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## **DOI INVESTIGATION FINDS GAPS IN NYPD'S IMPLEMENTATION OF 2012 PATROL GUIDE REVISIONS FOR LGBTQ AND TGNC PEOPLE**

The New York City Department of Investigation ("DOI") issued a Report today examining the New York City Police Department's ("NYPD") implementation of Department protocols, revised in 2012, which govern officer interactions with transgender and gender nonconforming ("TGNC") people. The protocols represent an important step in improving police interactions with the LGBTQ community. However, the Report found some gaps in NYPD's implementation of the revisions, such as not all officers have received training on the new policies. DOI's Report also found certain flaws in the Department's ability to track Lesbian, Gay, Bisexual, Transgender and Queer ("LGBTQ")-related complaints that allege police misconduct. A copy of DOI's Report is attached to this release and can be found at the following link: <http://www1.nyc.gov/site/doi/newsroom/public-reports.page>

Commissioner Mark G. Peters said, "The NYPD's protocols are an important step in making sure that the rights of all New Yorkers are protected and respected. We must now make sure that all NYPD officers get full training and that the NYPD can fully track issues going forward."

DOI's Inspector General for the NYPD Philip K. Eure said, "These Patrol Guide changes are a significant statement of proper interaction between police officers and LGBTQ people. Victims of crime and witnesses to crime who identify as LGBTQ will be more likely to work with law enforcement when the Patrol Guide changes are fully implemented throughout the entire force."

The 2012 Patrol Guide revisions reviewed in this Report were largely intended to improve NYPD engagement with LGBTQ people during arrest processing and to improve community relations. The revisions stemmed from past negotiations between the NYPD, members of the New York City Council, and representatives from the LGBTQ community. The revisions affected 12 Patrol Guide procedures, ranging from requiring officers to address people who are arrested by their preferred name to prohibiting strip searches to determine gender.

DOI's Report found that although the NYPD has developed trainings on LGBTQ and TGNC issues and the corresponding Patrol Guide provisions, not all members of the police force have received instruction on the revised protocols. Instead, the training has been limited to academy recruits, starting with the class of 2012, newly-promoted sergeants, lieutenants, and captains, and optional in-service training at precincts, as needed. DOI found that while trainings for recruits and officers receiving promotions were comprehensive, the impact and reach of in-service trainings have been insufficient. For example, according to records kept by the NYPD Community Affairs Bureau, between 2012 and 2016 only six of NYPD's 77 precincts received this training.

The investigation also determined that NYPD does not currently track all LGBTQ-related complaints alleging bias by police officers. While NYPD has tracked “profiling” complaints since 2014 and certain offensive language complaints since January 2017, these categories do not capture other LGBTQ-related complaints that may violate the Patrol Guide revisions or involve other types of biased conduct. This means that the NYPD’s Internal Affairs Bureau (“IAB”) is not properly classifying and tracking all complaints from the LGBTQ community. As a result, NYPD is limited in its ability to detect violations of the Patrol Guide changes, perform internal assessments regarding the possible existence of biased policing issues affecting the LGBTQ community, and implement new training to reduce instances of discrimination. Notably, NYPD has not substantiated any allegations of profiling since this category was created in 2014.

The Report makes several recommendations in the areas of training, name recording on forms and databases, and properly categorizing and tracking LGBTQ-related complaints from the public. Some key recommendations include:

- NYPD should provide mandatory in-service training and accompanying resource materials on the 2012 Patrol Guide revisions to all uniformed members during roll call sessions in each precinct through the NYPD-U webinar platform. Training attendance and completion should be tracked to ensure that all members of the police force have received this training.
- NYPD should, within six months, report to DOI on whether and how the Department will change remaining forms and databases to record an individual’s preferred name in a separate field.
- NYPD should ensure that police stations are using updated forms, especially those documents pertaining to the 2012 revisions.
- NYPD IAB’s complaint system should be configured to classify and track all LGBTQ-related complaints alleging bias (not just profiling and offensive language allegations). Such allegations would include violations of the 2012 Patrol Guide revisions.
- NYPD IAB should report patterns and trends associated with LGBTQ-related complaints to the LGBT Liaison to the Police Commissioner to track and monitor LGBT issues.

*DOI is one of the oldest law-enforcement agencies in the country and New York City’s corruption watchdog. Investigations may involve any agency, officer, elected official or employee of the City, as well as those who do business with or receive benefits from the City. DOI’s strategy attacks corruption comprehensively through systemic investigations that lead to high-impact arrests, preventive internal controls and operational reforms that improve the way the City runs.*

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**New York City Department of Investigation's  
Office of the Inspector General for the NYPD**

**REVIEW OF NYPD'S IMPLEMENTATION OF PATROL GUIDE  
PROCEDURES CONCERNING TRANSGENDER AND GENDER  
NONCONFORMING PEOPLE**

**MARK G. PETERS  
COMMISSIONER**

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## I. Executive Summary

In June 2012, the New York City Police Department (NYPD) revised Patrol Guide protocols governing officer interactions with transgender and gender nonconforming (TGNC) people.<sup>1</sup> These changes were made after lengthy negotiations between NYPD and representatives of the New York City Council, and the Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) community. They marked a shift in NYPD and LGBTQ community relations in a city with both the largest police department and the greatest population of LGBTQ people in the nation.<sup>2</sup>

The Patrol Guide revisions stemmed from decades of a historically tumultuous relationship between NYPD and the LGBTQ community, which has been well documented.<sup>3</sup>

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\* NYC Department of Investigation Commissioner Mark G. Peters and Inspector General for the NYPD Philip K. Eure thank the staff of OIG-NYPD for their efforts in helping to produce this Report, especially Asim Rehman, General Counsel; Candace McCoy, Director of Policy Analysis; Hassan Naveed, Director of Outreach; David Rozen, Assistant Counsel; Adrian Amador, Policy Analyst; Percival Rennie, Investigative Auditor; and Brigitte Watson, Senior Investigator; as well as other current and former staff. Our gratitude is also extended to the New York City Police Department for its cooperation during the preparation of this Report.

<sup>1</sup> See New York City Police Department Patrol Guide, NYPD, [http://www.nyc.gov/html/nypd/downloads/pdf/public\\_information/public-pguide1.pdf](http://www.nyc.gov/html/nypd/downloads/pdf/public_information/public-pguide1.pdf) (last visited November 17, 2017). Throughout this Report, "TGNC" is used to describe people who identify as transgender or whose gender does not conform to a binary male/female identity. "LGBTQ" is used as a more comprehensive acronym to describe the broader community. This Report recognizes that no acronym is completely inclusive.

<sup>2</sup> See Frank Newport and Gary J. Gates, *San Francisco Metro Area Ranks Highest in LGBT Percentage*, GALLUP, March 20, 2015, available at <http://www.gallup.com/poll/182051/san-francisco-metro-area-ranks-highest-lgbt-percentage.aspx> (last visited November 17, 2017). The San Francisco metropolitan area has the highest percentage of LGBTQ residents, while the New York City metropolitan area has the highest population in total numbers.

<sup>3</sup> See Civilian Complaint Review Board, *PRIDE, PREJUDICE AND POLICING: AN EVALUATION OF LGBTQ-RELATED COMPLAINTS FROM JANUARY 2010 THROUGH DECEMBER 2015*, June 30, 2016, available at <http://www.nyc.gov/html/ccrb/downloads/pdf/LGBTQ-Report.pdf> (last visited November 17, 2017). See also The Center for Constitutional Rights, *STOP AND FRISK, THE HUMAN IMPACT: THE STORIES BEHIND THE NUMBERS, THE EFFECTS ON OUR COMMUNITIES*, July 26, 2012, available at <https://ccrjustice.org/sites/default/files/attach/2015/08/the-human-impact-report.pdf> (last visited November 17, 2017).

