

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



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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 the revised Chapter 22.2.6 – Officer Assistance Program: Member Mental Health Services. The OCDM has no objection to the policy as revised.

We believe that the revised Chapter 22.2.6 – Officer Assistance Program: Member Mental Health Services, 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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WASHINGTON, DC 20006

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



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 22.2.6

TITLE: OFFICER ASSISTANCE PROGRAM: MEMBER MENTAL HEALTH SERVICES

EFFECTIVE:
REVISED:

PURPOSE

The New Orleans Police Department is committed, whenever possible, to ensuring the safety and well-being of all members and their families. NOPD members may experience events that will evoke intense emotional reactions (trauma) and can threaten to overwhelm their usual psychological coping abilities. NOPD recognizes that its members will experience the same stressors and mental health issues as the general population and, in addition, those stressors which are unique to the profession of policing and to police family life. The purpose of this policy is to provide guidance on how mental health professionals will respond to stressors and traumatic events experienced by NOPD members, in a timely and effective fashion that enhances the affected NOPD members' psychological well-being and their ongoing capability to carry out their duties in a professional manner.

POLICY STATEMENT

The Department supports and encourages members in securing high quality, confidential assistance. In keeping with this commitment, the Department has established the Officer Assistance Program, staffed with clinical professionals and trained peer assistance specialists who provide confidential counseling and consultation.

1. Emotional problems may have a negative impact on performance, and, in extreme instances, may present a danger to the welfare and safety of officers, their families, the public and fellow officers.
2. The Officer Assistance Program shall provide members and their families with access to mental health services.
3. The Officer Assistance Program is governed by a policy of confidentiality when allowed by law, which mandates that no information, including identifying factors, identifying biographical material, clinical notes, or therapy issues can be reported to, or requested by, the Department. Individual members should expect, and shall be granted, complete privacy when seeking counseling assistance through the Officer Assistance Program.
4. Officer Assistance Program services are not conducted in a police facility.

DEFINITIONS

Definitions relevant to this Chapter include:

Traumatic incident—A traumatic or critical incident is a mentally painful and highly stressful event that cannot be resolved through normal, stress-coping mechanisms. These events may cause disabling emotional and physical problems unless members are adequately treated. A traumatic incident is defined by an individual's unique, internal reaction to an event, not necessarily the external appearance or apparent magnitude of the event. It is not necessarily a life-threatening incident. Common incidents that pose the increased potential for trauma include, but are not limited to:

- Shootings
- An actual or perceived threat to one's life or of grievous physical harm
- Suicide or suicide attempt by a colleague
- Serious injury inflicted on, or death of, a colleague
- Serious injury or death of a non-member, especially a child, under particularly tragic or grotesque circumstances
- Cruelty/abuse to a child
- Line of duty contact with friend/relative during a tragic/traumatic event
- Death or injury of a person resulting from duty operations
- Perceived 'failure' during a tragic/traumatic event
- Large scale or prolonged disaster
- Events with high media exposure
- **Any** tragic/traumatic event that may have private/personal emotional significance to a member, particularly when the event is characterized by: relative surprise; intense negative emotion; and perceived helplessness.

Peer assistance specialist (PAS)—An individual who has received training in critical incident stress management and who has been designated to provide emotional and moral support and counseling to an NOPD member who needs those services as a result of a traumatic incident in which the NOPD member was involved while acting in his/her official capacity. A peer assistance specialist may be an emergency responder, a civilian volunteer of an emergency service agency or entity.

Traumatic Incident Team—A group of qualified mental health professionals who are responsible for responding to traumatic incidents and providing mental health triage and assistance. The Team includes the OAP director and licensed mental health professionals, police chaplains, peer assistance specialists, and an external police psychologist.

Team leader—The team leader for a traumatic incident will be coordinated by the Director of the Officer Assistance Program. The team leader is responsible for identifying the members and coordinating the response of the traumatic incident team.

GENERAL

5. The Officer Assistance Program is staffed by licensed mental health professionals. Department members and the members' immediate or extended families may seek counselling, but are not mandated to seek counselling.
6. The Officer Assistance Program office can be contacted Monday through Friday between the hours of 8 a.m. and 4 p.m. via e-mail, and phone.

