

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



November 23, 2020

202.747.1904 direct

File Number: 37PA-191555

Deputy Superintendent Otha Sandifer
Compliance Bureau, New Orleans Police Department
714 Broad Street
New Orleans, LA 70119

Dear Deputy Superintendent Sandifer:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM") has reviewed and provided comments on Chapter 16.1 - Detailing - Transfers - Filling Vacancies - Specialized Units. The OCDM has no objection to the policy as written.

We believe that Chapter 16.1 - Detailing - Transfers - Filling Vacancies - Specialized Units, 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)

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NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 16.1

TITLE: DETAILING / TRANSFERS / FILLING VACANCIES / SELECTION PROCESS FOR SPECIALIZED UNITS

EFFECTIVE: 01/07/2018

REVISED: (Replaces Policy 1005)

PURPOSE

This Chapter sets guidelines for a member requesting transfer to another assignment the detailing of a member to another unit, and the selection process for applicants in a new or vacant position.

POLICY STATEMENT

1. Employees detailed from one unit/section/division/district/bureau to another are not considered to have transferred.
2. Employees of equal rank who desire to swap or trade district patrol assignments may do so with the approval of all commanding officers concerned and without the requirement that the vacancy be announced.
3. An inappropriate relationship creates a conflict of interest which can adversely impact efficiency or effectiveness in the workplace. Such relationships can also create an intimidating, hostile, or offensive work environment. When such relationships occur, either or both employees shall be reassigned to another position for which they are qualified and be subject to disciplinary action.
4. The Superintendent of Police, as the Appointing Authority for the New Orleans Police Department is the final authority for the approval of transfers for any member.
5. No transfer shall take place without the specific approval of the Superintendent, in the form of a written request through the Bureau chain-of-command of the member to be transferred or as directed in another Chapter..
6. All panel members and ranking officers are reminded that the processes outlined in this Chapter shall follow the guidelines of **Chapter 13.38 – Nepotism and Employment Conflicts**. Most especially in dealing with relatives, immediate and extended family and conflicts of interests. Panel members should review **Chapter 13.38** after the list of applicants / candidates has been set for review and interview and prior to their

participation in the process.

DEFINITIONS

Definitions related to this Chapter include:

Appointed position—A commissioned or civilian position, which may require a specific set of skills, and is not required to be posted. Appointed positions are generally filled by members already within the unit/section/division/district/bureau where the position exists.

Detailed—A member of the Department, civilian or commissioned, of any rank, who is temporarily assigned to a unit/section/division/district/bureau other than the one to which they are assigned in ADP (payroll). The authority to “detail” a member is vested in the supervisor who has command of both the assignment from which the member is leaving, and the one to which the member is going. The notification that a member is being detailed must be communicated in writing absent an emergency.

Specialized Unit—A division/unit/section of commissioned members or civilians within the New Orleans Police Department directed toward, or concentrating on, a specific service to the public beyond normal patrol activities.

Relative—A member of the immediate or extended family related by blood or marriage.

Immediate family—Spouse, parent, children, siblings, grandparents, grandchildren, mother-in-law, father-in-law, daughter-in-law or son-in-law, legal guardians or dependents of the member; step or half relations shall be given the same consideration as blood relatives of the same type.

Extended family—Aunts, uncles, nieces, nephews and persons living in the same household.

KSA—Knowledge, skills and abilities needed for a specific position. KSAs for all positions will be maintained in the Personnel Division and on **NOPD.org**.

Inappropriate relationship— An employee who is or has recently engaged in intimate, romantic, or sexual relationships with a fellow employee within the same unit, or with a person over whom he/she has influence or control.

Selection standards—A predetermined set of measures providing a detailed list of objective criteria to be used in the selection process. The standards are defined so an applicant will know what a selection panel may consider in their review of the applicant.

Selection Panel—A group of individuals with knowledge of the duties of the position being filled. The group will assess performance, work history, and other allowable selection attributes which indicate who is best suited for the position. The panel should consist of a district, division, or section Captain or designee of the rank of sergeant or above, two other supervisors (lieutenant or sergeant), and an employee of the same rank and in the same or similar position as the open position. In the case of a civilian position, the selection panel may consist of civilian or commissioned members with similar supervisory authority as those listed above. The highest-ranking person on the panel is designated as the chairperson of the selection panel.