Following a series of allegations of police misconduct in the mid-2000s, some of which resulted in legal action, LGBTQ groups joined together to advocate for revisions to the Patrol Guide.<sup>4</sup>

These 2012 Patrol Guide revisions established policies that:

- Require that people be referred to by names, titles of respect, and pronouns consistent with their gender identities as expressed by the individual, whether or not these are reflected on legal identification documents. (P.G. § 203-10)
- Require that NYPD use a person's preferred name in addition to legal name on specific forms: *Prisoner Pedigree Card*, *Prisoner Movement Slip*, and *On Line Booking System Arrest Worksheet*.<sup>5</sup> (P.G. § 208-03)
- Prohibit using the fact that a person gave a preferred name rather than a legal name as evidence of a charge of "false personation." (P.G. §§ 208-02;208-28; 208-54; 209-24; 209-26)
- Extend the prohibition on the use of discourteous or disrespectful remarks by members of NYPD to include remarks about gender identity or expression. (P.G. § 203-10)

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<sup>4</sup> The allegations included conducting strip searches to determine gender, handcuffing TGNC detainees to benches and railings for long periods of time, and physically abusing TGNC people. Two transgender women of color successfully challenged their arrests for loitering for the purposes of prostitution in New York City in 2008 (*Lamot v. City of New York et al.*, S.D.N.Y., 08cv5300) and 2011 (*Combs v. City of New York et al.*, S.D.N.Y., 11cv3831). See also *Angelina Mavilla v. The City of New York*, S.D.N.Y., 110cv00617 and Amended Complaint and Demand for Jury Trial, *Breslauer v. City of New York*, S.D.N.Y., 12CV558.

<sup>5</sup> *Prisoner Pedigree Cards* record identifying information about detainees. *Prisoner Movement Slips* document identifying information of prisoners at the precinct or Central Booking and document strip searches. The *On Line Booking System Arrest Worksheet* is completed during the booking process and serves as a paper copy of information that will ultimately be recorded in the *OmniForm* database, NYPD's repository of arrests and crime complaints.

- Prohibit searches conducted for the sole purpose of determining a person's gender and prohibit officers from asking questions about an arrestee's anatomy without a reasonable basis for the questioning. (P.G. § 208-05)
- Prohibit NYPD School Safety Agents from strip searching any students. (P.G. § 215-18)
- Require that searches of people in custody be conducted by an officer of the gender requested by the arrestee, or, if not possible, to note the reason in the command log. (P.G. §§ 208-05; 210-08)
- Require that at no time may individual arrestees who self-identify as male be detained in the same holding pen as arrestees who self-identify as female. (P.G. §§ 203-10; 210-01; 210-08)
- Consider transgender people as "Special Category Prisoners" and hold them separately from other prisoners *only* when there is an articulable safety risk posed to such individuals or other detainees.<sup>6</sup> (P.G. §§ 208-27; 210-17)
- Prohibit NYPD officers from handcuffing Special Category Prisoners (which can include transgender people) to objects like rails, bars, or chairs for "extended" periods of time. (P.G. § 210-17)
- Prohibit NYPD officers from "profiling" based on sexual orientation, gender identity, or gender expression. (P.G. § 203-25)

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<sup>6</sup> A "Special Category Prisoner" is a person in custody who should not be placed in a holding cell with other detainees due to a medical concern, safety risk, or health risk. See New York City Police Department Patrol Guide, *supra* note 1 at P.G. § 210-17. There is no automatic "at-risk" determination simply because a person is transgender and/or gender non-conforming.

Despite these new protocols, many LGBTQ organizations and service providers maintain that certain rules in the revised Patrol Guide are not being followed. The Department of Investigation's (DOI) Office of the Inspector General for the NYPD (OIG-NYPD) gathered information from these organizations through interviews, attendance at LGBTQ town halls meetings with transgender groups, and attendance at events focusing on policing.<sup>7</sup>

Specifically, community members reported officers ignoring preferred names and gender identities, using slurs related to gender identity and sexual orientation, and refusing to take crime reports from transgender and gender nonconforming individuals. TGNC people of color in particular reported feeling targeted by prostitution stops due to community perspectives of officers' misconceptions that transgender people are more likely to be sex workers. LGBTQ groups stated that some community members feel uncomfortable approaching police to report crimes and seldom file complaints against police officers due to fears of reprisal. These community concerns, while general and anonymous in nature, underscored the importance of investigating whether NYPD has sufficiently implemented and trained on the Patrol Guide revisions.

Echoing community concerns, OIG-NYPD received a number of requests to investigate NYPD's compliance with the revised protocols, including from New York City Council Member Ritchie Torres. In addition, in 2016 the Speaker of the New York City Council's Young Women's Initiative recommended an audit of the implementation of the 2012 Patrol Guide revisions.

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<sup>7</sup> Many of these organizations provide services to TGNC victims of violence and some groups collect self-reported data on alleged police misconduct, offering OIG-NYPD a great deal of information not otherwise obtainable through traditional data collection methods.



DOI's OIG-NYPD opened an investigation into: 1) NYPD's implementation of and adherence to the 2012 Patrol Guide revisions and 2) NYPD's handling of complaints of officer misconduct where the subject's actual or perceived sexual orientation or gender identity may be related to their complaint, including allegations of bias.

OIG-NYPD's review found clear gaps in NYPD's implementation of and training on the revisions as well as inadequacies in how the Department tracks LGBTQ-related complaints alleging police misconduct.<sup>8</sup> Specifically:

- Although NYPD trainings cover LGBTQ and TGNC issues and corresponding Patrol Guide provisions, not all members of the police force have received this instruction.
- Even though NYPD has given out the revised protocols to its uniformed personnel, the Department has not explained to all officers why the changes were necessary or that they specifically apply to TGNC people.
- NYPD changed the way it records preferred name on three forms: the *Prisoner Pedigree Card*, the *On Line Booking System Arrest Worksheet*, and the *Prisoner Movement Slip*.

Yet there are a number of other important forms that NYPD uses to document significant police interactions and to identify TGNC victims, complainants, and arrestees that have not been changed to record preferred name. (As discussed below, NYPD may need to consider changes to at least some of these forms as well.)

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<sup>8</sup> As discussed throughout this Report, it is difficult to determine compliance with some of the revised protocols because NYPD does not track all Patrol Guide violations relating to interactions with people who openly identify as TGNC. For instance, while "strip searches solely to determine gender" are prohibited, NYPD does not track alleged violations of this rule.

- NYPD does not currently capture and track all LGBTQ-related allegations implicating biased conduct. While the Department has tracked “profiling” complaints (“any action taken or not taken due to bias on the part of the officer”) since 2014, this category does not capture other bias allegations pertinent to the LGBTQ community, such as violations of some Patrol Guide revisions. Even the new “Offensive Language: Gender Identity” and “Offensive Language: Sexual Orientation” classifications, as titled, do not fully capture potentially biased conduct. Notably, NYPD has not substantiated any allegations of profiling since it created that category in 2014.
- NYPD’s current complaint system limits the Department’s ability to detect violations of the revisions, perform internal assessments regarding the possible existence of biased policing issues affecting the LGBTQ community, and adopt policies and implement training to reduce instances of discrimination.

As part of its review, OIG-NYPD’s investigation resulted in several recommendations proposing how NYPD can improve its processing of TGNC arrestees and interactions with LGBTQ and TGNC communities. These recommendations include:

- Within six months, NYPD should report to OIG-NYPD whether and how the Department will change remaining forms and databases to record an individual’s preferred name in a separate field.
- NYPD should provide mandatory in-service training and accompanying resource materials on the 2012 Patrol Guide revisions to all uniformed members through the NYPD-U webinar platform. Training attendance and completion should be tracked

to ensure that all members of the police force have received this training. NYPD should conduct this training within the next six months.

- NYPD should consult with its LGBT Advisory Committee to re-examine whether and how to record gender identity information of TGNC people on NYPD forms and databases.<sup>9</sup> The collection of this information is a sensitive matter for some members of the LGBTQ community. Any changes in how such information is recorded must not interfere with NYPD's ability to describe and circulate descriptions of suspects and persons of interest for purposes of apprehension.
- NYPD Internal Affairs Bureau's (IAB) complaint system should be configured to categorize and track all LGBTQ-related allegations that implicate biased conduct, and not just "profiling." LGBTQ-related allegations involving bias would include violations of the 2012 Patrol Guide revisions and "offensive language."
- IAB should report patterns or trends associated with LGBTQ-related complaints to NYPD's LGBT Liaison to the Police Commissioner as well as to DOI pursuant to NYPD's reporting obligations under Local Law 70.

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<sup>9</sup> This committee is comprised of community stakeholders who work directly with NYPD's LGBT Liaison to the Police Commissioner in order to strengthen relations between NYPD and the LGBTQ community.

