:
32
(1.4%)

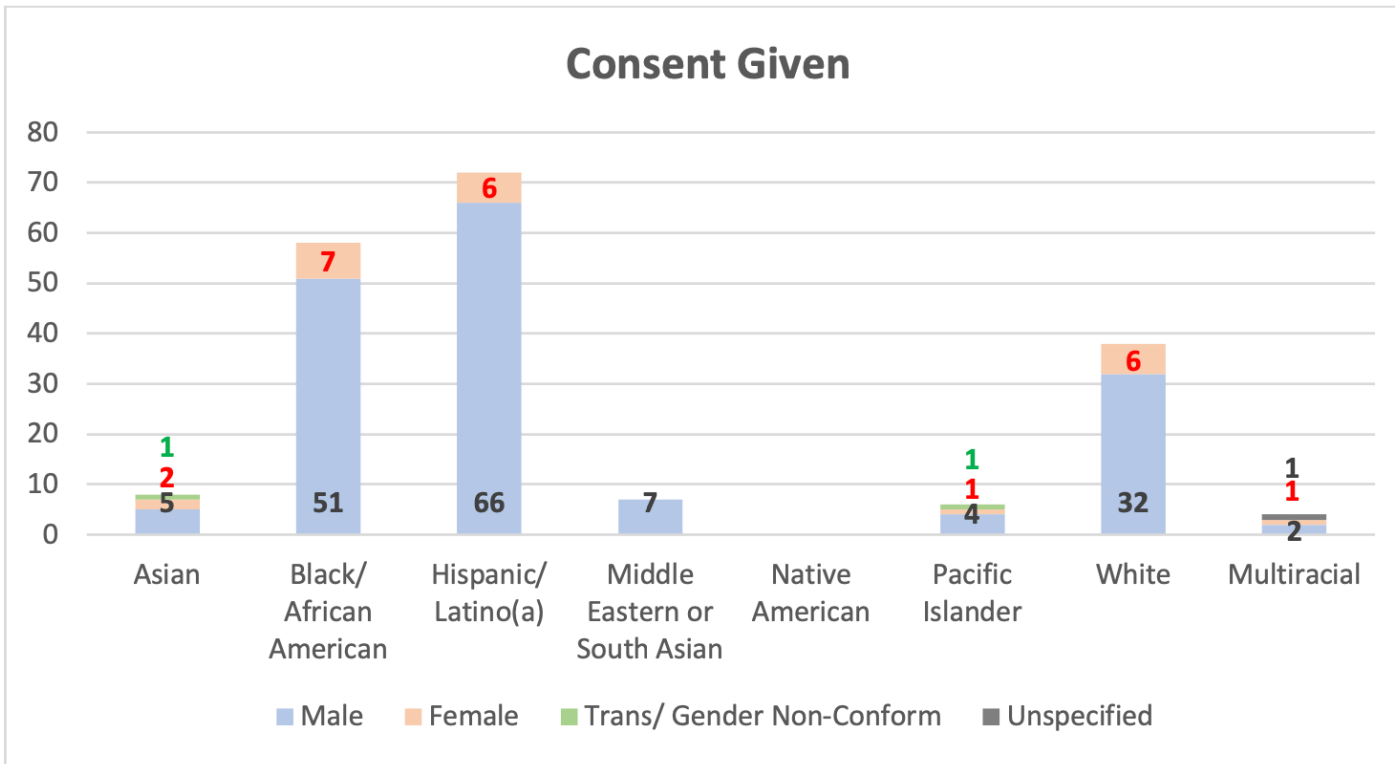
Stops Involving Searches of Persons and Property

Search of Property was Conducted



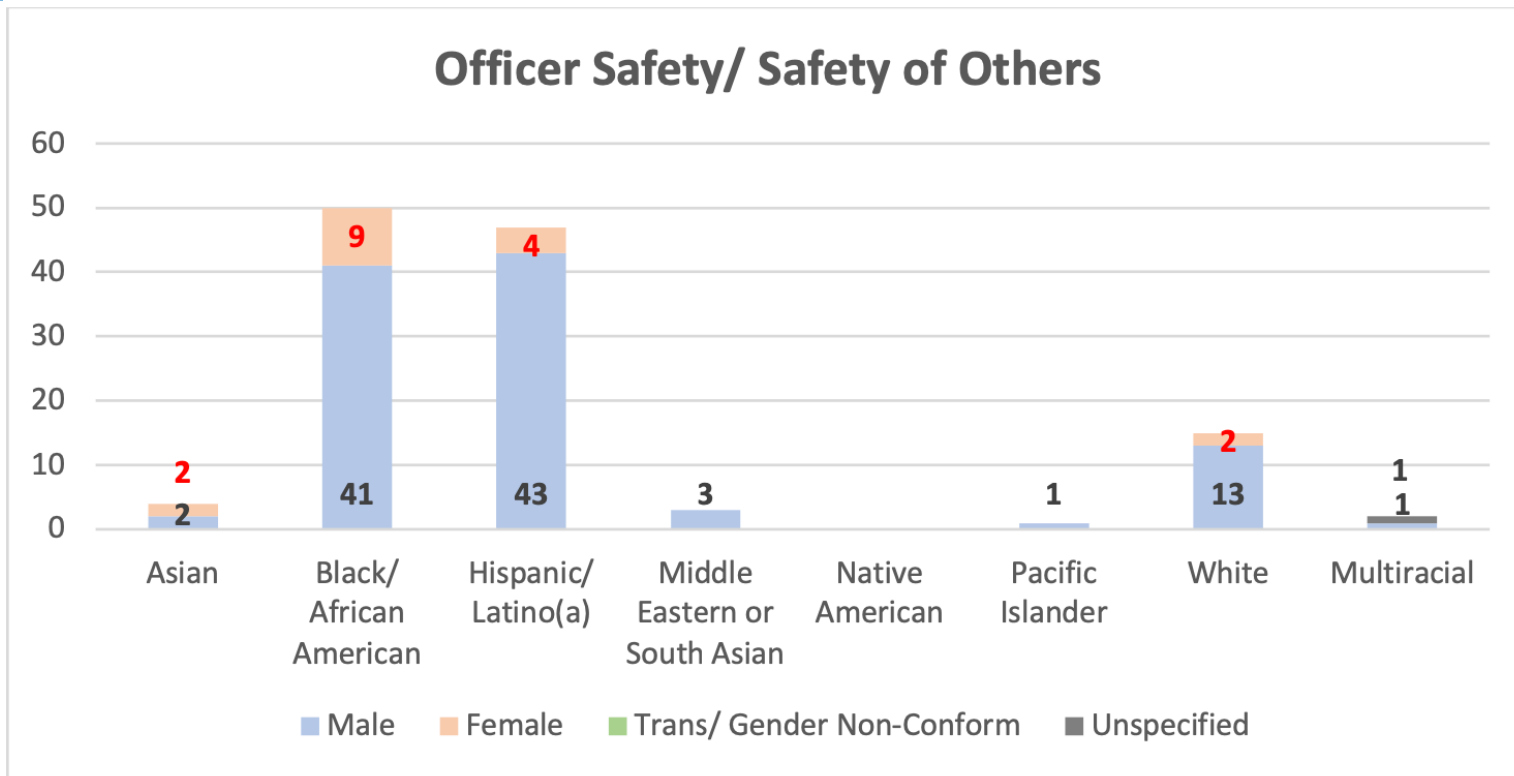
Total:
405
(18%)

Basis for Search Conducted



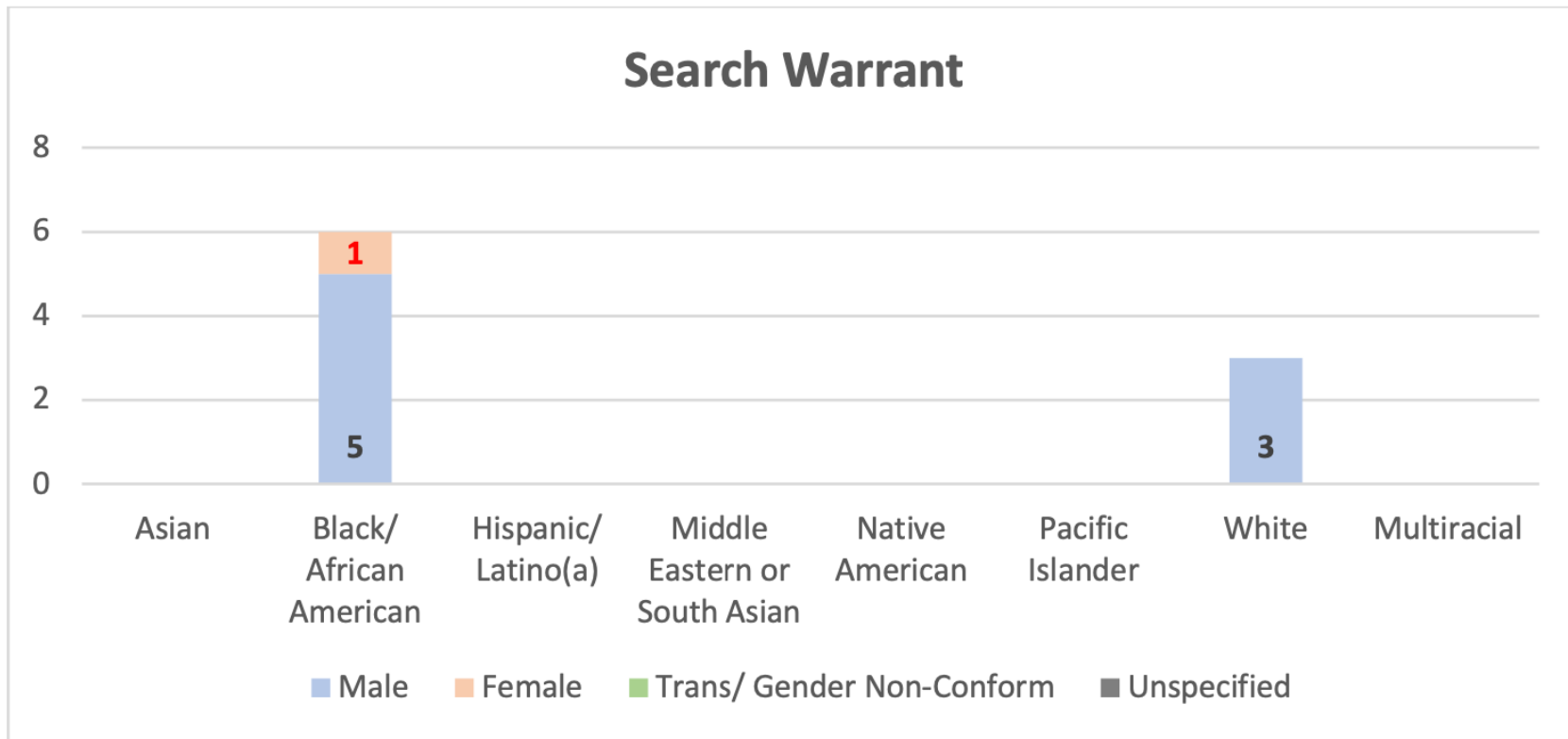
Total:
193
(8.5%T)
(47%S)

Basis for Search Conducted



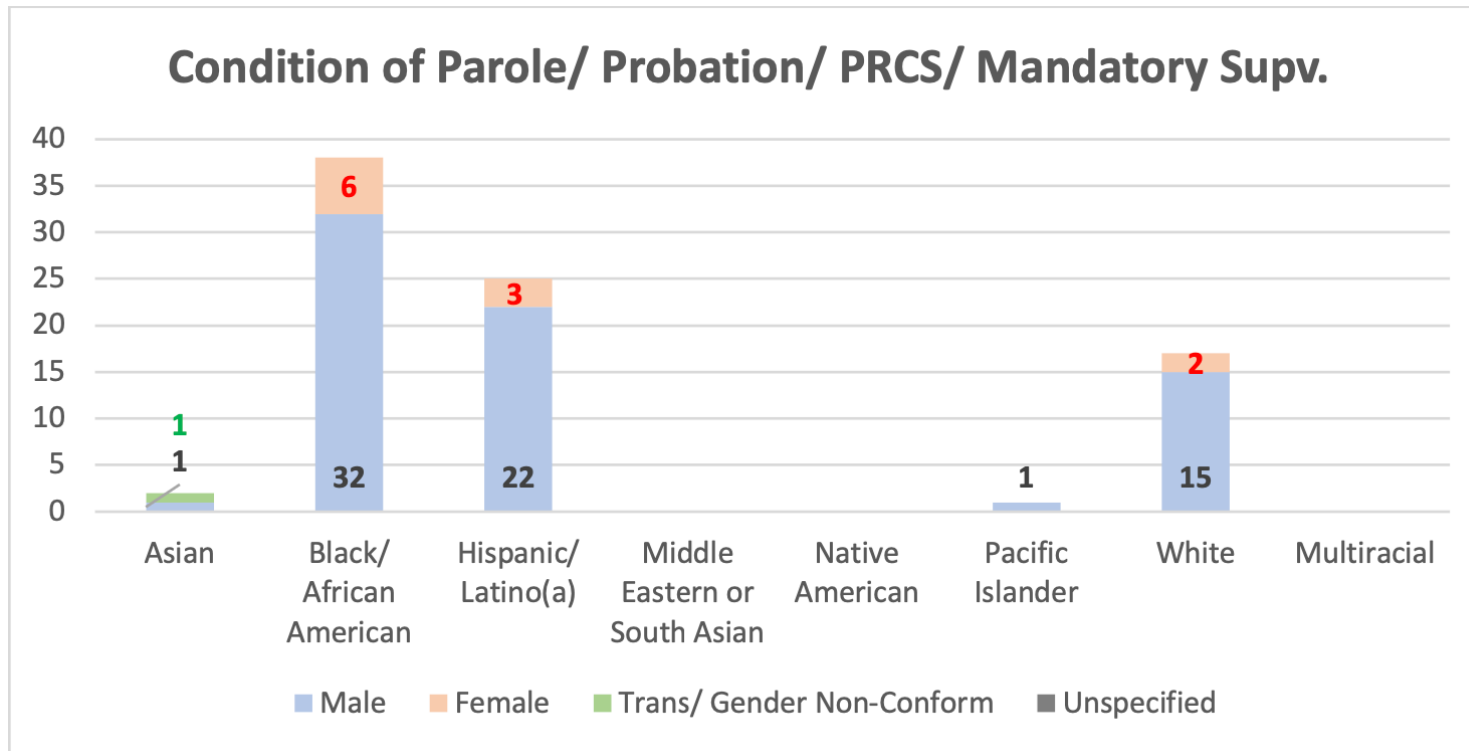
Total:
122
(5.4%T)
(30.1%S)

Basis for Search Conducted



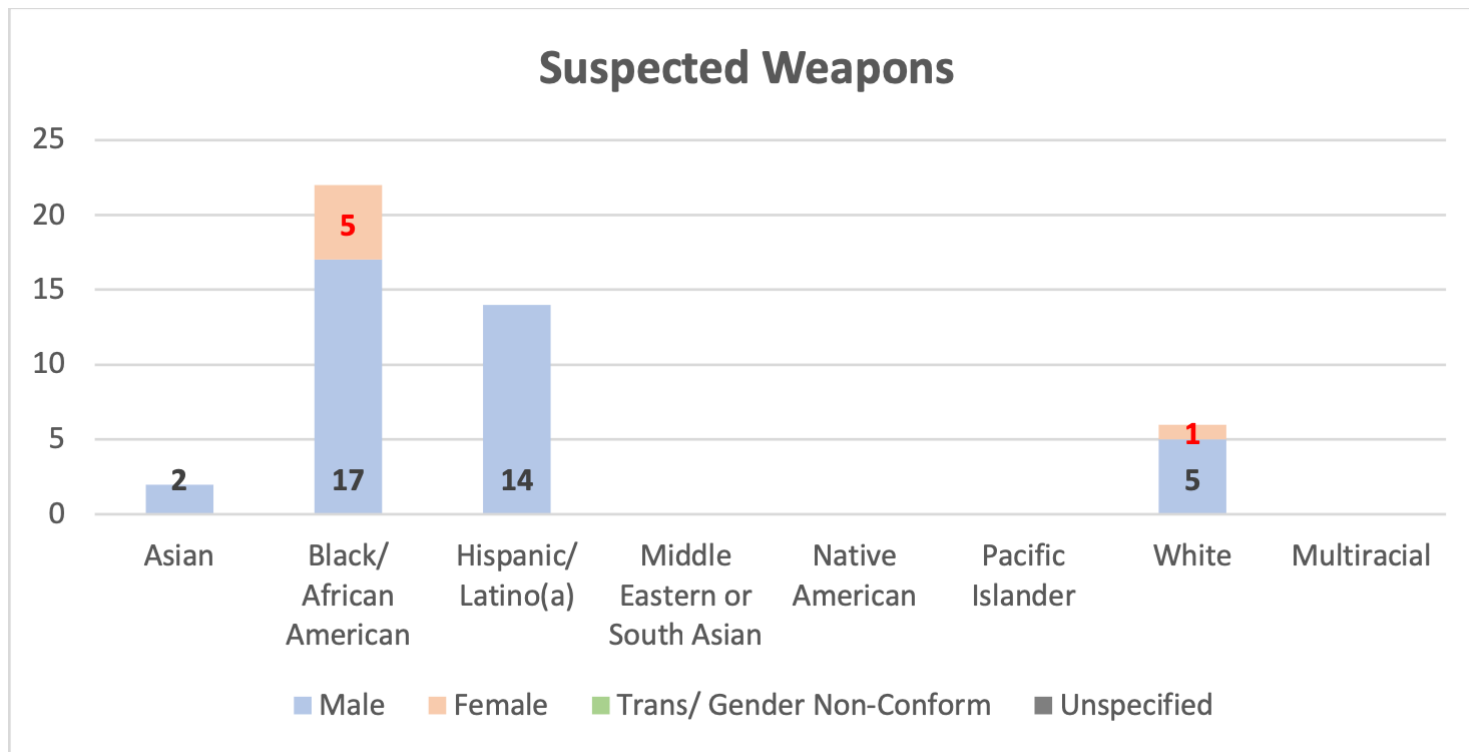
Total:
9
(.4%T)
(2.2%S)

Basis for Search Conducted



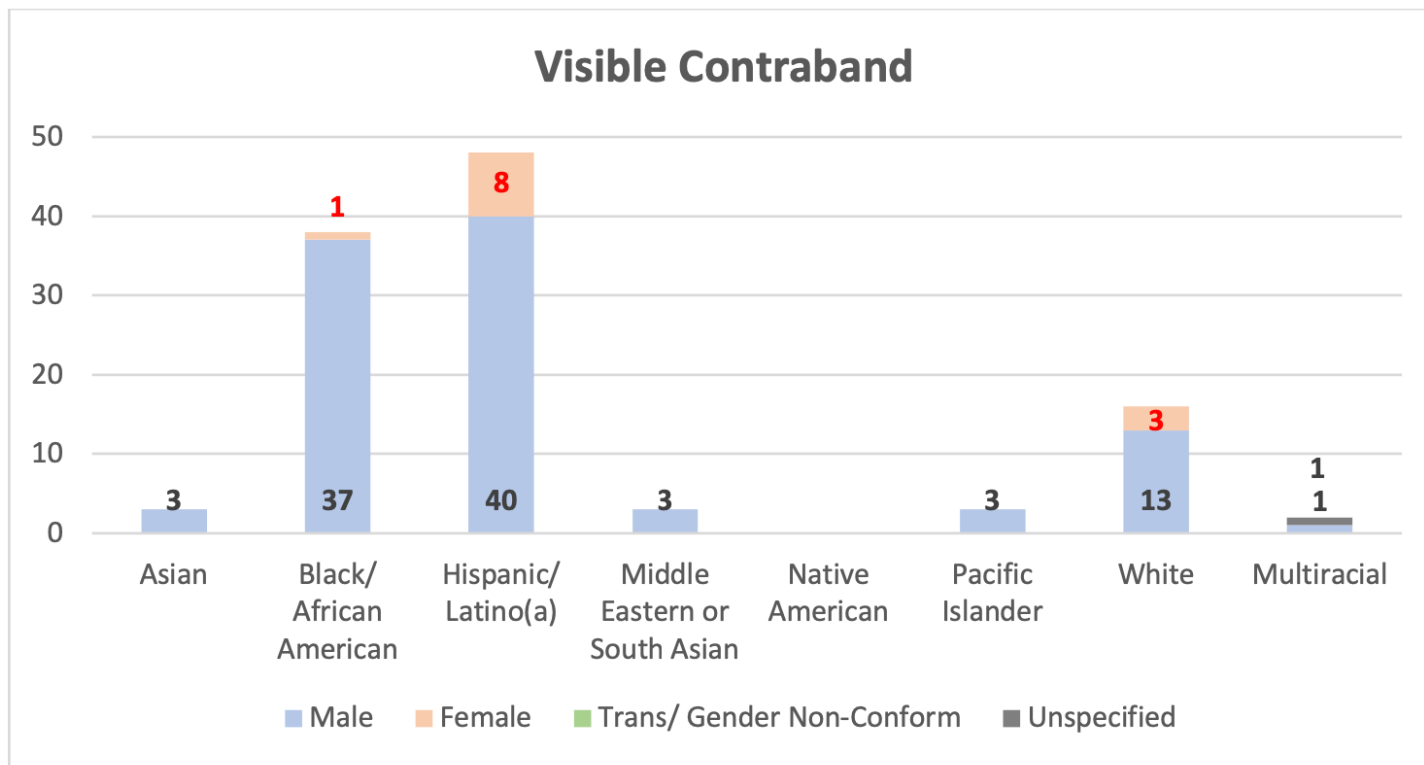
Total:
83
(3.7%T)
(20.5%S)

