

NOPD CONSENT DECREE MONITOR  
NEW ORLEANS, LOUISIANA



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November 30, 2016

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 55.1 - Victim and Witness Assistance. The OCDM has no objection to the policy as revised.

We believe that the revised Chapter 55.1 - Victim and Witness Assistance, 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: 55.1

### TITLE: VICTIM AND WITNESS ASSISTANCE

**EFFECTIVE:**

**REVISED:**

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#### PURPOSE

The purpose of this Chapter is to ensure that crime victims and witnesses receive appropriate assistance and are provided with information from government and private resources that may assist them in coping with the aftermath of crime, in addition to ensuring that the Department meets all legal mandates.

#### POLICY STATEMENT

1. The New Orleans Police Department is committed to providing guidance and assistance to the victims and witnesses of crime, which can have an immediate and long-term impact on their emotional recovery by developing security and stability as well as mitigating the traumatic effects of crime. The employees of the NOPD shall show compassion and understanding in all interactions with witnesses and victims. NOPD employees shall make reasonable efforts to provide support and information as identified in this Chapter.

#### DEFINITIONS

Definitions relevant to this Chapter include:

**T-Visa (Nonimmigrant Status)**—Nonimmigrant status provides immigration protection to victims. The T Visa allows victims to remain in the United States and assists law enforcement authorities in the investigation or prosecution of human trafficking cases.

**U-Visa (Nonimmigrant Status)**—U nonimmigrant status provides immigration protection to crime victims who have suffered substantial mental or physical abuse as a result of qualifying crime. The U visa allows victims to remain in the United States and assist law enforcement authorities in the investigation or prosecution of criminal activity.

**Victim**—A person who has been killed, injured, or otherwise directly harmed by a crime committed by another person. For purposes of this Chapter, victims may include family members and witnesses as defined in relevant statutes, when applicable.

**Victim/Witness Assistance Unit coordinator**—A member of the Department appointed by the Superintendent of Police who serves as the principal point of contact for individuals requiring assistance or information from the NOPD, beyond that provided by responding officers,

regarding benefits from programs for crime victims, their families, and witnesses.

### **BASIC RIGHTS FOR VICTIMS AND WITNESSES**

2. Services and information concerning services available under state law to victims and witnesses of a crime are outlined in La. R.S. 46:1844 and ChC. Art. 811.1. These include, but are not limited to, the right to be notified of, and to be present for, certain judicial proceedings; the right to seek restitution; and consultation with victims regarding the prosecution and disposition of a criminal case.
3. As appropriate, victims, their family members and witnesses of the crimes listed in **Appendix A** may be eligible for registration under La. R.S. 46:1842-1844 and ChC. Art. 811.1-811.3, respectively. Registration under La. R.S. 46-1842-1844 is the mechanism used to notify the La. Department of Public Safety and Corrections Crime Victims Services Bureau to publicize and provide a mechanism for crime victims and their families to be kept informed of their cases and rights.
4. Registration affords the victim or his/her representative benefits, such as:
  - (a) Assistance with safety planning to reduce repeat victimization by the offender;
  - (b) Information regarding the criminal justice proceedings; and
  - (c) Information regarding social services and financial assistance available as a result of being the victim of a crime.

### **CRIME VICTIM/WITNESS ASSISTANCE UNIT AND COORDINATOR**

5. The Victim/Witness Assistance Unit is under the supervision of the Commander of the Investigations and Support Bureau/Criminal Investigations Division. The Victim/Witness Assistance Unit coordinator shall be responsible for maintaining up-to-date information about the programs available to victims, their families, and witnesses.
6. The Superintendent may appoint a member of the Department to serve as Victim/Witness Assistance Unit coordinator. The appointed member's contact information shall be maintained by Communications Services and promulgated by the Deputy Chiefs of FOB and ISB to the members of their respective commands.
7. The Victim/Witness Assistance Unit coordinator shall be responsible for maintaining up-to-date information about the program and also shall be responsible for maintaining compliance with all legal mandates related to programs and assistance for crime victims, their families, and/or witnesses.