## **II. Methodology**

OIG-NYPD began its investigation with a review of policy materials, then interviewed NYPD personnel and LGBTQ community representatives who participated in the negotiation process that resulted in the Patrol Guide revisions. OIG-NYPD also reviewed NYPD's training materials, observed classes on LGBTQ and TGNC issues for recruits and newly-promoted sergeants, lieutenants, and captains, and interviewed the police personnel who develop and teach the courses. In addition, OIG-NYPD investigated NYPD's implementation plan for launching the Patrol Guide revisions by interviewing several high-ranking members of NYPD. To determine NYPD's compliance with the new protocols requiring the use and recording of preferred names, OIG-NYPD examined select NYPD forms and databases used for arrest processing and the recording of crime complaints. To ascertain whether the new forms were being used, OIG-NYPD staff visited several police stations and asked to see the versions of the forms in use. Finally, to assess how NYPD tracks and investigates LGBTQ-related complaints against the police, OIG-NYPD interviewed staff at NYPD's Internal Affairs Bureau and conducted an in-depth analysis of allegations filed with the Department in 2015.

## **III. Findings**

### **A. NYPD's Implementation of the Patrol Guide Revisions**

#### ***1. Communicating the Revisions to Members of Service***

Writing new rules is only the first step in changing police practices. A full implementation plan involves informing NYPD personnel that protocols have changed,

incorporating training on gender identity and sexual orientation, and conveying that NYPD takes seriously its commitment to an improved relationship with the TGNC community. OIG-NYPD's investigation found instances of deficient implementation in each of these areas.

NYPD released the new protocols through interim orders in June and September 2012.<sup>10</sup> The Department reports that it took the following initial steps to ensure that its personnel understood them: 1) a Training Memorandum to the Police Academy in October 2012 summarizing the changes; 2) an October 2012 in-service training at the Police Academy to advise training sergeants on the new rules; and 3) new curricula regarding the revisions for recruit training and promotional training.<sup>11</sup> More recently, on May 26, 2017, after OIG-NYPD commenced this investigation, NYPD sent an email to all officers, reiterating that searches to determine gender and questions about anatomy are not permitted.<sup>12</sup> NYPD sent the email following numerous meetings with and documents submitted by OIG-NYPD to NYPD about the Patrol Guide changes.

Despite these steps, the Department did not issue a Memo Book insert on protocols for engaging with TGNC people, a practice that is used to remind officers of proper procedure or

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<sup>10</sup> An Interim Order is a temporary document detailing a new protocol. These orders are issued to NYPD personnel when new rules go into effect, and, barring any intervening edits, they become permanent in the next edition of the Patrol Guide.

<sup>11</sup> See Appendix A for the full text of the October 2012 Police Academy Training Memorandum.

<sup>12</sup> See Appendix B for the full text of this email.

legal definitions. These inserts can be used as immediate resources in the field and underscore the importance that the Department places on particular issues.<sup>13</sup>

NYPD's October 2012 Training Memorandum adequately summarized the new rules and provided a comprehensive explanation about the revisions. NYPD, however, distributed this memo only to Police Academy staff and some training sergeants who attended an October 2012 command level training. NYPD reported to OIG-NYPD that 16 out of 97 commands did not attend that training. This means many training sergeants within the Department did not attend the October 2012 training. Training sergeants serve as the primary instructors and are required to attend monthly training modules at the Police Academy. As a result of the 2012 training, only a limited percentage of the police force received direct instruction on the purpose and content of the Patrol Guide revisions at the time they were implemented. During the course of OIG-NYPD's investigation, NYPD conducted another command level training in October 2016 on LGBTQ issues, including the Patrol Guide revisions, which all but one of 97 commands attended. NYPD asserts that since these police supervisors are aware of or were trained on the revisions, then all officers are expected to know it. As detailed below, however, not all officers have received direct training on the Patrol Guide revisions, including its relevance to the TGNC community.

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<sup>13</sup> Officers carry memo books during their tours to record calls, encounters with the public, locations visited, and other activities that occur during their shifts. For example, NYPD uses a 14-page memo book insert to remind officers about a number of quality-of-life offense descriptions and statutory sections, with accompanying enforcement notes. *See e.g.*, NYPD, COMMON SUMMONS VIOLATIONS QUICK REFERENCE GUIDE, PD 160-103 (Feb. 1997). NYPD has not issued such an insert for protocols on dealing with TGNC members of the public.

## ***2. Academy and In-Service Training***

Training is crucial to ensuring that interactions between officers and TGNC people are constitutional and compliant with both the Patrol Guide and New York City Human Rights Law (NYCHRL).<sup>14</sup> These encounters impact the broader relationship between NYPD and the TGNC community. In its review, OIG-NYPD found that, just as there were no Department-wide trainings on the Patrol Guide revisions when they were introduced in June 2012, there is currently no comprehensive training related to the 2012 LGBTQ Patrol Guide revisions provided to all NYPD officers. Rather, such training is currently limited to certain categories of officers.<sup>15</sup>

NYPD uses three modules to train officers about LGBTQ and TGNC-related issues and Department policies: 1) recruit training, offered as a 4.5-hour module; 2) promotional training, offered as a 1-hour module for newly-promoted sergeants, lieutenants, and captains; and 3) in-service training, offered to precincts at roll call as needed.<sup>16</sup> DOI analyzed all materials associated with instruction and observed the courses as they were taught.<sup>17</sup>

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<sup>14</sup> The New York City Human Rights Law (NYCHRL), Title 8 of the Administrative Code of the City of New York, protects individuals from discrimination in employment, public accommodations and housing, and from discriminatory law enforcement contact such as harassment and biased profiling. In 2002, the New York City Council passed the Transgender Rights Bill to expand the scope of the NYCHRL gender-based protections for people whose “gender and self-image do not fully accord with the legal sex assigned to them at birth.” The amended NYCHRL states that “gender-based discrimination including, but not limited to, discrimination based on an individual’s actual or perceived sex, and discrimination based on an individual’s gender identity, self-image, appearance, behavior, or expression constitutes a violation of the City’s Human Rights Law.”

<sup>15</sup> While NYPD does conduct other trainings that touch on LGBTQ related issues, this Report is specifically focused on trainings related to the 2012 revisions.

<sup>16</sup> Roll call is a brief meeting of uniformed officers in a precinct who are beginning a tour, during which assignments are given and announcements and brief training presentations are made.

<sup>17</sup> OIG-NYPD staff attended NYPD’s *Basic Recruitment Course for Policing the LGBTQ Community* at the Police Academy in November 2016, which was presented by seven members of service associated with the Gay Officers Action League (GOAL). In addition, OIG-NYPD attended NYPD’s *LGBTQ Sensitivity and Gender Identity Training* for sergeants at the Police Academy in February 2017, which was given by the NYPD’s LGBT Liaison.

*i. Recruit and Promotional Training*

For new recruits, the Gay Officers Action League (GOAL), a fraternal organization, has, since 2013, developed and taught a course entitled “LGBTQ Workshop” which covers the Patrol Guide revisions. Separately, as part of the promotional training curriculum in NYPD’s Basic Management Operations Course (BMOC-1) and the Advanced Leadership Training Course (BMOC-2), new sergeants, lieutenants, and captains participate in a course entitled “The Lesbian, Gay, Bisexual, Transgender and Queer Community” taught by NYPD’s LGBT Liaison. This promotional training covers similar topics as recruit training, but focuses heavily on the role of NYPD supervisors. Both recruit and promotional modules include lectures, role-playing scenarios, and comprehensive discussions of the 2012 Patrol Guide revisions, including an explanation of the protocols and the history of the changes. That context is important because when the new protocols were first released, their connection to LGBTQ and TGNC people was not highlighted. NYPD officers received no explanation of why the Patrol Guide revisions were necessary and that they apply to TGNC people.<sup>18</sup>

Recruit training additionally provides a handout entitled “Lesbian, Gay, Bisexual, Transgender (LGBT) Communities.” It contains reference materials including a glossary of terms, a “know your rights” section about restroom usage, and a list of community resources. The handout, however, only included the revised protocols related to searches, and does not contain the October 2012 Training Memo or information on preferred name protocols.

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<sup>18</sup> For example, NYPD’s arrest protocol states that “questions regarding an arrestee’s anatomy” may not be asked “without a reasonable basis,” but it is not clear that the intention of this revision is to address concerns of TGNC people being strip searched or to ask invasive questions to determine gender. See New York City Police Department Patrol Guide, *Supra* note 1 at P.G. § 208-05. This context is not given during training.



Furthermore, the handout includes outdated reports and statistics, the most recent being nearly a decade old that no longer reflect the current environment, and a limited list of LGBTQ and TGNC community organizations. By contrast, promotional training includes a handout entitled "LGBTQ Sensitivity and Gender Identity Training." It is more comprehensive and covers the 2012 Patrol Guide revisions and summarizes a range of LGBTQ and TGNC issues, definitions, and NYPD forms.