Basis for Search Conducted



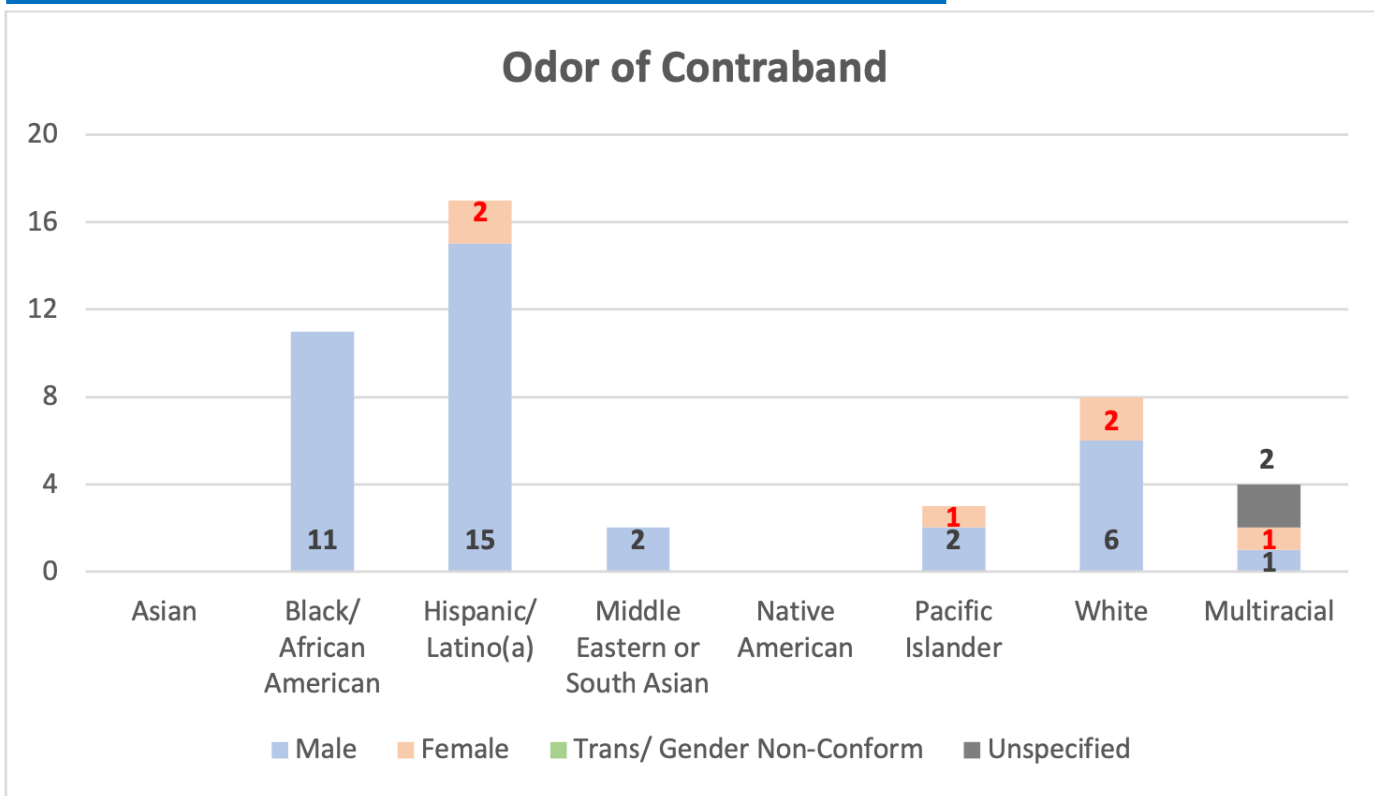
Total:
44
(2%T)
(10.9%S)

Basis for Search Conducted



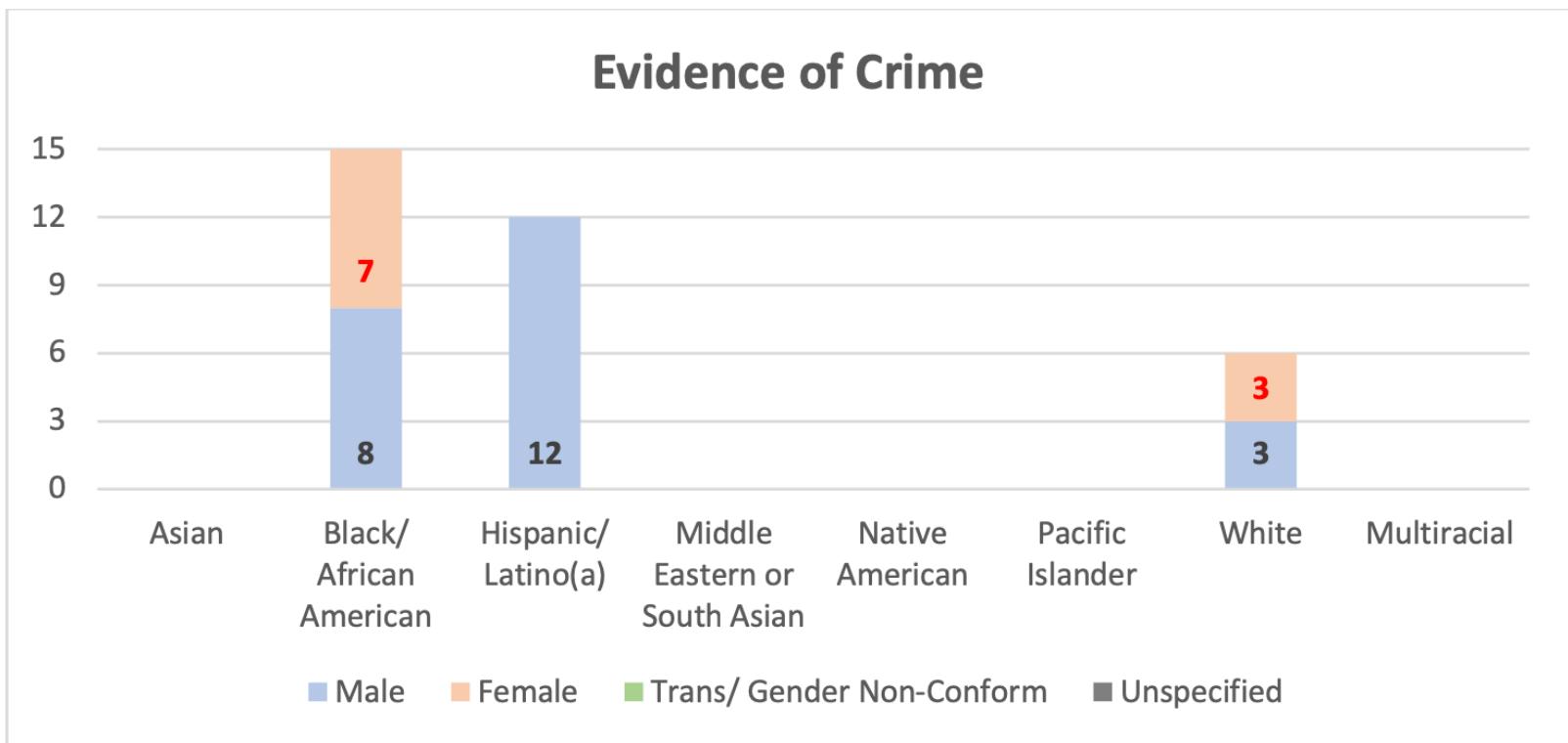
Total:
113
(5%T)
(28%S)

Basis for Search Conducted



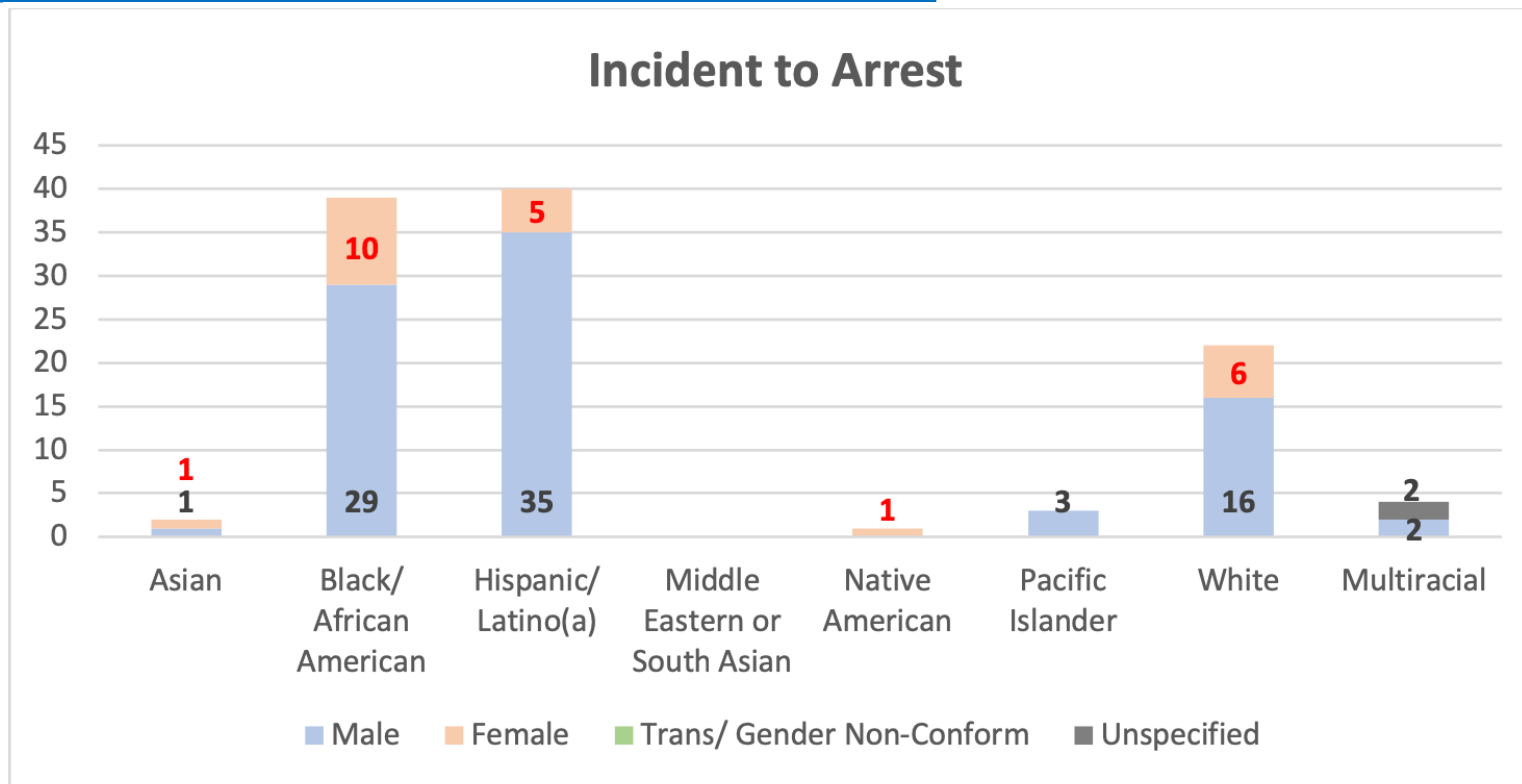
Total:
45
(1.7%T)
(11.1%S)

Basis for Search Conducted



Total:
33
(1.5%T)
(8.1%S)

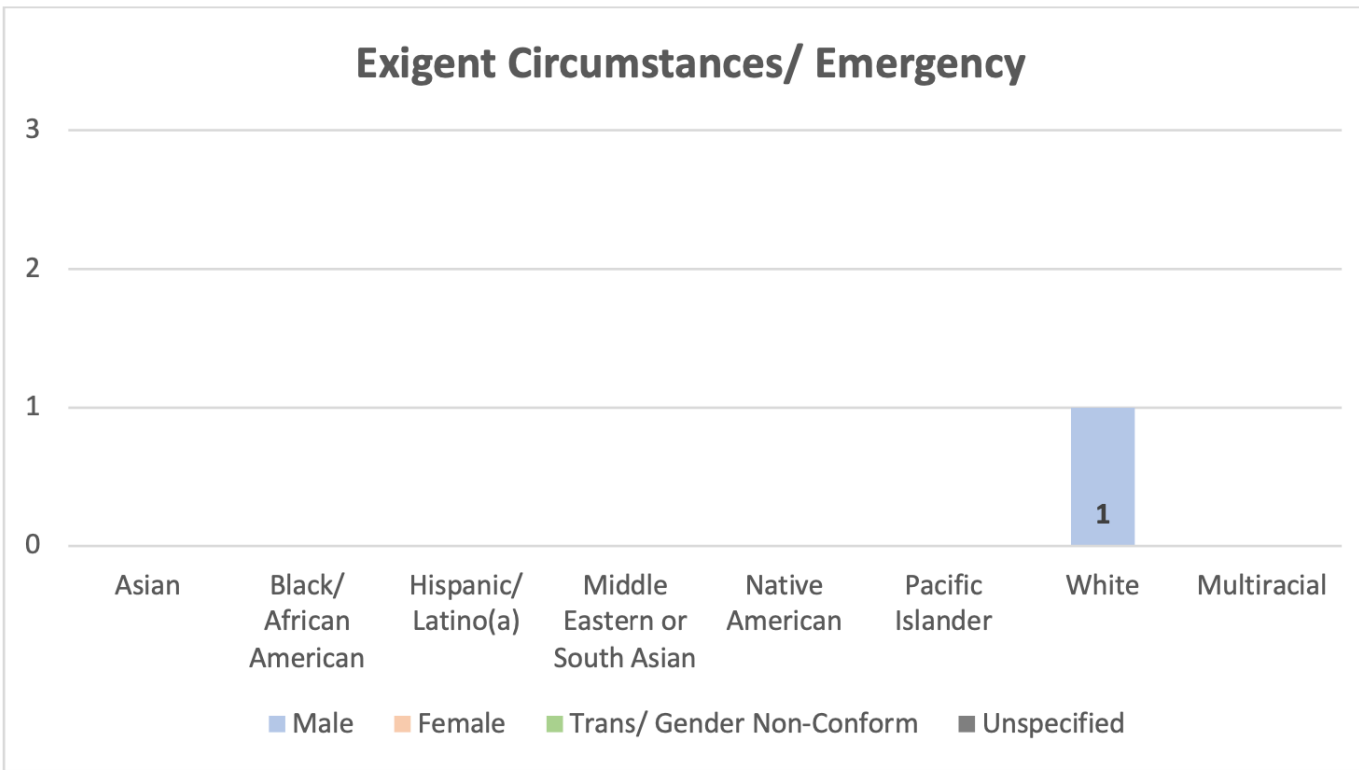
Basis for Search Conducted



Total:
111
(4.9%T)
(27.4%S)