Selection Panel Chairperson - The highest-ranking person on the panel is designated as the chairperson of the selection panel.

Selection Criteria Checklist—NOPD **Form 184 – Transfer Selection Criteria Checklist** shall be used to ensure the selection panel uniformly reviews and assesses applicants based upon a list of selection standards.

Posted position—An available or open position within a specialized unit of the New Orleans Police Department that is subject to the KSA / Transfer Selection Process.

APPOINTED POSITIONS

7. Several positions within the Police Department are not posted positions but are appointed positions. However, these positions may be posted to provide a suitable list of interested candidates. Examples of appointed positions include but are not limited to:
 - a) Superintendent's staff
 - b) Deputy Superintendent
 - c) Deputy Superintendent's staff
 - d) District Captain
 - e) District Captain's staff
 - f) Division Captain
 - g) Division Captain's staff

IMMEDIATE FAMILY

8. Within the New Orleans Police Department, individuals who are immediate family members **shall not** be placed within the same direct line of supervision. (see: **Chapter 13.38 – Nepotism and Employment Conflicts**).
9. For any position within the New Orleans Police Department, whether supervisory or non-supervisory, a Deputy Chief shall make no assignment that would create a likelihood or appearance of an inappropriate relationship, or a perception of, favoritism, conflict of interest, or other circumstance that could lead to disruption in the work place. Supervisors, managers, and executives who engage in intimate, romantic, or sexual relationships with a subordinate will be subject to disciplinary action and may be subject to other corrective measures in addition to being reassigned.

DETAILING

10. Members may be detailed for a specified time period, not to exceed 30 calendar days. The beginning and ending dates of the detailing shall be specified at the time of communication to the member by his/her supervisor, and in the same manner. Extensions may be requested, in writing, one time, not to exceed an additional 30 calendar days.
11. All detail requests shall be documented in writing from the requesting supervisor in advance, or within 24 hours of an oral emergency request which has been approved.
12. Copies of the approved detail request shall be sent to PIB and maintained in the member's personnel file. Upon returning to his/her permanent unit of assignment, a 105 rescinding the detail should be prepared and similarly distributed.

TRANSFER NOTIFICATIONS

13. The transfer of members within the Department shall be directed by the Superintendent. Transfers are issued as Personnel Orders.
14. All members being transferred, whether at their own request or not, should be notified of the transfer at least five calendar days prior to the transfer becoming effective. This notification shall be made in writing, by departmental email, to the commanding

officer(s) of the affected unit(s) and to the employee. The Superintendent of Police or his/her designee shall reserve the right to make transfers without prior notification when it is considered within the best interests of the Department, or with consent of the affected employee(s).

VACANCY ANNOUNCEMENTS

15. Openings in specialized units shall be announced to the entire Department by use of **NOPDAll@nola.gov** e-mail. Any special requirements shall be included in the announcement. Openings in units, sections or divisions utilizing undercover members, or other positions of a sensitive nature are exempt from this requirement.
16. Units requesting resumes for vacancies shall utilize the format listed on the **New Orleans Police Department Transfer Selection Criteria Checklist Form 184**.
17. All units shall post announced vacancies from another unit/section/division/district/bureau on their bulletin boards until the last day resumes are accepted.

TRANSFER REQUESTS AND FILLING VACANCIES

18. Any individual desiring a transfer shall complete the **New Orleans Police Department 14-R Transfer Request Form**, which can be found at <http://www.nopd.org> in the Forms folder, forwarding same as indicated on the bottom of the form under distribution.
19. Members who have requested a transfer shall be notified as soon as possible after the transfer is approved or disapproved by the member's commanding officer even though the transfer is not final until approved by the Superintendent. Transfers that are approved "conditionally" (i.e. "pending suitable replacement") are only final when conditions are met, and all involved unit commanders agree.
20. No member of the Department shall be transferred without prior notification of the individual's unit/section/division/district Captain.
21. An employee shall not be penalized or harassed because of the employee's desire to be transferred and/or applying for an announced vacancy within the Department.
22. Any member who has requested a transfer may withdraw his/her request at any time in the process. The withdrawing member shall complete a 105, with review and signatures through his/her chain of command requesting the withdrawal and clearly stating the reason(s) why.
23. Transfer selection processes involving KSAs will require the entire KSA packet to be scanned and forwarded to the member indicated on the KSA bulletin and the Personnel Division by Departmental email.

