

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



November 29, 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 41.12 - Field Interview Cards. The OCDM has no objection to the policy as written.

We believe that Chapter 41.12 - Field Interview Cards, 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)
SMRH:225829293.7



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 41.12

TITLE: FIELD INTERVIEW CARDS

EFFECTIVE:

REVISED:

PURPOSE

The New Orleans Police Department is committed to constitutional and bias-free policing. To ensure that the Department and its members adhere to these principles, Department members document stops and certain other discretionary interactions with the public in Field Interview Cards (FICs), and supervisors review FICs to support constitutional and bias-free policing.

POLICY STATEMENT

1. Officers shall use accurate and specific descriptive language and not rely solely on “boilerplate” or “pat” language in any reports documenting stops, detentions, or searches. Articulation of reasonable suspicion and probable cause shall be specific and clear.
2. The investigating officer of the primary unit on the scene shall document the following occurrences in a Departmental FIC whether or not a report, citation or summons is completed:
 - (a) Stopping a vehicle to issue a traffic citation (see **Chapter 1.2.4.1 – Stops, Chapter 1.2.4.3 – Vehicle Stops** and **Chapter 61.3 – Traffic Citations**).
 - (b) Stopping a vehicle to issue a verbal traffic warning (see **Chapter 1.2.4.1 – Stops, Chapter 1.2.4.3 – Vehicle Stops** and **Chapter 61.3 – Traffic Citations**).
 - (c) A self-initiated investigatory stop of a suspicious vehicle (see **Chapter 1.2.4.1 – Stops** and **Chapter 1.2.4.3 – Vehicle Stops**).
 - (d) A self-initiated investigatory stop of a suspicious person (see **Chapter 1.2.4.1 - Stops**).
 - (e) Any pat-down or search conducted without a search warrant, except **documented** searches incident to arrest and administrative/inventory searches (See **Chapter 1.2.4 – Search and Seizure**).
 - (f) The issuance of a Juvenile Warning Notice (see **Chapter 44.3 – Juvenile Warning Notice and Summons**).
 - (g) The use of a Naloxone kit on an individual with a suspected opiate/opioid overdose (Signal 24-N; see **Chapter 41.3.1 – Opioid Overdose – Use of Naloxone**).
 - (h) A Law Enforcement Assisted Diversion (L.E.A.D.) pursuant to **Chapter 1.2.6 – Alternatives to Arrest - Diversion**.

3. **Many arrests** (State, municipal, traffic) start as an “investigatory stop” and as such **need an FIC** even if other paperwork (EPR, Affidavit, summons, citation) is also completed. This does not, however, mean that all arrests must be documented in an FIC.
4. A motor vehicle crash, including crashes resulting in citations, does **not** require an FIC.
5. Unless it involves one of the categories in this Chapter that requires an FIC, a dispatched call for service (CFS) **does not automatically require an FIC**. Officers may document any legal actions or activity on their part in an FIC if they believe it is in the best interest of law enforcement and / or public safety, even if not specifically required by this Chapter.

DEFINITIONS

Field Interview Cards (FICs)—The method the NOPD utilizes to document stops and other discretionary interactions between a member of the NOPD and individual members of the community.

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.

Stop—A brief, minimally intrusive detention of a subject, including pedestrians, bikers, and/or the occupants of a vehicle, 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).

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.

Supervisor Feedback Log (SFL)—A web-based application utilized by Department supervisors to document close and effective supervision actions such as redirection, counseling, and support. SFL is available to supervisors, the Compliance Bureau, and the Public Integrity Bureau on NOPD Web Apps under Applications.

GENERAL GUIDELINES

6. The investigating officer of the primary unit on the scene shall be responsible for completion of an FIC. Only one FIC entry should be made for each incident.
7. Supervisors shall review all FICs entered by members of their unit to ensure that officers are complying with Departmental regulations regarding legal stops and that the Field Interview Cards are completed using accurate and specific descriptive language.
8. All FICs shall be completed via Mobile Data Terminal (MDT), if available. If no MDT is available to the investigating officer, FICs may be entered via computer network terminals. These computer network terminals are available at each district station, as well as other Departmental installations, and entries shall be made by the investigating officer.
9. All FIC entries shall be completed prior to the end of the officer’s tour of duty.