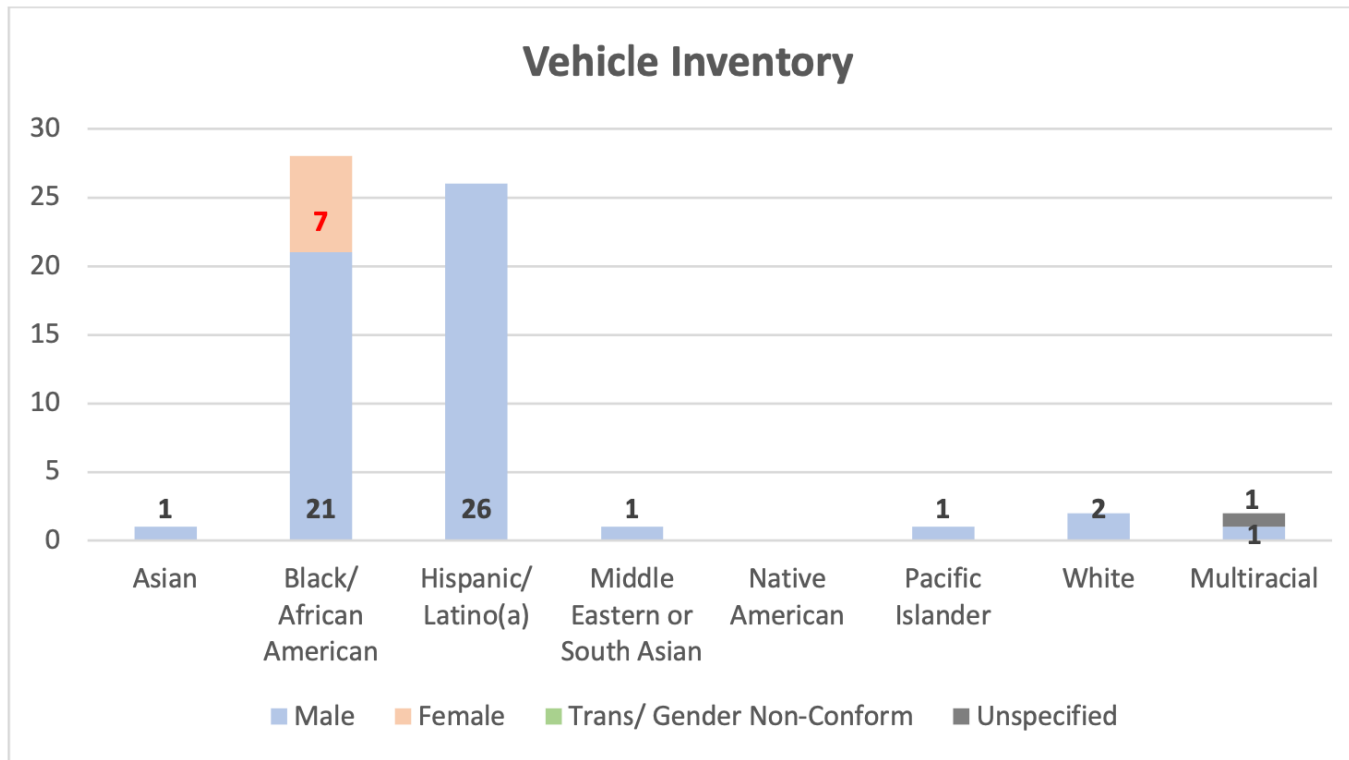
Basis for Search Conducted

Exigent Circumstances/ Emergency



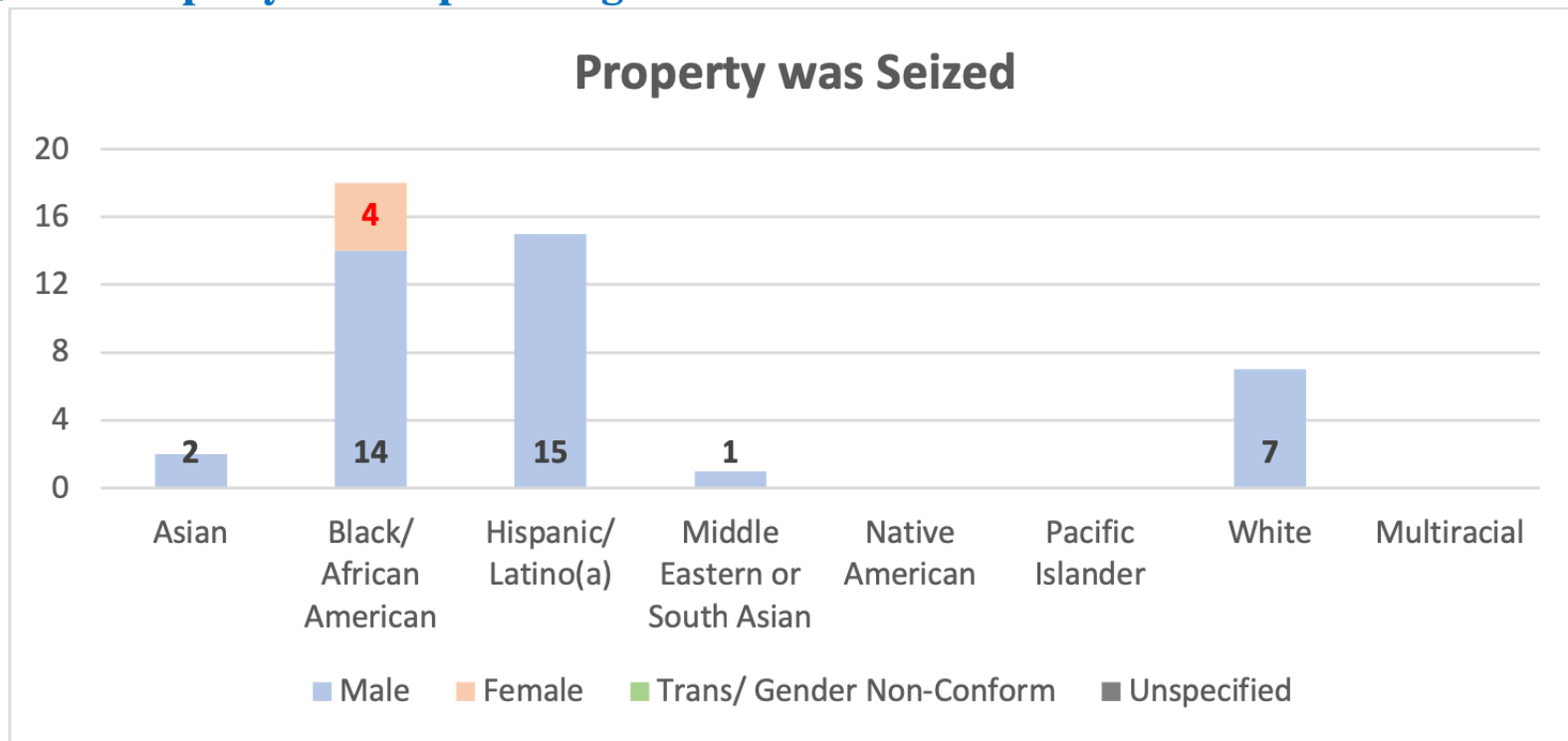
Total:
1
(.04%T)
(.25%S)

Basis for Search Conducted



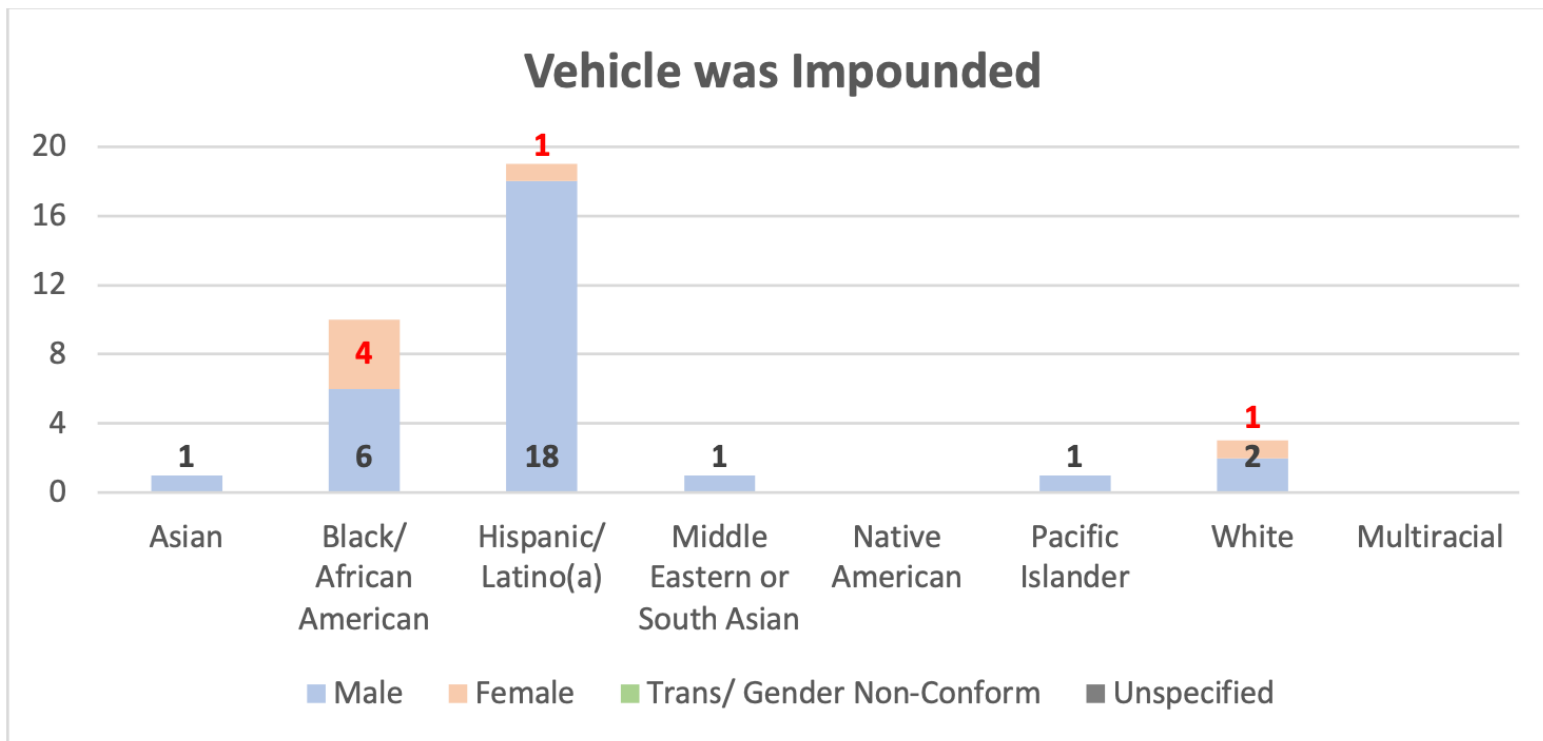
Total:
61
(2.7%T)
(15%S)

Seizure of Property and Impounding of Vehicles



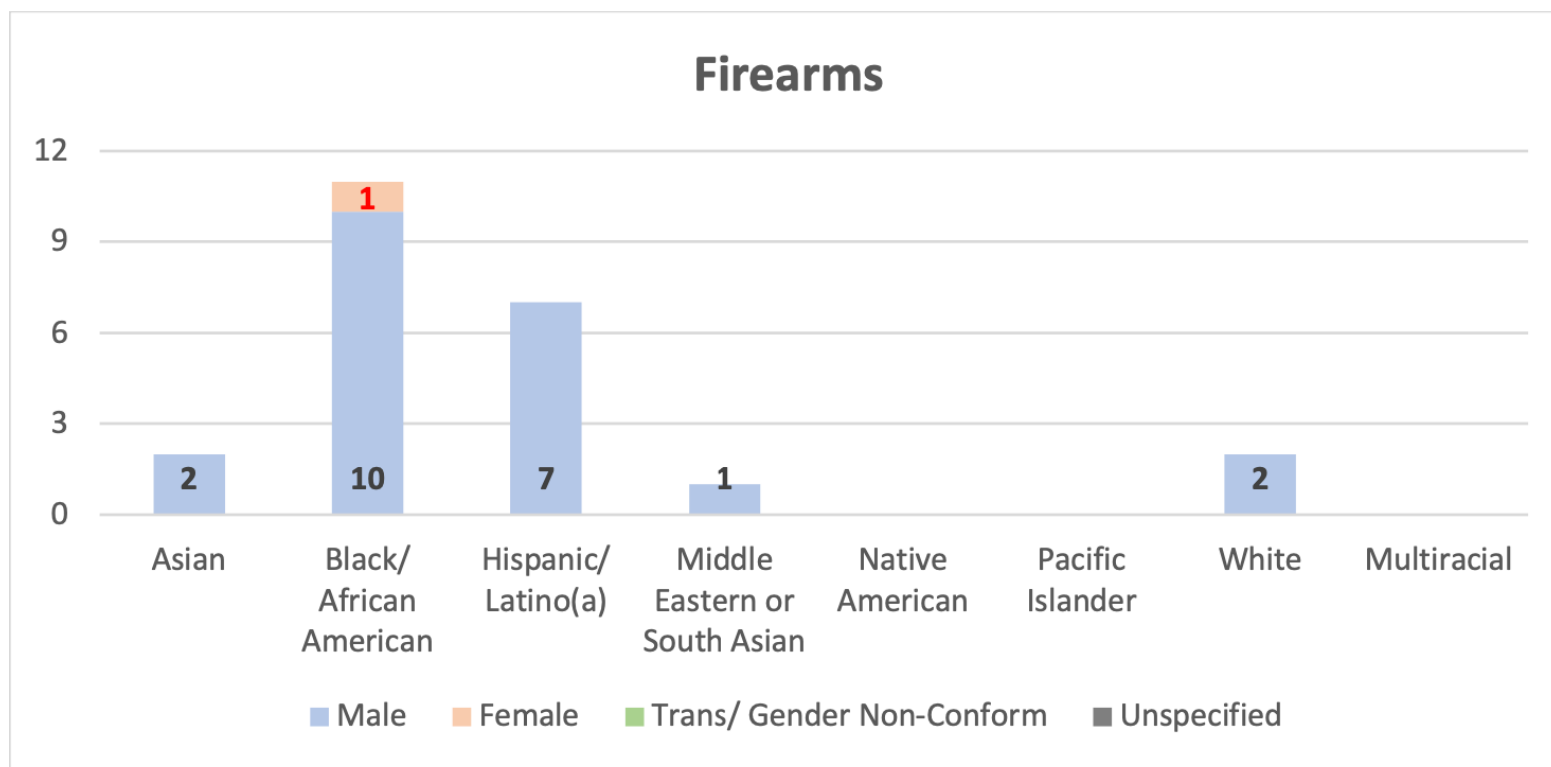
Total:
43
(1.9%)

Seizure of Property and Impounding of Vehicles



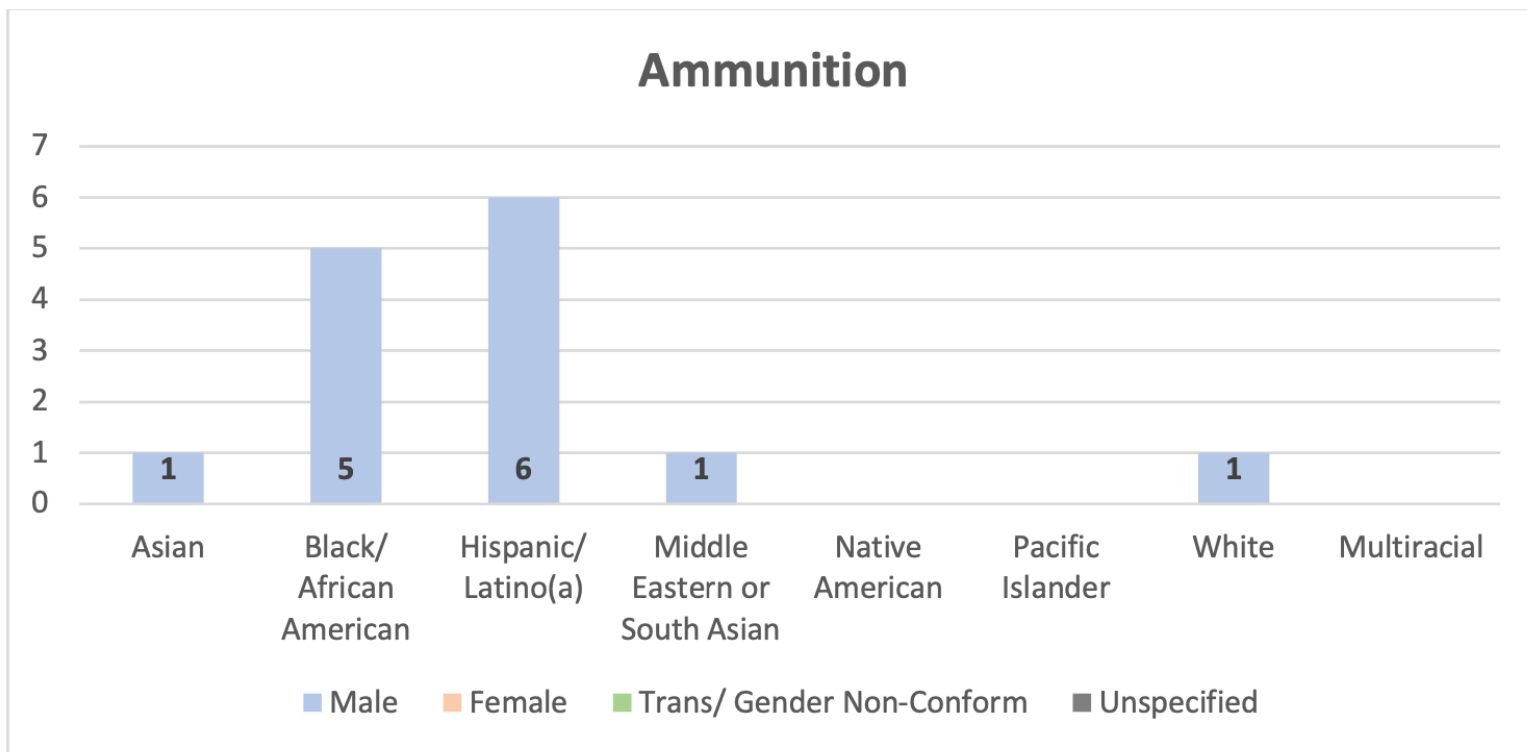
Total:
35
(1.6%T)
(81.4%S)

Types of Property Seized



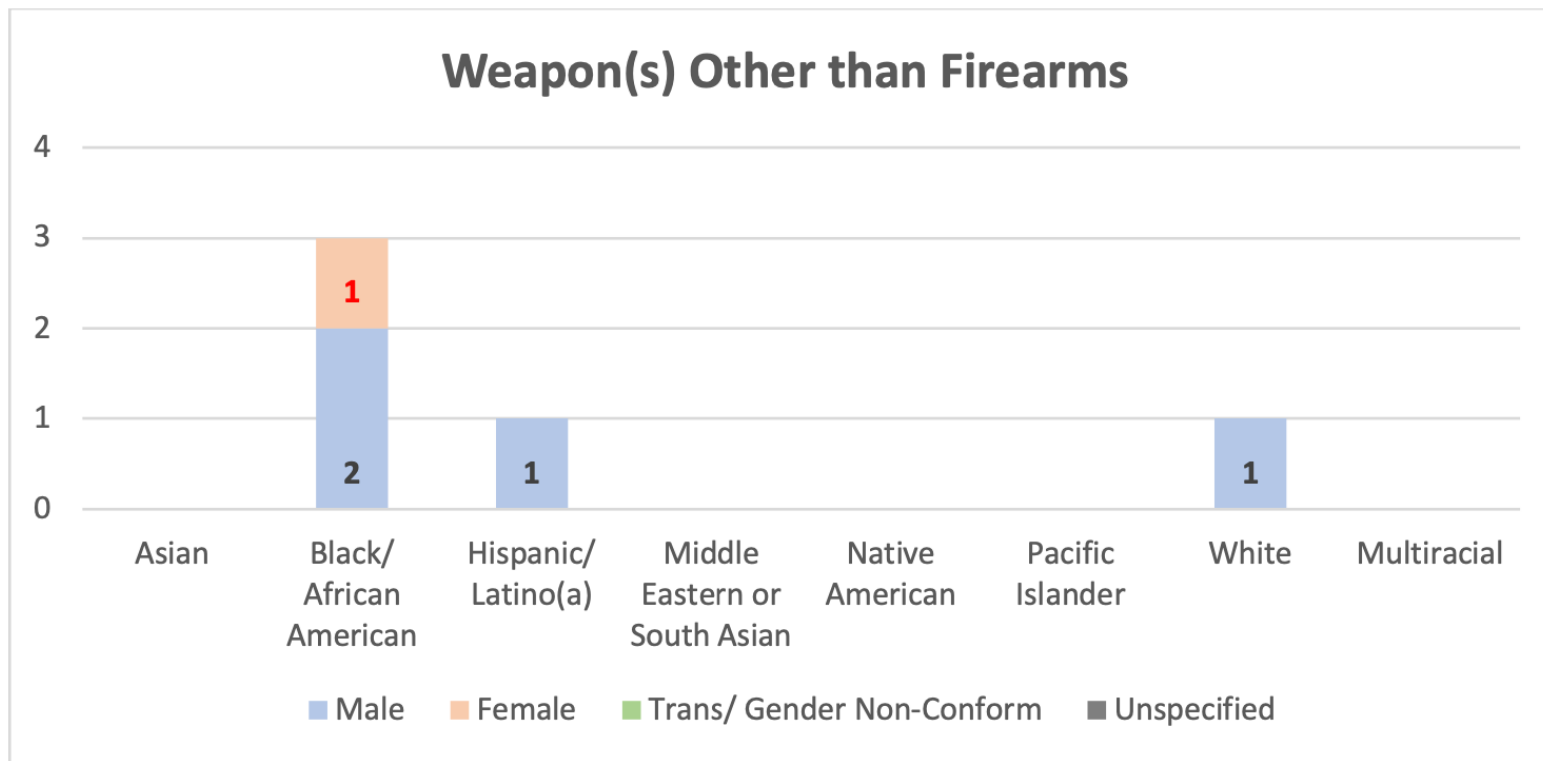
Total:
23
(1%T)
(53.4%S)

