

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 amended Chapter 43.6 - Criminal Street Gangs. The OCDM has no objection to the policy as amended.

We believe that the amended Chapter 43.6 - Criminal Street Gangs, 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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CC: HONORABLE SUSIE MORGAN (VIA ELECTRONIC MAIL)
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 43.6

TITLE: CRIMINAL STREET GANGS AND ANTI-GANG UNIT

EFFECTIVE:

REVISED:

PURPOSE

The purpose of this Chapter is to establish a process for identifying criminal street gangs, participants of criminal street gangs, associates of street gangs and patterns of criminal or delinquent activity (La. R.S. 15:1402), in an effort to combat violence related to gang activity. Additionally, the intent of this policy is to establish a process that will be used to develop and maintain information used for enhancing criminal prosecution of criminal street gang participants. (See also: **Chapter 44.2 – Juveniles.**)

POLICY STATEMENT

1. The reduction of criminal street gang activity is the responsibility of every member of this Department. It shall be the policy of this Department to maintain an aggressive and proactive enforcement effort to suppress criminal street gang activities.

DEFINITIONS

Actionable intelligence—Information gleaned from a range of sources that enables decision makers—from agency leaders to field commanders—to take appropriate and timely action when faced with a security threat like an imminent terrorist attack or the shipment of weapons of mass destruction. The collection of critical information related to the targeted criminality that provides substantive insight into crime threats and identifies individuals for whom there is a reasonable suspicion of relationship to a crime. Actionable intelligence aims to find out what criminals are doing now and when and where they plan to do it.

Call-In Session—Written invitation to identified criminal gang members to attend a briefing by law enforcement officials, social service providers and community members to deliver a focused deterrence message.

City Wide Gang Coordinator—The supervisor in command of the Anti-Gang Unit.

Criminal street gang—Any ongoing organization, association or group of three or more persons, whether formal or informal (See La. R.S. 15:1404(A)) that:

- (a) Has as one of its primary activities the commission of one or more criminal acts defined by state law as criminal street gang predicate crimes, or

- (b) Has a common name or common identifying sign or symbols, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

Documentation—For purposes of this Chapter, this means an individual is entered into the City-Wide Gang Database by the City-Wide Gang Coordinator, or his/her designee.

Field identification—When a law enforcement officer completes a Field Interview Card on an individual who meets the gang member/associate criteria.

Gang crime—A reported incident or crime that occurs and is committed for the benefit of, at the direction of, or in association with a criminal street gang.

Gang intelligence—Information related to gang membership, association, activity, planned or spontaneous responses to gang activity, statistical data related to gangs, and all other data related to gangs.

Gang member—Any person belonging to or having membership status in a criminal street gang. For policy purposes, an individual is considered a gang member only when his/her name has been entered in the City-Wide Gang Database.

Gang Faction—A subgroup of a criminal street gang that may operate, at times, independently of the other members or leaders of the criminal street gang and has its own name but that still retains an identifiable association with the main criminal street gang of which it is a component.

Link analysis—A data-analysis technique used to evaluate connections or relationships between organizations, people, and transactions. It can be used in the investigation of criminal activity for fraud detection, counterterrorism, and intelligence.

Mid-Term Investigations—Investigations that are not exhaustive, do not cross state lines or multiple jurisdictions, and do not have as many historical cases (cases that have already happened as opposed to current investigations).

Long-Term Investigations—Investigations that are exhaustive, cross state lines or multiple jurisdictions, and have historical cases (cases that have already happened as opposed to current investigations).

