

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



March 18, 2016

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File Number: 37PA-191555

VIA ELECTRONIC MAIL (tafaverill@nola.gov)

Deputy Superintendent Timothy Averill
Compliance Bureau, New Orleans Police Department
714 Broad Street
New Orleans, LA 70119

RE: Policy Approval

Dear Superintendent Averill:

This letter constitutes confirmation that the Office of Consent Decree Monitor (“OCDM”) has reviewed and provided comments on policy Chapter 26.2.1, Disciplinary Matrix/Penalty Schedule. The OCDM has no objection to the policy as revised.

We believe that Chapter 26.2.1, Disciplinary Matrix/Penalty Schedule, incorporates all requirements of the Consent Decree and sets forth clear and appropriate rules to guide officer conduct. We will continue to assess the adequacy of this policy following its implementation. If we identify any concerns following implementation, we will present those concerns to you and the Department of Justice. Additionally, we note that, pursuant to the Consent Decree, NOPD has agreed to review and revise policies and procedures as necessary upon notice of a significant policy deficiency. We also note NOPD’s obligation to review this policy after a year of implementation to ensure it “provides effective direction to NOPD personnel and remains consistent with the Agreement, best practices, and current law.” Consent Decree at ¶ 18.

We appreciate your team’s effort, cooperation, and responsiveness throughout this process.

Very truly yours,

David Douglass
For SHEPPARD MULLIN RICHTER & HAMPTON LLP*
2099 PENNSYLVANIA AVE., N.W., SUITE 100
WASHINGTON, DC 20006

CC: HONORABLE SUSIE MORAN (VIA ELECTRONIC MAIL)
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 26.2.1

TITLE: DISCIPLINARY MATRIX/PENALTY SCHEDULE

EFFECTIVE:

REVISED:

PURPOSE

The purpose of this Chapter is to provide penalty ranges for rule or policy violations. The disciplinary matrix delineates the lowest possible penalty, the presumptive penalty, and the maximum penalty for each level of offense.

POLICY STATEMENT

1. The New Orleans Police Department is committed to holding officers who commit misconduct accountable through an equitable, consistent disciplinary process.
2. Disciplinary penalties shall be imposed objectively, without favoritism or bias in any form. Similar penalties shall be imposed for similar violations, depending on the aggravating or mitigating circumstances of each case.

DEFINITIONS:

Definitions relevant to this Chapter include:

Aggravating circumstances—Conditions or events that increase the seriousness of misconduct and may increase the degree of penalty. Aggravating circumstances may be considered at a penalty hearing to deviate from the recommended or presumptive punishment. For example, if an offense carries a penalty range of one to three days' suspension, a hearing officer may choose to impose a three-day suspension in light of aggravating circumstances.

Egregious offense—An offense for which a penalty that exceeds the maximum recommendation is justified because of its gravity or an excess of aggravating circumstances, such as an intentional offense that causes injury to a member of the public or results in a violation of another person's civil rights.

First offense—The first sustained violation of any Rule(s) in a member's disciplinary work history.

Mitigating circumstances—Conditions or events that do not excuse or justify misconduct but are considered in deciding the degree of penalty. Mitigating circumstances may be considered at a penalty hearing to deviate from the recommended or presumptive punishment. For example, if an offense carries a penalty range of one to three days' suspension, a hearing officer may choose to impose a one-day suspension in light of mitigating circumstances.

Penalty range—The range of discipline for a given offense. Every offense level has a minimum penalty, a presumptive penalty, and a maximum penalty. The penalty hearing officer must recommend the presumptive penalty unless aggravating or mitigating circumstances exist and are specifically articulated in the hearing record.

Personal—A violation is classified as personal when an employee allegedly commits the offense while off duty and is not acting under color of law.

Presumptive penalty—The penalty that a penalty hearing officer must impose for the sustained violation of a given offense if no aggravating or mitigating circumstances are specifically articulated in the hearing record. The hearing officer must justify any deviation from the presumptive penalty for the given offense by articulating, in the hearing record, the aggravating or mitigating circumstances present and his/her reasons for arriving at the appropriate penalty in light of those circumstances.

Second offense—The second SUSTAINED violation of the same Rule(s) within a 36-month period from the date of the occurrence of the first offense, OR a second SUSTAINED violation of ANY rule within a 36 month period from the date of occurrence of the first offense provided the first offense and subsequent offense are classified as Level D or higher (Levels D through G; see matrix below.

EXAMPLE: Officer Smith violates Rule 3(6), “Commercial Endorsement,” on June 1, 2016, an allegation that is sustained. Officer Smith then violates Rule 7(3), “Cleanliness of Department Vehicles,” on June 1, 2018, an allegation that is also sustained. This is not a second offense because the first sustained violation is a Level D offense and the second sustained violation is a Level A offense.

