

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



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March 7, 2017

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 41.36 – Interacting with Homeless Persons. The OCDM has no objection to the policy as revised.

We believe that the revised Chapter 41.36 – Interacting with Homeless Persons, 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: 41.36

TITLE: INTERACTING WITH HOMELESS PERSONS

EFFECTIVE:

REVISED:

PURPOSE

The purpose of this Chapter is to ensure that all criminal laws and municipal ordinances are enforced equally regardless of housing status. Individuals commonly referred to as “homeless” are entitled to equal protection of all federal, state and local laws and ordinances.

POLICY STATEMENT

1. It is the policy of this Department to be sensitive to the needs and rights of homeless persons and provide appropriate law enforcement services to the entire community while protecting the rights, dignity and personal property of the homeless population.

DEFINITIONS:

Definitions relevant to this Chapter include:

Homeless person—An individual who lacks a fixed, stable, and adequate residence. This includes a primary nighttime residence that is:

- (a) A publicly or privately operated shelter designed to provide temporary living accommodations;
- (b) An institution that provides a temporary residence for individuals intended to be institutionalized and the person does not have a permanent residence to return to upon discharge; or
- (c) A private place not designed for, or ordinarily used as a regular sleeping accommodation for human beings.

GENERAL PROVISIONS

2. Individuals have the right to choose not to live in a fixed residence. Although homelessness can result from a wide range of reasons and may be accompanied by physical or mental illness, it is not illegal to be homeless. Accordingly, an individual’s status as homeless is not, alone, cause for law enforcement action. Conversely, an individual’s status as homeless does not exempt them from complying with applicable laws.
3. Violations affecting the public health and safety of individuals such as exposing oneself, urinating, or defecating in public shall be enforced. Intoxicated individuals, and those

- under the influence of drugs, shall be processed as per current departmental policy on arrests and summons.
4. Actions (non-criminal) committed by individuals that lead an officer to question the mental state of an individual, and to reasonably believe the individual is a danger to himself or others, shall be processed in accordance with the Department's policies regarding persons believed to be suffering from mental illness (See **Chapter 41.25—Crisis Intervention**).
 5. Officers encountering individuals who may or may not be mentally unstable, whose appearance and/or actions indicate the individual is unable to care for himself or herself, but who does not appear to be a danger to himself/herself or others shall contact one of the social services agencies listed in this Chapter for assistance.
 6. Officers may transport such individuals to the nearest shelter. If a homeless person refuses an officer's offer of assistance, the officer shall not force the individual to enter the shelter, subject to the provisions of the policy governing persons believed to be suffering from mental illness (See **Chapter 41.25—Crisis Intervention**). Officers shall not threaten individuals experiencing homelessness with arrest or citation as an inducement to accept assistance.
 7. When the city initiates a freeze alert or an inclement weather alert, officers encountering homeless persons shall inform the homeless person(s) of the location of the nearest shelter(s). If the individual is unable to get to shelter and the officers' duties permit, officers may transport the person. If the individual refuses shelter, the officer shall follow **Chapter 41.25—Crisis Intervention** to determine whether the individual may require an involuntary commitment and medical evaluation.
 8. When documenting a Terry Stop of a homeless person in accordance with **Chapter 1.2.4.1—Stops/Terry Stops**, the word "Homeless" or "HL" shall appear in the address block of the card^[MAP1].

PERSONAL PROPERTY OF HOMELESS PERSONS

9. The personal property rights of homeless persons will be respected. Officers may allow homeless persons to take a limited amount of personal items, such as bedding, pillows, medications, medical devices, and clothing, with them when arrested on a criminal matter. If necessary for an officer to collect such items when a criminal arrest is made, consideration must be given to officer safety in handling the items as well as the health and safety of those who may come into contact with those items at Central Lock-up or when placed with the Central Evidence and Property Section. If necessary to dispose of personal property that has been contaminated, or presents a health and safety hazard (i.e., wet or damp items or items soiled with urine or fecal matter, etc.), a notation will be made in the Incident Report describing why such property was not retained. Such items may include perishables (food and open bottles, glasses, or cans), bed rolls, blankets, and pillows. All property of the arrested person shall be handled according to the Department's policy governing evidence (see **Policy 804 – Evidence and Property**)^[MAP2].
10. Pets in the possession of, or belonging to, homeless persons cannot be taken to Central Evidence and Property. Officers shall contact the Louisiana Society for the Prevention of Cruelty to Animals at (504) 368-5191 when a homeless person with a pet or pets is arrested; the SPCA shall take custody of the animal(s).