Pattern of Criminal Gang Activity—Means the commission or attempted commission of two or more of the following offenses, by members of a criminal street gang, provided that the offenses occurred within a three-year period, and the offenses are committed on separate occasions or jointly by two or more persons:

- (a) Aggravated battery or second degree battery as defined in La. R.S. 14:34 and R.S. 14:34.1.
- (b) Armed robbery as defined in La. R.S. 14:64.
- (c) First or second degree murder or manslaughter, as defined in La. R.S. 14:30, 30.1, and 31.
- (d) The sale, possession for sale, transportation, manufacture, offer for sale, or offer to manufacture controlled substances, as defined in La. R.S. 40:961 et seq.
- (e) Illegal use of weapons or dangerous instrumentalities, as defined in La. R.S. 14:94.
- (f) Aggravated arson as defined in R.S. 14:51.
- (g) Intimidating, impeding, or injuring witnesses; or injuring officers, as defined in La. R.S. 14:129.1.
- (h) Theft, as defined in La. R.S. 14:67, of any vehicle, trailer, or vessel.
- (i) Assault by drive-by shooting as defined in La. R.S. 14:37.1.

- (j) Rioting or inciting to riot as defined in La. R.S. 14:329.1 and 329.2.
- (k) Aggravated criminal damage to property as defined in La. R.S. 14:55.
- (l) Simple burglary as defined in La. R.S. 14:62.
- (m) Looting as defined in La. R.S. 14:62.5.

IDENTIFICATION OF CRIMINAL STREET GANGS/PARTICIPANTS

2. An individual shall be considered a “confirmed” gang member when he/she achieves ten or more points from the listed criteria:
 - (a) 1 point - wearing of gang colors, clothing, and/or paraphernalia in such a way that indicates gang affiliation;
 - (b) 1 point - possession of commercial, gang-related publications;
 - (c) 1 point - known contact with confirmed gang members;
 - (d) 2 points - consistent observed contact with confirmed gang members;
 - (e) 2 points – appearing voluntarily in a photo with a confirmed gang member;
 - (f) 3 points - use of hand signs, possession/use of symbols, logos, and graffiti that clearly indicates gang affiliation;
 - (g) 3 points - possession of gang documents (roster, procedures, by-laws, etc.);
 - (h) 3 points - sending/receiving correspondence to/from confirmed gang members;
 - (i) 5 points - outside jurisdiction information/documentation;
 - (j) 5 points - the subject's victims or targets of crime are members of a rival gang;
 - (k) 8 Points – gang tattoos/brands;
 - (l) 8 points – participation in gang publications (submitting articles, illustrations, etc.);
 - (m) 8 points – named a gang member in correspondence;
 - (n) 8 points – subject identified as a gang member by another gang member;
 - (o) 8 points – subject’s name appears on a gang roster, hit list, or gang related graffiti;
 - (p) 9 points – self admission;
 - (q) 9 points – subject identified as a gang member by a reliable informant;
 - (r) 10 points – status as a confirmed gang member is reported through outside agency gang unit.

GANG VIOLENCE REDUCTION STRATEGY

3. The cornerstone of the Gang Violence Reduction Strategy is the Gang Audit. The Gang Audit is designed to quantify the following intelligence from each district:
 - (a) Gang name;
 - (b) Gang faction name;
 - (c) Territorial borders;
 - (d) Faction size;
 - (e) Rivals
 - (f) Alliances;
 - (g) Conflicts;
 - (h) Organizational level; and
 - (i) Propensity for violence.

4. The Gang Audit is the foundation of gang intelligence in each District. Each District Commander shall perform a Gang Audit at least once a year (or more, if necessary). Each Commander or his/her designee shall review and update the Audit as necessary. The following Department members shall participate in performing the District’s Gang Audit:
 - (a) District Commander;
 - (b) District members selected by the District Commander based on their knowledge of gang activity in their districts;

- (c) Representatives from the Specialized Investigations Division / Intelligence Section, and Major Case Narcotics Section;
 - (d) Representative from the Street Gang Unit (SGU); and
 - (e) A member from the Multi-Agency Gang Unit.
5. Department members performing the Gang Audit shall:
- (a) Be presented with a large map of the district by the District Commander;
 - (b) Working together, discuss and draw the outline of the individual gang factions;
 - (c) Complete the Gang Audit information based on the best intelligence regarding:
 - i. Gang name;
 - ii. Gang faction name;
 - iii. Territorial borders;
 - iv. Faction size;
 - v. Rivals;
 - vi. Alliances;
 - vii. Conflicts;
 - viii. Organizational level; and
 - ix. Propensity for violence.
 - (d) Identify the most active or influential individuals for each Gang and/or Gang factions; and
 - (e) Prepare an intelligence and faction associate list.
6. District Commanders shall forward the results of the Gang Audit to the Commander of the Anti-Gang Section for final review for any necessary editing and dissemination.