### **DISTRICT OFFICER AND INVESTIGATOR RESPONSIBILITIES**

8. During an initial investigation, reporting officers shall ensure that crime victims, their families and witnesses receive emergency, social and medical services as soon as possible.
9. Officers who encounter victims of a major crime (see Appendix A) shall forward the victim's contact information to the Victim/Witness Assistance Unit within 24 hours of the report.
10. Each investigator is responsible for coordinating private rooms for victim/witness interviews.

11. Officers shall refer all domestic violence and sexual assault victims to the New Orleans Family Justice Center (NOFJC).
12. Officers shall provide the Assistance for Victims of Crime brochure to all victim(s), their families or witnesses, and document the provision of this brochure in an incident or supplemental report, to advise them of the following:
  - (a) As a victim/family member/witness, you may be contacted by a representative of the NOPD or Orleans Parish District Attorney's Office about this matter.
  - (b) If anyone contacts you to discuss this matter, it is your right to request and obtain the full identity and employer of anyone for your own safety.
  - (c) All New Orleans Police Department and Orleans Parish District Attorney's Office personnel have clearly marked identification as either "New Orleans Police Department" or "Orleans Parish District Attorney's Office."
  - (d) Examine any ID's, Badges, or other documents carefully.
  - (e) If there is any doubt, please call the NOPD (821-2222) or the DA's Office (822-2414) to verify anyone's identity.
  - (f) Louisiana Victim Notification System (LAVNS) is a free service that allows victims to check on an offender's custody status and to register for notification when a person is released from jail. The telephone number is (866) 528-6748.
  - (g) Individuals can conduct an inmate query via [www.opcso.org](http://www.opcso.org) and can register for LAVNS if the inmate is in custody.
  - (h) Domestic violence victims have rights to initiate criminal or civil proceedings with the assistance of the Domestic Violence and Family Justice Center. (See Chapter 42.4, Domestic Violence).
13. Officers should never guarantee a victim's safety from future harm or that his/her identity will remain confidential always. However, officers may make practical safety suggestions to victims or witnesses who express fear of future harm or retaliation. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution, but they may direct victims to the proper written material or available victim resources.
14. Officers shall provide all crime victims, within the meaning of this Chapter, with the Louisiana Victim Notice and Registration Form (La. R.S. 46:1844), and document the provision of this form in an incident or supplemental report.
15. The Louisiana Victim Notice and Registration Form should only be completed when:
  - (a) A physical arrest is made;
  - (b) A warrant is issued; or
  - (c) The subject is known and the arrest or warrant is pending additional information.
16. The on-scene officer shall complete sections A and B of Louisiana Victim Notice and Registration Form and ensure the following:
  - (a) Section B, the victim (or designee), shall INITIAL either the statement "I acknowledge receipt of this form" OR "I decline to register for notification at this time."
  - (b) The victim (or designee) shall sign and date the form.
  - (c) The blue copy shall be given to the victim in all instances.
  - (d) All copies must be legible.

17. The Louisiana Victim Notice and Registration Form consists of five copies labeled as follows:
  - (a) Clerk of Court Copy
  - (b) District Attorney Copy
  - (c) Arresting Agency/Victim Services Copy
  - (d) Jail/Detention Center Copy
  - (e) Victim's Copy
18. The officer shall submit the remainder of the form to his/her supervisor with the completed report. The supervisor shall submit the remainder of the form as outlined below. **THE FORM SHALL NOT BECOME A PART OF THE ORIGINAL REPORT.** The Victim Service Copy shall be delivered to the Victim/Witness Assistance Unit within twenty-four (24) hours via Department mail or by hand delivery, along with a copy of the face sheet (first page of incident report).
19. A photocopy of the completed form shall be kept in the officer's District/Unit files.

#### **ARREST DURING INITIAL INVESTIGATION**

20. **If an arrest is made during the initial investigation**, the arresting officer shall deliver the **Jail Copy** of the original form to Central Lock-Up along with the arrestee. The Clerk of Court Copy and District Attorney Copy shall be submitted to the District Attorney's Office, along with other pertinent documentation, from the A-Case Officer of each district/unit. The **Victim Service Copy** will be forwarded to the Victim/Witness Services Unit.