Overall, OIG-NYPD found that the recruit and promotional training modules were comprehensive, covering LGBTQ and TGNC issues and corresponding Patrol Guide provisions.

*ii. In-Service Training*

NYPD's LGBT Liaison and the Bureau of Community Affairs conduct in-service training at precincts on an as-needed basis, sometimes incorporating speakers from the LGBTQ community and LGBTQ members of NYPD. This training is similar to the recruit and promotional training modules, but shorter (about 10-15 minutes) because it is offered only at roll call. Although limited, the training covers LGBTQ and TGNC issues and the Patrol Guide revisions. Officers are also given handouts that complement the training which include a glossary of LGBTQ-related terms, the 2012 Training Memorandum, revised forms, and all the changed protocols and explanations of them.

The reach and impact of this training, however, is insufficient. Precinct commanders can request the training, but it is often in response to incidents and events that come to the attention of NYPD's LGBT Liaison. According to records kept by the Community Affairs Bureau,

between 2012 and 2016, only six of NYPD's 77 precincts received this limited in-service training.<sup>19</sup> Consequently, a significant contingent of officers have not been trained on the Patrol Guide provisions and corresponding LGBTQ and TGNC issues. For instance, an officer who joined NYPD's Academy prior to 2012, was not promoted to a position requiring the previously referenced promotional training, and who worked somewhere other than those six precincts would probably not have received this training.

NYPD's limited training on the revisions and the infrequency of roll call trainings are significant gaps in implementation. In addition, the units responsible for the in-service modules are understaffed. The LGBT Liaison Unit is staffed by three members of NYPD and NYPD's LGBT Liaison to the Police Commissioner is a single-person office.<sup>20</sup> This is a small number considering that NYPD is the largest police force in the nation and New York City's metropolitan area has the largest concentration of LGBTQ people in the country. Comparatively, the metropolitan area of Washington, D.C. has an LGBTQ population that is significantly smaller than New York City's and the District of Columbia's Metropolitan Police Department (MPD) has nine times fewer sworn officers than NYPD.<sup>21</sup> Yet, MPD has a core staff of five in its LGBT Liaison Unit and 57 unit-affiliate officers stationed across its police districts and specialized units.<sup>22</sup>

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<sup>19</sup> Those precincts are the 28<sup>th</sup>, 52<sup>nd</sup>, 83<sup>rd</sup>, 120<sup>th</sup>, 121<sup>st</sup>, and 122<sup>nd</sup>.

<sup>20</sup> NYPD's LGBT liaisons conduct training, community partnerships, attend LGBTQ community meetings and events, connect people to appropriate service providers, and respond to complainants who allege NYPD misconduct. LGBTQ community members report that the liaisons have been responsive to their needs, but also expressed concerns about staffing and resources.

<sup>21</sup> See *supra* note 2.

<sup>22</sup> See the Special Liaison Division website of the Metropolitan Police Department, available at <https://mpdc.dc.gov/node/139172> (last visited November 17, 2017).

### ***3. NYPD's Documentation and Use of Preferred Names and Gender Identities***

The Patrol Guide revisions: 1) direct members of NYPD's police force to record and use each arrestee's preferred name; 2) require the use of pronouns and honorifics consistent with a person's gender identity; and 3) prohibit discrimination based on gender identity or expression. Identifying (or "pedigree") information about an arrestee, including preferred name, is initially recorded by the arresting officer when an arrestee is brought to the precinct. This information follows arrestees as they move through arrest processing. How pedigree information is recorded and used affects NYPD's compliance with the Patrol Guide revisions and NYCHRL.

Patrol Guide §208-02 outlines NYPD's protocols for processing arrests and defines preferred name as the "name an arrestee prefers to be called based on their gender identity." This name may be different from the name on identification documents in the arrestee's possession.<sup>23</sup>

#### *i. Preferred Names*

The personal identities and preferred names of TGNC people often differ from the information recorded on legal documents. Consistent and comprehensive policies that govern the use of TGNC people's preferred names are crucial to ensuring that NYPD personnel can easily incorporate preferred names into everyday interactions with TGNC individuals.

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<sup>23</sup> See *supra* note 1 at P.G. § 208.02.

Pursuant to the Patrol Guide revisions, NYPD has made some changes to how a person's preferred name is recorded in its arrest-and-crime-complaint database (*OmniForm*) and three forms related to arrest processing: the *Prisoner Pedigree Card*, the *On Line Booking System Arrest Worksheet*, and the *Prisoner Movement Slip*. Based on recent changes to the *Prisoner Movement Slip*, which were finalized after the commencement of OIG-NYPD's investigation, all three documents are now consistent with the Patrol Guide revisions. There are, however, a number of other important forms that NYPD did not alter pursuant to the expectations of the Patrol Guide revisions. Many of these forms are used to document significant police interactions and to identify TGNC victims, complainants, and arrestees.

*a. Patrol Guide Revisions*

The 2012 Patrol Guide revisions were limited to the *OmniForm* database and the three forms. OIG-NYPD reviewed blank or redacted copies of the current versions of the forms to determine how arrestees' preferred names were being recorded. As described in Table 1, all three of these forms play a significant role in the arrestee booking process. OIG-NYPD obtained copies of these forms from NYPD headquarters and from select police stations to determine how the 2012 changes were implemented at various police sites.<sup>24</sup>

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<sup>24</sup> OIG-NYPD visited the 6<sup>th</sup>, 10<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup>, 41<sup>st</sup>, 43<sup>rd</sup>, 52<sup>nd</sup>, 77<sup>th</sup>, 81<sup>st</sup>, 83<sup>rd</sup>, 110<sup>th</sup>, and 115 Precincts in February 2017. These precincts were selected after a series of interviews with LGBTQ community advocates, who identified them as precincts where there are both higher rates of LGBTQ New York City residents and higher rates of complaints to LGBTQ advocacy groups regarding interactions between NYPD and members of the LGBTQ community. OIG-NYPD also visited PSA 4 in the Lower East Side of Manhattan and the Union Square station of the NYPD Transit Bureau. These sites were selected because they are busy locations serving large numbers of people.

**Table 1**

Form	Patrol Guide Instructions <sup>25</sup>
<b>Prisoner Pedigree Card:</b> The form where the arresting officer records the arrestee's identifying information (name, sex, gender, etc.) immediately upon arrival at the precinct. <sup>26</sup>	Preferred name is to be listed in the "Preferred name" section of the PRISONER PEDIGREE CARD.
<b>On Line Booking System Arrest Worksheet:</b> A worksheet that is completed during the booking process. The worksheet serves as a paper copy of information that will ultimately be recorded in OmniForm. This form is also sometimes used to document strip searches. <sup>27</sup>	Preferred name is to be listed in the "Nickname/Alias/Maiden Name" section of the ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159), prefaced by "P -".
<b>Prisoner Movement Slip:</b> An electronically generated document used to record identifying information for arrestees who will be held as detainees at the precinct or Central Booking. This form is automatically generated from information recorded in the <i>On Line Booking System Arrest Worksheet</i> .	Preferred name is to be listed in the "Defendant's Name" section of the PRISONER MOVEMENT SLIP, prefaced by "Preferred Name:"

The *Prisoner Pedigree Card* contains an actual field for recording an arrestee's preferred name, and all but one of the 14 NYPD sites that OIG-NYPD visited were using the current version of the *Prisoner Pedigree Card*. The 26<sup>th</sup> Precinct was using a photocopied version of an old *Prisoner Pedigree Card* lacking a preferred name field. Although not all officers received

<sup>25</sup> See *supra* note 1. All of these Patrol Guide instructions are recorded in P.G. § 208.02. The provision further states, "Consistent with P.G. § 203-10, "Public Contact – Prohibited Conduct," subdivision "a" following step "1", regardless of whether the name on the arrestee's identification coincides with the arrestee's gender identity, the member of the service shall refer to the arrestee by the preferred name, if any, as requested. The member shall use the pronouns consistent with that name in addressing or referring to the arrestee."

<sup>26</sup> NYPD Form No. PD 244-092.

<sup>27</sup> NYPD Form No. PD 244-159.

training on these forms, NYPD has provided instructions in the Patrol Guide and ensured near agency-wide dissemination of these forms.