ILLEGAL CAMP SITES OR HOMELESS ENCAMPMENTS

- 11. The removal of illegal encampments of homeless persons is the responsibility of the owner of the property, whether it is public or private. Generally, this is not a law enforcement issue (exceptions may include trespassing, illegal dumping, criminal investigations, etc. when enforcement action may be taken). When requested, officers may stand by to keep the peace but shall not participate in the removal and/or destruction of personal items from such encampments or prevent homeless persons from retrieving belongings from the area without a legitimate reason. Whenever possible, officers should encourage property owners to give posted notice of the pending activity prior to the clean-up.
- 12. All City of New Orleans government initiated clean-up activities relating to illegal camp sites on public property shall be coordinated through the respective District Commander and the participating City agencies. NOPD ~~members~~ members participation shall be limited to providing - may only participate to provide site security and traffic control under direct NOPD supervision ^[MAP3].

HOMELESS ASSISTANCE UNIT

- 13. The NOPD Homeless Assistance Unit (sponsored by Crescent City Outreach) provides police officers and the community at large with a resource to address homeless issues in any of the 8 police districts in New Orleans. The Unit responds to calls to assist homeless individuals by providing:
 - (a) Information regarding available services to solve immediate as well as long-term needs, and
 - (b) Transportation to those services when appropriate.
- 14. The Homeless Assistance Unit collaborates with City agencies and various homeless service providers on a regular basis to assist with programs targeted to address the homeless population on a group level. Two important weekly commitments are the birth certificate and state ID programs. Also significant are the collaborations when the City activates the Freeze Plan, the Hurricane Shelter-in-place and Evacuation Plans.

EMERGENCY SHELTERS, DAY PROGRAMS AND OUTREACH PROGRAMS

- 15. Listed below are emergency shelters, day programs, and outreach programs presently available in New Orleans for homeless persons:

<p>ACC - Crescent House (Confidential Location) (504) 865-0057, 866-7481 FAX (504) 865-0050 Capacity - 47 <i>Serving - unaccompanied women, single parent families - domestic violence victims free of substance abuse.</i></p>	<p>Baronne Street Housing 2407 Baronne Street (504) 269-9311 Fax (504) 269-4986 Capacity - 48 <i>Serving - families with children, working at least 30 hours a week (unless disabled)</i></p>	<p>Bridge House Corporation 4150 Earhart Boulevard (504) 522-4475 or 522-2124 ext. 14 Fax (504) 522-0342 Capacity - 75 <i>Serving – men ages 18 or older with an alcohol or drug problem.</i></p>
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<p>Community Christian Concern (Scattered Sites) (504) 245-3689 Fax (504) 241-2486 Capacity - 12 <i>Serving - homeless families with children</i></p>	<p>Covenant House 611 North Rampart (504) 584-1111 Fax (504) 584-1171 Capacity € 60 <i>Serving - homeless youths ages 16-22 and their children</i></p>	<p>Grace House of New Orleans 1401 Delachaise Street (504) 899-2423 Fax (504) 899-0041 Capacity - 25 <i>Serving - women ages 18 or older with an alcohol or drug problem</i></p>
<p>Home Again/Victory Plaza (Confidential Location) (504) 362-7583 Fax (504) 362-3490 Capacity - 23 <i>Serving - unaccompanied adults and single parent families who are HIV/AIDS infected</i></p>	<p>Hope House Transitional Housing (Scattered Sites) (504) 522-4235 Fax (504) 325-0011 Capacity - 42 <i>Serving - single and two parent families - deemed capable to become self-reliant within a 3 month period</i></p>	<p>Lindy's Place 2407 Baronne Street (504) 269-0184 Fax (504) 269-1383 Capacity - 17 <i>Serving - homeless unaccompanied women drug and alcohol free minimum 6 months</i></p>
<p>Living Witness Community Social Services (Confidential Location) (504) 524-2959 Fax (504) 524-6365 Capacity - 20 <i>Serving - unaccompanied male substance abusers</i></p>	<p>New Orleans Mission 1130 Oretha C. Haley Blvd./1129 Baronne St. (504) 523-2116 Fax (504) 529-3094 Capacity – 130 men, 30 women <i>Serving - unaccompanied adults</i></p>	<p>Odyssey House Family Center 1125 North Tonti Street (504) 821-9211 ext. 41 Fax (504) 821-0500 Capacity - 61 <i>Serving - substance Dependent women and their dependent children, unaccompanied men</i></p>
<p>Ozanam Inn 843 Camp St (504) 523-1184 Fax (504) 523-1187 Capacity – 96 men <i>Serving - unaccompanied homeless men</i></p>	<p>Project Lazarus (Confidential Location) (504) 949-3609 Fax (504) 944-7944 Capacity - 24 <i>Serving - men and women with AIDS</i></p>	<p>The Salvation Army Center of Hope 4500 South Claiborne Avenue (504) 899-2332 Fax (504) 891-1444 Capacity – 58 men, 64 women, 6 families <i>Serving – homeless men, women</i></p>