EMPLOYEE FILES

24. When an employee is transferred, the employee's personnel records shall be updated by his/her previous commanding officer and forwarded to the employee's new Captain within one week of the effective date of the transfer.
25. A copy of the signed **Transfer Request Form 14-R** shall be forwarded to the Personnel Division for each employee being transferred, along with the list of all transfers on the date the transfer or transfer list is approved.

KSA DEVELOPMENT AND CHANGE PROCESS

26. To promote career development and fairness, the criteria to be used to determine the

knowledge, skills and abilities (KSA) necessary for a specialized position must be directly related to the position, duties and responsibilities necessary for success in that position. As such, the process for developing and / or changing a KSA must be transparent.

27. KSAs once posted by the Personnel Division, will remain in effect and cannot be changed without the written approval of the Superintendent of Police.
28. A minimum of 60 days' prior notice and posting of a new or revised KSA must take place before it can be used in an announcement for applications to fill a position defined by a KSA.
29. New KSAs and changes to existing KSAs should originate from the Captain of the District or Division under whom the position falls. The new or revised KSA shall:
 - a) follow the chain-of-command for review, comment and recommendation to the respective Bureau Chief who shall,
 - b) forward it to the Deputy Chief of the Performance Standards and Accountability Bureau for review and recommendation in accordance with "best practices" and conformance with existing Departmental Regulations and guidelines, and
 - c) forward to the Superintendent of Police for final approval.
 - d) Once approved by the Superintendent, it shall be sent to the Personnel Division for posting.

TRANSFER SELECTION PROCESS FOR SPECIALIZED UNITS

30. The purpose of the selection process is to promote the fair and equitable selection of applicants for positions within the Police Department. It will provide applicants with a defined set of standards, so an applicant can prepare himself/herself to be qualified for a preferred position. This will assist the Department in filling positions with the most qualified person. It also allows an applicant who fails to meet criteria set forth in selection standards, to improve his/her performance/behavior, so he/she might be better qualified or future openings by better understanding what KSAs are required for the position.
31. The selection process will provide management with the tools necessary to make informed decisions when selecting members for positions within the Department. This is accomplished by providing measurable selection standards upon which to make those decisions.
32. The selection standards shall remain consistent with functional job descriptions, and will only be modified if knowledge, skills and abilities (KSAs) for a given position change so significantly that it no longer reflects the requirements of the position. Selection standards for all positions will be maintained in the Personnel Division, on **NOPD.org**, and will be listed on each posting. The selection standards shall be kept updated and maintained in both electronic and hard copy files.
33. The chairperson of the selection panel shall notify all candidates of his/her ranking (i.e. #1 of 11) and allow the candidates an opportunity for comment, in writing..
34. Candidate comments shall be circulated to all selection panel members. Any selection panel member who feels the comments are sufficient to cause them to reevaluate their assessment and findings will communicate their reasons to all panel members and any agreed upon changes to the ranking shall be noted and all candidates notified of the change.

MEMBER REQUIREMENTS

35. Members requesting transfer shall have completed their most current probationary period and/or work test period (cannot be on “probationary status”). Specifically, for the provisions of this Chapter, time spent by the employee for military service shall be counted as uninterrupted service.

DETECTIVE POSITIONS

36. All detective openings throughout the Department in Districts and specialized units shall be posted, include an interview process and require applicants to have appropriate experience and submit writing samples and supervisor recommendations. The KSA for the position shall be posted on **NOPD.org**.

