

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



November 09, 2018

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 13.22 - Crash Review Board. The OCDM has no objection to the policy as written.

We believe that Chapter 13.22 - Crash Review Board, 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*
2099 PENNSYLVANIA AVE., N.W., SUITE 100
WASHINGTON, DC 20006

CC: HONORABLE SUSIE MORGAN (VIA ELECTRONIC MAIL)
JUDE VOLEK, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)
SUNNI LEBEOUF, CITY ATTORNEY (VIA ELECTRONIC MAIL)



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 13.22

TITLE: CRASH REVIEW BOARD

EFFECTIVE:

REVISED: Replaces Policy (707)

PURPOSE

The purpose of the Crash Review Board is to identify the cause of automobile crashes involving NOPD vehicles and to decrease or lessen the severity of automobile crashes involving police vehicles through training, discipline and/or revising Department Operation Manual Chapters.

The vast majority of auto crashes can be prevented if the operator of one or both of the vehicles involved obeys traffic laws, properly maintain the vehicle, drive cautiously, and focus their attention on operating the vehicle

POLICY STATEMENT

1. It is the policy of the Department to review each crash of an NOPD vehicle and determine preventability.

DEFINITIONS

Crash—Refers to a motor vehicle crash as defined by the State of Louisiana and NOPD regulations. More commonly, “the unintended collision of one motor vehicle with another, a stationary object, or person resulting in injuries, death and/or loss of property.”

CRASH REVIEW BOARD

2. The Superintendent of Police, in accordance with the Chief Administrator's Office, has created and established the Crash Review Board (CRB) for the New Orleans Police Department.

CRASH SCREENING COMMITTEE

3. The Crash Screening Committee (CSC) is composed of the Deputy Chief of MSB or his/her designee as chairperson, the MSB Bureau Commander and the Department Risk Manager.
4. The CSC will review each departmental Crash report and available documentation or evidence to determine causative factors and preventability. If the CSC preliminary review determines a high likelihood of departmental member responsibility for the Crash, the CSC can elect, based on defined CRB guidelines, to offer the member a Negotiated Settlement Agreement prior to the formal CRB hearing.

5. All requirements of **Chapter 52.2 – Negotiated Settlement Agreements** shall be followed.
6. If the member elects to use the NSA, the case will not go before the CRB for a hearing.
7. All documentation relating to the NSA will be maintained by PIB and a notation of the use of an NSA for the crash will be entered into the CRB records at the next scheduled meeting.

CRASH REVIEW BOARD MEMBERS

8. The Crash Review Board shall consist of the following:
 - (a) The Deputy Chief of the Management Services Bureau shall serve as the Chair of the CRB. In the absence of the Deputy Chief of the Management Services Bureau, any other Deputy Chief may be appointed to chair the Review Board by the Superintendent of Police.
 - (b) One District Commander designated by the Deputy Chief of Field Operations Bureau (all District Commanders are required to serve on a rotating basis).
 - (c) Commander of the SOD - Traffic Section (or Acting Commander).
 - (d) Commander of the Education & Training Division (or Acting Commander).
9. All of the above board members shall be present to constitute a quorum.

TECHNICAL ADVISORS AND SUPPORT FOR CRB

10. The following positions shall be filled at each meeting of the Crash Review Board:
 - (a) One member of the Fatality Unit of the Traffic Section.
 - (b) One member of the Risk Management Section.
 - (c) One member of the Education & Training Division, who shall record information relating to training analysis and recommendations of the CRB.
 - (d) One member of the Public Integrity Bureau, who shall record the meetings and process any disciplinary forms initiated by the Deputy Chief of the Management Services Bureau as a result of a Board decision.
 - (e) Representative of the City's Claims Adjuster (contractor).

RESPONSIBILITIES OF CRB

11. The Crash Review Board shall evaluate each crash involving a departmental vehicle or a crash involving an on-duty member of the department.
12. The Crash Review Board members shall conduct and record the Crash Review Board's hearing during which they shall be responsible for reviewing all crash or damage reports, testimony, and video involving department vehicles. The Crash Review Board, when possible, should convene at least six times per year.

DOCUMENTS / EVIDENCE

13. Data used for reviewing reports shall consist of, but not be limited to:
 - (a) Copies of all related traffic crash or incident reports.
 - (b) Copies of all related supervisory reports.
 - (c) Damage estimates from City adjuster.
 - (d) Testimony of involved employees/witnesses.
 - (e) Any other pertinent information, (e.g., scene photographs, brake inspection, repairs).

- (f) Vehicle Pursuit Reports.
- (g) In-Car Video and related BWC video.

REVIEW COMPLETION

14. After completing the review of each crash, the Board members shall, by a majority vote of all members:
 - (a) Classify all crash or damage incidents in accordance with the guidelines of Classification of Crashes.
 - (b) Make recommendations to the Superintendent of Police regarding the determination of Classification of Crashes and the appropriate disciplinary recommendation.
15. In the event of a tie vote, the Chairman shall make the final determination. Any member of the CRB may submit a written "dissenting opinion" on the determination which will accompany the CRB decision to the Superintendent of Police.