#### **ARREST WARRANT GENERATED**

21. In instances when an arrest warrant is generated, the Jail Copy will be filed with NCIC until such time an arrest is made. At the time of arrest, that copy will be forwarded to Central Lockup. The Clerk of Court Copy and District Attorney Copy will be held by DIU/A-Case until such time an arrest is made and the entire documentation is forwarded to the District Attorney's Office. The **Victim Service Copy** will be forwarded to the Victim/Witness Services Unit.

#### **KNOWN SUBJECT BUT NO ARREST OR WARRANT FILED**

22. In instances when there is a known subject but with no arrest warrant on file, the **Jail Copy, Clerk of Court Copy, and District Attorney Copy** will be held by the Investigating Detective/DIU Unit until such time an arrest is made. The copies will be forwarded as stated above. The **Victim Service Copy** will be forwarded to the Victim/Witness Assistance Unit.

#### **NO KNOWN SUBJECT**

23. In instances when there is no known subject, the victim will be provided with the Assistance for Victims of Crime brochure, and the provision of this brochure shall be documented in an incident or supplemental report. During any subsequent investigation, should a perpetrator be identified and/or arrested, the follow-up investigator shall complete the Louisiana Victim Notice and Registration form, forwarding the **Victim Service Copy** to the Victim/Witness Assistance Unit.

**INCAPACITATED VICTIM/WITNESS**

24. Should the victim/witness be incapacitated during the initial investigation where there is a known subject or a subject was placed under arrest, the officer handling the investigation shall complete the form as above, leaving the victim/witness's copy with the hospital, and document completion of the form in an incident or supplemental report.
25. Officers shall provide all crime victims, their families and witnesses with all available and applicable information handouts, including a copy of the Assistance for Victims of Crime brochure, along with a completed NOPD item number slip (Form #26) and the investigating detective's name. Officers and investigators should specifically note in their reports that the appropriate forms and resources were provided.

**VICTIM/WITNESS INTIMIDATION OR RETALIATION**

26. Officers should investigate allegations of victim/witness intimidation or retaliation and take enforcement action when lawful and reasonable.
27. The investigating officer's supervisor and the Orleans Parish District Attorney's Office should be notified immediately when handling an investigation of victim or witness intimidation/retaliation.
28. The investigation of intimidation/retaliation shall be documented in an NOPD incident report (electronic police report) and forwarded to the Orleans Parish District Attorney's Office by way of the District/Division A-Case Officer as soon as possible after the report is approved by the investigator's supervisor.

**VICTIM/WITNESS ASSISTANCE UNIT COORDINATOR RESPONSIBILITIES**

29. The Victim/Witness Assistance Unit coordinator is authorized to and responsible for:
  - (a) Assessing the Department's role in victim/witness assistance by remaining updated on the laws and ensuring the Department remains in compliance;
  - (b) Acting as a liaison with other criminal justice agencies, governmental and non-governmental agencies, and organizations who promote victims'/witnesses' rights;
  - (c) Assisting with language barriers, hearing impaired, disabled or other special needs by using the department resources or resources from outside agencies;
  - (d) Developing comprehensive Victims/Witness Assistance Unit standard operating guidelines; and
  - (e) Ensuring the department is supplied with the appropriate forms.
30. The Victim/Witness Assistance Unit coordinator shall ensure that victim information handouts are available and current for all divisions and districts that respond to calls for service or handle initial and follow-up investigations. These should include, as appropriate:
  - (a) Shelters and other community resources for victims of domestic violence;
  - (b) Community resources for victims of sexual assault;
  - (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams (see La. R.S. 40:1216.1);
  - (d) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety;