ANTI-GANG SECTION RESPONSIBILITIES

7. The Anti-Gang Section is comprised of the MAG Unit and the SGU. The Anti-Gang Section is part of the ISB-Specialized Investigations Division and under the command of the SID Commander. The Section's responsibilities include, but are not limited to:
- (a) Compiling the gang audit from each District;
 - (b) Editing and finalizing the Gang Audit Map, Gang Faction Associate List and other documents confirming faction and membership information;
 - (c) Running the finalized Associate List to identify those members that are on parole or probation, or wanted on investigative alerts or warrants; and
 - (d) Posting the final complete Gang Audit on the secure Department intranet application (NOPD.org).

MULTI-AGENCY GANG (MAG) UNIT RESPONSIBILITIES

8. The Multi-Agency Gang (MAG) Unit conducts complete mid-term and long-term investigations targeting hierarchal criminal gang organizations and gang leaders. Additionally, the MAG Unit coordinates gang related murder investigations with the appropriate Homicide Section investigators. MAG is composed of personnel from multiple agencies. NOPD is the lead agency for MAG. Whenever MAG conducts operations on behalf of NOPD, NOPD directives govern MAG's actions.
9. The Commander of the MAG Unit shall liaise with the following agencies to combat gang violence:
- (a) Orleans Parish District Attorney's Office;
 - (b) Louisiana State Police;
 - (c) Louisiana Office of Probation and Parole;
 - (d) The Orleans Parish Sheriff's Office;
 - (e) FBI;
 - (f) ATF;

- (g) DEA;
 - (h) Contiguous Parish law enforcement agencies; and
 - (i) The United States Marshall's Office.
10. The MAG Unit will ascertain if there is any information from confidential sources related to murders and shootings which may be of assistance in determining the parties involved; make inquiries relative to retaliation; and disseminate this information to districts with a high level of violence associated with gangs.
- (a) MAG members will coordinate with ISB-Criminal Intelligence Division (CID), Field Operations Bureau (FOB) and the Street Gang Unit, by providing intelligence and technical support to assist in identifying the catalyst for the violence; targeting gang members with a high propensity for violence; and initiating investigations into gang members suspected to be the catalyst for reoccurring gang violence.
 - (b) MAG Unit members working with the Orleans Parish Sheriff's Office will assist CID, FOB and SID by forwarding actionable intelligence (information that is sufficiently detailed and particularized) related to shootings and murders attributed to gang violence and by providing assistance to outside units in gathering intelligence on violence and information on retaliatory acts of violence, such as arranging interviews with inmates, monitoring inmate phone calls, and providing information on the hierarchies established based on interviews with the Orleans Parish Jail.

SPECIALIZED INVESTIGATIONS DIVISION RESPONSIBILITIES

11. The Commander of Specialized Investigations Division (SID) shall ensure all MAG Unit members collaborate with the District Attorney's Office and the United States Attorney's Office in the charging and prosecution of RICO Act violators, consistent with the gang violence reduction strategies outlined in this Chapter.
12. The Commander of the ISB-SID through the Major Case Narcotics Section shall ensure the following programs are used to combat gang violence:
- (a) Street corner narcotics distribution and sales conspiracy missions;
 - (b) Narcotics-associated violence;
 - (c) Buy/Bust operations;
 - (d) Covert surveillance; and
 - (e) Street Prostitution Enforcement
13. The Commander of the Major Narcotics Section shall coordinate and confer with the District Commanders to identify gang-related "open air" (public) drug markets and ensure that the appropriate enforcement initiatives are implemented.
14. Once a narcotics distribution or sales issue has been addressed thru enforcement, District Commanders shall ensure that a specific, comprehensive strategy is in place to prevent such issues from reoccurring at those designed locations.
15. The Commander of the Street Gang Unit (SGU) shall ensure the following programs are used to combat gang violence:
- (a) Gang Mission - conducting aggressive patrol and violence suppression missions in areas where gang conflicts exist.
 - (b) Knock & Talks - Street Gang Unit (SGU) along with Probation and Parole Agents will conduct knock and talk checks on recent parolees associated with violent street gangs.
 - (c) Joint Missions - conducting joint missions with outside agencies, including Louisiana State Police, the United States Marshall Service and other local law enforcement agencies to target offenders wanted for gang related offenses.

