

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



January 15, 2019

202.747.1904 direct

File Number: 37PA-191555

Deputy Superintendent Danny Murphy
Compliance Bureau, New Orleans Police Department
714 Broad Street
New Orleans, LA 70119

Dear Superintendent Murphy:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM") has reviewed and provided comments on Chapter 1.2.4.3 Vehicle Stops. The OCDM has no objection to the policy as written.

We believe that Chapter 1.2.4.3 Vehicle Stops, 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 ¶ 8.

We appreciate your team's effort, cooperation, and responsiveness throughout this process.
Very truly

Very truly yours,

David L. Douglass
For SHEPPARD MULLIN RICHTER & HAMPTON LLP*
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NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 1.2.4.3

TITLE: VEHICLE STOPS

EFFECTIVE:

REVISED: (Conversion Replaces P/PR503)

PURPOSE

All stops, searches, and arrests are to be conducted in accordance with the rights secured or protected by the U.S. Constitution and laws of the United States and the State of Louisiana. The requirements that apply to all stops, including pedestrian, vehicle stops, and other stops, are set forth in **Chapter 1.2.4.1 - Stops**. The purpose of this Chapter is to set forth additional guidelines for safely conducting vehicle stops. Specific guidance on issuing traffic citations during a vehicle stop is provided in **Chapter 61.3 Traffic Citations**.

DEFINITIONS

Authorized Emergency Vehicle—A properly equipped vehicle, owned and operated by or for a government agency, to protect and preserve life and property for a planned or unplanned response, in accordance with state laws regulating emergency vehicles.

Crime of Violence—A felony involving the infliction or threatened infliction of serious bodily injury or death.

Emergency Equipment—All emergency equipment available, to include red and/or blue emergency flashing lights and siren.

Investigatory Stop—The temporary involuntary detention and questioning of a person and/or vehicle and its occupants to investigate potential criminal conduct. To conduct an investigatory stop, the officer must have reasonable suspicion that the individual or vehicle occupant has engaged, is engaging, or is about to engage in criminal conduct. (See also: **Chapter 1.2.4.1 – Stops**)

Marked Police Vehicle—An Authorized Emergency Vehicle used primarily by uniformed police officers. It is conspicuously marked. It is equipped with emergency lighting and a siren.

Stop—A brief, minimally intrusive detention of a subject, including pedestrians, bikers, and/or a vehicle and its occupants, during which a reasonable person in the subject's position would not feel free to leave, as defined in *Terry v. Ohio*, 392 U.S. 1 (1968). (See also: **Chapter 1.2.4.1 – Stops**)

Uniformed or in uniform—An authorized NOPD uniform worn in accordance with **Chapter 41.10 – Uniform Specifications**.

Unmarked Police Vehicle—An Authorized Emergency Vehicle used primarily by plainclothes police officers. It is not conspicuously marked and may be of any color. It is equipped with emergency lighting and a siren.

Vehicle stop—The involuntary detention of a motor vehicle and its occupants. Vehicle stops may be conducted (1) where there is probable cause to believe that the driver has committed a traffic violation or (2) where there is reasonable suspicion that a vehicle occupant has engaged, is engaging, or is about to engage in criminal conduct.