EDUCATION AND TRAINING DIVISION / INSTRUCTOR SELECTION

37. Knowledge, Skills, and Ability Protocols shall be established for all staff assigned to the Education & Training Division (ET&D) and all adjunct instructors within the Department. Minimum qualification requirements for E&TD staff shall include:
- a) Baccalaureate Degree or exceptional practical law-enforcement or subject matter expertise with at least six years of combined NOPD service; and
 - b) Successful completion of the Law Enforcement Instructor’s School and/or Louisiana POST approved equivalent; and
 - c) No 'sustained' PIB investigations within 24 months of applying for an Education & Training Division position or a pending 'open' investigation at time of application if:
 - i. the minimum punishment for the sustained or open allegation at issue is at least a 30-day suspension; or
 - ii. the sustained or open allegation involves discrimination, verbal intimidation, failure to report misconduct, fictitious illness or injury reports, abuse of position, inappropriate use of social media, visiting prohibited establishments, or adherence to law (excepting traffic violations and off-duty municipal violations not committed under color of law).
 - d) In addition, NOPD shall consider the nature and severity of any other sustained or alleged violation or pattern of allegations in determining whether an applicant is fit to serve in the Education & Training Division. The Superintendent may authorize the transfer of officers to the Education & Training Division on a case by case basis. The allegation(s) must be a minor administrative offense that does not involve any integrity issues or criminal conduct.

PUBLIC INTEGRITY BUREAU SELECTION

38. A civilian shall serve as the Public Integrity Bureau (PIB) Assistant Superintendent.
39. PIB investigators and commanders shall possess excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective in determining whether an officer committed misconduct as evidenced by disciplinary and other investigations that he/she has handled in the past.
40. Members, of any rank, including Captains, with a sustained complaint of, or who have been disciplined for, excessive use of force, false arrest, unlawful search or seizure, sexual harassment, discrimination, or dishonesty shall be presumptively ineligible for assignment to PIB. Only the Superintendent of Police, with written reasons, may overcome the presumption of ineligibility.

FILLING CRISIS RESPONSE UNIT (SPECIAL WEAPONS AND TACTICS AND CRISIS NEGOTIATION TEAM) VACANCIES

41. Crisis Response Unit (Special Weapons and Tactics – SWAT and Crisis Negotiation Team – CNT) vacancies are governed by **Chapter 46.7 – Crisis Response Unit**.

FEDERAL/STATE TASK FORCES

42. The New Orleans Police Department participates in several Federal/State task forces by providing Department members to work on assignment to selected federal agencies by agreement (MOU or CEA) with the federal agency assisted. The Department is committed to these collaborations. They assist the Department in achieving its goals by improving communications and information sharing among federal, state, and local agencies; allowing for the greater leveraging of limited resources; and serving as excellent training grounds for Department participants.
43. Because of the excellent training, experience, and education provided to participants in these task forces, it shall be the policy of the Department to rotate the members participating in them. Assignments to serve in a task force position will be for a time period not to exceed 48 months. By rotating members on a regular basis, the opportunity to serve on a task force is provided to a greater number of Department members. Those members can return to the Department and share their knowledge, skills and abilities thereby improving the effectiveness and overall knowledge base of the department.
44. The rotation schedule shall provide sufficient length of service on a task force to allow participants to become proficient in their duties and provide an effective, efficient, and consistent level of service to the task force to which they are assigned. Federal/State Task Force assignments are posted positions and available on **NOPD.org**.
45. Selection criteria for these positions will be listed on each position posting and maintained in the Personnel Division and available on NOPD.org.
46. Selection panels for Task Force positions shall also include a representative from the agency overseeing the Task Force wherein the position exists.

SELECTION PANEL RESPONSIBILITIES

47. The Selection Panel shall be comprised of at least 5 members, appointed by the Bureau Chief for a District or Division and the Captain for a Section or Unit. If the opening is for a rank position, the panel members must be of equal or greater rank than the open position. If the opening is for an officer position, the panel member can be of any rank. A member of the Personnel Division may participate as an observer only on the Panel to ensure the process is fair, impartial and non-discriminatory.
48. It shall be the responsibility of the selection panel to perform the following tasks under the direction of the bureau/division Captain or civilian equivalent wherein the position exists:
 - a) Develop any oral or written tests, scenarios for presentation, or role playing involved in the selection process;
 - b) Conduct a review of criteria established in the selection standards, complete **NOPD Form 184**, and conduct any testing required for the position: and
 - c) Require the Personnel Director to review the entire work product to ensure it is appropriate, non-discriminatory and non-biased.
49. The selection panel shall be responsible for applying the weight used for scoring each selection criteria for a given position. Written Exam 25%, Oral Interview 50%, and Criteria Checklist 25%. All oral interviews shall be audio recorded and may be video recorded.

