

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



202.747.1904 direct
ddouglass@sheppardmullin.com

May 8, 2018

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 amended Chapter 41.4.1 - Response to Police Calls. The OCDM has no objection to the policy as amended.

We believe that the amended Chapter 41.4.1 - Response to Police Calls, 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)
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 41.4.1

TITLE: RESPONSE TO POLICE CALLS

EFFECTIVE:

REVISED:

PURPOSE

This purpose of this Chapter is to define and control the safe and appropriate response to emergency and non-emergency situations, whether dispatched or self-initiated, to minimize the risk of bodily injury and property damage.

POLICY STATEMENT

1. Traffic laws are designed to promote safe driving practices. Officers shall obey these laws when on patrol or responding to a call for service or responding to a request for assistance, unless circumstances clearly dictate otherwise and it is safe to do so. A true emergency, compelling urgency, or tactical necessity must exist before officers may disregard traffic and parking regulations intentionally.
2. This policy does not change the guidance and restrictions on Vehicle Pursuits contained in **Chapter 41.5-Vehicle Pursuits**.
3. When operating a vehicle, the officer's primary responsibility is the safe operation of the vehicle. Use of the MDT, radios, cell phones, and other equipment is always of secondary importance, and the officer should consider the need to safely stop the vehicle before using the MDT, radios, cell phones, and other equipment if the use is going to divert the officer's attention from the safe operation of the vehicle. Operating the MDT, radios, cell phones, and other equipment is not a valid excuse for having a crash.

DEFINITIONS

Code 1—A routine, safe driving response to calls without the use of emergency lights or siren while obeying all traffic laws.

Code 2—A prompt, safe driving response, with the use of emergency lights and/or intermittent siren, to calls that require law enforcement presence at an actual or suspected emergency. This response is limited to reasonable speeds and consideration for all traffic-control devices. Intersection controls may be disregarded in a Code 2 response only after a full stop of the police vehicle. The police vehicle shall not proceed through the intersection until all other vehicles have yielded right of way. The police officer disregarding an intersection control assumes full responsibility for traversing the intersection safely. On multiple-lane streets, the police officer

shall travel in the furthest left lane, when possible.

Code 3—An immediate, emergency driving response that requires the continuous use of emergency lights and siren. This response is used only for critical or life-threatening situations demanding emergency response.

Authorized emergency vehicle/emergency vehicle—A marked or unmarked vehicle of the New Orleans Police Department so designated or authorized by that Department and operated by commissioned members. It shall be equipped with a siren capable of emitting a sound audible under normal conditions from a distance not less than 500 feet and signal lights capable of displaying alternating flashing red or blue lights, displaying to the front (at a minimum) and visible at 500 feet in normal daylight.

Emergency response—Non-routine response to a call for service or request for support from a field unit that would generally require a Code 2 or Code 3 response.

CONTROLLED RESPONSE TO CALLS

4. Controlling the response to emergency calls may require increased utilization of the involved radio channel. For this reason, members shall acknowledge if they are authorized to respond to a call for service that has been assigned to them by the Communications Services Dispatcher or a supervisor in his/her chain-of-command and limit other conversation to the minimum necessary.
5. Units shall not respond to a call for service without authorization from a supervisor in his/her chain-of-command or a Communications Services Dispatcher.
6. Officers shall receive a call for service based on a classification and prioritization set by Communication Services unless assigned by a supervisor. Three possible response classifications exist:
 - (a) Code 1,
 - (b) Code 2, and
 - (c) Code 3.
7. A field supervisor may upgrade or downgrade the response status of a call for service based on specific and articulable reasons. Any supervisor doing so shall advise the officer(s) responding and the Communications Services Dispatcher of the response upgrading or downgrading over the primary dispatch Talk Group for that area.

CODE 1

8. Officers responding to a Code 1 call for service shall proceed directly to the scene obeying all traffic laws; use of emergency lights and sirens are not authorized.
9. A Communications Services Dispatcher who becomes aware that a call for service has deteriorated to the point of requiring an upgrade to a Code 2 or Code 3 shall advise the responding officer(s) and supervisor(s) of the upgrade and the reason for the upgrade.