Alternatively, if Officer Smith violates Rule 3(6) on June 1, 2016, and then violates Rule 6(6), “Confidentiality of Internal Investigations” on June 1, 2018, it would be a second offense because the first violation is a level D offense and the subsequent violation is a level E offense.

Third offense—The third SUSTAINED violation of the same Rule(s) within a 36-month period from the date of occurrence of the first offense OR a third SUSTAINED violation of ANY rule within a 36 month period from the date of occurrence of the first offense provided the first offense and subsequent offense are classified as Level D or higher (Levels D through G; see matrix below.

EXAMPLE: Officer Jones violates Rule 3(2), “Abuse of Position,” on June 1, 2016, an allegation that is sustained. On June 1, 2017, Officer Jones then violates Rule 5(10), “Testifying on Behalf of Defendants,” which is sustained. He then violates Rule 2(6), “Unauthorized Force,” on June 1, 2018, another allegation that is sustained. This is a third offense because the first sustained violation is a Level D offense, the second sustained violation is a Level E offense, and the third sustained violation is a Level F offense.

DISCIPLINARY MATRIX

3. The table below is the disciplinary matrix, which dictates the penalty range for every offense level. The matrix demonstrates progressive discipline, with the penalty range increasing gradually for each successive offense (first, second, third and additional). In addition, the penalty range increases according to the severity of the offense. The range for each offense is expressed in three figures or characters that represent the minimum, presumptive, and maximum penalties. "O" represents an oral reprimand; "R" represents a letter of reprimand; "D" represents demotion or dismissal; and numbers represent days of suspension. For example, "30-45-60/D" means a 45-day suspension is the presumptive penalty, a 30-day suspension is the minimum penalty, and the maximum is 60 days but may result in dismissal for an egregious offense. The presumptive penalty shall be applied for each offense unless aggravating or mitigating circumstances exist and merit deviation to a lesser or greater penalty within the penalty range.

LEVEL	1st OFFENSE	2nd OFFENSE	3rd OFFENSE
A	O-R-1	1-2-3	3-6-9/D
B	R-1-2	2-5-10/D	10-15-30/D
C	2-5-10	5-10-15/D	15-30-45/D
D	5-10-15/D	15-30-45/D	45-60-80/D
E	30-45-60/D	60-80-D	80-D-D
F	60-80-D	80-D-D	D-D-D
G	D-D-D	D-D-D	D-D-D

AGGRAVATING AND MITIGATING CIRCUMSTANCES

4. Discipline must be consistent. The same or similar violation must be given the same or similar penalty. However, it is recognized that the circumstances of an offense may make it more or less egregious and therefore deserving of a lesser or greater penalty. The following non-inclusive factors, if applicable to the particular case, should be considered when considering discipline, as mitigating or aggravating circumstances:
- (a) The employee's level and scope of responsibility with the Department and the nature of his or her position.
 - (b) The nature and seriousness of the violation and its relationship to the employee's duties, position, and responsibilities;
 - (c) The employee's past disciplinary and work record, including whether he or she has any commendations;
 - (d) The employee's longevity with the Department and what he or she has contributed to the Department throughout employment;
 - (e) The effect of the violation upon management's confidence in the employee's future job performance;
 - (f) The consistency of the penalty with those imposed upon other employees for a similar offense and with the disciplinary matrix;

- (g) The notoriety of the offense or its impact upon the reputation of the Police Department;
- (h) The clarity with which the employee was on notice of any regulations that were violated in the commission of the offense, including whether he or she was warned about the conduct in question;
- (i) The likely potential for the employee's rehabilitation, including the employee's history with past attempts to rehabilitate;
- (j) Whether the violation was intentional, inadvertent, or committed maliciously or for personal gain;
- (k) Whether the violation was repeated, and how often;
- (l) Whether the violation affects the rights or liberties of another person;
- (m) Whether the violation caused injury and/or had a harmful impact on a citizen or the community;
- (n) Whether the violation is technical and an administrative or a criminal violation;
- (o) Other circumstances such as job tensions, personality problems, mental impairment, harassment, or bad faith, malice, or provocation by others involved in the incident;
- (p) Whether the employee has accepted responsibility for his or her actions, from the outset of being informed of the allegation(s); and
- (q) Whether the violation resulted in a criminal conviction or arrest; and
- (r) Whether the accused employee intervened in an alleged act of misconduct or received a peer intervention and complied with that intervention in an alleged act of misconduct in accordance with the Ethical Policing Is Courageous program.