DOI, however, initially discovered inconsistencies and unresolved technical issues during precinct visits in February 2017 in relation to how preferred names are recorded on the *Prisoner Movement Slip*. At the precinct level, the *Prisoner Movement Slip* is auto-generated from the information that had previously been entered in the *On Line Booking System Arrest Worksheet*. During the visits to police stations, OIG-NYPD observed that the precincts' version of the form did *not* include a preferred name field in the Defendant's name section. As a result, the preferred name would have to be handwritten on the *Prisoner Movement Slip*. NYPD personnel were not able to edit the slip through the software to add preferred name. In contrast, when the arrestee was taken to court (also known as "Central Booking"), a new *Prisoner Movement Slip* was created which *did* include a preferred name field. At the end of October 2017, NYPD informed OIG-NYPD that the software in all precincts was updated so that the precinct-level *Prisoner Movement Slip* contains a preferred name field.

*b. Other Forms*

Beyond the forms discussed above, DOI reviewed 28 other forms that are commonly used by NYPD when engaging with the public. These forms record stop, question, and frisk encounters; circumstances in which arrestees require medical attention; documentation of crime complaints, missing persons, desk appearance tickets; and the roster of prisoners being held at the precinct. None of these 28 forms had fields to record preferred names, and the Patrol Guide does not contain any instructions on how NYPD personnel are expected to record

the preferred names on these 28 forms.<sup>28</sup> Since TGNC people can be regarded as Special Category Prisoners, members of service are also required to fill out the *Medical Treatment of Prisoner Form*.<sup>29</sup> This form does not have a preferred name field.<sup>30</sup> Overall, the policies and instructions on recording preferred names do not conform to the spirit of the 2012 Patrol Guide provisions.

ii. *Gender Identity*

In arrest processing, NYPD's Patrol Guide directs officers to "write an arrestee's name and gender as it appears on a driver's license, permit, or non-driver photo identification," and NYPD's forms record gender as "male" or "female."<sup>31</sup> Documenting legal gender is essential for several reasons, including NYPD's ability to pursue and apprehend criminal suspects, engage with TGNC victims, and identify missing persons, among other law enforcement activities. At the same time, P.G. § 203-10 directs NYPD to identify individuals in a manner consistent with their gender identity, even when such identity is different from the legal sex assigned to that person at birth. The challenge is whether and how NYPD should seek to understand a person's gender identity so as to ensure that the Department is addressing the individual's current gender.

Reconciling this latter directive with law enforcement needs can be complicated. During OIG-NYPD's investigation, community representatives raised concerns about police invasively

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<sup>28</sup> These additional forms are listed in Appendix C, along with the form numbers, where applicable.

<sup>29</sup> See *supra* note 1 at P.G. § 210-17.

<sup>30</sup> NYPD Form No. PD 244-150.

<sup>31</sup> See *supra* note 1 at P.G. § 208-02

questioning people about their gender identity and sexual orientation.<sup>32</sup> Some cited privacy concerns while others expressed fear of harmful tactics like strip searches to determine gender. In 2012, LGBTQ advocates and senior NYPD officials examined the issue. Given the time that has past and differing viewpoints of some community organizations, a re-examination is warranted.

Accordingly, NYPD should further consider whether its forms should allow for the entry of current gender identity in addition to legal gender identity. This review should involve discussion with LGBTQ community representatives, such as the Department's LGBT Advisory Committee, so that NYPD takes account of TGNC people's concerns in developing new documentation.

### **B. NYPD's Handling of LGBTQ-Related Complaints**

Members of the public have a number of ways to report alleged misconduct by NYPD officers, including violations of the revised Patrol Guide, by filing complaints with the Civilian Complaint Review Board (CCRB), the Law Enforcement Bureau of the NYC Commission on Human Rights (LEB), or the Department of Investigation's Office of the Inspector General for the NYPD.<sup>33</sup> IAB investigates allegations of serious misconduct, corruption, and criminal activity

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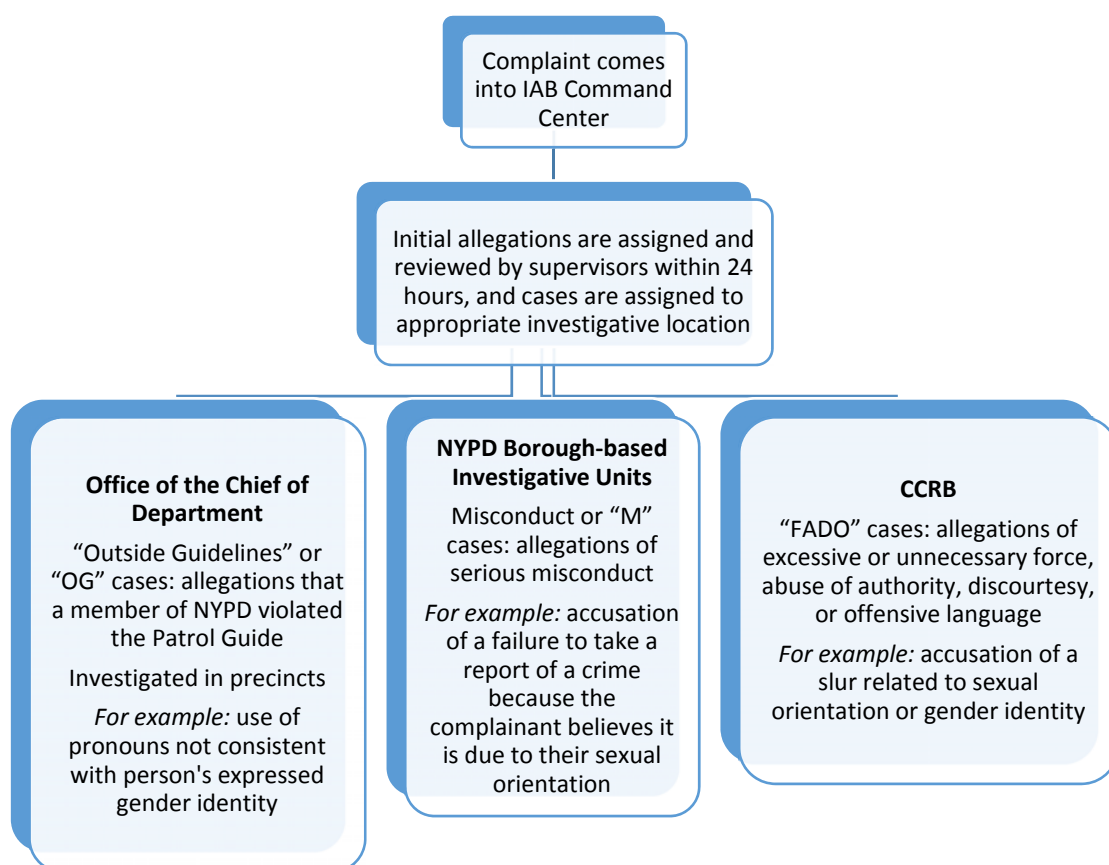
<sup>32</sup> Similar issues were found by the U.S. Department of Justice Office of Community Oriented Policing Services, which found that advocacy groups "emphasized that data concerning an individual's sexual orientation or gender identity should never be collected by law enforcement officers as a matter of course during stops, arrests, or in use of force reports to avoid the unintentional consequences of causing harm or reinforcing bias." See James E. Copple & Patricia M. Dunn, Gender, Sexuality, and the 21<sup>st</sup> Century Policing: Protecting the Rights of the LGBTQ+ Community, Community Oriented Policing Services of the United States Department of Justice, 2017, at 20.

<sup>33</sup> CCRB investigates police wrongdoing that falls into the categories of excessive or unnecessary force, abuse of authority, discourtesy, and/or offensive language ("FADO" complaints). LEB investigates violations of the New



by members of NYPD, including allegations of biased policing. As described in the following chart, allegations made to IAB where the subject's actual or perceived sexual orientation or gender identity may be related to their complaint can follow several paths.<sup>34</sup>

**Figure 1: The Process of LGBTQ-related Complaint Investigations**



OIG-NYPD conducted a number of interviews with senior staff at IAB to determine how its investigators classify and investigate LGBTQ-related complaints.<sup>35</sup> Currently, the only types

York City Human Rights Law, including allegations of retaliation, discriminatory harassment, or “bias-based profiling” by NYPD.

<sup>34</sup> For more information on the IAB complaint process, see OIG-NYPD’s Report *Addressing Inefficiencies in NYPD’s Handling of Complaints: An Investigation of the “Outside Guidelines” Complaint Process*, released on February 7, 2017 (available on DOI’s website).