- (d) Intelligence Gathering - provide real-time intelligence to the Multi-Agency Gang (MAG) Unit.
- (e) Retaliatory Violence Associated with Gang Funerals - will partner with District Task Force officers to cover high-risk, gang related funerals that involve active gang investigations, high ranking gang leaders, or present a high probability of retaliation.

CRIMINAL INVESTIGATIONS DIVISION RESPONSIBILITIES

- 16. The Commander of the Criminal Investigations Division will ensure the appropriate homicide personnel will liaison with the Field Operations Bureau and the Anti-Gang Section providing intelligence and technical support to assist in identifying homicides that either involve gang members or are gang motivated.

DISTRICT COMMANDER RESPONSIBILITIES

- 17. District Commanders shall:
 - (a) Identify and prioritize the gang factions within their districts with the highest propensity for violence;
 - (b) Ensure the prioritized list of gang factions is distributed to all officers under their command;
 - (c) Coordinate deployment strategies with internal and external resources based on the prioritized list;
 - (d) Ensure district resources continuously focus enforcement activities on the most violent gang factions identified on the list;
 - (e) Review, select and update the prioritized list on an ongoing basis; and
 - (f) Appoint a member to serve as the District Intelligence Officer.

DISTRICT INTELLIGENCE OFFICER RESPONSIBILITIES

- 18. The District Intelligence Officer shall:
 - (a) Report directly to the District Investigative Unit (DIU) Commander.
 - (b) Gather and update gang and general intelligence as dictated by the DIU Commander for all district personnel.
 - (c) Forward newly updated information directly to Specialized Investigations Division, Multi-Agency Gang (MAG) Unit via department e-mail.
 - (d) Receive gang intelligence from the Multi-Agency Gang (MAG) Unit regarding gang conflicts, potential gang retaliations, and any other relevant information.

DISTRICT INTELLIGENCE REPORTS

- 19. District Intelligence Reports produced by each district contain criminal intelligence that is specific to each district. The reports should be generated monthly and uploaded to the District Intelligence Report folder on the secured department intranet (NOPD.org) by the District Commander or his/her designee. District Intelligence Reports are accessible on the Department intranet (NOPD.org).

LINK ANALYSIS

- 20. The link analysis, done by the MAG Unit Crime Analyst, is based on the concept of "two degrees of separation": the associates of a shooting victim will be linked and their associates will then also be linked.

21. These associates, along with ballistics evidence, shall be linked to other shootings and murders.
22. A visual aid will be created by the MAG Unit Crime Analyst that can be used to determine the best deployment of Department resources to predict and prevent retaliatory violence.

