

NOPD CONSENT DECREE MONITOR  
NEW ORLEANS, LOUISIANA



October 5, 2020

202.747.1904 direct

File Number: 37PA-191555

Deputy Superintendent Otha Sandifer  
Compliance Bureau, New Orleans Police Department  
714 Broad Street  
New Orleans, LA 70119

Dear Deputy Superintendent Sandifer:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM") has reviewed and provided comments on Chapter 46.02.1 - Civil Disturbances. The OCDM has no objection to the policy as written.

We believe that Chapter 46.02.1 - Civil Disturbances, 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)  
JUDE VOLEK, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)  
SUNNI LEBEOUF, CITY ATTORNEY (VIA ELECTRONIC MAIL)

SMRH:4816-6540-9429.7



# NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

## CHAPTER: 46.02.1

### TITLE: CIVIL DISTURBANCES

**EFFECTIVE:**  
**REVISED:**

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The New Orleans Police Department is committed to providing a safe environment for all persons participating in any demonstration, protest, or march. This Chapter serves to establish guidelines for the NOPD to establishing and maintaining a safe environment for peaceful forms of demonstrations, protests, marches and the reporting of, and response to, all forms of civil disturbances.

#### POLICY STATEMENT

1. NOPD's Mission Statement, policies, and training emphasize the sanctity of all human life, those of the public, police officers, and criminal suspects. The importance of treating all persons with dignity and respect is paramount to our role as guardians of the public's trust and safety.
2. NOPD Officers are responsible for ensuring that participants in all forms of civil protest are allowed to exercise free speech, freedom of assembly, and the right to conduct peaceful demonstrations, consistent with federal, state, and municipal laws designed to promote everyone's safety.
3. NOPD strives to provide police services that are equitable, respectful, and bias-free in a way that helps promote broad-based community engagement and bolsters confidence in the Department. Actual or perceived race, color, ethnicity, national origin, religion, gender, gender identity, sexual orientation, economic status, age, cultural group, disability, housing status, or affiliation with any other similarly identifiable group shall not be a motivating factor to any degree in any law enforcement decision, including the decision to take no action, or in the selection or rejection of particular tactics and strategies.
4. Bias-based policing is strictly prohibited. Bias-based policing degrades the public's confidence in the Department and is detrimental to effective law enforcement because it fosters distrust in the community and undermines the Department's ability to enforce the law.

**DEFINITIONS**

**Civil Disturbance** – A generic term for all forms of civil disobedience, demonstration, protest, march or riot.

**Civil Disobedience** - The refusal to obey civil laws in an effort to affect change in government.

**Civil Disorder** - Group acts of violence and disorder prejudicial to public law and order.

**Demonstration** - A public meeting or march in which people show opposition to, or support for or against something or expressing views on a political issue.

**Event** – A happening that was planned or anticipated in advance.

**Incident** – An occurrence natural or human-caused that requires an emergency response to protect life, property, or both.

**Incident Action Plan (IAP)** – An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments, as well as plans and contingencies for the demobilization of resources at the conclusion of the operation. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods.

**Incident Commander (IC)** – The individual responsible for all incidents activities, including the development of strategies and tactics and the ordering and release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all operations at the incidents site. Responsibilities of the IC can be assumed by the officers handling the original call to the chief of the department and an additional qualified officers, depending on the size. Scope and complexity of the incident or event.

**Operations Section Chief (OSC)** – The OSC is responsible for all tactical operations within the incident or event, ensuring implementation of the IAP, and helping to develop the IAP for the oncoming shift.

**Planning Section Chief (PSC)** – The PSC is the individual responsible for monitoring the current operation and determining the needs for personnel and activities for the oncoming shift. The PSC develops, writes, and disperses the IAP after it is approved by the IC.