Types of Property Seized



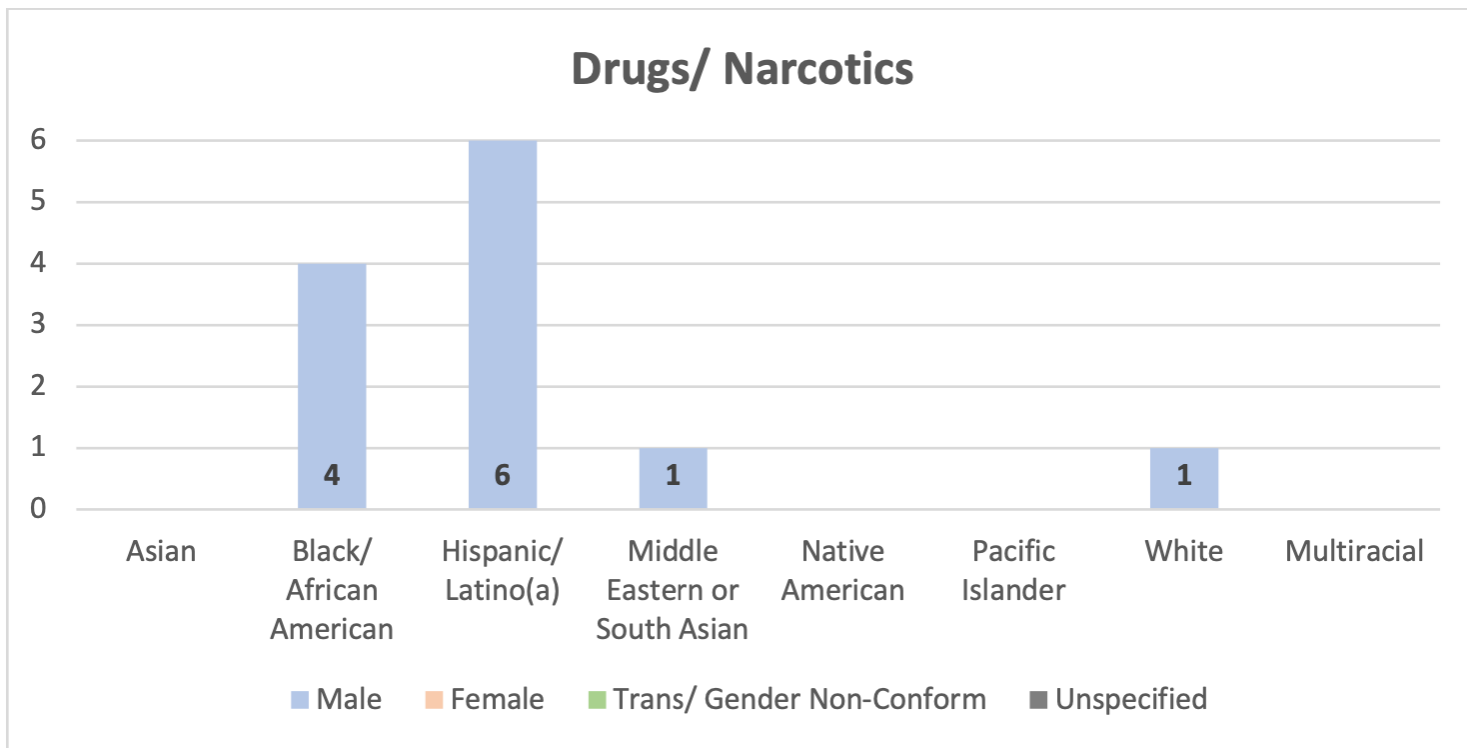
Total:
14
(.6%T)
(32.5%S)

Types of Property Seized



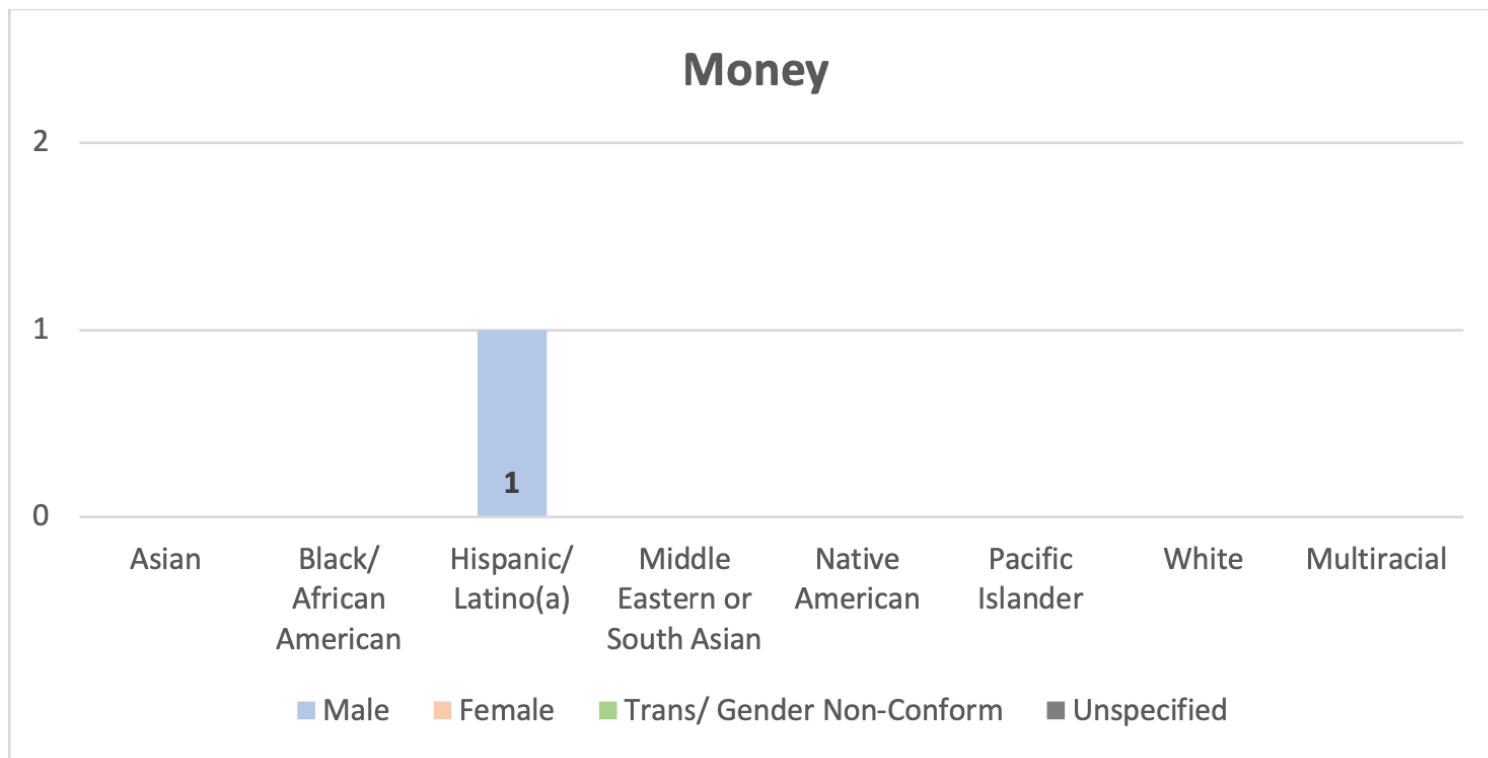
Total:
5
(.2%T)
(4.5%S)

Types of Property Seized



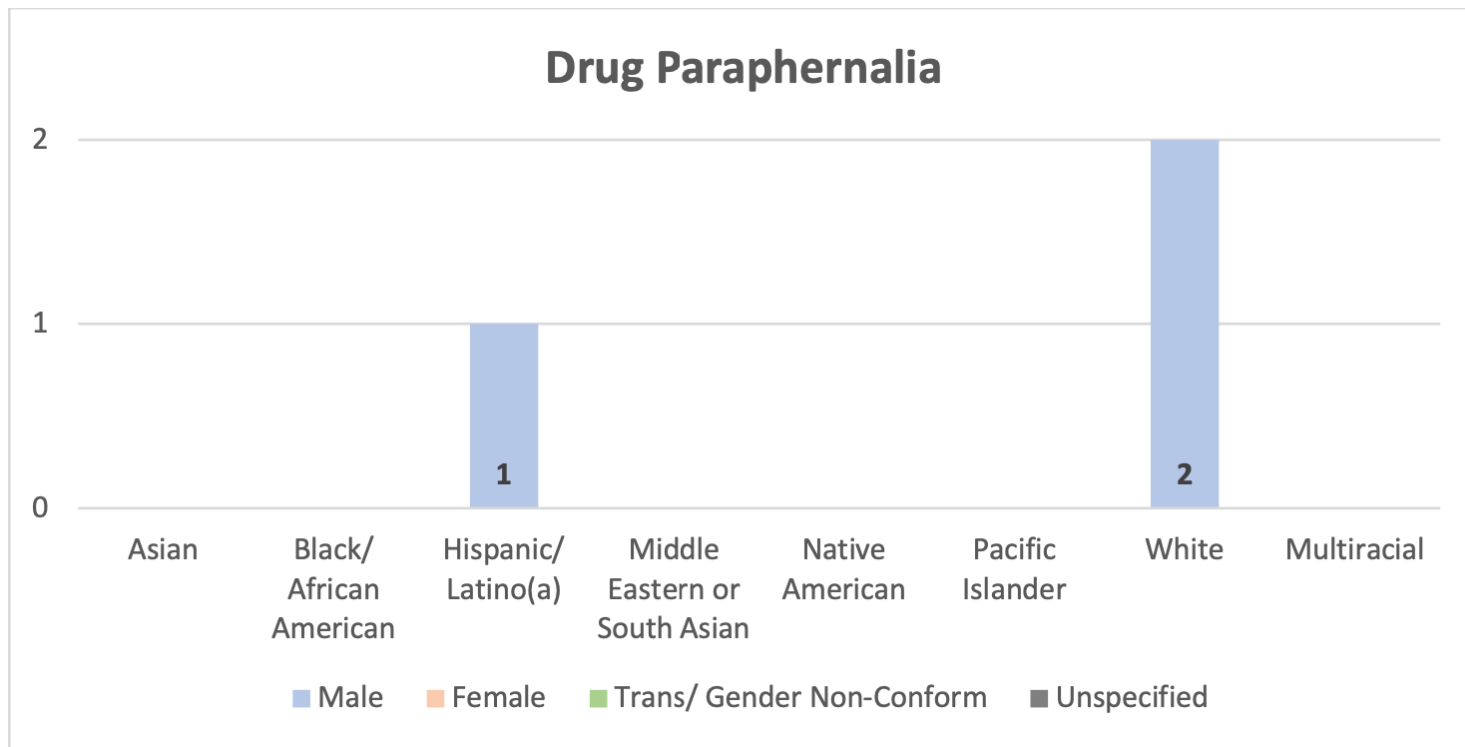
Total:
12
(.5%T)
(27.9%S)

Types of Property Seized



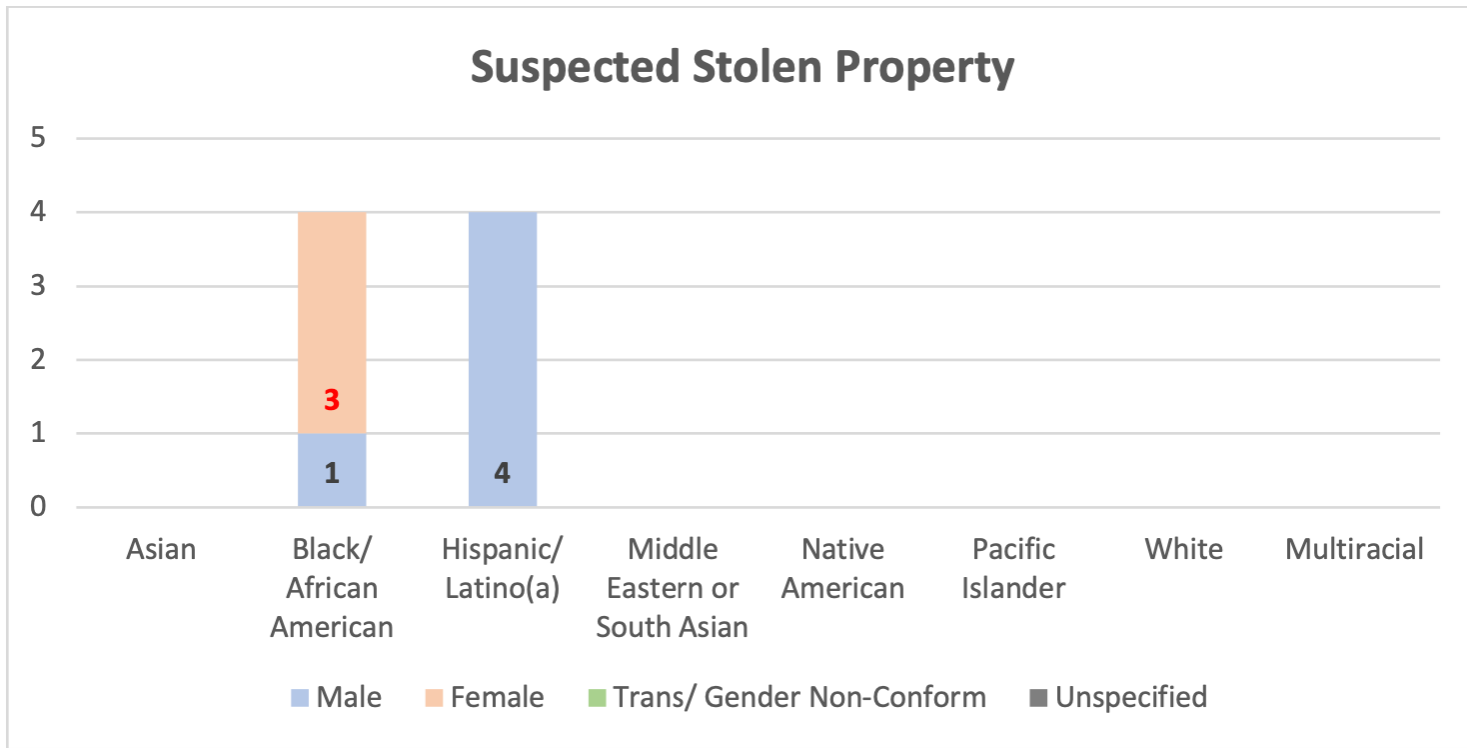
Total:
1
(.04%T)
(2%S)

Types of Property Seized



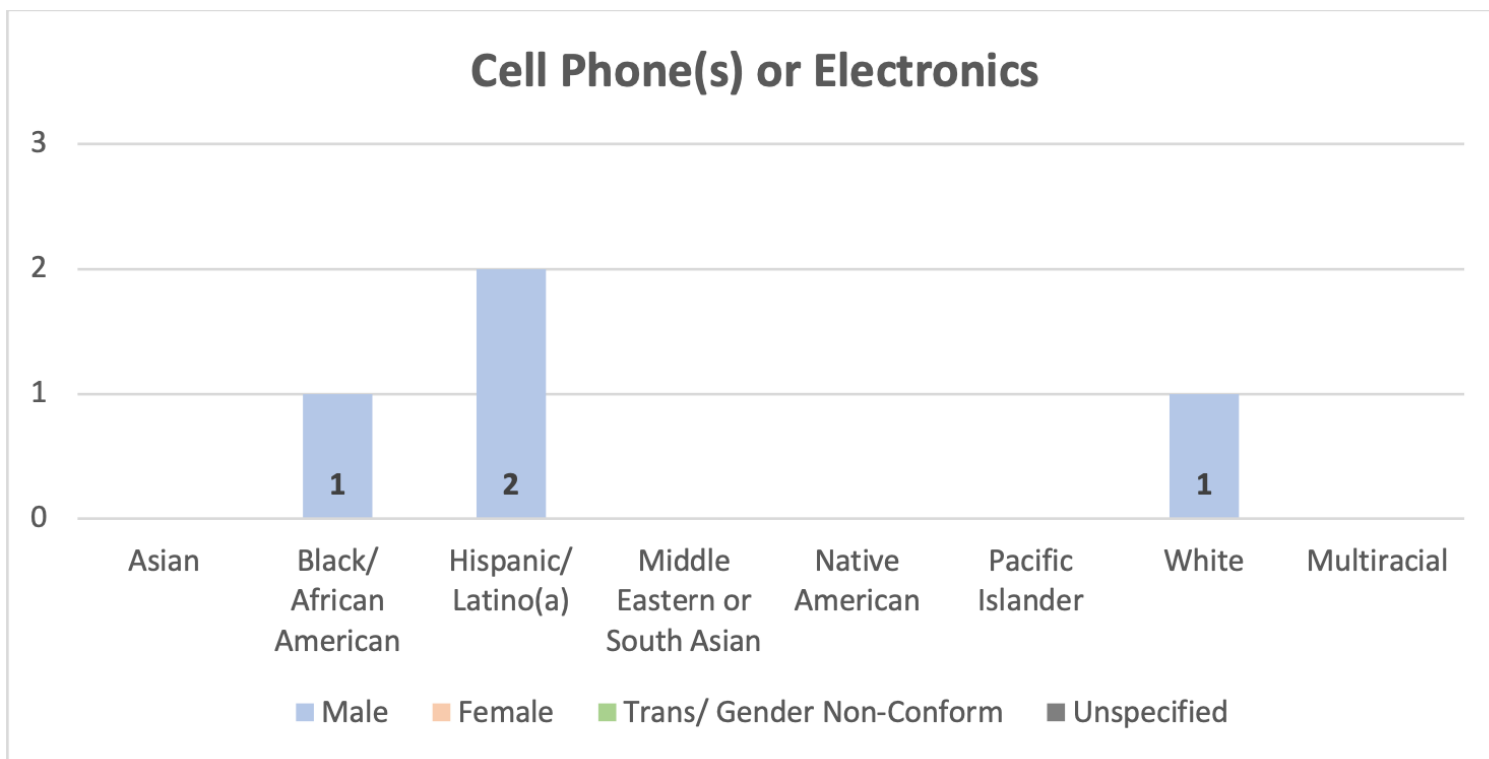
Total:
3
(.04%T)
(6.9%S)

Types of Property Seized



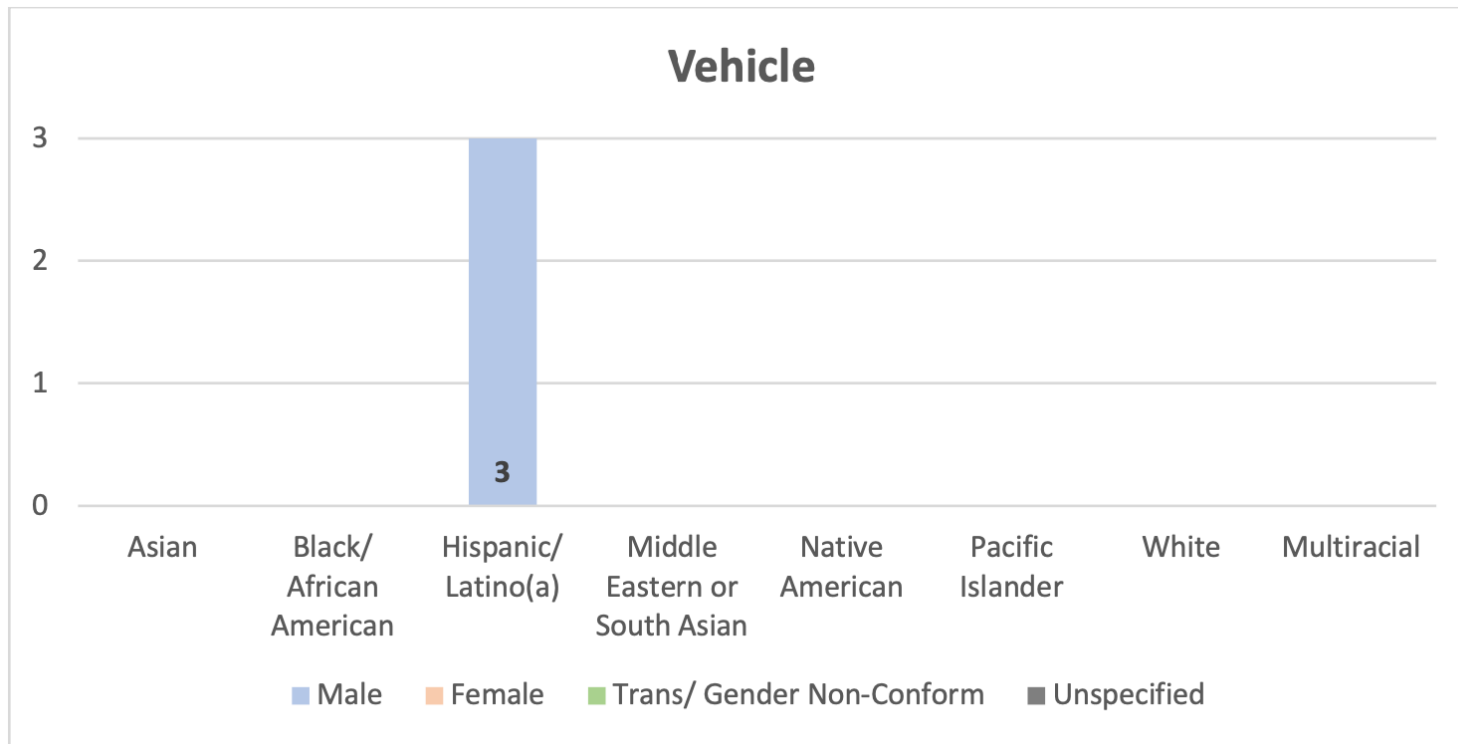
Total:
8
(.4%T)
(18.6%S)