50. Weights assigned to each selection criteria will be announced in advance of any interview or examination.
51. The weights for each of the selection criteria may vary for different positions within the Department; however, weights established for a specific position will remain constant for each applicant.
52. Specific guidelines for completing the **NOPD Form 184 Selection Criteria Checklist** are outlined in the instructions attached to the Form.
53. No later than the next business day of all KSA's closing (prior to the scheduling of any interviews or other actions), the Panel Chairperson (or their designee) for each KSA process shall forward to PSAB via email the following:
 - a) KSA Announcement,
 - b) Any KSA Extension Announcements,
 - c) Final List of Candidates,
 - d) Letters of Interest from the KSA packet of each candidate, and
 - e) First page of resume from the KSA packet of each candidate.
54. These measures will assist PSAB in ensuring integrity and fairness, in addition to providing transparency of the KSA process. This will prevent a "preferred individual" from being allowed to submit a KSA beyond the due date, or a Panel Chairperson adding an individual's name to the list when no actual documentation was submitted in a timely fashion.
55. Within five business days of the closing of the KSA process, the Panel Chairperson will forward to PSAB the following:
 - a) Interview Schedule of all candidates,
 - b) Final Rankings list,
 - c) Final weights list from all panel members.
56. These measures will assist PSAB in ensuring that a complete KSA process was conducted, using predetermined weights, and that all candidates were afforded an interview. It also allows for transparency of the rankings list, when individuals from the list are selected for transfer.
57. The chairperson shall document and maintain the interview and/or examination material for each applicant for 1 year from posting of the eligibility list. The chairperson shall maintain the records for selected applicants for the duration of the selected applicant's tenure. After the 1-year time frame, all documents will be destroyed and will not be available for review, unless a legal proceeding or civil service action has been filed and is still unresolved.
58. Within 30 days of the eligibility list being received by the Personnel Division, applicants will be given the opportunity to review the panel's results and the scores used in making the selection. An applicant who is not selected may also review the results and scores of the applicants who were selected for the position. The applicant should contact the member of the panel designated as the chairperson to obtain an appointment to review the results and criteria of the applicants selected for the position. This is allowed so a comparison can be made to ensure fairness and so the applicant can see what is expected in future position openings. The Superintendent of Police or his/her designee will make all final determinations of any recommended modifications.
59. The following documents / items shall be maintained by the chairperson and made

available upon request:

- a) The KSA Announcement email,
 - b) any extensions of application dates/times (emails),
 - c) the list of candidates,
 - d) the weighted list of candidates after the selection process, and
 - e) the final selection ranking dated and signed by all members of the panel.
60. All documents shall be forwarded to the Deputy Chief of PSAB at the conclusion of the selection process but prior to any transfer.
61. If no applicants / candidates meet the minimum qualifications, that fact shall be communicated, in writing, to the respective Bureau Chief and the Chief of PSAB. The affected Bureau Chief may petition the Superintendent, in writing, to allow the selection of the best qualified applicant but the Superintendent must approve the individual's selection in writing.

PERSONNEL SECTION RESPONSIBILITIES

62. The Personnel Division will ensure selection standards for a specific position are listed on all position postings and available on **NOPD.org**. Postings will be disseminated via the **NOPDALL@nola.gov** e-mail address. Each vacancy announcement must allow a minimum of 14 calendar days from the date of posting for submission of an application. The lifespan of an eligibility list will be four calendar months; however, an eligibility list may be rescinded or extended with the approval of the Superintendent of Police.
63. A representative from the Personnel Section may sit as an observer during applicant interviews to ensure interviews are conducted in a uniform, fair, and impartial manner.
64. The Personnel Section will maintain a current list of KSAs for all positions within the police department. Should changes to the requisite KSAs become necessary, the Captain of the division in which the position is located will be informed and produce changes to the selection standards as necessary.
65. All unit/section/division/district/bureau commanders will be required to ensure that selection standards for positions within their command are current and representative of the requirements for the position posted. No position is a permanent position.
66. The Superintendent of Police expressly reserves the right to create, delete, or temporarily leave vacant any position or assignment as the needs of the Department dictate, by himself or through his designee. A position may remain vacant for any period deemed necessary.