PENALTY SCHEDULE

5. The following penalty schedule lists each offense by rule, provides a description of the rule, and dictates the appropriate penalty level in accordance with the penalty matrix.

RULE TWO: MORAL CONDUCT

6. ADHERENCE TO LAW—2(1)

Employees shall act in accordance with the constitutions, statutes, ordinances, administrative regulations, and the official interpretations thereof, of the United States, the State of Louisiana, and the City of New Orleans, but when in another jurisdiction shall obey the applicable laws. Neither ignorance of the law, its interpretations, nor failure to be physically arrested and charged, shall be regarded as a valid defense against the requirements of this rule.

TITLE	LEVEL
TRAFFIC: POLICE VEHICLE (ON DUTY/OFF DUTY)	B
TRAFFIC: PRIVATE VEHICLE (ON DUTY/OFF DUTY)	A
DWI: ON DUTY, POLICE VEHICLE	G
DWI: OFF DUTY, POLICE VEHICLE	F
DWI: ON DUTY, PRIVATE VEHICLE	E
DWI: OFF DUTY, PRIVATE VEHICLE	E
MUNICIPAL: ON DUTY	D
MUNICIPAL: OFF DUTY (COLOR OF LAW)	D
MUNICIPAL: OFF DUTY (PERSONAL)	C
STATE MISDEMEANOR: ON DUTY	F
STATE MISDEMEANOR: OFF DUTY (COLOR OF LAW)	F
STATE MISDEMEANOR: OFF DUTY (PERSONAL)	E

STATE FELONY (ON DUTY/OFF DUTY)	G
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7. COURTESY—2(2)

Employees shall be courteous, civil, and respectful in their conduct toward all persons. The use of profane, vulgar or discourteous gestures or language to or in the presence of any citizen is prohibited.

The use of profane, vulgar or discourteous gestures or language, either verbal or written, by one employee to another employee is prohibited.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	A

8. INTENTIONAL FALSE STATEMENTS—2(3)

Employees are required to be truthful at all times, in their spoken, written, or electronic communications, whether under oath or not, in all matters and official investigations relating to the scope of their employment and operations of the Department. An employee shall not make any material false statement with the intent to deceive. A statement is material when it could have affected the course or outcome of an investigation or official proceeding relating to the scope of their employment and operations of the Department.

TITLE	LEVEL
ON DUTY/OFF DUTY	G

9. DISCRIMINATION—2(4)

Employees shall not discriminate against or show partiality to any person because of racial, ethnic, religious, political, sexual, or personal prejudice.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	D

10. VERBAL INTIMIDATION—2(5)

An employee shall not use or direct unjustifiable verbal abuse, threats, or intimidation against any person.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	B

10a. COERCED CONFESSION—2(5)

An employee shall not use or direct unjustifiable verbal abuse, threats, or intimidation against any person to obtain a confession.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	F

11. UNAUTHORIZED FORCE—2(6)

Employees shall not use or direct unjustifiable physical abuse, violence, force, or intimidation against any person.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	F

12. COURAGE—2(7)

An employee shall act with courage and confidence and shall not fail to perform any duty because of the danger involved, but shall, however, exercise due care for the safety of his/her person and that of others, and the security of property commensurate with the circumstances.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	C

13. FAILURE TO REPORT MISCONDUCT—2(8)

Any department employee who observes or becomes aware of any act of misconduct by another employee of the government shall immediately report the incident to their immediate supervisor or the most appropriate New Orleans Police Department (NOPD) supervisor (Violation of this provision may be charged up to and including the category of the underlying offense not reported).

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	SAME AS PREDICATE OFFENSE

14. FAILURE TO COOPERATE/WITHHOLDING INFORMATION—2(9)

In accordance with established rights under law, employees shall not withhold any information, acts, or omissions known to the employee that purposefully interfere or disrupt an authorized investigation, whether internally or externally, investigated by any official entity. Additionally, any employee who withholds information or fails to cooperate with any internal investigation may be disciplined in addition to any other disciplinary action based upon conduct disclosed by the primary investigation.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	F

RULE THREE: PROFESSIONALISM

15. PROFESSIONALISM—3(1)

Employees shall conduct themselves in a professional manner with the utmost concern for the dignity of the individual with whom they are interacting. Employees shall not unnecessarily inconvenience or demean any individual or otherwise act in a manner which brings discredit to the employee or the Police Department.

TITLE	LEVEL
ON DUTY	A
OFF DUTY (COLOR OF LAW)	A
OFF DUTY (PERSONAL)	A

16. ABUSE OF POSITION—3(2)

Members shall not use their position, official identification cards or badges for personal or financial gain, for obtaining privileges, or for avoiding consequences of illegal acts. Employees shall not lend to another person their identification cards or badges or permit them to be photographed or reproduced without the approval of the Superintendent of Police.