Types of Property Seized



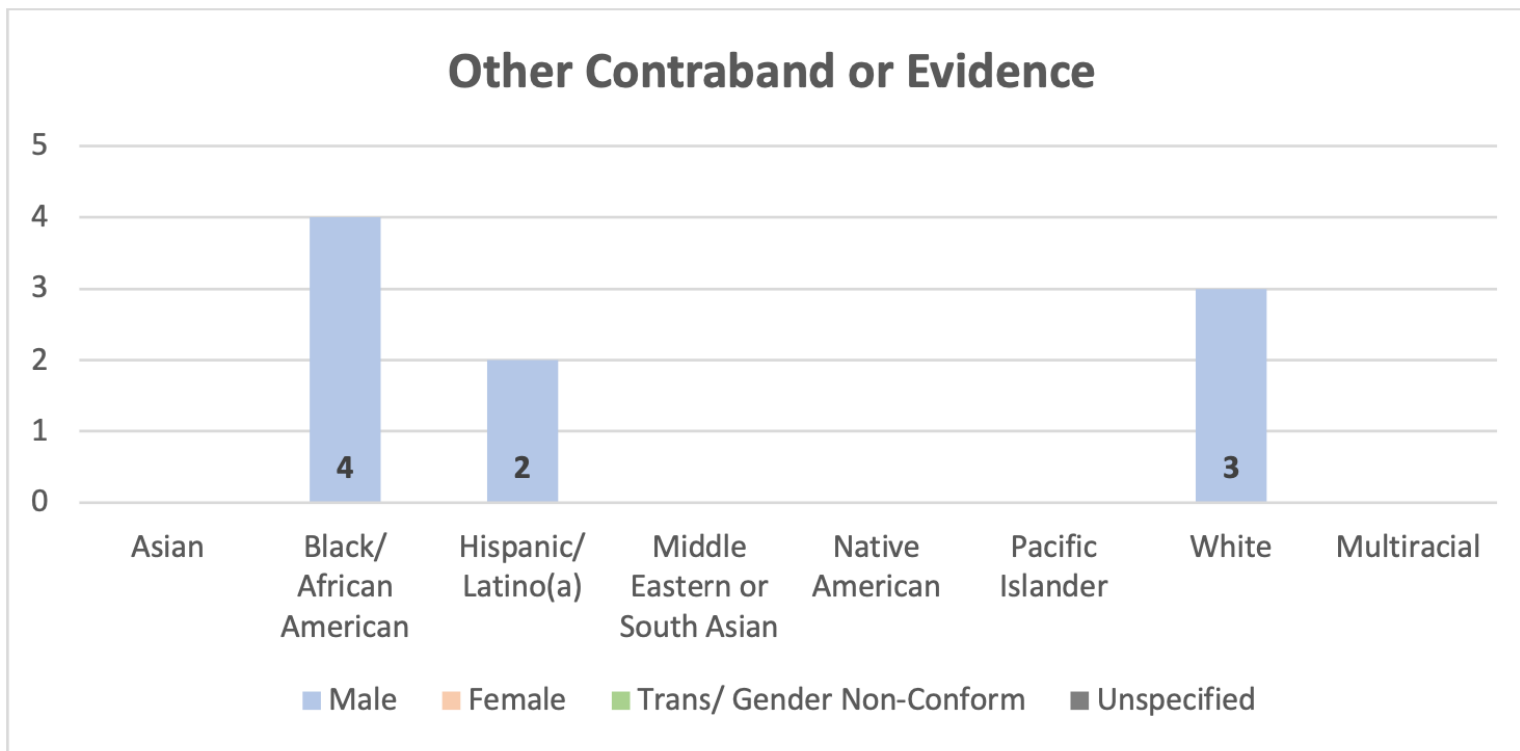
Total:
4
(.2%T)
(9.3%S)

Types of Property Seized



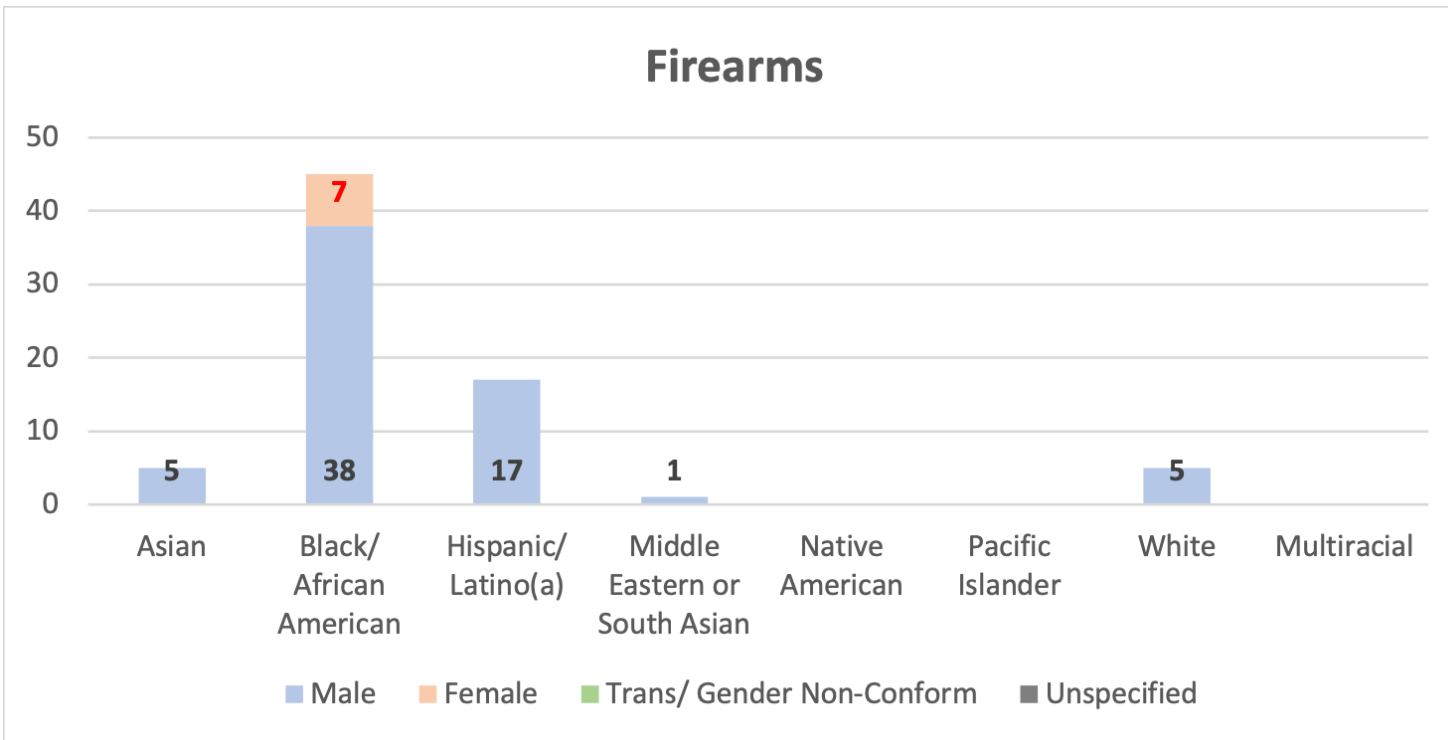
Total:
3
(.1%T)
(6.9%S)

Types of Property Seized



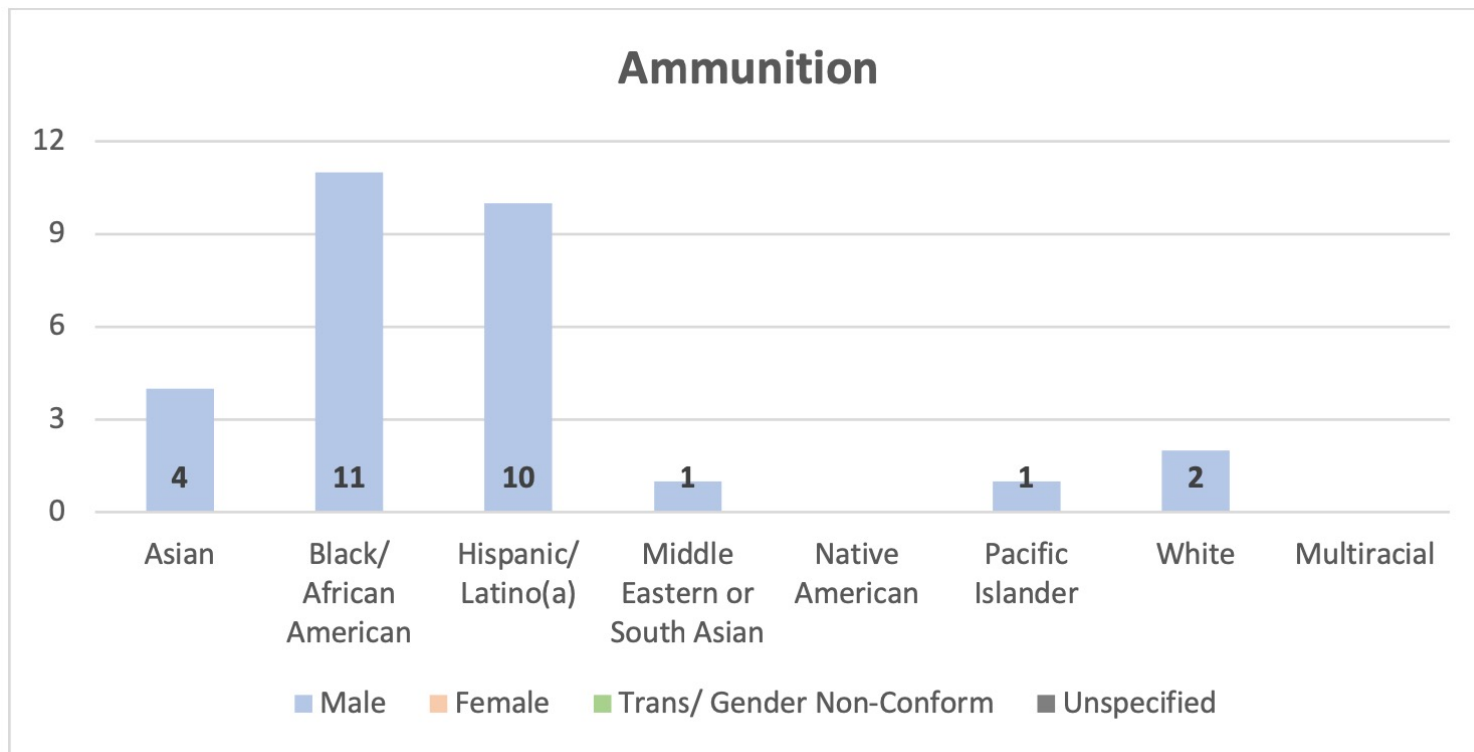
Total:
9
(.4%T)
(20.9%S)

Evidence or Contraband Recovered



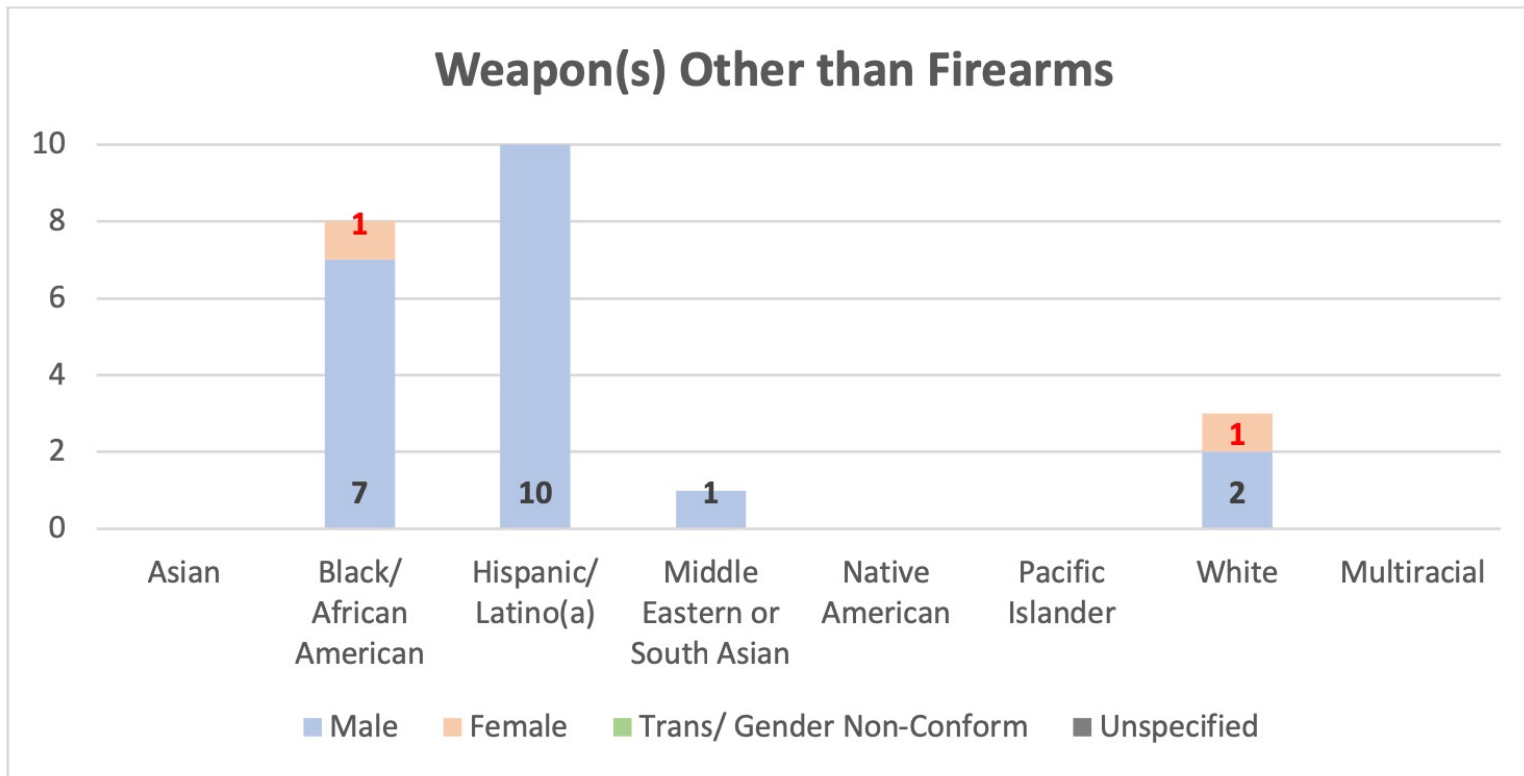
Total:
73
(3.2%)

Evidence or Contraband Recovered



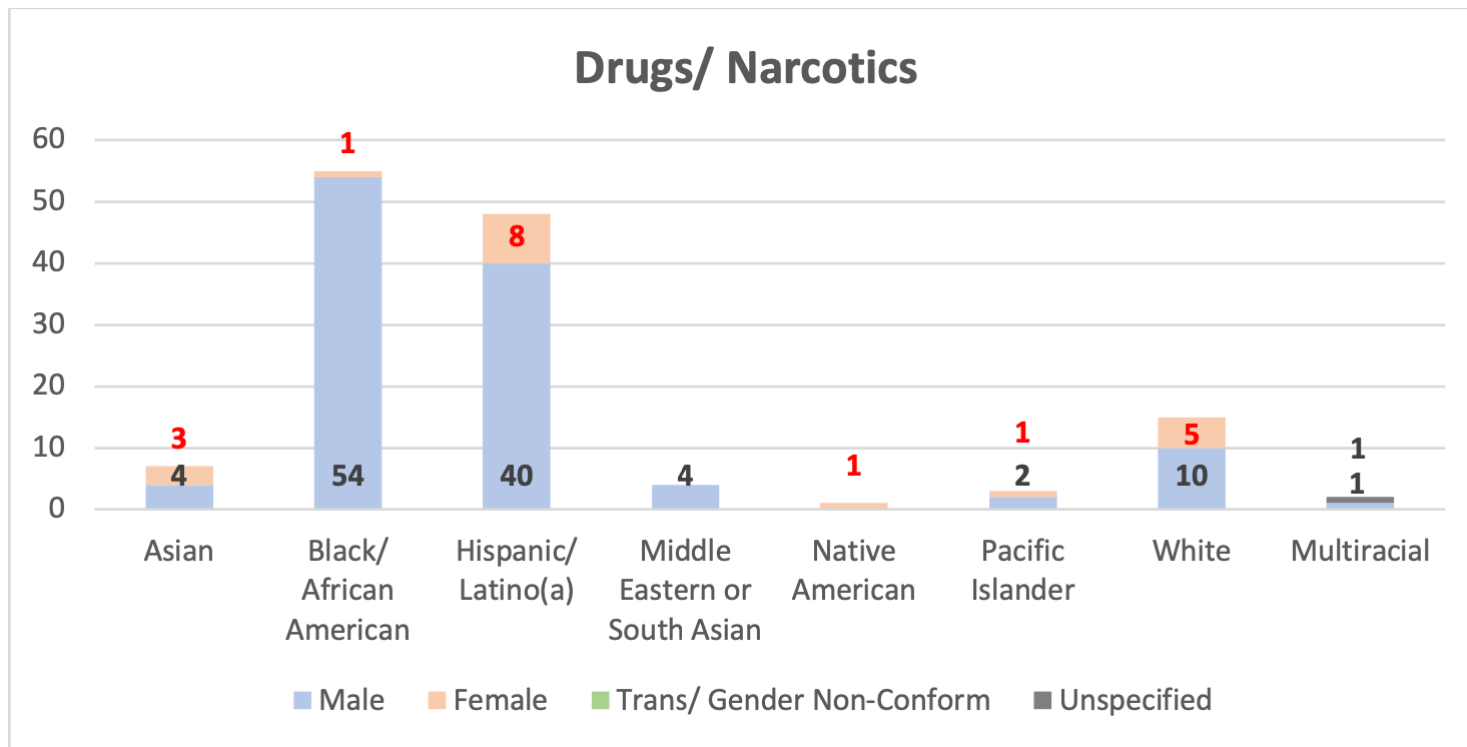
Total:
29
(1.3%)

Evidence or Contraband Recovered



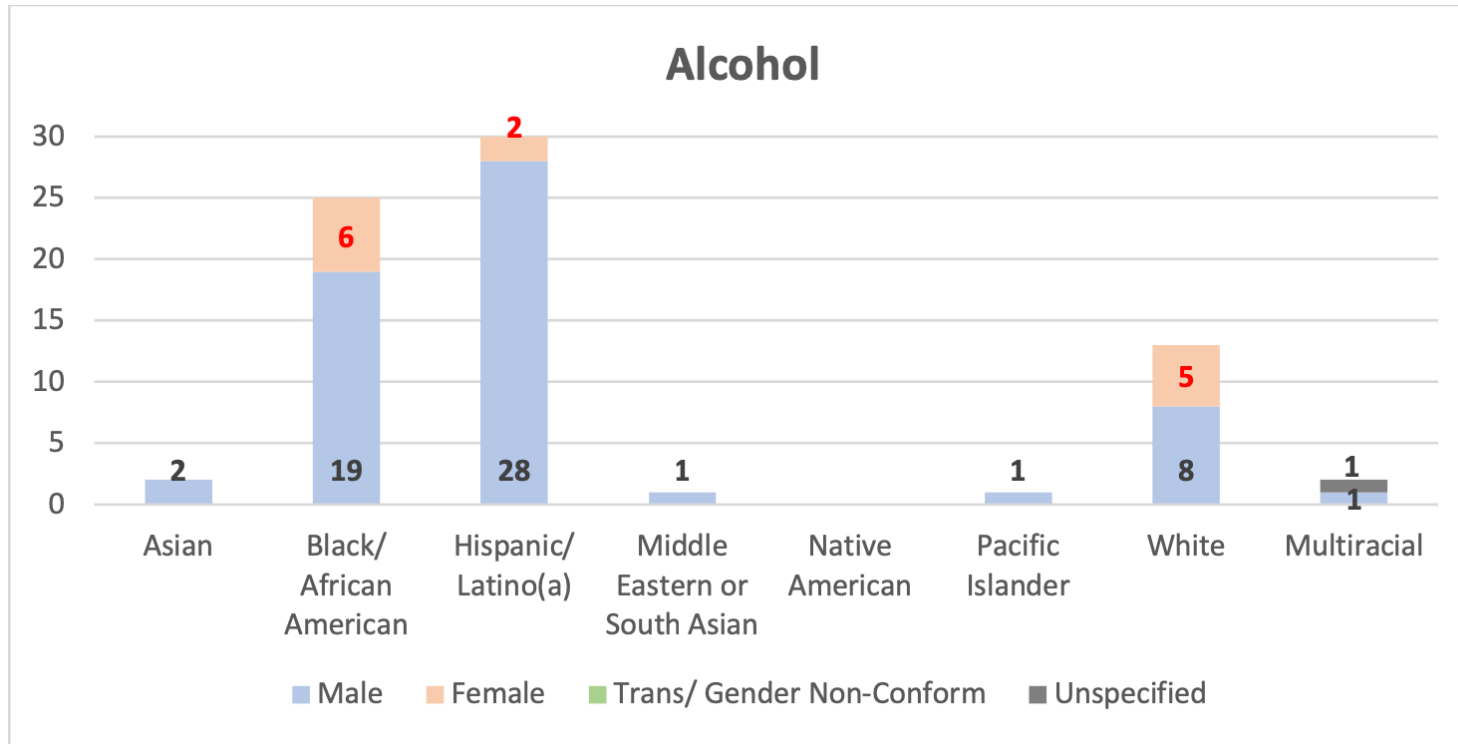
Total:
22
(1%)