- (e) A clear explanation of relevant court orders that may be in place or available and how they can be obtained;
  - (f) Information regarding available compensation for qualifying victims of crime and how to apply;
  - (g) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
  - (h) Notice regarding U-Visa and T-Visa application processes;
  - (i) Resources available for victims of identity theft (NOPD Form No. 26);
  - (j) A place for the officer's name, badge number and any applicable case or incident number;
  - (k) Notifications to domestic abuse victims of their right to initiate criminal or civil proceedings and to seek a court order (La. R.S. 46:2136; La. R.S. 46:2140);
  - (l) Information for victims and/or their family members as set forth in La. R.S. 46:1844 and ChC. Art. 811.1;
  - (m) Louisiana Commission on Law Enforcement and Administration of Criminal Justice Victim notice and registration forms, as provided for in La. R.S. 46:1842(8);
  - (n) The Crescent House crisis line (504-866-9554), the Louisiana Domestic Violence Hotline (1-888-411-1333) or the National Domestic Violence Hotline telephone number (1-800-799-7233/1-800-787-3224);
  - (o) Address confidentiality program for victims of abuse, sexual assault or stalking (La. R.S. 44:52);
  - (p) Crime Victim's Reparations Board eligibility information (LAC 22:XIII.301);
  - (q) Notification to victims that they may be contacted by other members of the New Orleans Police Department or the District Attorney's office, all of whom shall have appropriate credentials.
31. The NOPD Victim/Witness Assistance Unit coordinator is responsible for distributing current referral information to Communications Services.
32. The Victim /Witness Assistance Unit coordinator is also responsible for:
- (a) Ensuring the T-Visa/U-Visa forms are complete and accurate;
  - (b) Compiling a resource list of services with other agencies who provide services specifically for immigrant victims; and
  - (c) Ensuring that call-takers at the Orleans Parish Communications District (OPCD) are adequately informed about victim services and resources through consultation with the OPCD executive director and training as necessary.

### **T-VISA AND U-VISA FOR NON-IMMIGRANT VICTIMS/WITNESSES**

33. The following information establishes instructions and protocol for assisting nonimmigrant victims/witness of crime by completing the T-Visa (Federal Form I-914, Supplemental B) and U-Visa (Federal Form I-918, Supplemental B) forms.
34. The United States Citizenship and Immigration Service (USCIS) may issue temporary non-immigrant status to immigrant crime victims for a period of four (4) years. As a part of the application process, law enforcement agencies are required to verify that the immigrant was a victim of one or more of the qualifying crimes.
35. The T-Visa (T Non-immigrant declaration) and U-Visa (U Non-immigrant classification) were enacted through the Violence Against Women Act of 2000, for victims of domestic

violence, sexual assault, human trafficking and other criminal offenses. This act, in keeping with the humanitarian interests of the United States of America, was designed to provide victims/ witnesses with critical immigration protection while strengthening the ability of law enforcement agencies to detect, investigate and prosecute cases.

36. In cases where an **arrest is made**, the responsibility to complete the Federal Form T-Visa declaration or Federal Form U-Visa certification forms rests with the Orleans Parish District Attorney's Office, not the NOPD officer.
37. In cases when no arrest is made and no warrant issued, it is the responsibility of the New Orleans Police Department to complete T-Visa or U-Visa forms upon the request of a qualifying individual. All such requests should be made through the NOPD's Victim/Witness Assistance Unit.
38. The New Orleans Police Department will consider the issuance of a certification or declaration to individuals and their family members who are willing to cooperate with the investigation or prosecution of the crime and who meet the following eligibility requirements:
  - (a) The individual must have been a victim of a qualifying criminal act (see crimes listed below);
  - (b) The individual must have suffered substantial physical or mental abuse as a result of being a victim of one or more of the qualifying criminal acts;
  - (c) The individual must possess specific, credible and reliable information about the qualifying criminal act (beyond the initial information provided);
  - (d) The individual must have been helpful, is being or will likely be helpful in the investigation and prosecution; and
  - (e) The individual can identify the perpetrator.
39. Individuals who are victims/witnesses of the below listed crimes are eligible to obtain a certification or declaration:
  - Abduction
  - Abusive Sexual Contact
  - Blackmail
  - Domestic Violence
  - Extortion
  - False Imprisonment
  - Felonious Assault
  - Female Genital Mutilation
  - Hostage
  - Incest
  - Involuntary Servitude
  - Kidnapping
  - Manslaughter
  - Murder
  - Obstruction of Justice
  - Peonage
  - Perjury
  - Prostitution
  - Rape