TITLE	LEVEL
ON DUTY/OFF DUTY	D

17. NEATNESS AND ATTIRE—3(3)

Employees shall, except under circumstances which are duty related, be neat and clean in person and dress, and shall be attired and equipped according to Department Procedures or instructions from a supervisor. Hair and mustaches shall be trimmed according to Department Procedures.

TITLE	LEVEL
ON DUTY	A

18. ACCEPTING OR GIVING ANYTHING OF VALUE—3(4)

Members in their official capacity as employee(s) of the City of New Orleans, shall not solicit or accept from any person(s), business(es), or organizations(s) any gift, donation, goods, money, property (tangible, intangible, real or personal), loan, promise, service, or entertainment for the benefit of the employee(s) or the Department without the express written approval of the Superintendent of Police. Requests for such approval shall be forwarded to the Superintendent of Police through the employee's chain of command using NOPD Form 105 (Interoffice Correspondence).

TITLE	LEVEL
ON DUTY/OFF DUTY	C

19. INFLUENCE PEDDLING—3(4)

Under no circumstances shall a gift, donation, goods, money, property (tangible, intangible, real or personal), loan, promise, service, or entertainment be solicited or

accepted by the Department or its members if it may reasonably be inferred that the person, business, or organization:

- (a) seeks to influence action of an official nature or seeks to affect the performance or non-performance of an official duty, or
- (b) has an interest which may be substantially affected directly or indirectly by the performance or non-performance of an official duty.

TITLE	LEVEL
ON DUTY/OFF DUTY	D

20. REFERRALS—3(5)

Members shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial services (such as an attorney, ambulance service, towing service, bondsman, mortician, etc.). In the case of an ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it or requests assistance, employees shall proceed in accordance with established Department procedures.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	C

21. COMMERCIAL ENDORSEMENT—3(6)

Employees shall not permit or authorize the use of their names, photographs, or official titles which identify them as employees, in connection with testimonials or advertisements of any commodity or commercial enterprise, without the approval of the Superintendent of Police.

TITLE	LEVEL
ON DUTY/OFF DUTY	D

22. USE OF DRUGS/SUBSTANCE ABUSE TESTING—3(7)

Employees shall be guided by the City's substance abuse policy as defined under Rule V, Section 9 of Civil Service Rules and C.A.O. Policy Memorandum # 89 dated 9/90 which states: Department employees shall not take any of the narcotic drugs defined in Louisiana Revised Statute 40, Articles 964 and 966, unless prescribed for them by a licensed medical practitioner. Employees are prohibited from reporting to duty under the influence of any drug, medication or other substance which would impair their normal sensory and/or motor body functions.

TITLE	LEVEL
ON DUTY/OFF DUTY	G

23. USE OF ALCOHOL ON DUTY—3(8)

Members shall not drink intoxicating beverages while on duty except in the performance of duty and while acting under proper and specific orders from a superior officer. Members shall not appear for duty, or be on duty, while under the influence of

intoxicants to any degree whatsoever, or with an odor of intoxicants on their breath.

TITLE	LEVEL
ON DUTY	F

24. USE OF ALCOHOL OFF-DUTY—3(9)

Employees while off-duty, shall refrain from consuming intoxicating beverages to the extent that it results in impairment, intoxication, obnoxious or offensive behavior which would discredit them, the Department, or render the employees unfit to report for their next regular tour of duty. Commissioned employees of the Police Department shall refrain from carrying a firearm while consuming alcohol or while under its influence.

TITLE	LEVEL
OFF DUTY	C

25. ALCOHOL INFLUENCE TEST—3(10)

Any employee in violation of the rules pertaining to the use of alcohol on-duty and off-duty shall submit to an alcohol influence test, as ordered by a supervisor. Under orders from the Superintendent of Police, or the Superintendent's designee, an employee shall submit to other appropriate tests, such as saliva, and/or blood test.

TITLE	LEVEL
ON DUTY	F
OFF DUTY	E

26. USE OF TOBACCO—3(11)

Members, when in uniform, may use tobacco as long as they are not in formation for inspection, they do not have to leave their assignment or post for the sole purpose of doing so, or they are not engaged in traffic direction and control. When employees are in direct contact with the public, they shall first obtain permission to use tobacco from the public with whom they are in direct contact.