<sup>35</sup> OIG-NYPD focused on IAB for its review because CCRB does not investigate allegations of “profiling.”

of LGBTQ-related allegations that NYPD tracks are “profiling” and certain “offensive language” complaints that IAB does not even investigate. As described below, this hinders NYPD from identifying and addressing other patterns or trends that may also implicate biased conduct, including potential violations of the 2012 revisions.

NYPD created the “profiling” category in October 2014 as a way to track complaints alleging bias with respect to race, color, ethnicity, nationality, religion, gender, gender identity, sexual orientation, age, housing status, citizenship status, or disability.<sup>36</sup> IAB defines profiling as “any action taken or not taken due to bias on the part of the officer.”<sup>37</sup> For example, a complaint alleging that an officer used an identity slur and that the officer stopped the complainant for being transgender would qualify as a “profiling” case. IAB currently uses a computer system called the Internal Case Information System (ICIS) to track and manage its complaint investigations, including those relating to profiling due to sexual orientation and gender identity. To date, NYPD has not substantiated any allegations of profiling since it created this category in 2014.<sup>38</sup>

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<sup>36</sup> NYPD began classifying profiling cases as “Misconduct” (“M”), the second most serious IAB category, in January 2015. The most serious category is “Corruption,” and these cases are investigated by IAB. “M” cases are investigated by borough-based investigative units or, if the allegation is against a police executive or involves a related corruption allegation, by IAB itself. Prior to January 2015, profiling complaints were classified as “Outside Guidelines”—the least serious complaint category—and investigated at the borough or precinct level. IAB executives, including the Deputy Commissioner of IAB, review all profiling complaints at steering meetings several times per year.

<sup>37</sup> All investigators at IAB receive training on how to probe for the possibility of profiling claims during communications with complainants, for instance by asking whether they believe that the alleged behavior was related to their identity.

<sup>38</sup> At present, the majority of profiling cases are sent to patrol borough investigative units for investigation. Changes to the way IAB handles allegations of profiling, including centralizing all profiling complaints under IAB and assigning investigators at the borough instead of precinct level, were the result of intervention related to the federal monitorship of NYPD under the cases of *Floyd v. City of New York*, *Ligon v. City of New York*, and *Davis v.*

By contrast, an allegation that an officer used an LGBTQ-related slur, without any accompanying action, would *not* be classified and tracked as “profiling” because, under NYPD’s interpretation of the profiling definition, words alone are not considered “action.” Instead, an LGBTQ-related slur would be classified by IAB as “Offensive Language: Gender Identity” or “Offensive Language: Sexual Orientation.” NYPD added “Offensive Language: Gender Identity” and “Offensive Language: Sexual Orientation” in January 2017 during OIG-NYPD’s investigation.<sup>39</sup> IAB does not investigate such complaints, but sends these allegations to CCRB for investigation, where they are investigated solely on the basis that they may constitute offensive language.<sup>40</sup>

As a result, NYPD does not track or categorize complaints alleging biased conduct that falls outside of “profiling.” Even the new “offensive language” classifications, as titled, do not fully capture potentially biased conduct. Other bias allegations, including many that relate to the revisions, therefore, do not appear to be tracked.

Given NYPD’s inability to readily identify and track complaints related to the Patrol Guide revisions, OIG-NYPD reviewed LGBTQ-related complaints made to IAB in calendar year

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*City of New York.* See Peter L. Zimroth, FOURTH REPORT TO THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK, November 18, 2016, at 36, available at [nypdmonitor.org/wp-content/uploads/2016/12/2016-11-18FourthReportoftheIndependentMonitor-1.pdf](http://nypdmonitor.org/wp-content/uploads/2016/12/2016-11-18FourthReportoftheIndependentMonitor-1.pdf) (last accessed October 17, 2017).

<sup>39</sup> Previously, if a complainant alleged that an officer used an offensive slur about gender identity, ICIS lacked the capability to categorize this allegation as relating to sexual orientation or gender identity. This type of allegation was peculiarly classified in ICIS as “Offensive Language: Ethnic Remarks.”

<sup>40</sup> CCRB will likewise forward profiling cases to IAB, but will not send LGBTQ-related offensive language complaints to IAB where there is no accompanying “action taken or not taken” that would render the complaint a “profiling” case. CCRB and IAB can investigate cases concurrently, e.g., where the complaint alleges both a police action constituting profiling and a use of a slur falling within CCRB’s “offensive language” mandate.

2015 through a keyword database search.<sup>41</sup> A total of 80 complaints were produced using these search terms. Of that universe, OIG-NYPD found 37 to be LGBTQ-related, a small case number given the population in the New York City metropolitan area and the size of NYPD.<sup>42</sup>

Of these 37 complaints, IAB determined most to be unfounded, unsubstantiated, or exonerated.<sup>43</sup> Only one complaint was substantiated, but the subject officers were not identified.<sup>44</sup> The 37 complaints broke down as follows:

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<sup>41</sup> To assist OIG-NYPD, IAB created a keyword search list of terms possibly related to complaints involving members of the LGBTQ community. This keyword list included terms like "gay," "lesbian," "LGBT," "bisexual," and "transgender," but also includes terms that are slurs related to gender identity and sexual orientation so that complaints related to use of this language could be located. Due to the offensive nature of some keywords, the full list will not be printed in this Report. OIG-NYPD reviewed this term list and added several terms to provide a more expansive search list. Additional terms included "sexuality," "homosexual," "gender identity," "gender pronoun," "sexual orientation," and "trann\*" (the asterisk in this search term allows for any variation of the ending of this term to be retrieved). This keyword search was performed in the presence of OIG-NYPD staff and resulted in 76 cases. OIG-NYPD then obtained and reviewed Internal Affairs Log Files for all of these cases. Internal Affairs Log Files are summaries of the allegations, outcomes, and facts of IAB cases.

<sup>42</sup> OIG-NYPD conducted a scope analysis to eliminate false positive results (cases that seemed related, due to search results and other indicators, but were not). The scope analysis was conducted by three OIG-NYPD staff members who determined relevance by unanimous conclusion that each case contained at least one of the following components: the complainant was perceived by the IAB investigator or subject officer to be LGBTQ, and/or the subject officer was accused of LGBTQ-related offensive language or discourtesy.

<sup>43</sup> IAB investigation dispositions include the following: substantiated, unsubstantiated, exonerated, or unfounded. Substantiated allegations are those for which an investigation concluded that the accused acts took place. Unsubstantiated allegations are those where an investigation was unable to either prove or disprove the accused acts took place. Exonerated allegations are those for which the investigation determined that the subject officer's behavior was proper. Unfounded allegations are those for where the investigation determined the misconduct did not take place or did not involve members of NYPD. Rather than limit the analysis to substantiated complaints, OIG-NYPD chose to look at all complaints regardless of disposition. Even when complaints are not substantiated, they may be used to identify possible patterns or trends to justify the need for additional training or changes in supervision, recruitment, or neighborhood policing practices. Some research has also noted that unsubstantiated complaints may be an indicator of possibly more serious misconduct later in an officer's career. See e.g. Michael D. White and Robert J. Kane, *Pathways to Career-Ending Police Misconduct: An Examination of Patterns, Timing, and Organizational Responses to Officer Malfeasance in the NYPD*, 40 CRIMINAL JUSTICE AND BEHAVIOR (2013).

<sup>44</sup> The NYPD Communications Division reported an unauthorized radio transmission to IAB in which an unknown officer stated, "This is like the tenth gay guy I saw, and the roller skates do it." The NYPD Electronics Section could not trace the statement to a specific radio or officer, but the complaint was ultimately substantiated as an "Unauthorized radio transmission."

### **LGBTQ-related Complaints – 2015<sup>45</sup>**

- Using discourteous or disrespectful remarks regarding a person's sexual orientation or gender identity/expression: 18 of the complaints reviewed.
- Failure of officers to act or file a report of an alleged crime due to a person's sexual orientation or gender identity/expression: 10.
- Using slurs related to complainants' actual or perceived gender identity or sexual orientation: 8.
- Using names, honorifics, and pronouns that do not reflect the gender identity of TGNC people: 2.
- Conducting a search for determining a person's gender: 1.

According to interviews with NYPD senior officials, the Department classifies complaints due to a person's sexual orientation or gender identity as profiling. Only nine of the 37 reviewed LGBTQ-related complaints, however, were classified as profiling by NYPD. This means there are many complaints possibly implicating biased conduct towards the LGBTQ community that are not being captured as "profiling" or under the new "offensive language" classifications.