7. The Officer Assistance Program Director can be reached by phone after hours at (504) 247-4525. The Director of the Officer Assistance Program should only be contacted by the on-scene supervisor after 4 p.m. when a traumatic incident occurs. Member self-referrals occurring after hours will be contacted the following day. If there is an emergency, members should contact the Officer Assistance Program on a call-out basis.
8. The services of mental health professionals may be invoked by member self-referral or, in the case of a NOPD member experiencing a life-threatening traumatic incident, by referral of the NOPD member by a supervisor or peer counselor.
9. All services offered by the Officer Assistance Program are available to Department members and the members' immediate or extended families. A list of external providers is available to Department members and the members' immediate or extended families for use after 4 p.m.
10. All counseling services provided by the Officer Assistance Program are free of charge. Referrals to a private therapist, specialist, outside agency, or hospital, however, are to for-profit, non-Department providers that may charge a fee. Information regarding referral sources, credentials, programs, and the level of care provided may be obtained by the Officer Assistance Program. Trained mental health professional from this program will conduct follow-up sessions with the members after they receive counseling services from an outside entity to ensure the quality of care provided by the outside entity is satisfactory to the members.
11. The Officer Assistance Program has been established to provide confidential supportive assistance, including peer assistance and referral services, for all Department members and their families. Comprehensive services include:
 - (a) stress management training;
 - (b) alcohol and substance abuse support service and prevention training;
 - (c) couples counseling;
 - (d) individuals counseling;
 - (e) family crisis intervention;
 - (f) grief counseling;
 - (g) communication skills;
 - (h) anger management and conflict resolution;
 - (i) traumatic incident stress management;
 - (j) referrals to pastoral counseling;
 - (k) gambling; and
 - (l) debt management.
12. The services provided by the Officer Assistance Program are designed, and tailored, to meet the unique needs of each and every Department member as well as that member's family. This is accomplished by maintaining a network of quality resources (i.e., treatment facilities, self-help and support groups, and stress management training), which allow the program to respond promptly to the needs of each individual.

CONFIDENTIALITY

13. The Officer Assistance Program will provide a trained mental health professional to advise the Department members and the members' immediate or extended families of any limitations to confidentiality with the mental health professional prior to the start of counseling if a family member or significant other of a Department member is in counseling with the Officer Assistance Program.

14. Counseling notes shall not be maintained by any member of the Officer Assistance Program on any member in counseling unless prior written approval has been obtained from the member.
15. No personally identifying information will be shared with the Department. No audit or review by the New Orleans Police Department can be conducted of the counseling documents maintained by the Officer Assistance Program. Member and members' family members will be provided with a confidentiality form, including the protections afforded to them before receiving counselling services with the Officer Assistance Program.

Confidentiality is protected according to the following laws:

- (a) Federal Rule of Evidence 501 (Fed. R. Evid. 501) is a general rule of evidence which states that no federal rule of evidence will modify or supersede existing law relating to the privilege of a witness, person, government, state, or political subdivision.
 - (b) Louisiana Code of Evidence Art. 518 (La. Evid. Code art. 518) provides that a trained peer assistance member shall not be compelled to testify about any communication made to the trained peer assistance member by another officer.
 - (c) Louisiana Revised Statute Title 37 Section 2718 (La. Stat. Ann. § 37:2718) provides a confidentiality privilege protecting social workers from being required to disclose any information acquired from persons consulting the social worker in his or her professional capacity.
16. The exceptions to confidentiality for the Officer Assistance Program imposed by law or by professional regulation on all psychologists, psychiatrists, family therapists, and psychotherapists include:
 - (a) **Threats of physical harm**—If any individual in counseling threatens to harm another person, the mental health professional is required by law and professional regulation to notify the threatened person and the Police Department.
 - (b) **Suicide**—Any mental health professional who reasonably believes that a client is seriously contemplating suicide is required by law and professional regulation to do everything possible to prevent such an attempt, including making whatever notifications are necessary to stop the attempted suicide.
 - (c) **Child, domestic, and elder abuse**—If a client discloses participation in abuse of a child, domestic partner, a person with a disability, or an elderly person, the therapist must notify the appropriate agency of such abuse.
 - (d) **Malpractice**—A therapist may use counseling material in defense of malpractice allegations.