All employees of the New Orleans Police Department are prohibited from smoking any type of hand rolled cigarette/cigar or machine rolled cigarette/cigar, which appears to be hand rolled while on duty; off duty in uniform, including paid details; in a city owned/leased vehicles, marked or unmarked; and/or appearing as a representative of the New Orleans Police Department including but not limited to meetings or court appearances.

TITLE	LEVEL
ON DUTY	A

27. RETALIATION—3(12)

Retaliation for reporting misconduct or for cooperating with an investigation of misconduct is an egregious offense and shall be grounds for discipline, up to an including termination of employment.

TITLE	LEVEL
ON DUTY	F

28. USE OF SOCIAL MEDIA—3(13)

Employees shall not post any material on the internet including but not limited to photos, videos, word documents, etc., that embarrasses, humiliates, discredits or harms the operations and reputation of the Police Department or any of its members.

TITLE	LEVEL
ON DUTY/OFF DUTY	C

29. ILLEGAL USE OF SOCIAL MEDIA

Employees shall not post any material on the Internet that violates any local, state or federal law, or includes hate speech, discrimination or advocates unnecessary force.

TITLE	LEVEL
ON DUTY/OFF DUTY	F

RULE FOUR: PERFORMANCE OF DUTY**30. REPORTING FOR DUTY—4(1)**

A member shall promptly report for duty at the time and place required by assignment or orders, but in the event of inability to perform or to begin punctually, he/she shall notify his/her commanding officer or a member of his/her unit authorized to receive such information before the designated time for commencement.

TITLE	LEVEL
ON DUTY	B

31. INSTRUCTIONS FROM AN AUTHORITATIVE SOURCE—4(2)

A member shall professionally, promptly, and fully abide by or execute instructions issued from any authoritative source. If the instructions are reasonably believed to be in conflict with the Rules and Procedures of the Department or other issued instructions, this fact shall respectfully be made known to the issuing authority. If the issuing authority elects to insist upon execution of the instructions which are reasonably believed to be in conflict with Department Rules and Procedures, then the member receiving the instructions shall have the right to request and is entitled to receive, IMMEDIATELY, said instructions in writing, except in cases of emergency as determined by the supervisor. The issuing authority shall be held responsible should any conflict materialize; however, no instructions shall be issued or executed which are in violation of the law.

TITLE	LEVEL
ON DUTY/OFF DUTY	C
FAILURE TO RENDER STATEMENT IN AN ADMINISTRATIVE INVESTIGATION	G

32. DISOBEYING A DIRECT ORDER—4(2)

A member shall professionally, promptly, and fully abide by or follow a direct order from a supervisor, superior, or commanding officer.

TITLE	LEVEL
ON DUTY	D

33. DEVOTING ENTIRE TIME TO DUTY—4(3)

Members shall not read, play games, watch television or movies, or otherwise engage in entertainment while on duty, except as may be required in the performance of duty. They shall not engage in any activities or personal business which would cause them to neglect or be inattentive to duty.

TITLE	LEVEL
ON DUTY	A

34. NEGLECT OF DUTY—4(4)

(a) GENERAL

Each member, because of his grade and assignment, is required to perform certain duties and assume certain responsibilities. A member's failure to properly function in either or both of these areas constitutes a neglect of duty.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	B

(b) ENUMERATED ACTS/OMISSIONS

The following acts or omissions to act, although not exhaustive, are considered neglect of duty:

1. Failing to take appropriate and necessary police action;
2. Failing to respond to all assignments promptly and failing to report dispositions of assignments to the dispatcher immediately upon completion;
3. Failing to advise the dispatcher on each occasion of his absence from the patrol vehicle (except for signal 1042) and the reason therefore; and failing to report his return to his vehicle;
4. Failing to make a written report when such is indicated;
5. Unauthorized sleeping on duty;
6. Failing to comply with instructions, oral or written, from any authoritative source;
7. Failing to take necessary actions so as to insure that a prisoner shall not escape as a result of carelessness or neglect;
8. Failing to thoroughly search for, collect, preserve, and identify evidence in an arrest or investigative situation;
9. Failing to insure that the health, welfare, and property of a prisoner is properly maintained while in individual custody;
10. Failing to properly care for vehicles and other equipment used wherein damage results from carelessness or neglect;
11. Failing to take appropriate action as to illegal activity, including vice and gambling violations, and/or make a written report of the same to commanding officer.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	B

(c) SUPERVISORY RESPONSIBILITIES

A member with supervisory responsibility shall be in neglect of duty whenever he fails to properly supervise subordinates, or when his actions in matters relating to discipline

fail to conform with the dictates of Departmental Rules and Regulations.