Evidence or Contraband Recovered



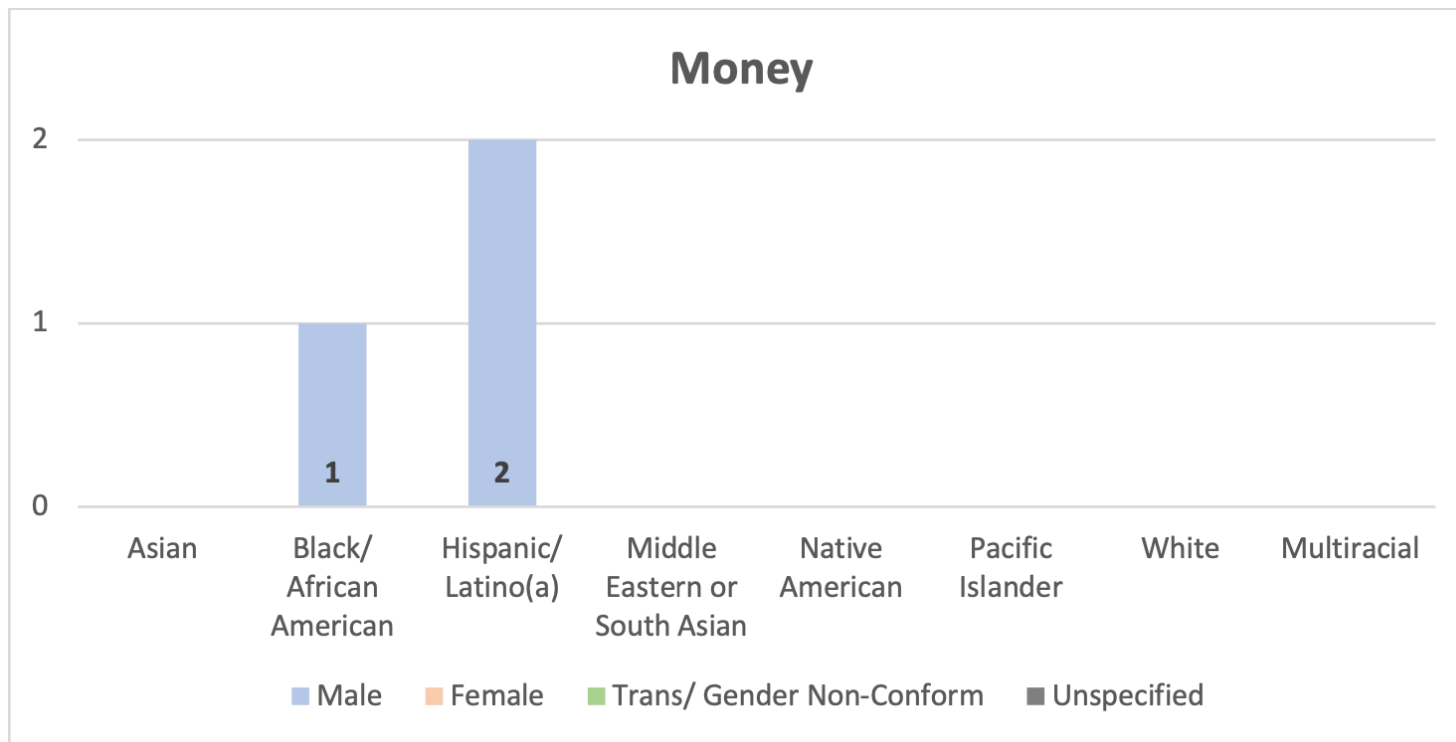
Total:
135
(6%)

Evidence or Contraband Recovered



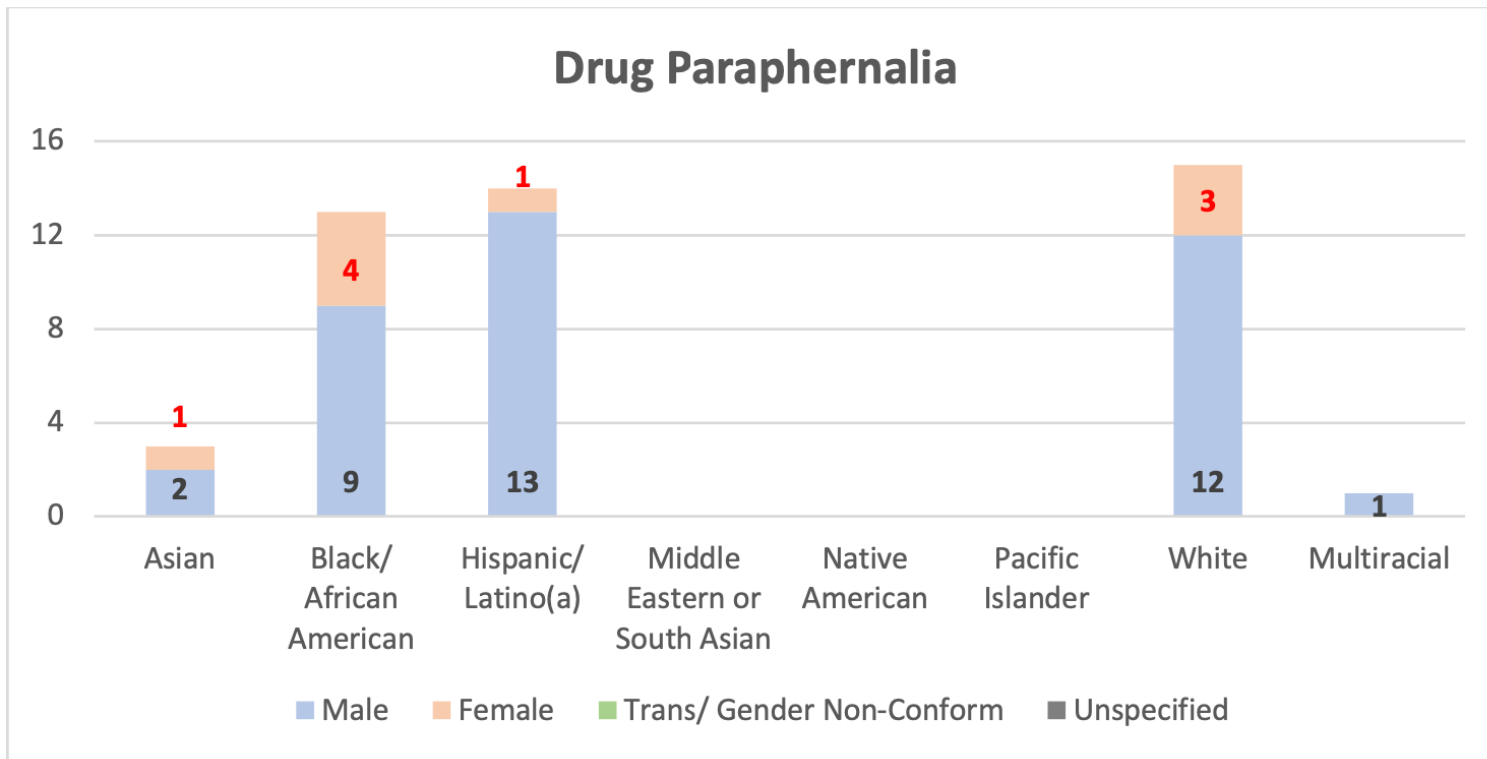
Total:
74
(3.2%)

Evidence or Contraband Recovered



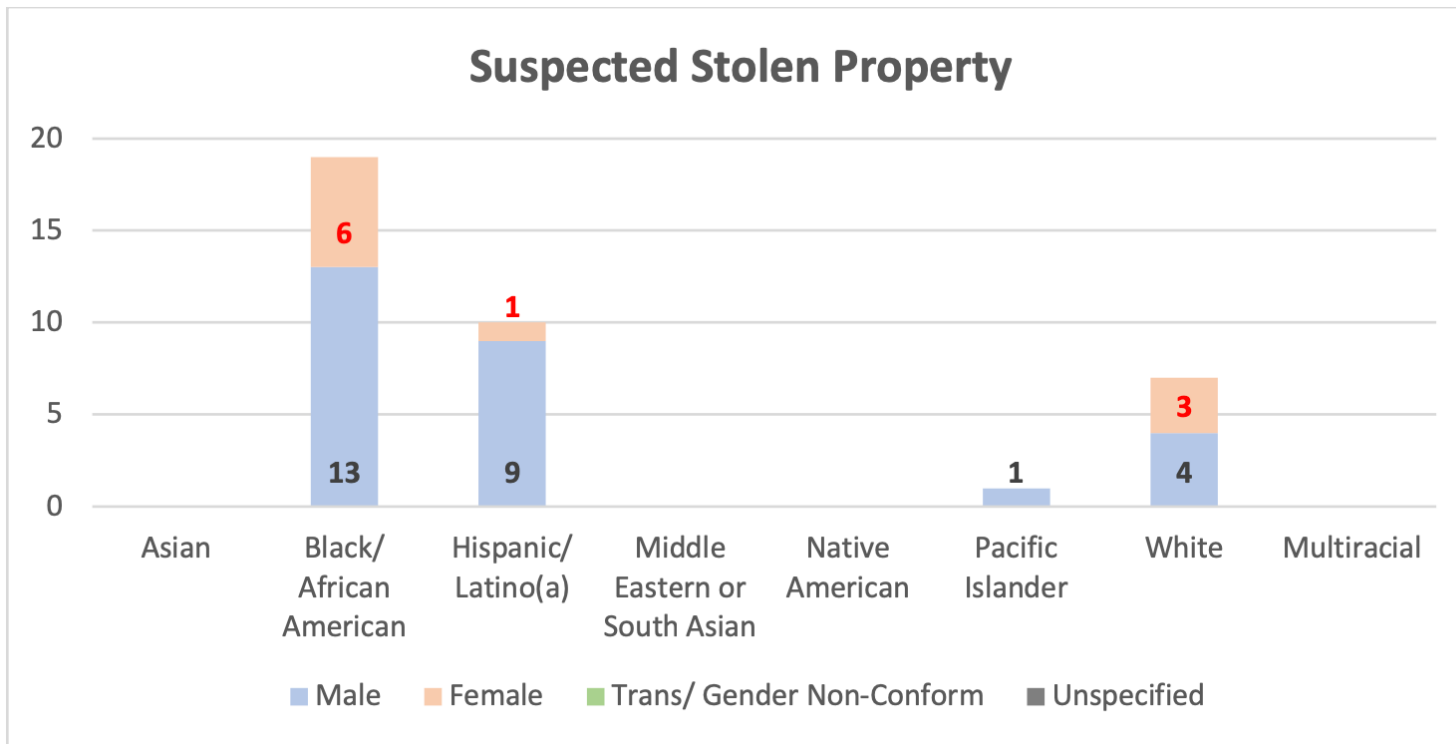
Total:
3
(.1%)

Evidence or Contraband Recovered



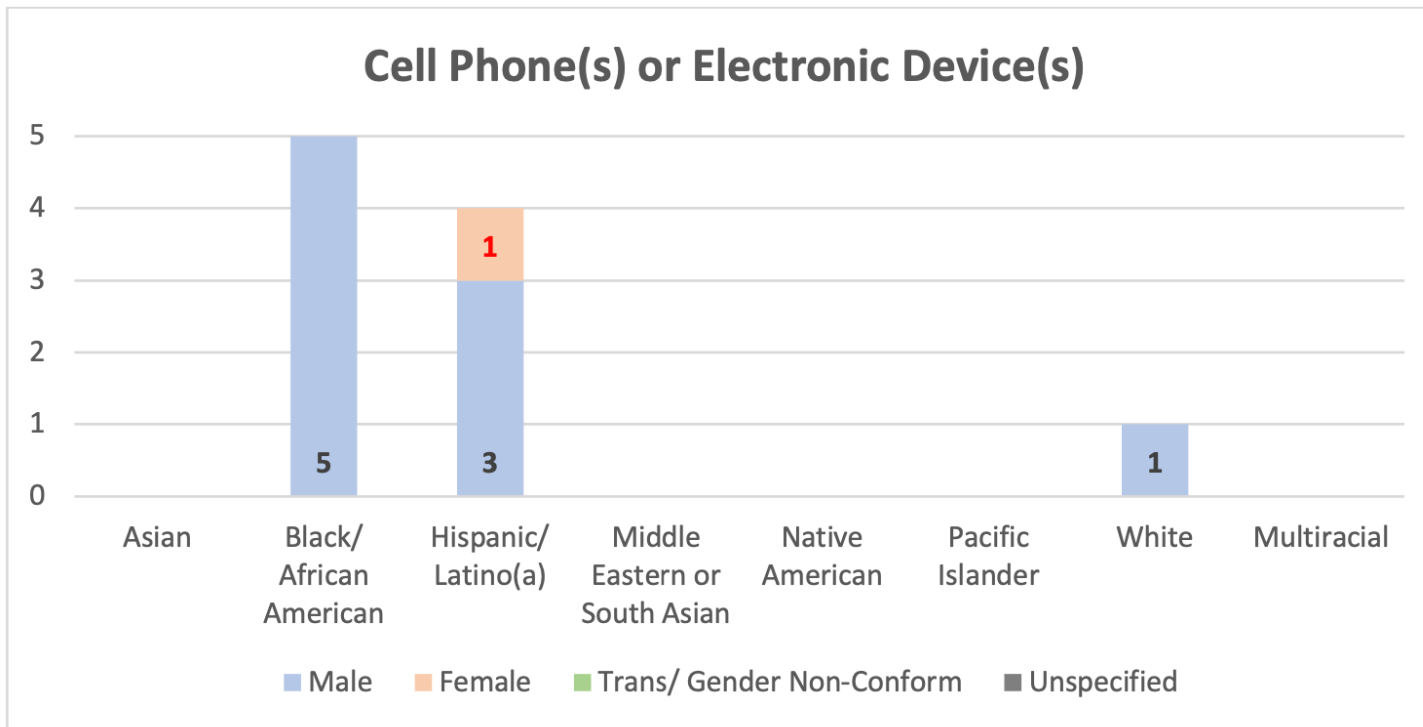
Total:
46
(2.0%)

Evidence or Contraband Recovered



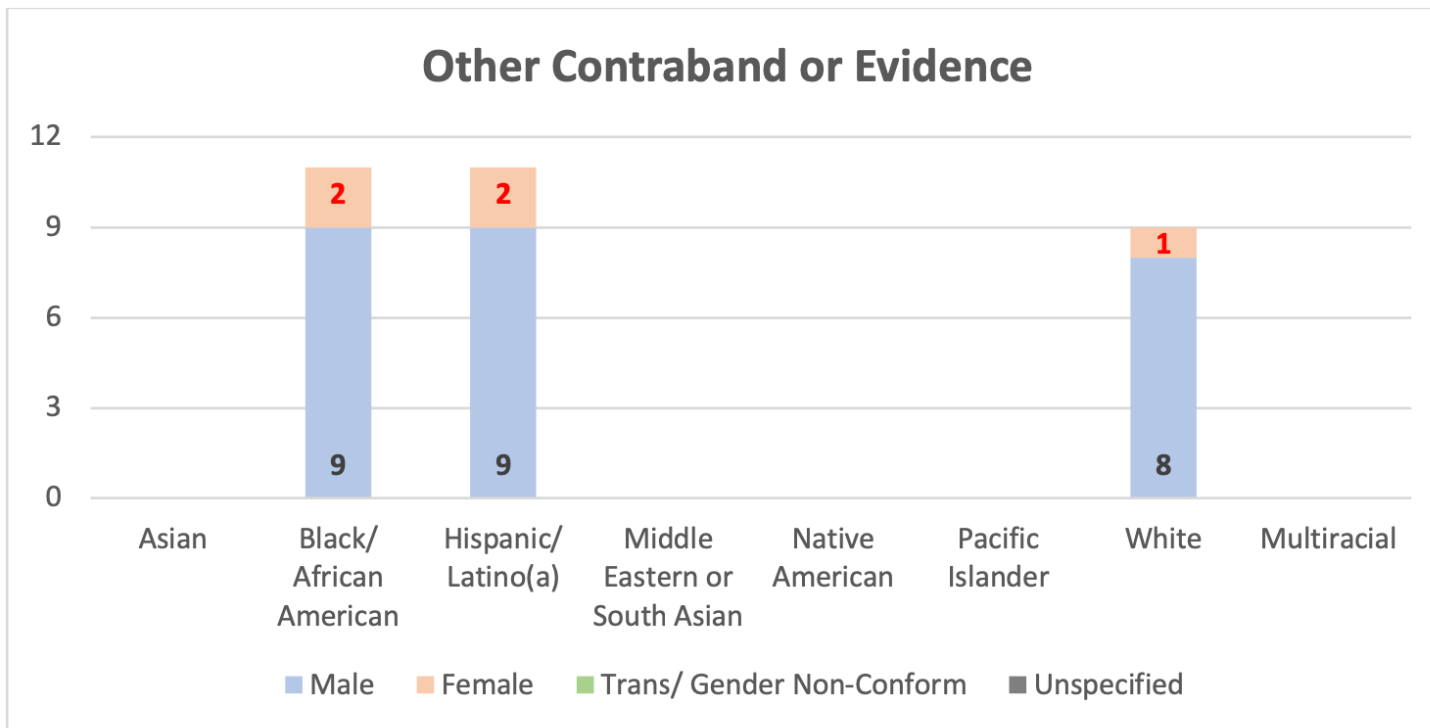
Total:
37
(1.6%)