**Riot** – A riot is a public disturbance involving an assemblage of three or more persons acting together or in concert which by tumultuous and violent conduct, or imminent threat or tumultuous and violent conduct, results in injury or damage to persons or property or creates a clear and present danger or injure or damage to persons or property (LA R.S. 14:329.1)

**Rules of Engagement (ROE)** - Are the internal rules or directives within an Operations Order that define the circumstances, conditions, degree, and manner in which actions, which might be construed as provocative, may be applied. They provide authorization for and/or limits on, among other things, the use of force and the employment of certain specific capabilities. ROE are lawful commands. Rules of engagement do not normally dictate how a result is to be achieved but will indicate what measures may be unacceptable.

## GENERAL

5. Although civil disturbances, civil disobedience, demonstrations, protests and marches may occur in a spontaneous fashion (incident), generally the Department is provided with some advance notice (event) and is able to appropriately prepare and plan.
6. The decision to activate the **Special Operations Plan for Civil Disturbances** ("Plan") rests with the Superintendent of Police or his designee.
7. Once the Plan has been activated, the Incident Commander under the Plan is responsible for identifying the Rules of Engagement to be implemented and when, developing the Incident Action Plan and the level of mobilization of personnel and resources.

## INCIDENTS

8. When civil disturbances, civil disobedience, demonstrations, protests and marches occur—either spontaneously or non-spontaneously, the Department has an obligation to protect the rights of participating individuals to exercise their constitutional rights.
9. Our obligation is to protect the lives, safety, security and property of all persons and to prevent events/incidents from escalating into violent or unlawful activity.
10. Our authority as police officers remains the same in civil disturbances as it does in our day-to-day activities. The Departmental rules on the use of force and how we interact with the public is not superseded by the activation of the Plan and the defined Rules of Engagement.
11. Officers and supervisors shall remember that the lives and safety of the public, officers, lawful participants and criminal suspects is paramount and supersedes preservation of property.

## NON-VIOLENT EVENTS OR INCIDENTS

12. Civil disturbances which are non-violent generally require less resources from the Department. Where the intent of the activity is to allow individuals to exercise their 1<sup>st</sup> Amendment Rights, the Department's focus remains on the safety of the participants, the community and officers. **Every effort shall be made to minimize the visible police presence.**

## 13. General guidelines:

- a. Utilize a minimum number of officers based on the number of participants and the security logistics of the location.
  - b. Officers should be in Class A or B uniform.
  - c. Officers should monitor from a distance that allows them to observe the activity but not close enough where their presence can agitate participants.
  - d. A contingent of officers with marked units should be available to assist if the event becomes “mobile” to prevent traffic from infiltrating the participants or presenting a safety issue.
14. Members of the ISB Intelligence Unit should make every effort to identify and communicate with the event coordinator(s) to learn information which will facilitate our efforts to make the event peaceful. Information such as:
- a. Objective or goal of event?
  - b. Stationary or mobile (march)?
  - c. If mobile, what is the route and final destination?
  - d. Can we maintain communication by phone or in person (plainclothes / uniform)?
15. Additional logistical support is available from MSB for barricades to block hazardous areas, street closures and to physically separate ideologically opposed groups to prevent physical contact and reduce the potential for violence.

**POTENTIALLY VIOLENT EVENTS OR INCIDENTS**

16. Civil disturbances may transition from non-violent to violent or unlawful activity. Our obligation is to protect the public, officers, lawful participants and criminal suspects.
17. If the civil disturbance becomes violent or engages in unlawful activity, this information shall be communicated to the IC immediately.
18. Unless the circumstances dictate that immediate action and intervention is necessary to protect lives and prevent violent criminal behavior, officers shall await instructions from their immediate supervisor on actions to be taken and from the IC on any changes to the Rules of Engagement. **Officers shall remain focused on preservation of life and the safety of bystanders, the participants and members of the Department.**

**GENERAL RULES OF ENGAGEMENT**

19. A fundamental set of tactics which is incorporated in all possible police confrontations is De-escalation. De-escalation guidelines shall always be the first tactic used, when possible. The guidelines are –
- a. When it is consistent with protecting the safety of the officer, the subject, or the public, officers shall use de-escalation techniques to avoid or reduce the need for the use of force.
  - b. These techniques include:
    - i. gathering information about the incident,
    - ii. assessing the risks,