TITLE	LEVEL
ON DUTY/OFF DUTY (COLOR OF LAW)	SAME AS PREDICATE OFFENSE

35. CEASING TO PERFORM BEFORE END OF TOUR OF DUTY—4(5)

A member shall be allowed to end his period of duty only with prior approval of his supervisor.

TITLE	LEVEL
ON DUTY	B

36. LEAVING ASSIGNED AREA—4(6)

Members shall remain within the boundaries of their assignment except when specifically authorized by their supervisor, radio dispatcher, or in hot pursuit.

TITLE	LEVEL
ON DUTY	B

37. LEAVING CITY WHILE ON DUTY—4(7)

Members shall not go beyond the City limits while on duty unless directed by their Supervisor, radio dispatcher, or in hot pursuit.

TITLE	LEVEL
ON DUTY	B

38. HOURS OF DUTY—4(8)

Members of the Department shall have, as scheduled, regular hours assigned to them for active duty each day, and when not on active duty, shall be considered **OFF-DUTY**. The fact that commissioned members may be technically **OFF-DUTY** shall not relieve them from the responsibility of taking the appropriate police action on any serious police matter coming to their attention at any time, providing for the circumstances and the reasonable safety of the off-duty employee and the public. During **OFF-DUTY** hours a member shall carry his/her official ID card and may carry his/her authorized weapon, except when engaged in athletic activities or consuming alcohol. Employees shall be subject to call for duty by order of their superior officer at any time.

TITLE	LEVEL
ON DUTY/OFF DUTY	C

39. SAFEKEEPING OF VALUABLES—4(9)

Members of the Department shall not accept valuables for safekeeping from individuals who merely desire to check them in for that purpose. This does not apply to valuables that have been received as evidence or property in connection with an investigation, or property which is found and turned over to the police.

TITLE	LEVEL
ON DUTY	A

40. ESCORT FOR VALUABLES—4(10)

Members of the Department on duty shall not furnish escort services for transporting of money or valuables unless authorized by a Supervisor.

TITLE	LEVEL
ON DUTY	B

41. BODY-WORN CAMERA—4(11)

Members shall use their Department-issued body-worn cameras (BWCs) in accordance with Chapter 41.3.10. In accordance with Chapter 41.3.2, inadvertent misuse and non-use of a body-worn camera will be considered a second offense when a member has exhausted his or her allotment of redirection instances under that policy.

TITLE	LEVEL
ON DUTY	A

42. INTENTIONAL MISUSE OR NON-USE OF BODY-WORN CAMERA--4(11)

A member shall not deliberately turn off his or her body-worn camera to conceal illegal or prohibited conduct.

TITLE	LEVEL
ON DUTY/OFF DUTY	F

RULE FIVE: RESTRICTED ACTIVITIES**43. FICTITIOUS ILLNESS OR INJURY REPORTS—5(1)**

Employees shall not feign illness or injury; falsely report themselves ill or injured, or otherwise deceive or attempt to deceive any official of the Department as to the condition of their health.

TITLE	LEVEL
ON DUTY/OFF DUTY	C

44. ASSOCIATIONS—5(2)

Employees shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are racketeers, sexual offenders, suspected felons, persons under criminal investigation or indictment, or who have a reputation in the community for present involvement in felonious or criminal behavior, except as necessary in the performance of official duties, or where unavoidable because of family relationships of members.

TITLE	LEVEL
ON DUTY/OFF DUTY	C

45. VISITING PROHIBITED ESTABLISHMENTS—5(3)

Employees shall not knowingly visit, enter or frequent a house of prostitution, or establishment wherein the laws of the United States, the state, or the local jurisdiction are regularly violated, except in the performance of duty or while acting under proper and specific orders from a superior officer.

TITLE	LEVEL
ON DUTY	E
OFF DUTY	C

46. SUBVERSIVE ACTIVITIES—5(4)

An employee shall not commit, attempt to commit, aid in the commission of, or advocate, abet, advise, or teach by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy, or assist in the overthrow or destruction of the constitutional form of the government of the United States, any State, or any political subdivision thereof, by revolution, force, violence, or other unlawful means. An employee shall not be allied with any group of persons whose individual or collective actions or purpose of action is prohibited by this rule, except in the performance of duty as directed by the Superintendent.

TITLE	LEVEL
ON DUTY/OFF DUTY	F

47. LABOR ACTIVITY—5(5)

- (a) Employees shall have the right to join labor organizations, but nothing shall compel the Department to recognize or to engage in collective bargaining with any such labor organizations except as provided by law.
- (b) Employees shall not engage in any strike or other concerted effort to adversely affect Department productivity. "Strike" includes the concerted failure to report for duty, willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing or coercing a change in conditions, compensation, rights, privileges, or obligations of employment.