Evidence or Contraband Recovered



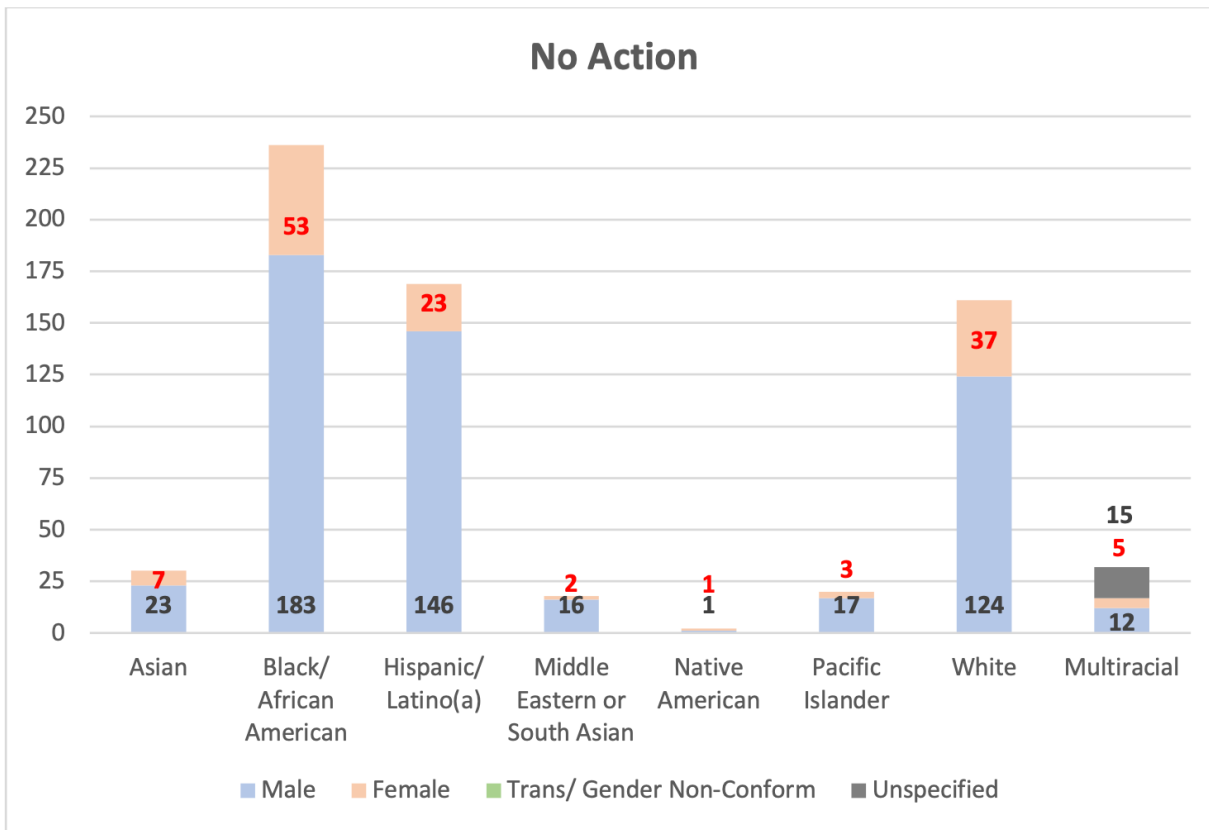
Total:
10
(.4%)

Evidence or Contraband Recovered



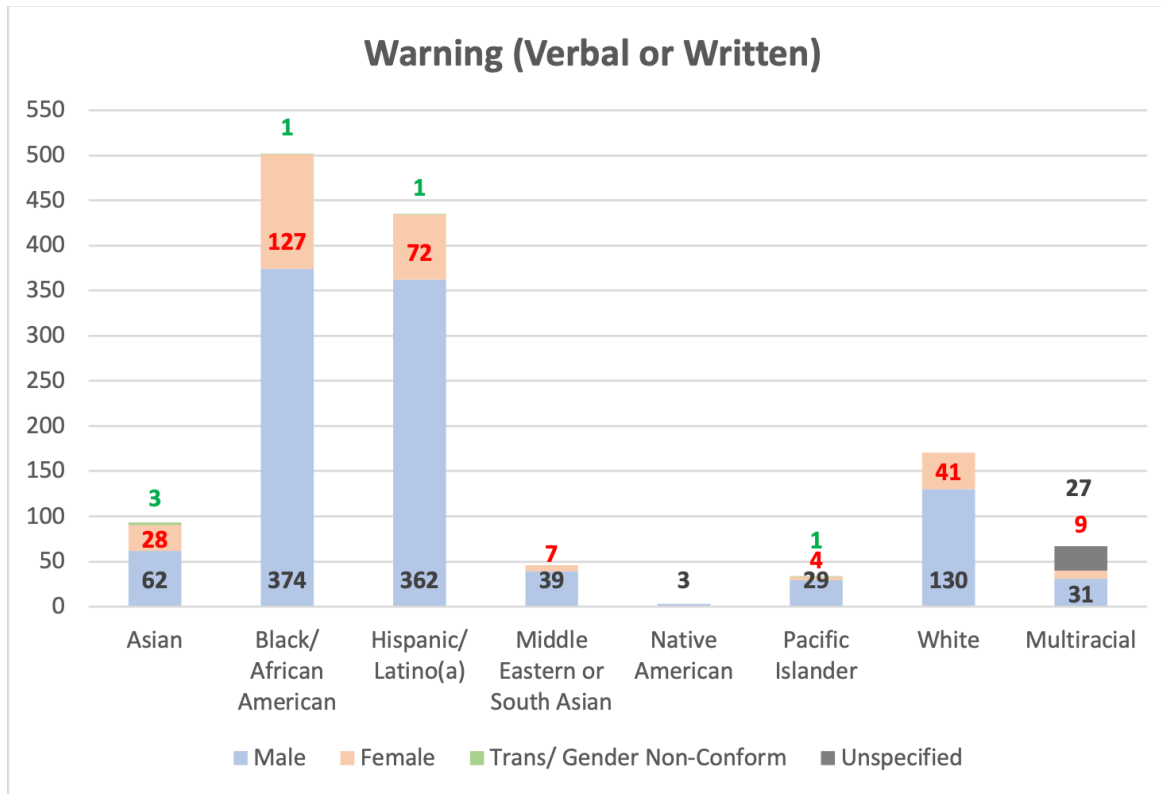
Total:
31
(1.3%)

Results of Stops



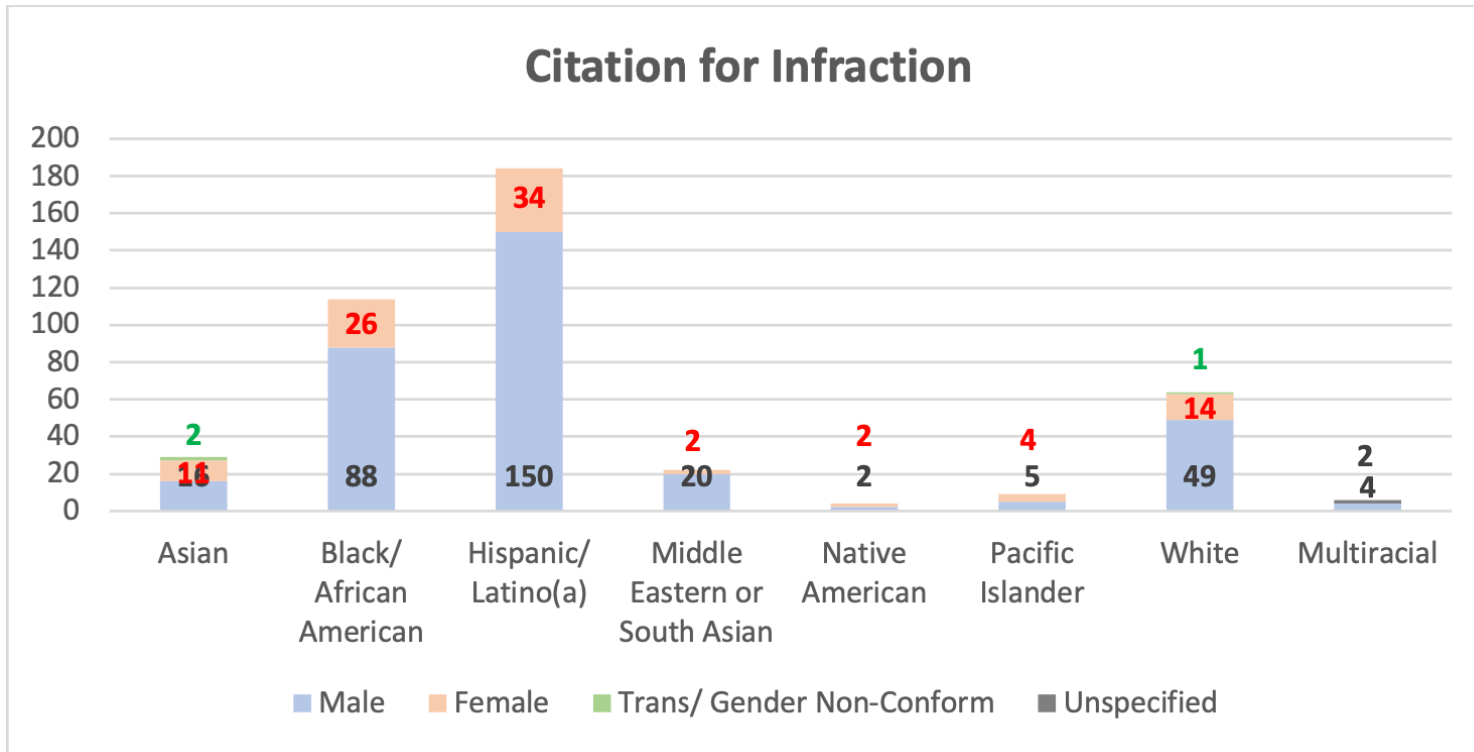
Total:
668
(29.7%)

Results of Stops



Total:
1351
(60.1%)

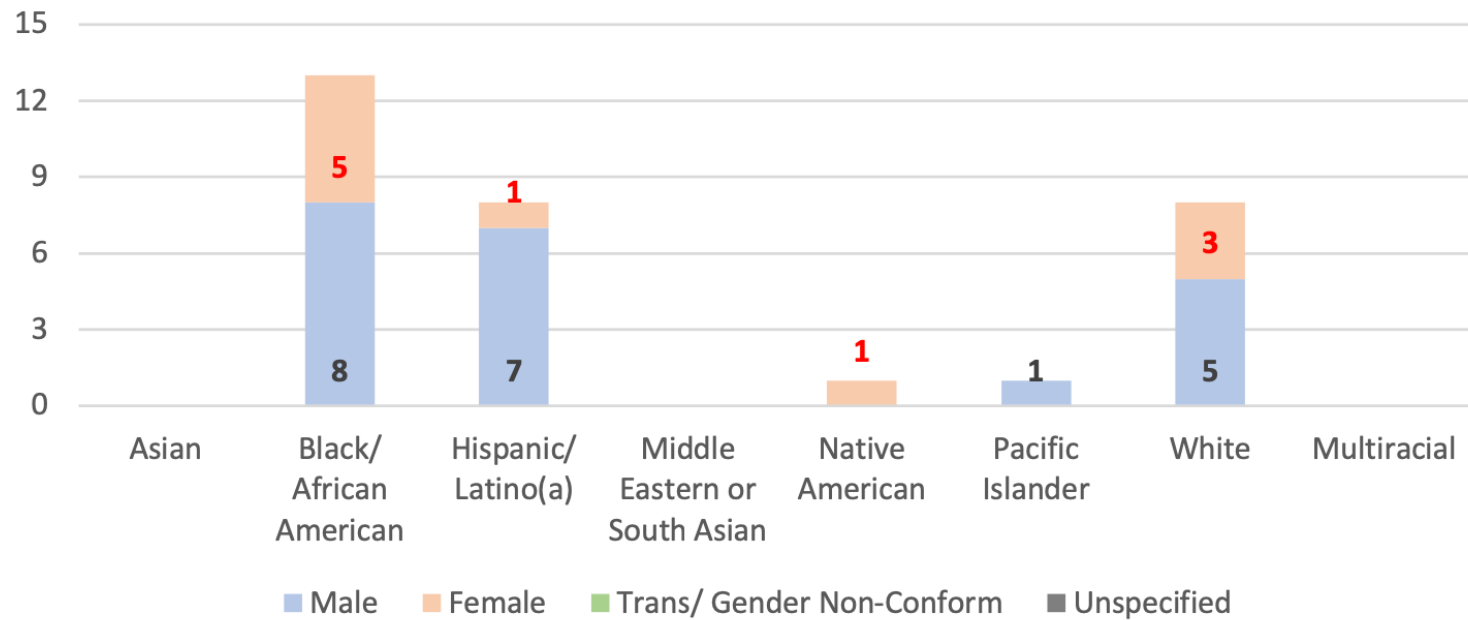
Results of Stops



Total:
432
(19.2%)

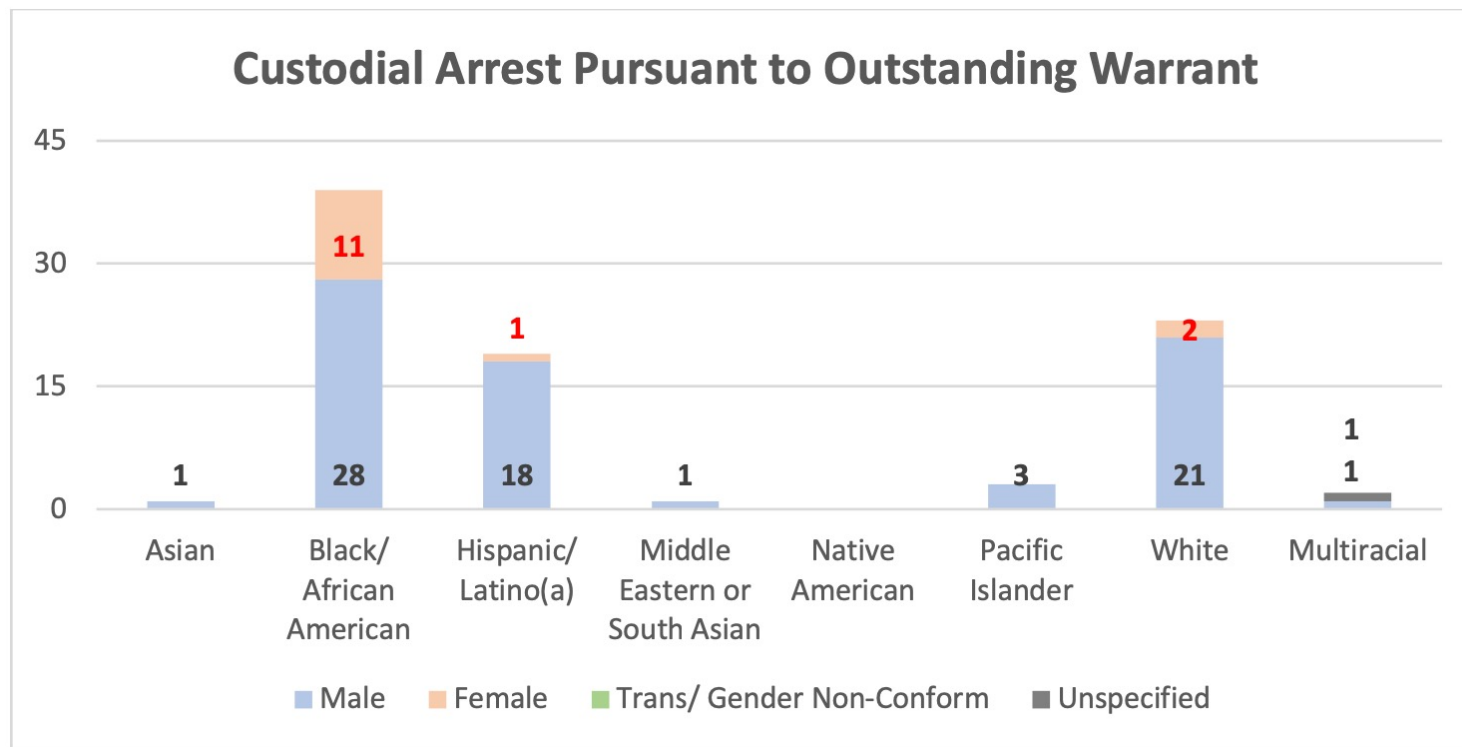
Results of Stops

In-Field Cite and Release



Total:
31
(1.4%)

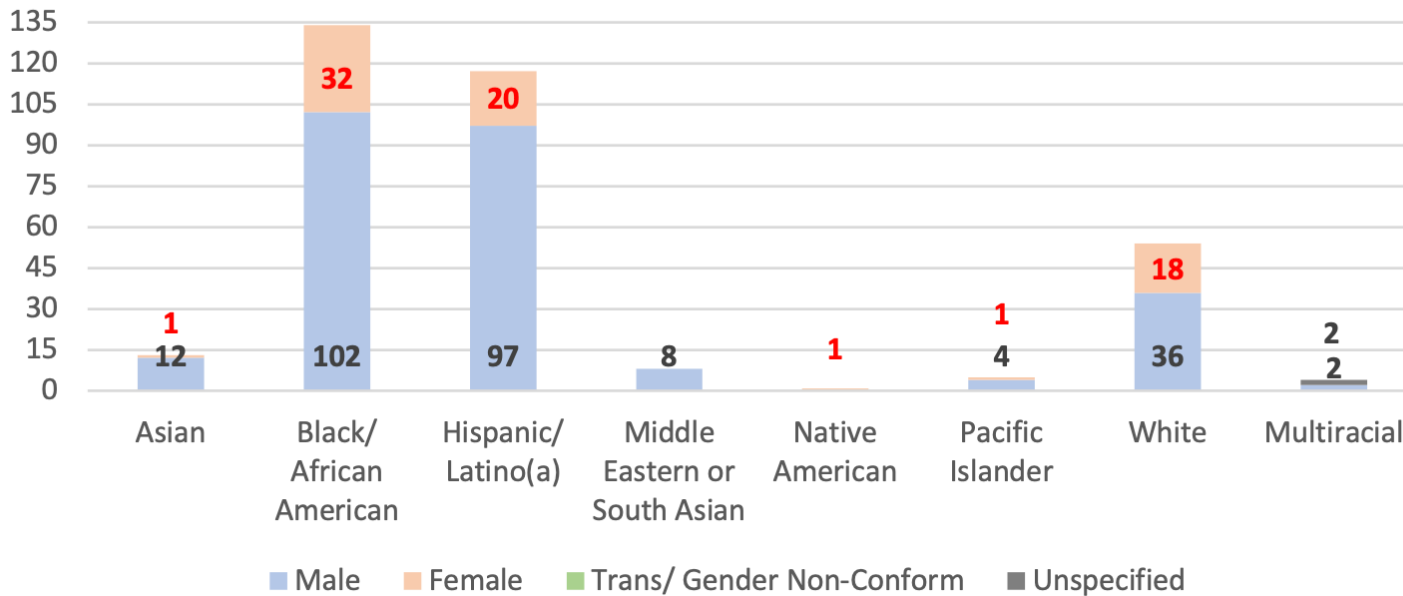
Results of Stops



Total:
88
(3.9%)