CODE 2

10. Officers receiving a Code 2 call for service shall respond immediately to the scene with the use of emergency lights and/or intermittent siren sufficient to warn motorists of their approach, as required by state law (*see* La. R.S. 32:24). Although emergency lights must remain activated while in Code 2 status, officers shall have the option of using the

siren only when conditions require the officer to legally take the right-of-way at intersections or other locations when necessary to ensure safe passage.

11. Responding with emergency lights and siren does not relieve the officer of the duty to drive with due regard for the safety of all persons and property and does not protect the officer from the consequences of reckless disregard for the safety of others (see La. R.S. 32:24).
12. Officers shall respond to a call as a Code 2 only when so dispatched or when responding to circumstances the officer reasonably believes involve the potential for immediate danger to persons or property.

CODE 3

13. Officers responding to a Code 3 call shall use emergency lights and sirens. These calls involve incidents in which danger to human life is imminent or an officer requests emergency assistance (e.g., a Signal 108, or Signal 10-55).
14. Vehicle operation will remain reasonable for the existing conditions (e.g., weather, roadway, traffic, pedestrian, police vehicle capability, etc.) and the officer will exercise due caution at all intersections by slowing and/or stopping prior to entering the intersection. However, in no case shall an officer exceed the posted speed limit by **10 MPH** on an undivided street or **20 MPH** on a divided highway (see La. RS 32:1 for definition of divided highway).

REQUESTING EMERGENCY ASSISTANCE

15. Officers may request assistance/emergency assistance when they reasonably believe a threat to the safety of officers is imminent, or assistance is needed to prevent imminent serious harm to a citizen or officer.
16. If circumstances permit, the requesting officer shall give the following information to the dispatcher:
 - (a) The unit number;
 - (b) The location;
 - (c) The reason for the request, type of emergency, and any specialized type of response requested (e.g., CIT); and
 - (d) The number of units required.
17. When a situation has stabilized and assistance/emergency assistance is no longer required, the requesting officer shall promptly notify the dispatcher.

ELEVATING EMERGENCY CALL RESPONSE

18. If an officer believes an elevated (Code 2, Code 3) response to a call for service is appropriate, the officer shall immediately notify the dispatcher on the primary (Dispatch) Talk Group for that area. When elevating a response, officers should articulate on air their reasons to justify their escalation and notify Communication Services when time or circumstances permit. Officers may be required to provide additional justification or explanation to their supervisor if the decision to escalate is challenged.

RESPONDING OFFICER RESPONSIBILITIES

19. Responding officers may discontinue emergency response to a call if, in the officer's judgment, the roadway conditions or traffic congestion do not permit such a response

without unreasonable risk, the officer may elect to respond to the call without the use of emergency lights and siren and obeying all traffic laws. In such an event, the officer should immediately notify the dispatcher on the primary Talk Group for that area. An officer also shall discontinue an emergency response to a CFS when directed by a supervisor or as otherwise appropriate.

20. Upon determining an emergency response is appropriate, an officer shall immediately give the location from which he/she is responding.
21. The first officer arriving at the scene should determine whether to increase or reduce the level of the response for any additional units and notify the dispatcher of his/her determination on the primary Talk Group for that area. Any subsequent change in the appropriate response level shall be communicated to the dispatcher by the officer in charge of the scene, unless a supervisor assumes this responsibility.
22. Units responding to a call for service must advise Communications Section Dispatcher for the primary Talk Group of the District in which they are working of their arrival (10-97) on a scene. Use of the Mobile Data Terminal is not sufficient as there may be a delay or signal interruption and officer safety requires that Communications and all units working in that District are aware of the arrival and officer's location in the event emergency assistance is requested or the officer becomes unresponsive (10-50).