TITLE	LEVEL
ON DUTY/OFF DUTY	D

48. ACTING IN CIVIL MATTERS—5(6)

Employees shall not give legal advice or express a legal opinion in civil matters beyond that which is necessary to prevent a breach of the peace or violation of law, but shall instead suggest that the inquirer seek such information from another source of the inquirer's choosing.

TITLE	LEVEL
ON DUTY/OFF DUTY	B

49. ACTING IMPARTIALLY—5(7)

Employees shall take no action in a matter normally within the scope of their duties to which they are an interested or involved party, or make arrests in controversies arising between their relatives; nor make any arrests in their own quarrels, or between themselves and their relatives, friends and/or neighbors, except to prevent injury to another, or when a felony has been committed. Such circumstances shall be called to the attention of a supervisor who shall take the required action. Employees may detain any offender until intervention of proper authority.

TITLE	LEVEL
ON DUTY/OFF DUTY	D

50. CIVIL SUITS BY MEMBERS—5(8)

Employees involved in civil litigation as a consequence of the proper execution of their duties shall notify the Superintendent of Police via a Departmental Interoffice Correspondence (Form 105). The member shall attach all documents pertaining to the civil suit to the correspondence and hand carry this packet to the office of the Superintendent. Employees shall also notify the Superintendent in writing as to the existence of civil suits or actions where the member is involved as a plaintiff, defendant, or witness arising out of the performance of his duty, or his role as a police officer. When appearing as a plaintiff, defendant, or witness in any civil litigation, the member shall not be attired in his Departmental uniform, except when the employee is appearing as a representative of the New Orleans Police Department. (ADDITIONALLY: SEE C.A.O. POLICY MEMORANDUM 47 DATED SEPTEMBER 24, 1987 RE: INDEMNIFICATION FOR CITY OFFICERS AND EMPLOYEES.)

TITLE	LEVEL
ON DUTY/OFF DUTY	C

51. CRIMINAL PROCEEDING AGAINST MEMBERS—5(9)

An employee shall immediately report in writing to the Superintendent all information concerning any arrest or court action instituted against him/her in any criminal case. When required to testify in any court action instituted against him/her in any criminal case, the member shall not appear attired in his Departmental uniform. This article shall not be interpreted so as to apply to criminal proceedings arising out of the performance of the member's duty.

TITLE	LEVEL
ON DUTY/OFF DUTY	E

52. TESTIFYING ON BEHALF OF DEFENDANTS—5(10)

Employees of the Department, when testifying on behalf of any defendant(s) in any criminal case, civil proceeding, or civil administration hearing (i.e., including but not limited to: liquor license revocation, driver's license revocation), where the City of New Orleans or the New Orleans Police Department is a prosecutor, plaintiff, or defendant, shall notify the prosecuting or plaintiff's attorney and the Superintendent, through their chain of command, that they will be testifying, before appearing on the defendant's behalf. Any employee testifying in a criminal case outside the Parish of Orleans shall notify the Superintendent, through their chain of command, prior to the trial date.

Employees testifying on behalf of the defendant(s), other than the City of New Orleans, in any criminal or civil proceeding not arising out of the proper performance of their duties, shall not be attired in their departmental uniform except when on duty and testifying in a matter before the Civil Service Commission.

TITLE	LEVEL
ON DUTY/OFF DUTY	E

53. INTERFERING WITH INVESTIGATIONS—5(11)

An employee shall not divulge official information to any other person or agency which he/she knows or should know would possibly impede, obstruct or otherwise compromise any criminal or administrative investigation being conducted by Employees of this Department or by a member of any other local, State or Federal investigative organization or law enforcement agency.

Such prohibited activity shall include, but not be limited to, the release, disclosure or communications by any means, of any information to any suspect in an investigation or to any unauthorized person, which would tend to identify any officers acting in an undercover capacity, the identity of confidential sources, informers, or witnesses and any investigative methods and techniques utilized in a particular investigation.

Such prohibited activity shall also include the release, disclosure or communication of descriptions of any vehicles or specialized equipment utilized in any investigation, suspects in or targets of any particular investigation, the existence of or description of any evidence or possible evidence, or any official data, computerized or conventional, either directly or indirectly related to or resulting from any criminal or administrative investigations.

It is understood that it will routinely be necessary to share such investigative information with members of other investigative or law enforcement agencies. Prior to the disclosure of such information or data to any person authorized by law and departmental policy to receive such data, the employee shall obtain the expressed authorization of his commanding officer.

TITLE	LEVEL
ON DUTY/OFF DUTY	F

54. UNDERCOVER INVESTIGATIONS—5(12)

Employees shall not, in the course of their official duties, engage in any undercover or covert activities without the prior written authorization of their respective Bureau Commander.