- iii. assembling resources,
  - iv. attempting to slow momentum, and
  - v. communicating and coordinating a response.
- c. In their interaction with subjects, officers should use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force.
  - d. Officers should recognize that they may withdraw to a position that is tactically more secure or allows them greater distance in order to consider or deploy a greater variety of force options.
20. The Rules of Engagement for each type of civil disturbance should address:
- a. The first priority shall be preservation of life.
  - b. Channels of communication will be established so that situations can be de-escalated if necessary.
  - c. Police will provide public information that makes it clear who is making decisions and the process for deciding when police response will be escalated.
  - d. Every attempt should be made to communicate with participants to reach common sense agreements based on these protocols both ahead of time and at the scene.
  - e. Clear standards of professionalism and sound community friendly-policing will be maintained and adhered to at all times.
  - f. Police will wear only the attire minimally required for their safety. Specialized “riot” gear will be avoided except as a last resort.
  - g. Crowd control equipment such as armored vehicles, rubber balls, and chemical agents will not be used except as a last resort and only as permitted by NOPD’s on scene SOD commander.
  - h. Police or other government authorities will not interfere with the free flow of information through tactics such as limiting cell or internet access, interception of cell or other mobile conversations or un-warranted wiretaps.
  - i. Every attempt will be made to pinpoint arrests so that only individual lawbreakers will be arrested. “Kettling” and mass arrests will not be used.
  - j. Media, legal observers, and medics shall not be considered participants in civil disturbances and shall be allowed to perform their duties safely.
  - k. Every attempt will be made to provide alternate routes or other means for non-involved persons to get to work, home, or meet other necessities. When NOPD issues orders to disburse or re-direction of travel, NOPD will direct individuals to routes of escape and not block egress. NOPD will also provide safe exit routes for protestors to escape and will not block egress from anyone wishing to leave the area.
  - l. Officers will be instructed to be tolerant of minor (**Infractions**, which can also be called **violations**, are the least serious crimes and include minor offenses such as jaywalking and motor vehicle offenses that result in a simple traffic ticket. Infractions are generally punishable by a fine or alternative sentencing such as traffic school) lawbreaking before deciding to escalate the use of force.
  - m. Officers and supervisors will be instructed to provide latitude to allow for free assembly and expression, treating participants as citizens and not “enemy combatants”.
  - n. Intimidation of participants will not be tolerated. Pretextual pedestrian or traffic stops, pre-emptive arrests or detention of leaders is not condoned.

- o. Medical care will be liberally made available and attorneys will be able to travel to and meet with detained clients without unreasonable impediments.

### **COMMUNICATIONS SERVICES RESPONSIBILITIES (Spontaneous)**

21. Upon receiving a complaint of a spontaneous civil disturbance, Communications Services shall obtain the following information:
  - (a) Caller information;
  - (b) Location of event/incident;
  - (c) Reason for event/incident if known;
  - (d) Description of the event/incident;
    - Size or number of individuals,
    - Is normal activity, traffic or commerce being affected.
  - (e) Are any weapons present, describe.
  - (f) Keep the caller on the phone, if possible, to provide additional information if needed.
22. Once the initial information is obtained and entered into the complaint history, Communications Services shall immediately notify the NOPD Liaison.
23. The NOPD Liaison shall:
  - (a) Notify the Patrol Supervisor of the affected district or districts,
  - (b) Advise the Patrol Supervisor which units are clear to respond to the incident,
  - (c) Immediately notify the Superintendent, Assistant Superintendents, and all departmental commanders via the email and text messaging system,
  - (d) Notify the City of New Orleans Office of Homeland Security and Special Operations Division Commander, and
  - (e) Contact the Emergency Medical Services (EMS) and New Orleans Fire Departments (NOFD) and advise them of the incident and location.
24. Communications Services shall assign the complaint to a supervisor, and two District patrol units if available from the affected district.
25. Once Communications Services has been notified of a confirmed civil disturbance incident, they shall make the required notifications from a notification logbook containing names of each agency to be notified depending on the type of incident. This information shall be maintained and updated, by each respective agency, on a quarterly basis.
26. During normal business hours, Communications Services shall notify the Assistant Superintendent of the Management Services Bureau to have Police Headquarters locked down and secured when there is intelligence a protest is headed to or at police headquarters. In the event of evening hours and weekends, Communications Services shall notify the NCIC Unit and have Police Headquarters locked down and secured when there is intelligence a protest is headed to or at police headquarters. In both instances, non-departmental members shall be evacuated from the building, and only department members shall have access to Police Headquarters when there is a protest that is effecting police headquarters.