RISK MANAGEMENT SECTION

16. The MSB - Risk Manager shall be responsible for:
 - (a) Assigning the necessary clerical staff to the Crash Review Board.
 - (b) The safekeeping of all Crash Review Board records.
 - (c) Delivery of all reports to committee members and the Superintendent.

AUTHORITY TO SECURE NEEDED REPORTS, DATA OR WITNESSES

17. The Crash Review Board shall have the authority to call to testify before the Board, at a specified time and date, any member of this Department regarding:
 - (a) A crash; or
 - (b) An incident which resulted in damage to a departmental vehicle.
18. Failure of any member summoned by the Crash Review Board to appear shall result in disciplinary action.
19. The Crash Review Board Chairman is responsible for securing the appropriate data needed to conduct a comprehensive review of all crashes and incidents before the Board. The Board Chairman shall ensure that the following procedures are carried out in accordance with this Chapter:
 - (a) Copies of all applicable reports involving vehicle damage, all supervisory reports of such incidents, and copies of damage estimates or appraisals shall be submitted to the Management Services Bureau. The Risk Manager shall forward all reports to the Crash Review Board. In the event of special reports, such as brake inspection reports, the Risk Manager shall ensure that this information is forwarded to the Board.
 - (b) Copies of the departmental driving record of any employee of the Department involved in a traffic crash will be obtained from the Public Integrity Bureau.
 - (c) Copies of the departmental driving training record of any employee of the Department involved in a traffic crash will be obtained from the Education & Training Division.
 - (d) Copies of all first reports of Injuries which arise out of traffic crashes, all information as to off-duty or sick time use due to a crash, and any previous records of injuries or time off used due to crashes, shall be made available to the Crash Review Board by the Director of Personnel.
 - (e) Copies of all video from ICC or BWC that relates to the crash or incident under review and/or the related call for service shall be obtained.

CLASSIFICATION OF CRASHES

20. All crashes or incidents of damage to departmental vehicles shall be classified in accordance with the existing Classification of Crashes set by the Superintendent of Police. The classification of crashes is as follows:
- (a) **Category A - Non-Preventable:**
 - i. **A1 - Non-Preventable** - Crashes in this category are described as being beyond the operator's control while practicing good driving methods.
 - ii. **A2 - Mechanical Defects** - This category includes mechanical defects which were unknown to the operator and documented by the Damage Control Officer subsequent to the incident.
 - iii. **A3 - Non-Chargeable / Line of Duty** - Applied to emergency vehicles, when the vehicle is responding to an emergency and has not broken any traffic laws or department regulations governing motor vehicles. A3 crashes are not chargeable to the operator's record.
 - (b) **Category B - Preventable:**
 - i. **B1 - Preventable / Chargeable** - Crashes in this category are those in which the operator shared in a portion or all the responsibility for the crash, when said vehicle was not responding to an emergency call and disregarded traffic laws, safe driving practices or a department Chapter governing motor vehicles.
 - ii. **B2 - Preventable / Line of Duty / Chargeable** - Incidents in this category are applied to operators who share in a portion or all of the responsibility for the crash when responding to an emergency and who disregarded traffic laws, safe driving practices, or a department Chapter governing motor vehicles.

DISCIPLINARY ACTION RELATING TO CRASHES

21. The City of New Orleans through the Chief Administrative Office has defined three separate charts for administering disciplinary action in preventable classifications. Each incident shall be given a chart listing according to the severity of the crash/incident. Severity of the incident is determined by the totality of the circumstances including but not limited to the damage cost and injuries sustained.
- (a) **Chart I** - Preventable incident, but the severity of the incident is considered by the Board to be minor in nature.
 - (b) **Chart II** - Preventable incident, in which the severity of the incident is considered by the Board to be of moderate consequence in nature.
 - (c) **Chart III** - Preventable incident in which the severity of the incident is considered by the Board to be of serious or major consequence in nature, and the operator of the department vehicle has disregarded laws and policies governing traffic laws, department regulations, and/or safe driving practices.
22. Disciplinary action will be based on the severity of the preventable incidents using the previously listed charting system. Disciplinary action may range from a defensive driving training, a Letter of Reprimand, suspension, and/or dismissal. Factors such as an officer's driving record and violations of department regulations shall be considered in the determination of a disciplinary recommendation. Additional penalties may include suspension of an employee's driving privileges and loss of take home vehicle authorization.
23. The Crash Review Board shall postpone a review of an employee who is currently under investigation for violations directly related to a vehicle pursuit which involved a crash. The Risk Manager shall check with the Public Integrity Bureau prior to the convening of

a Crash Review Board to verify the disciplinary case status under these circumstances.

24. If, during the course of a crash review, evidence of a vehicle pursuit is discovered that was not reported, the Risk Manager shall notify the Commander of MSB who will review the incident record and initiate a disciplinary investigation if confirmed. If the evidence is discovered during a review of the incident by the CRB, the review will be postponed and CRB Chairman shall initiate a disciplinary investigation.