FOCUSED DETERRENCE

23. The Department's focused deterrence approach is based on the finding that a significant percentage of violent incidents are closely associated with groups of high-rate repeat offenders (gang members and associates).
24. Focused deterrence involves a partnership between law enforcement officials, social service providers and community members.
25. The goal of focused deterrence is to change the behavior of both individual gangs and the local network of gangs.
26. Focused deterrence proceeds as follows:
 - (a) Violent gangs, the individuals within those groups, and the relationships between the groups are identified;
 - (b) "Call-in sessions" with representatives of the gangs are convened to deliver the focused deterrence message to the group. Individuals on probation or under parole supervision can be legally mandated to attend call-in sessions;
 - (c) The general message conveyed is, "We will help you if you will let us, but we will stop you if we are compelled to by your actions." There will be a clear message that the gang will be dismantled if it does not comply;
 - (d) Additional messages are designed so that gang members perceive they have a face-saving exit from a violent lifestyle if they so choose;
 - (e) During the call-in sessions, a clear and consistent message of nonviolence is delivered by law enforcement officials, social service providers and community members;
 - (f) Law enforcement personnel will inform gang members of focused scrutiny on violent incidents. The next violent incident will result in swift, targeted enforcement (using any legal means available) of the entire group that is affiliated with the individual responsible for the violence. Only the offender will be held accountable for the violent incident itself. But any and all criminal activities of other group members such as probation and parole violations, drug dealing, open cases, and warrants will receive increased scrutiny by law enforcement;
 - (g) Social service providers shall present alternatives to violence by offering job referrals as well as educational and social services to those individuals who want them;
 - (h) Community members shall demand an end to the violence, articulating the damage it produces and invalidating any excuses for the violent behavior;
 - (i) Following the first law enforcement action focused on a violent group, the call-in session will be reconvened;
 - (j) The success of focused deterrence rests on the relentless delivery of the focused deterrence message made during the call-in sessions;
 - (k) Law enforcement personnel shall respond swiftly to subsequent violent incidents and intelligence is organized to aid in this effort;
 - (l) Social service providers shall meet the individualized needs of those who choose to transition to a life of nonviolence and intake processes are streamlined to facilitate this process; and
 - (m) Community members shall continue to deliver the message of nonviolence

subsequent to the call-in, presenting a united front with law enforcement personnel.

MAX

27. District MAX data shall be used to measure the impact and effectiveness of gang violence reduction strategies involving MAG and SGU.
28. The MAX process shall allow district commanders to identify their gang violence programs, initiate District plans to counteract the violence and provide accountability for their actions in their areas of responsibilities.
29. Undercover operations conducted by MAG and SGU are not discussed in the MAX open forums.
27. The MAG Unit will present on the following activities during MAX:
 - (a) Any protests handled during the period or review as well as any upcoming protests.
 - (b) Any gang related shooting incidents that occurred in the Districts and how the MAG and SGU addressed from the unit perspective, including changes in deployments.
 - (c) Any NOLA For Life Custom Notifications that were conducted during the period under review and any planned Notifications.
 - (d) General Unit statistics on cases, indictments, arrests and convictions which may have implications on criminal activity / gang activity in the Districts.

RESPONSE FOR SUSPECTED GANG RELATED SHOOTINGS

31. Upon being assigned to a shooting, responding officers arriving on the scene shall, in addition to his/her other response duties, determine if the shooting may be gang related.
32. If the shooting is believed to be gang related, the investigator(s) assigned to conduct the follow-up response shall submit an Incident or Supplemental Report (EPR) outlining the information gathered on a possible retaliation and what steps were taken to prevent the retaliation by the end of his/her tour of duty.
33. NOTE: At the discretion of the District Commander, the response plan to prevent retaliation may be carried over and assigned to on-coming watch personnel if the information gathered warrants further investigation. Each officer assigned to conduct a follow-up investigation regarding a gang-related shooting shall submit an Incident or Supplemental Report (EPR) documenting the actions taken to prevent retaliation.
34. The District Supervisors shall:
 - (a) Ensure the District Intelligence Officer is notified of any gang related information and request a gang profile is completed for the victim, offender, associates and location (if applicable);
 - (b) Request Communications Services – NOPD Liaison contact the Specialized Investigation Division, Anti-Gang Section on all gang related shootings;
 - (c) Provide Communications Services with the following:
 - i. The victim's name and date of birth, if known.
 - ii. The victim's gang affiliation, if any.
 - iii. Any information known of the offender such as name, gang affiliation, and/or associates.
 - iv. Any gang conflicts occurring at or near the location of the shooting.

- v. The name and radio call number of the district supervisor assigned to the shooting.