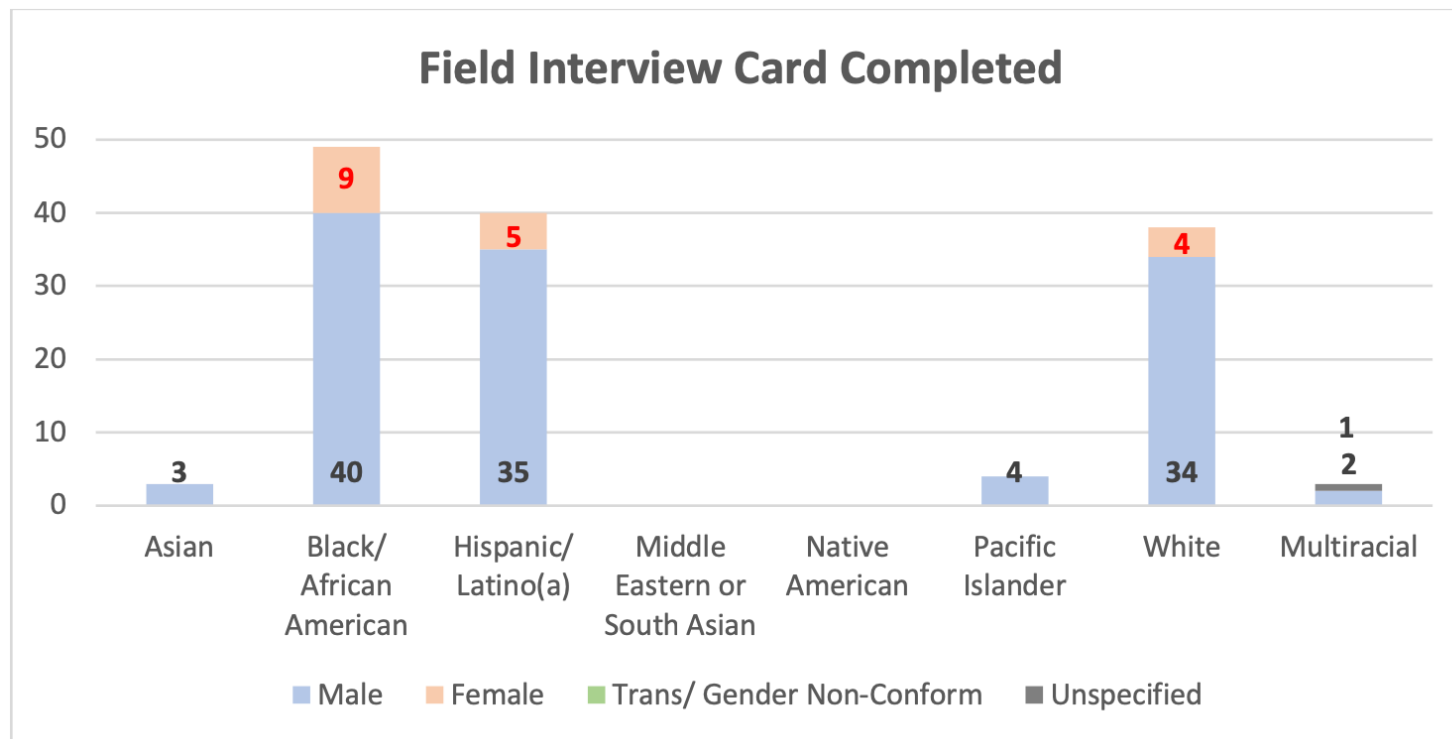
Results of Stops

Custodial Arrest Without Warrant



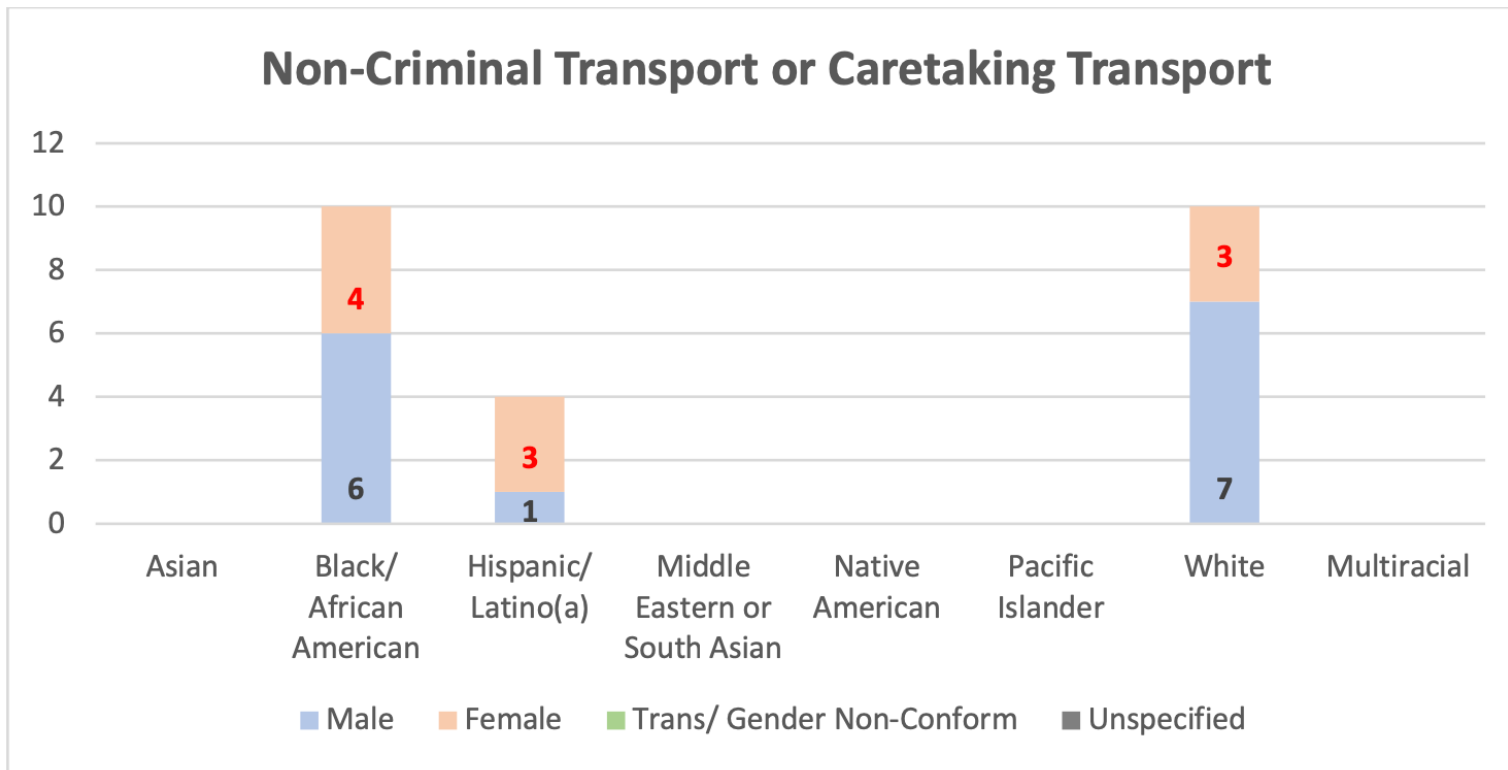
Total:
336
(14.9%)

Results of Stops



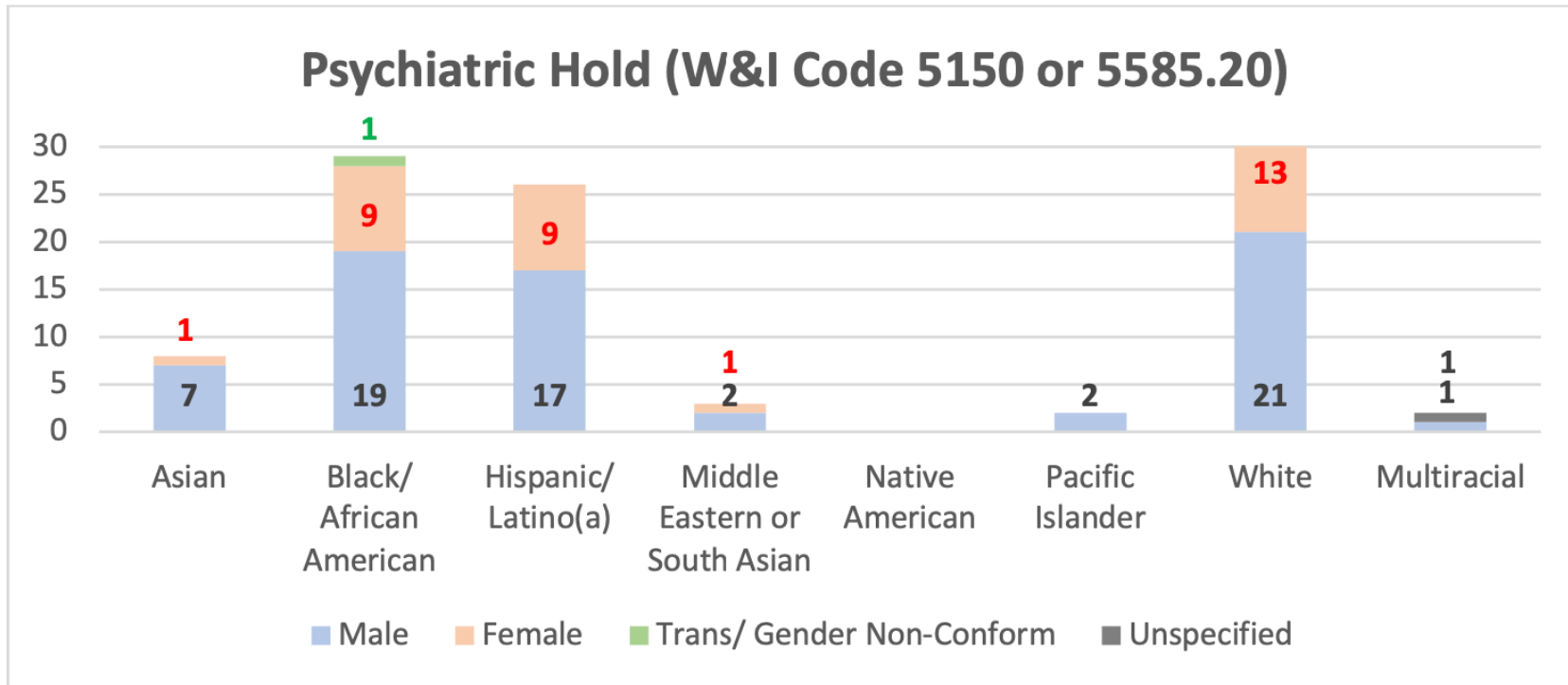
Total:
137
(6.0%)

Results of Stops



Total:
24
(1.1%)

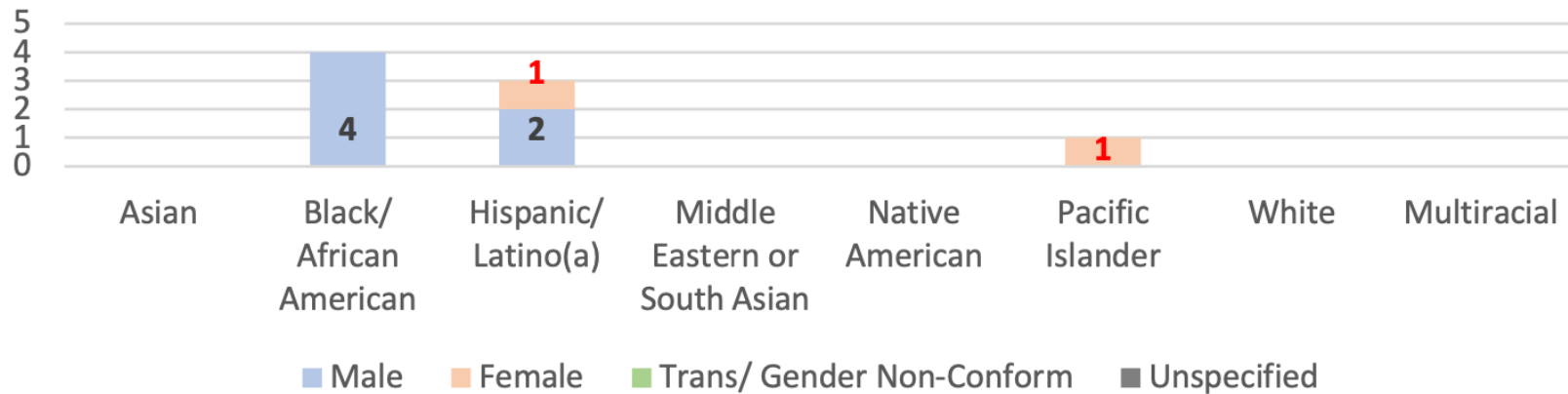
Results of Stops



Total:
104
(4.6%)

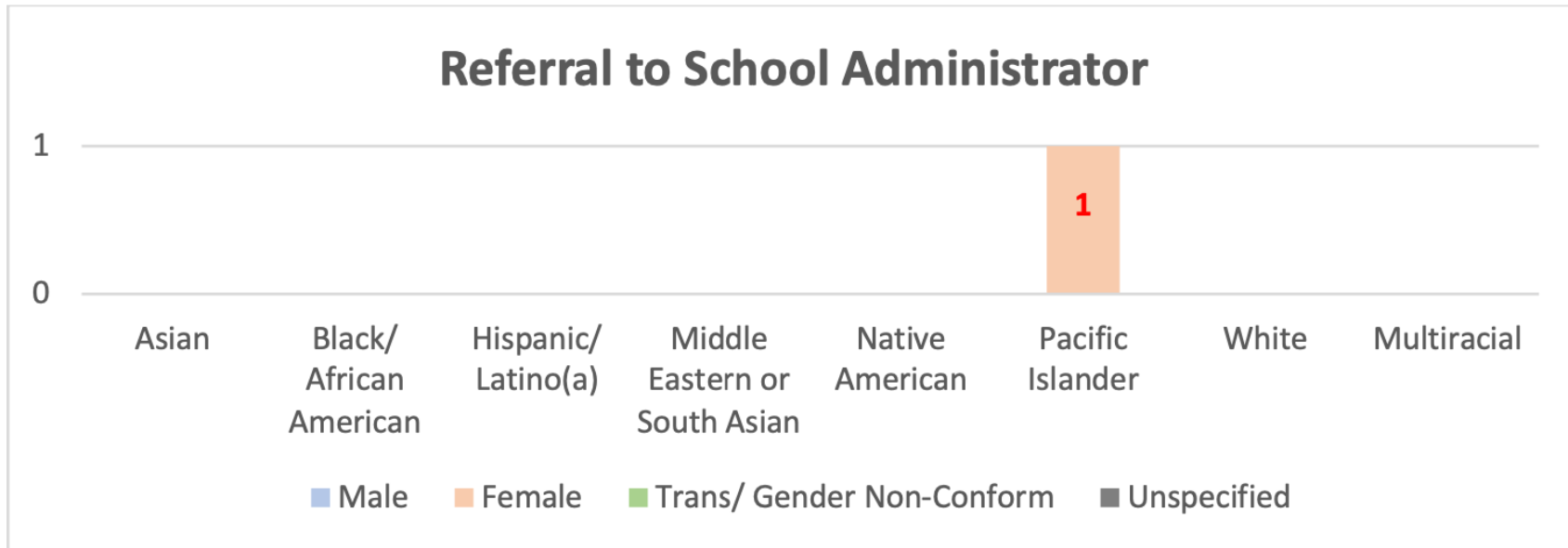
Results of Stops

Contacted Parent/ Legal Guardian or Other Person Resp. for the Minor



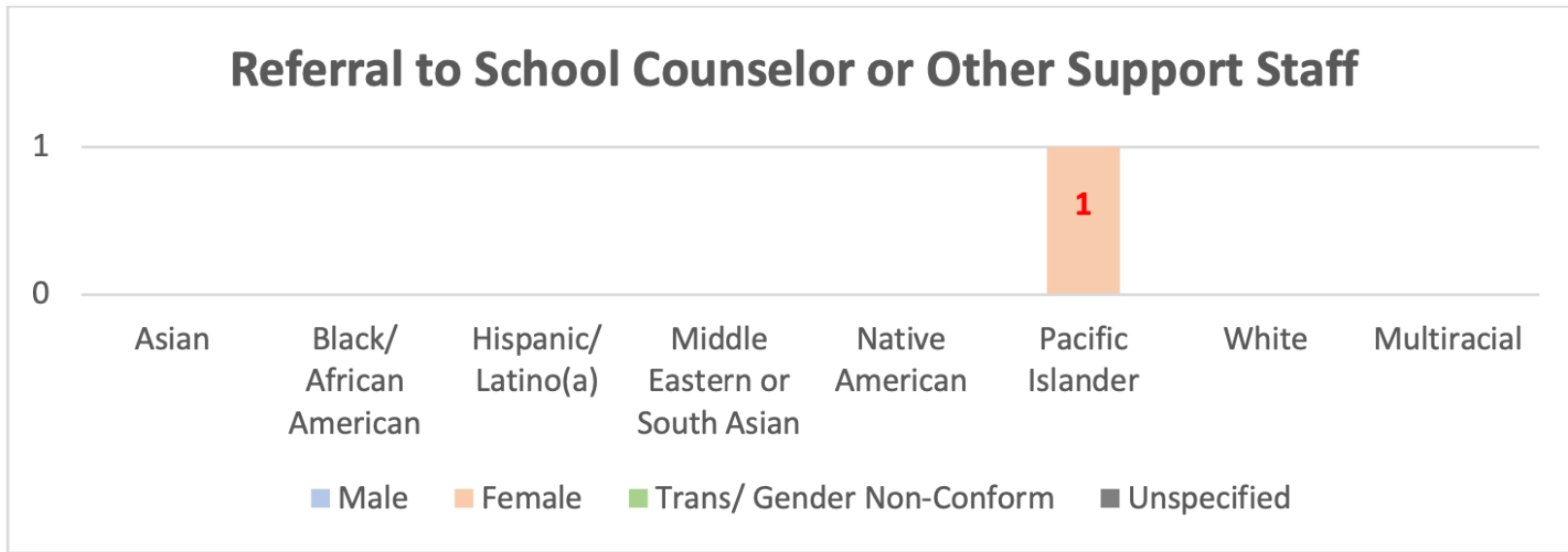
Total:
8
(.4%)

Results of Stops



Total:
1
(.04%)

Results of Stops



Total:
1
(.04%)

Summary Findings - Blacks

- Make up 35.96% of those who were stopped for a violation of the traffic code
- Make up 35.95% of those who were stopped for non-traffic probable cause or reasonable suspicion
- Make up 40.14% of those who were removed from their vehicles and
 - Were removed from their vehicles 22.1% of the times they were stopped for a traffic violation
- Make up 35.59% of those who were searched (consensually or non-consensually) and
 - Were searched 11.26% of the times they were stopped for a traffic violation
- Make up 39.17% of those who were handcuffed in a traffic stop and
 - Were handcuffed 8.5% of the times they were stopped for a traffic violation
- Were found in possession of a firearm in 3.59% of the times they were stopped for a traffic violation

Summary Findings - Hispanics

- Make up 33.2% of those who were stopped for a violation of the traffic code
- Make up 27.96% of those who were stopped for non-traffic probable cause or reasonable suspicion
- Make up 39.45% of those who were removed from their vehicles and
 - Were removed from their vehicles 24.8% of the times they were stopped for a traffic violation
- Make up 37.16% of those who were searched (consensually or non-consensually) and
 - Were searched 13.81% of the times they were stopped for a traffic violation
- Make up 35.33% of those who were handcuffed in a traffic stop and
 - Were handcuffed 10.32% of the times they were stopped for a traffic violation
- Were found in possession of a firearm in .013% of the times they were stopped for a traffic violation

Summary Findings - Asians

- Make up 6.1% of those who were stopped for a violation of the traffic code
- Make up 4.79% of those who were stopped for non-traffic probable cause or reasonable suspicion
- Make up 2.74% of those who were removed from their vehicles and
 - Were removed from their vehicles 13% of the times they were stopped for a traffic violation
- Make up 2.93% of those who were searched (consensually or non-consensually) and
 - Were searched 5.84% of the times they were stopped for a traffic violation
- Make up 3.33% of those who were handcuffed in a traffic stop and
 - Were handcuffed 2.18% of the times they were stopped for a traffic violation
- Were found in possession of a firearm in .073% of the times they were stopped for a traffic violation

Summary Findings - Whites

- Make up 15.44% of those who were stopped for a violation of the traffic code
- Make up 24.63% of those who were stopped for non-traffic probable cause or reasonable suspicion
- Make up 10.98% of those who were removed from their vehicles and
 - Were removed from their vehicles 13.9% of the times they were stopped for a traffic violation
- Make up 18.47% of those who were searched (consensually or non-consensually)
 - Were searched 12.39% of the times they were stopped for a traffic violation
- Make up 16.83% of those who were handcuffed in a traffic stop
 - Were handcuffed 3.75% of the times they were stopped for a traffic violation
- Were found in possession of a firearm in .58% of the times they were stopped for a traffic violation

What Does the Data Show?

- Outcomes:** The data on outcomes show a relatively small percentage of traffic stops result in a summons or arrest and a small percentage result in seizures or contraband.
- Officer Safety:** Officer safety issues are obviously present with each traffic stop and uses of force occurred as a result of traffic stops
- Disparities:** There are inherent disparities in the data across different demographic groups for various police actions. There are disparities when population distribution is used as the denominator. Whether the disparities still exist when different denominators are used has not been looked at, but clearly should be.
- It is crucial to understand that disparities, in and of themselves, do not indicate bias. They are a reflection of differences but do not provide the reasons behind those differences.**

Potential Explanations for Disparities

- **Crime Rates:** Areas with higher crime rates or specific types of crimes might naturally have more enforcement actions. This can lead to disparities when comparing different regions or demographics.
- **Resource Allocation:** Law enforcement resources might be allocated differently based on crime trends, community needs, or historical data, leading to disparities in enforcement.
- **Community Policing Strategies:** Different areas might have unique policing strategies, such as proactive policing, which can influence enforcement data.
- **Socioeconomic Factors:** Areas with different economic conditions, employment rates, educational opportunities, or other social determinants can influence both crime rates and enforcement patterns.
- **Transient Population:** The number of non-resident commuters and their demographic data can impact the assessment where the denominator is based on resident demographics
- **Biased Policing:** Unconstitutionally utilizing race as a factor in stops.