OIG-NYPD's keyword search method pointed out gaps in NYPD's ability to track LGBTQ-related complaints and those related to the revised Patrol Guide procedures. Specifically, NYPD is unable to identify and pinpoint patterns of allegations that may violate the Patrol Guide revisions and relate to gender identity or sexual orientation, including failures to use pronouns consistent with gender identity, discourtesy, and strip searches to determine gender. This means that NYPD does not presently have the ability to determine patterns of related misconduct in particular commands or precincts, or multiple complaints involving the same

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<sup>45</sup> Total does not add up to 37 complaints; it exceeds that amount since multiple allegation types were noted across complaints.

officer. The lack of such information is significant. Without the ability to track such patterns, it is more difficult for NYPD to identify those officers or commands that are in need of additional training on interactions with LGBTQ persons, or other systemic adjustments. Further, NYPD's general category of profiling broadly captures complaints from both TGNC people and others without parsing out allegations specifically arising from the TGNC community. In sum, NYPD's handling of complaints in this way makes it difficult for NYPD to determine patterns or trends that, if addressed, could lead to greater police accountability and ensure compliance with the Patrol Guide revisions.

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As noted in this Report, NYPD has made progress in the implementation of the protocols for the 2012 Patrol Guide revisions. More can be done, however, to help meet the spirit of those revisions and to ensure that all officers understand why they were put in place. Beyond the specific recommendations noted in this Report, NYPD should continually assess whether it is in compliance with the letter and spirit of all aspects of the 2012 Patrol Guide revisions. We will monitor such progress going forward.

#### **IV. Recommendations**

Based on its findings, DOI's OIG-NYPD recommends the following:

##### **A. Training**

1. NYPD should provide mandatory in-service training and accompanying resource materials on the 2012 Patrol Guide revisions to all uniformed members through the NYPD-U webinar platform. Training attendance and completion should be tracked to ensure that all member of the police force have received this training. NYPD should conduct this training within the next six months.
2. NYPD should create a memo book insert for officers with a summary of the revised LGBTQ protocols. Officers can use this for reference as needed.
3. Community input should be carefully considered and incorporated as appropriate into the curriculum of officer training on LGBTQ issues.
4. All handouts and additional resource materials provided during LGBTQ trainings should be consistent, as appropriate, ensuring that officers receive the same information.

## **B. Recording Name and Gender in Forms and Databases**

5. Within six months, NYPD should report to OIG-NYPD whether and how the Department will change remaining forms and databases to record an individual's preferred name in a separate field.
6. On a periodic basis, NYPD should make sure that police stations are using updated forms, particularly those documents that are intended to comply with the 2012 revisions.
7. NYPD should consult with its LGBT Advisory Committee and re-examine whether and how to record gender identity information of TGNC people on NYPD forms and databases. The collection of this information is a sensitive matter for some members of the LGBTQ community. Any changes in how such information is recorded must not interfere with NYPD's ability to describe and circulate descriptions of suspects and persons of interest for purposes of apprehension.

## **C. Receiving and Investigating Complaints from the Public**

8. NYPD Internal Affairs Bureau's complaint system should be configured to categorize and track all LGBTQ-related allegations that implicate biased conduct, and not just "profiling." LGBTQ-related allegations involving bias would include violations of the 2012 Patrol Guide revisions and "offensive language."



9. IAB should report patterns and trends associated with LGBTQ-related complaints to NYPD's LGBT Liaison to the Police Commissioner as well as to DOI pursuant to NYPD's reporting obligations under Local Law 70.

## **Appendix A**

### **October 2012 Training Memo regarding Patrol Guide revisions**



# New York City Police Academy Training Memo

#37-12

OCTOBER 2012

## DEPARTMENT POLICY REGARDING GENDER IDENTITY

In recent months, the NYPD has made changes to several Patrol Guide procedures which directly affect members of the lesbian, gay, bisexual, and transgender ("LGBT") community. To ensure the fair and equitable treatment of all persons, members of the service are reminded that they must treat all individuals in accordance with their preferred gender identity. This includes pronouns, titles of respect, and preferred names appropriate to gender identity, as well as the search and lodging of prisoners. Members are further reminded that all official documents, such as Complaint Reports and Online Booking System Arrest Worksheets, must contain the individual's legal name and gender, as well as the individual's preferred name. These forms are currently being revised to reflect these changes to pedigree information. The following Interim Orders have been issued to reflect changes to Patrol Guide Procedures regarding gender identity:

- Interim Order 25-2012: Revision to Patrol Guide Procedure 209-24, "Mandatory Driver's License Checks"
  - False Personation Penal Law 190.23 (False Personation- B Misdemeanor): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
- Interim Order 26-2012: Revision to Patrol Guide Procedure 203-10, "Public Contact-Prohibited Conduct"
  - Members of the service will not use discourteous or disrespectful remarks regarding another person's ethnicity, race, religion, gender, **gender identity/expression**, sexual orientation or disability.
  - Members shall address the public using pronouns, titles of respect and **preferred name appropriate to the individual's gender identity/expression as expressed by the individual.**

- Interim Order 27-2012: Revision to Patrol Guide Procedure 209-26, “Suspended or Revoked Vehicle Operator’s License”
  - False Personation Penal Law 190.23 (False Personation- B Misdemeanor): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
- Interim Order 28-2012: Revision to Patrol Guide Procedure 210-08, “Guidelines for Prisoner Holding Pens”
  - Generally, prisoners will be searched by a uniformed member/police attendant of the same gender. In situations where an arrestee’s gender is not immediately apparent or an arrestee objects to the gender of the member assigned to perform the search, **the supervisor will assign a uniformed member of the gender requested by the arrestee**, consistent with officer safety and resource availability.
  - Male and female prisoners will **not** be detained in the same cell. Unless there is a safety risk, prisoners will be lodged by their gender identity. Transgender prisoners will not automatically be considered ‘Special Category,’ and will be lodged apart from other prisoners only when there is an articulable safety risk posed to themselves or to other prisoners.
- Interim Order 29-2012: Revision to Patrol Guide Procedure 210-17, “Arrest Processing of Pre-Arrestment Prisoners Designated as Special Category”
  - Prisoners should be deemed ‘Special Category’ if there is reason to believe that placing them in the general population may pose a safety risk to themselves or to other prisoners (NOTE: there is NO automatic “at risk” notation just because an arrestee is transgender.)
- Interim Order 30-2012: Revision to Patrol Guide 215-18, “Search Protocols for School Safety Agents”
  - If a search of a student’s person is authorized by the principal/designee, it should be conducted by a school safety agent of the same gender. In situations where a student’s gender is not immediately apparent or the student objects to the gender of the agent assigned, **the supervisor will assign an agent of the gender requested by the student**, consistent with agent safety and resource availability.
  - **Under no circumstances** will a school safety agent conduct searches for the purpose of determining gender. School safety agents shall **not** ask questions regarding a student’s anatomy without a reasonable basis of doing so.
- Interim Order 31-2012: Revision to Patrol Guide Procedure 208-05, “Arrests- General Search Guidelines”
  - Upon arrival at a Department facility, prisoners will be searched by a uniformed member of the same gender. In situations where an arrestee’s gender is not immediately apparent or an arrestee objects to the gender of the member assigned to perform the search, **the supervisor will assign a uniformed member of the**

**gender requested by the arrestee**, consistent with officer safety and resource availability.

- **Under no circumstances** will a uniformed member conduct searches for the purpose of determining gender. Members shall **not** ask questions regarding an arrestee's anatomy without a reasonable basis of doing so.
  - If the gender of the officer assigned to conduct the search differs from the gender requested by the arrestee, the desk officer shall make a detailed Command Log entry regarding the factors considered in assigning members to consider the search.
  - In the event that a strip search is authorized by the desk officer, the same search guidelines will apply.
- Interim Order 32-2012: Revision to Patrol Guide Procedure 208-28, "Identification Standards for Desk Appearance Tickets"
    - False Personation Penal Law 190.23 (False Personation- B Misdemeanor): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
  - Interim Order 33-2012: Revision to Patrol Guide Procedure 208-27, "Desk Appearance Ticket- General Procedure"
    - Issue a DAT to an eligible prisoner who is considered 'Special Category' per PG 210-17 (I.O. 29-2012) based on a medical condition/physical disability, safety risk, or health risk.
  - Interim Order 34-2012: Revision to Patrol Guide Procedure 210-01, "Prisoners- General Procedures"
    - Notify Borough Court Section concerned if precinct detention cells are activated for prisoners designated as 'Special Category' or if prisoner must be removed to another facility in order to be lodged separately from the general population.
  - Interim Order 35-2012: Revision of Patrol Guide Procedure 210-04, "Prisoners Requiring Medical/Psychiatric Treatment"
    - A hospitalized prisoner who is diagnosed by the medical staff with a psychiatric condition which requires admission will be transported by private ambulance contracted by the hospital:
      - Male prisoners: Bellevue Hospital
      - Female prisoners: Elmhurst General Hospital
    - Prisoners designated as 'Special Category': Ensure a notation is made in the 'Detention Alert' caption of the Prisoner Movement Slip describing reason for designation (e.g. 'Safety Risk').