CONDUCTING VEHICLE STOPS

1. NOPD officers may only conduct investigatory vehicle stops where the officer has reasonable suspicion that a person in the vehicle has been, or is about to be engaged in the commission of a crime. Officers may only conduct stops to enforce traffic laws when he or she has probable cause to believe the driver or occupant has committed a traffic violation.
2. Vehicle stops pose risks to police officers and the community and must be conducted with caution and forethought. Otherwise routine vehicle stops may develop into serious confrontations and officers must be prepared to react accordingly. Officers should continually be cognizant of the tactical options available.
3. All Department vehicles used to conduct vehicle stops shall be equipped with emergency equipment and operable emergency lights and sirens.
4. NOPD officers, either on-duty or off-duty, must have a functioning police radio when conducting a vehicle stop.
5. Uniformed NOPD officers, either on or off-duty, in marked police vehicles, are authorized to stop vehicles and their occupants in Orleans Parish in order to:
 - (a) Enforce traffic laws;
 - (b) Conduct investigations; and
 - (c) Stop criminal activity.
6. NOPD officers, either on-duty or off-duty, **are not authorized** to make vehicle stops outside of Orleans Parish, unless the violation would be considered a felony under state law. If a vehicle stop for a felony violation is made outside of Orleans Parish, the officer shall contact the law enforcement agency with jurisdiction as soon as feasible of the impending or actual stop supplying all requested information.
7. Nothing in this Chapter shall prohibit a member from making a vehicle stop in conjunction with a vehicle pursuit which originated in Orleans Parish and crossed into an adjacent parish, as limited by **Chapter 41.5 - Vehicle Pursuits**. Vehicle pursuits without expressed approval by the necessary NOPD supervisor are not authorized by this Department, even if allowed by the local law enforcement agency.
8. During detention of an alleged violator of any provision of the motor vehicle laws, an officer may not detain a motorist for a period of time longer than reasonably necessary to complete the investigation of the violation and issuance of a citation for the violation, absent reasonable suspicion of additional criminal activity.
9. Non-uniformed officers operating police vehicles (marked or unmarked) not equipped with functioning emergency lights or siren shall not make motor vehicle stops unless there is imminent danger of loss of life should they fail to act. In other less urgent cases that demand attention, officers shall contact Communications Services and request that

- a marked patrol vehicle perform the stop, and assist in directing the marked unit to the subject vehicle's location.
10. Off-duty officers are **PROHIBITED** from conducting vehicle stops while operating a personal vehicle, **except** for a crime of violence in progress in Orleans Parish.
 11. Officers in an unmarked vehicle or in a vehicle without operating emergency lights and siren **shall not** cite an individual for violation of La. R.S. 14:108.1 (flight from an officer, aggravated flight from an officer) if he/she refused to stop their vehicle.
 12. Non-uniformed officers conducting vehicle stops shall conspicuously display their Department credentials to the vehicle occupants and announce that they are police officers.
 13. When conducting a vehicle stop, officers must be cognizant of roadway, traffic, and lighting conditions.
 14. The safety of the officer, the occupants of the vehicle, and other roadway users is a prime concern. If the vehicle stops in an unsafe location, the officer shall direct the driver to move to a more suitable location by use of visual signals and/or the vehicle public address system. Under no circumstances will an officer allow a driver who is suspected of driving while intoxicated move his/her vehicle once it has stopped.
 15. When conducting a vehicle stop, officers shall advise Communication Services of his/her unit number, location, and the stopped vehicle tag number prior to exiting his vehicle and approaching the subject vehicle. If the vehicle has a temporary paper tag, or no tag, the officer shall provide Communications Services with a description of the vehicle and its occupants.
 16. Off-duty officers making a vehicle stop shall advise Communication Services of his/her badge number if no permanent unit number is assigned.
 17. When conducting a vehicle stop, officers shall use high beams, flashing overhead lights, takedown lights, flashers, and spotlights when applicable. The officer shall approach the violator's vehicle from behind, unless circumstances dictate a different angle of approach.
 18. When possible, officers will position police vehicles in such a manner to allow a "safety zone" between the officers' and the violator's vehicles.
 19. The decision on whether to approach the stopped vehicle on foot or to order the driver out of the vehicle shall be made by the officer making the stop. The officer should keep all tactical options available, including emergency disengagement techniques.
 20. At the conclusion of the vehicle stop, the officer shall remain on the scene until the stopped vehicle leaves. In situations where the vehicle becomes disabled and cannot be moved, the officer shall assist the driver and/or occupants of the stopped vehicle as provided for in **Chapter 61.13 – Disabled Vehicles – Stranded Motorists**.
 21. For additional guidelines on searches of vehicles, frisks and searches incident to arrest, see **Chapter 1.2.4 – Search and Seizure**.