27. Communications Services personnel shall broadcast an Emergency Alert across all radio dispatcher-controlled talk groups maintained by the New Orleans Police Department, the NOFD and EMS and on all MDT's. This Emergency Alert shall be repeated every hour until the Incident Commander instructs otherwise. The Emergency Alert shall contain the location, weather conditions and basic information about the civil disturbance.

### **RESPONSIBILITIES OF THE RESPONDING UNITS (Spontaneous)**

28. Responding units (and supervisor) shall proceed cautiously to the scene. Once arriving on the scene, the responding units shall maintain a safe distance and evaluate the scene. Prior to entering the scene, responding units shall:
- (a) Advise on scene arrival (10-97);
  - (b) One unit is to maintain a safe distance to communicate with Communications Services advising of conditions, or if additional units/support units are needed;
  - (c) The other unit should approach the area cautiously, resisting the urge to rush in unnecessarily; the responding officer shall only engage when it is a life or death situation and they must engage to save life (ex. Active shooter situation).
  - (d) Identify the nature of the civil disturbance and any observable hazards;
  - (e) Assess the situation, considering the following:
    - What is the area like?
    - Who/what is at risk: people, property?
    - What actions should be taken?
    - What can be done immediately?
  - (f) Notify dispatcher of safe ingress and egress routes; and
  - (g) Document all actions.

### **SUPERVISOR RESPONSIBILITIES (Spontaneous)**

29. Once the on-scene supervisor has determined the scene appears to be a civil disturbance event / incident, the supervisor shall:
- (a) Notify Communications Services of the incident and advise of observations;
  - (b) Have the NOPD Liaison notify NOFD and EMS and advise them of the observations noted;
  - (c) Account for all personnel involved and assign their duties, traffic control, etc.;
  - (d) Identify ingress and egress routes;
  - (e) Request additional units, if needed;
  - (f) Identify what resources (human and equipment) are required and estimate the time to deployment;
  - (g) Advise their platoon commander and/or commander of the District;
  - (h) Disengage if necessary, or as directed;
  - (i) Assign responsibility to document all actions.



**REPORTING**

30. The on scene Commander shall prepare a written After-Action Report to the Superintendent, Assistant Superintendents within (3) three days of the conclusion of NOPD participation in the incident containing:
- (a) Incident item number, location, date and time of incident;
  - (b) Duration of the incident;
  - (c) Incident command staff;
  - (d) Specialized units involved;
  - (e) Inventory of all department equipment utilized;
  - (f) All agencies involved;
  - (g) All personnel used;
  - (h) Synopsis of the incident;
  - (i) Weather conditions;
  - (j) If any public resources were affected,
  - (k) Any injuries, deaths, or arrests;
  - (l) Problems encountered; and
  - (m) Recommendations.

Notwithstanding after action reporting members shall meet their individual obligations to timely report force, searches, seizures, and arrests as required by policy.

**CRITICAL INCIDENT STRESS DEBRIEFING**

31. Members involved in critical incidents may be traumatized to varying degrees. Post-incident debriefings will be set up to reduce the impact of the incident, as well as, enhance the well-being and recovery of personnel in accordance with **Chapter 22.2.7 – Officer Assistance Program Traumatic Incident Stress.**

**OTHER RESOURCES**

32. This Chapter is to be used in conjunction with the New Orleans Police Department's **Special Operations Plan for Civil Disturbances.**