- Interim Order 36-2012: Revision to Patrol Guide Procedure 210-02, “Hospitalized Prisoners”
  - Upon arrival at the hospital, prisoners will be searched by a uniformed member of the same gender. In situations where a prisoner’s gender is not immediately apparent or a prisoner objects to the gender of the member assigned to perform the search, **the supervisor will assign a uniformed member of the gender requested by the arrestee.** If a uniformed member of the appropriate gender is not available, have hospital personnel carefully search prisoner.
  - A member of the family may be allowed to visit the prisoner upon obtaining written permission from the desk officer. A family member may include a registered NYC domestic partner, a same sex partner or spouse, or a person involved in an ‘intimate relationship’ or a ‘family type relationship’ with the prisoner.
- Interim Order 37-2012: Revision to Patrol Guide Procedure 208-54, “Arrest Screening Guidelines for Cases Involving Forged or Altered Motor Vehicle Documents”
  - False Personation Penal Law 190.23 (False Personation- B Misd.): The Patrol Guide has been amended to emphasize that knowingly misrepresenting pedigree information and the intent to prevent a police officer from ascertaining pedigree are necessary elements of the charge. Simply providing a preferred name may not constitute false personation.
- Interim Order 43-2012: Revision to Patrol Guide Procedure 208-02, “Arrests- Removal to Department Facility for Processing”
  - Indicate prisoner’s preferred name in the appropriate caption of the revised **PRISONER PEDIGREE CARD (PD 244-092: Rev 20-12).**
  - Pending future revisions to the **ON-LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)** and **THE PRISONER MOVEMENT SLIP**, arresting officers will write the prisoner’s preferred name in the following places:
    - **ON-LINE BOOKING SYSTEM ARREST WORKSHEETS:** In the existing “Nickname /Alias /Maiden Name” caption prefaced by a ‘P-‘,
    - **THE PRISONER MOVEMENT SLIP:** Next to the defendant’s name, prefaced by “Preferred Name” (generated at the station house and court section facility).
- Interim Order 44-2012: Revision to Patrol Guide Procedure 208-03, “Arrests- General Processing”
  - **Preferred Name: The name an arrestee prefers to be called based on their gender identity. This name may be different from the one on identification documents in the arrestee’s possession.**
  - Arresting officers must indicate the prisoner’s preferred name in their Activity Log as well as on the Prisoner Movement Slip.

## **Appendix B**

**May 26, 2017 Administrative Bulletin Sent to  
All NYPD Personnel Regarding the Prohibition  
of the Search of Arrestees for the Sole Purpose  
of Determining Gender Identity**

**From:** Administrative Bulletins

**Sent:** Friday, May 26, 2017 1:57 PM

**Subject:** SEARCH OF ARRESTED PERSONS FOR THE PURPOSE OF DETERMINING A PERSON'S GENDER

THE DEPARTMENT REMINDS ALL MEMBERS OF THE SERVICE THAT UNDER NO CIRCUMSTANCES SHALL MEMBERS OF THE SERVICE CONDUCT SEARCHES FOR THE PURPOSE OF DETERMINING A PERSON'S GENDER, AS PER PATROL GUIDE PROCEDURE 208-05: A SEARCH OF ARRESTED PERSONS IS CONDUCTED TO MAXIMIZE SECURITY AND MINIMIZE POTENTIAL HAZARDS TO THE ARRESTING OFFICER, THE ARRESTED PERSON, AND OTHER DEPARTMENT PERSONNEL.

THE FOLLOWING GUIDELINES ARE PUBLISHED FOR THE INFORMATION OF ALL MEMBERS OF THE SERVICE:

**SEARCH AT POLICE FACILITY**

UPON ARRIVAL AT PRECINCT OF ARREST OR OTHER DEPARTMENT FACILITY, THE ARRESTING OFFICER (IF HE/SHE IS OF THE SAME GENDER AS PRISONER) OR ANOTHER DESIGNATED UNIFORMED MEMBER OF THE SAME GENDER AS THE PRISONER SHALL CONDUCT A THOROUGH SEARCH OF THE PRISONER'S PERSON AND CLOTHING TO ENSURE THE SAFETY OF ALL PERSONS WITHIN THE FACILITY AND TO REMOVE WEAPONS, CONTRABAND, AND EVIDENCE NOT DISCOVERED BY THE FRISK. OTHER ITEMS LAWFULLY CARRIED BUT THAT ARE DANGEROUS TO LIFE, MAY FACILITATE ESCAPE, OR MAY BE USED TO DAMAGE DEPARTMENT PROPERTY WILL ALSO BE REMOVED FROM THE SUBJECT.

IN ORDER TO ACHIEVE A BALANCE BETWEEN THE PRIVACY AND PERSONAL DIGNITY CONCERNS OF ARRESTEES, THE DESK OFFICER OR SUPERVISOR SUPERVISING A SEARCH AT A POLICE FACILITY SHALL ASSIGN A UNIFORMED MEMBER TO CONDUCT THE SEARCH AS FOLLOWS:

IN SITUATIONS WHERE AN ARRESTEE'S GENDER IS NOT IMMEDIATELY APPARENT OR AN ARRESTEE OBJECTS TO THE GENDER OF THE MEMBER ASSIGNED TO PERFORM THE SEARCH, THE DESK OFFICER OR SUPERVISOR

SUPERVISING THE SEARCH WILL ASSIGN A UNIFORMED MEMBER OF THE GENDER REQUESTED BY THE ARRESTEE, CONSISTENT WITH OFFICER SAFETY AND RESOURCE AVAILABILITY. CONSISTENT WITH THE PRIVACY CONCERNS OF THE ARRESTEE, ONLY THOSE OFFICERS REASONABLY NECESSARY TO CONDUCT THE SEARCH SHOULD BE PRESENT FOR THE SEARCH.

UNDER NO CIRCUMSTANCES SHALL MEMBERS OF THE SERVICE CONDUCT SEARCHES FOR THE PURPOSE OF DETERMINING GENDER. ADDITIONALLY, OFFICERS SHALL NOT ASK QUESTIONS ABOUT AN ARRESTEE'S ANATOMY WITHOUT A REASONABLE BASIS FOR DOING SO.

COMMANDING OFFICERS WILL ENSURE THAT THE CONTENTS OF THIS ORDER ARE BROUGHT TO THE ATTENTION OF MEMBERS OF THEIR COMMANDS.



## **Appendix C**

### **Additional Forms Examined by OIG-NYPD**

- Stop, Question, and Frisk Report Worksheet
- AIDED Report Worksheet
- Complaint Report Worksheet (PD313-081)
- Arrest Report Supplement (PD244-157)
- Medical Treatment of Prisoner form (PD244-150)
- Unusual Occurrence Report (PD370-150)
- Missing-Unidentified Person Report (PD336-151)
- New York State Domestic Incident Report
- Prisoner Holding Pen Roster (PD244-1410)
- Seized Driver's License Receipt/Report (PD634-152)
- Property Clerk Invoice (PD521-141)
- Desk Appearance Ticket
- Desk Appearance Ticket Index (PD260-122)
- Desk Appearance Ticket Investigation (PD360-091)
- Desk Appearance Ticket Transmittal to Borough Court Section (PD260-122A)
- Investigation Card (PD373-163)
- Prisoner Roster (PD244-145)
- Prisoner Transport Dispatch (PD171-132)
- Property Index (PD542-103)
- Complaint Follow-Up (PD313-152A)
- Juvenile Arrest Investigation/Probation Intake Report Worksheet (PD277-151A)
- Miranda Warnings For Juvenile Interrogations (PD244-1413)
- Property Clerk Invoice Worksheet (PD521-141A)
- Property Clerk's Motor Vehicle/Boat Invoice Worksheet (PD571-147A)
- Request for Laboratory Examination - First Sheet (PD521-165)
- Request for Laboratory Examination - Second Sheet (PD521-165A)
- Request for Laboratory Examination - Third Sheet (PD521-165B)
- Supporting Deposition (PD244-060)