CALLS FOR SERVICE WITH DELAYED REPORTING / REASSIGNMENT

23. Once officers have arrived on the scene of a call-for-service (CFS), they shall complete the handling of the incident unless:
 - (a) Another incident of higher priority arises;
 - (b) No one on the scene is at risk from physical harm or requires medical treatment;
 - (c) The aggressor or perpetrator is not on the scene or likely to return; and
 - (d) There are no other responding units available to respond to the higher priority incident or the first responding officer is a supervisor.
24. The initial responding officers shall complete the required reporting for the incident in all other instances.
25. If the initial responding officers have cleared the scene and requested a follow-up unit to handle the reporting requirements, he/she shall advise his/her supervisor and Communications Section Dispatcher for the primary Talk Group of the District in which they are working that the call was returned to the dispatch queue for the next available unit. The supervisor must confirm approval with Communications. The CFS that was returned to the dispatch queue shall be classed as a Code 1C, unless additional information raises the response level.
26. Officers shall not initiate a new signal or item number for the follow-up response. All responses shall be categorized under the original item number.
27. The reporting officer should contact the initial responding officer to obtain relevant information gained from the initial response to the scene, including personal observations, physical evidence, and all facts learned from witnesses or other persons supplying information, and which would be relevant to the investigation of the incident and assessing any pattern of conduct over time.

COMMUNICATION SERVICES RESPONSIBILITIES

28. A dispatcher shall request that assisting units provide acknowledgment and response when an officer requests emergency assistance or when the available information reasonably indicates that the public is threatened with serious injury or death and an immediate law enforcement response is needed.

SUPERVISORY RESPONSIBILITIES

29. Upon being notified that a request for an emergency response (e.g., signal 10-55, signal 108) has been initiated, a field supervisor shall verify the following:
- (a) The proper response has been initiated;
 - (b) No more units than those reasonably necessary under the circumstances are involved in the response; and
 - (c) Affected outside jurisdictions are being notified as practicable.
30. The requesting officer's supervisor shall, whenever practicable, monitor the response until it has been stabilized or terminated, and assert control by directing units into or out of the response if necessary. If, in the supervisor's judgment, the circumstances require that additional units be assigned to the emergency response, the supervisor may do so.
31. It is the supervisor's responsibility to terminate an emergency response that, in his/her judgment, is inappropriate due to the circumstances and to place officers back in service once it is determined that sufficient units / officers are on the scene.
32. When making the decision to authorize an emergency response, the Platoon Commander or the district supervisor should consider the following:
- (a) The type of call or crime involved;
 - (b) The necessity of a timely response;
 - (c) Traffic and roadway conditions;
 - (d) The location of the responding units and their distance from the call for service; and
 - (e) The availability of resources.

FAILURE OF EMERGENCY EQUIPMENT

33. If any of the emergency equipment on the vehicle should fail to operate, the officer must terminate the emergency response and continue the response on a Code 1. Once the CFS is concluded, the officer will communicate the equipment failure to his/her supervisor to determine if the unit will remain in service or changed out.
34. The officer shall notify the dispatcher or his/her supervisor on the primary (Dispatch) Talk Group for that area, of the equipment failure so that another unit may be assigned to the emergency response.

ESCORTS OF PRIVATE VEHICLES

35. Escorts of private vehicles by an authorized emergency vehicle with the use of emergency lights and/or siren are not authorized, unless approved by the Superintendent of Police, the Superintendent's designee or the officer's immediate supervisor in emergency situations. Officers shall not authorize a driver of any private vehicle to exceed the speed limit, to ignore stop signs or signals, or to otherwise violate

traffic regulations except as authorized in this Chapter.

36. When the Commander of the SOD-Traffic Section has made the determination that it is in the interest of public safety that an authorized emergency vehicle escort a private vehicle (e.g. Mardi Gras float movements, permitted oversize loads, funeral caravans, wedding caravans, etc.), the Commander shall communicate the authorization to the escorting units, and the escorting units shall use emergency lights and/or siren to facilitate the safe movement of vehicles,.
37. It is the responsibility of the Commander of the SOD-Traffic Section, the senior officer conducting the escort and the officers conducting the escort that the safety of the officers and public remain the primary concern at all times. The intentional deviation from normal traffic regulations to facilitate the safe movement shall be kept to a minimum.