10. FIC entries for incidents that occur outside of regular duty times (e.g., during police secondary employment) must be made no later than the officer's next regular tour of duty and shall contain the date and time of the incident, and the date and time of the entry.
11. The template for FIC entries made on Mobile or Computer Data Terminals is the same as the template for FIC entries made on computer network terminals. The date and time will automatically be entered by the computer based on the time of entry but should be changed, if necessary, to reflect the actual time of the stop or action, not the time of entry into the system.
12. The following information shall be required on all FICs:
 - (a) Date and time of the stop / incident.
 - (b) Location of the stop / incident.
 - (c) Duration of the stop / incident.
 - (d) Officer name, badge # and employee ID#.
 - (e) If a vehicle stop, presence and number of any passengers and the apparent race, ethnicity, gender, and age of each passenger. (See **Chapter 1.2.4.3 – Vehicle Stops**).
 - (f) If a vehicle stop, whether the driver or any passenger was required to exit the vehicle and the justification for that action.
 - (g) If a non-vehicle stop (e.g., pedestrian or bicycle), the number of individuals stopped and apparent race, ethnicity, gender, and age of each person. (See **Chapter 1.2.4.1 – Stops**).
 - (h) Reason for the stop, including a clear and specific articulation of the facts creating reasonable suspicion or probable cause.
 - (i) Whether any individual was asked to consent to a search and whether such consent was given. Consent to search documentation shall be completed prior to the search according to **Chapter 1.2.4 – Search and Seizure**.
 - (j) If a pat-down or frisk was performed on any individual, the officer shall document the specific facts creating articulable reasonable suspicion that the person was armed and dangerous, and a description of any items of contraband or weapons found (see **Chapter 1.2.4 – Search and Seizure**).
 - (k) If a probable cause search was performed on any individual, the officer shall document the facts creating probable cause and a brief description of any items of contraband or weapons found see **Chapter 1.2.4 – Search and Seizure**).
 - (l) If a strip search was requested, the officer who requested the search, and the supervisor who approved or disapproved the request to strip search and signed Form 353 – Strip Search Authorization. If the item number of the EPR documenting the incident and the strip search is different than the item number for the FIC, include it in the FIC. (See **Chapter 1.2.4 – Search and Seizure**).
 - (m) Disposition of the stop, including whether a citation or summons was issued to, or an arrest was made of, any individual, including all subsequent related NOPD item numbers (i.e., if an officer conducts a stop-and-frisk and does the FIC under one item number, closes that item number and obtains an additional item number for a subsequent arrest report related to the stop, both item numbers should be referenced).
13. Each field on the Field Interview Card is labeled. Enter the appropriate, required information into each field. If a field does not apply, do not enter any information into that field. All fields that apply to the stop or incident shall be entered. The Field Interview Card shall be completed as completely as possible depending on the nature of the stop or incident or action taken.
14. The FIC manual is available on NOPD.org under Resources.

SUPERVISORS SHALL APPROVE ALL FIC DOCUMENTATION

15. After receiving a submitted FIC, a supervisor of the submitting officer's unit shall review the FIC to determine if each stop, frisk, or search was supported by documentation of reasonable suspicion or probable cause; whether it is consistent with NOPD regulations, policy, and federal and state law; and whether it showed a need for corrective action or review of agency policy, strategy, tactics, or training. Supervisors shall make every reasonable effort to complete this review within 12 hours of receiving the submitted FIC, and in all cases shall complete the review within 72 hours.
16. If a supervisor finds the FIC documentation to be inaccurate or insufficient, that supervisor shall require that the officer supplement the documentation before the end of that officer's present tour of duty and/or take corrective action according to the following paragraph.
17. If the actions reviewed appear not to be supported by the required reasonable suspicion or probable cause, or are not consistent with this Chapter, federal and state law, the supervisor, in consultation with the shift commander (if present), shall document and establish a strategy to remediate the situation. The supervisor shall document any corrective action in the Supervisor Feedback Log (see **35.1.7 – Non-Disciplinary Responses to Minor Violations**), by initiating a formal disciplinary investigation (see **52.1.1 – Misconduct Intake and Complaint Investigation**), or, as appropriate, shall recommend a review of agency policy, strategy, tactics, or training.

RECORDS

18. The NOPD Technology Section shall be responsible for the maintenance of the FIC database.
19. The records stored in the FIC database shall be maintained in the active files for five years from the date of entry.
20. After five years from the date of entry, the individual(s) personal identifying information will be purged. Only demographic and information relating to legal justification and circumstances (reasonable suspicion, probable cause, etc.) shall be maintained for statistical analysis and reporting.