The prior written authorization of the Superintendent of Police shall be required in all undercover or covert activities in which employees are required or intend to engage in corrupt practices, including but not limited to, accepting bribes, the purchase of or possession of any controlled dangerous substance, or direct or indirect involvement in any crime of violence. Physical surveillance of a suspect or target of any official investigation or activities of confidential informers shall not be considered undercover or covert activities for the purpose of this rule.

TITLE	LEVEL
ON DUTY/OFF DUTY	E

55. REWARDS—5(13)

Only upon written request and approval from the Superintendent, in each specific case, shall an employee be allowed to accept any reward resulting from or connected in any way with his performance or responsibilities as a police officer. Request for such approval shall be forwarded to the Superintendent through the member's unit chain of command using Form 143.

TITLE	LEVEL
ON DUTY/OFF DUTY	B

RULE SIX: OFFICIAL INFORMATION

56. SECURITY OF RECORDS—6(1)

A member shall not impart to any person or remove from any files the content of any record or report, except as provided by law.

TITLE	LEVEL
ON DUTY/OFF DUTY	D

57. INTENTIONALLY FALSE OR INACCURATE REPORTS—6(2)

An employee shall not knowingly make, or cause or allow to be made, a false or inaccurate oral or written record or report of an official nature, or intentionally withhold material matter from such report or statement.

TITLE	LEVEL
ON DUTY/OFF DUTY	G

58. PUBLIC STATEMENTS AND APPEARANCES—6(3)

Members shall not publicly criticize or ridicule the Department, its policies, or other Employees by speech, writing, or other expression, where such speech, writing, or other expression is defamatory, obscene, unlawful, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity. Members shall not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge investigative information, or any other matters of the Department while holding themselves out as having an official capacity in such matters without official sanction or proper authority. Members may lecture on "police" or other related subjects only with the prior approval of the Superintendent of Police.

TITLE	LEVEL
ON DUTY/OFF DUTY	D

59. PUBLIC COMPLAINTS—6(4)

Citizens applying to members for assistance or advice, or for the purpose of entering a report or a complaint, shall be given every possible consideration consistent with the circumstances. This is a duty incumbent on the officer being contacted, and he/she shall not refer citizens to another officer or Division unless circumstances necessitate such action.

TITLE	LEVEL
ON DUTY/OFF DUTY	B

60. INFORMANTS—6(5)

A member shall not be compelled to reveal the identity of a confidential informant except when required by the Superintendent of Police.

TITLE	LEVEL
ON DUTY/OFF DUTY	G

61. CONFIDENTIALITY OF INTERNAL INVESTIGATIONS—6(6)

All files concerning Departmental administrative reports and investigations shall be confidential.

TITLE	LEVEL
ON DUTY/OFF DUTY	E

RULE SEVEN: DEPARTMENT PROPERTY**62. USE OF DEPARTMENT PROPERTY—7(1)**

Members shall use Department property only for the purpose for which it is intended and in accordance with Department policy, rules, procedures, and orders. Members shall exercise care in the use of all Department property and equipment and shall promptly report any theft, loss, or damage of Department property.

TITLE	LEVEL
ON DUTY/OFF DUTY	B

63. AUTHORIZED OPERATORS OF DEPARTMENT PROPERTY—7(2)

Only licensed members who are authorized by their supervisor shall operate police vehicles.

TITLE	LEVEL
ON DUTY/OFF DUTY	B

64. CLEANLINESS OF DEPARTMENT VEHICLES—7(3)

Members assigned to operate police vehicles shall be responsible for the cleanliness of such vehicles during their tour of duty.

TITLE	LEVEL
ON DUTY/OFF DUTY	A

65. USE OF EMERGENCY EQUIPMENT—7(4)

Members shall not sound the siren or activate the blue light or other emergency devices unless responding to an emergency assignment or when required in the actual and proper performance of a police duty, or when so directed by the radio dispatcher or a superior officer.

TITLE	LEVEL
ON DUTY/OFF DUTY	A

66. STATEMENT OF RESPONSIBILITY—7(5)

Members who become involved in an accident (while operating a Department vehicle) shall make no statement as to responsibility and shall not advise other parties involved that the City will pay for the damages resulting from said accident even though they may be at fault.

TITLE	LEVEL
ON DUTY/OFF DUTY	B

67. OPERATIONS MANUAL—7(6)

Members shall be personally responsible for maintaining and updating their individual copies of the Department Operations Manual.

TITLE	LEVEL
ON DUTY/OFF DUTY	A