- Sexual Assault
  - Sexual Exploitation
  - Slave Trade
  - Torture
  - Trafficking
  - Unlawful Criminal Restraint
  - Witness Tampering
  - Any Other Sexual Offenses
40. During an initial investigation of the qualifying crimes involving an immigrant victim or witness, the reporting officer shall provide the victim with the brochure entitled "Assistance for Victims of Crime," including on the brochure the item number, and document the provision of this brochure in an incident or supplemental report.
41. Upon the request of the individual, the case will be reviewed by Victim / Witness Assistance Unit personnel, in order to determine eligibility. After an individual is determined to be ELIGIBLE, T-Visa (Federal Form I-914 Supplemental B) shall be completed for Trafficking victims or U-Visa (Federal Form I-918 Supplemental B) shall be completed for victims of the other qualifying crimes. The forms should then be forwarded to the Deputy Chief of the Investigations and Support Bureau or his/her designee.
- (a) The Deputy Chief of the Investigations and Support Bureau or his/her designee will sign the certification or declaration after all eligibility requirements are met.
  - (b) The New Orleans Police Department reserves the right to withdraw a certification if the petitioner proves to be uncooperative or unable to provide additional information about the qualifying crime. The certification can be revoked by immediately submitting a written statement to the U.S. Citizenship and Immigration Service (USCIS) at the following address: **U.S. CITIZEN AND IMMIGRATION SERVICES, VERMONT SERVICES CENTER-U-VISA UNIT, 75 LOWER WELDON STREET, ST. ALBANS, VERMONT**. The recommendation to withdraw shall clearly document the reasons for the recommendation and be requested by the investigating officer, through his/her chain of command to the Deputy Chief of the Investigations and Support Bureau for approval.
  - (c) The Commander of Communications Services will maintain resource phone numbers on services for immigrant victims and have them available for the public and police officers on a 24-hour basis. The information shall include:
    - 1. A general overview of the service provided to immigrant victims;
    - 2. Contact phone numbers for victims in need of medical attention, counseling and other services available in the Metropolitan New Orleans Area; and
    - 3. Contact phone numbers for the Victim / Witness Assistance Unit.
  - (d) The NOPD Victim/Witness Assistance Unit coordinator is responsible for providing current information to Communications Services.
  - (e) An adequate supply of Federal Form I-914 Supplemental B (T-Visa) and Federal Form I-918 Supplemental B (U-Visa), along with instructions shall be maintained by the Victim/Witness Assistance Unit personnel.

**RECORDS AND IDENTIFICATION SECTION RESPONSIBILITIES**

42. The Records and Identification Division shall be responsible for establishing safeguards designed to prevent the improper release of information related to juvenile victims and victims of sex offenses.
43. Records involving sex offenses and juveniles are considered **SECURE** files and are stamped "SF" and are NOT to be released.

**COMMUNICATIONS DISTRICT RESPONSIBILITIES**

44. The Executive Director of the Orleans Parish Communications District will maintain all Victim/Witness Assistance Unit information numbers available for the public and police officers on a 24-hour basis. The information shall include:
  - (a) A general overview of the Department's Victim/Witness Assistance Unit, and
  - (b) Referral information for any victim/witness in need of medical attention, counseling, or emergency financial assistance, including services available throughout the Metropolitan New Orleans area.

**EDUCATION AND TRAINING RESPONSIBILITIES**

45. The Commander of the Education and Training Division shall prepare a recruit and in-service training lesson plan for all members who routinely interact with victims/witnesses.
46. The Commander of the Education and Training Division shall prepare a recruit and in-service training lesson plan for all members who will encounter an immigrant victim.

**EMERGENCY NOTIFICATIONS**

47. In the case of victim or witness deaths, the Coroner's Office will notify the next of kin. In the case of injury, the treating medical facility will notify the next of kin. On occasion, an NOPD officer is assigned to notify the next of kin of a death or serious injury. The officer shall make the notification in a polite, courteous, and considerate manner. If possible, the police chaplain shall be called to assist.

**APPENDIX A**

Victims of the following crimes, along with the victims' family members, may be eligible for registration under La. R.S. 46:1842-1844 and ChC. Art. 811.1-811.3, respectively:

- First Degree Murder
- Second Degree Murder
- Manslaughter
- Solicitation for Murder
- Aggravated Battery
- Second Degree Battery
- Aggravated Assault
- Aggravated Rape
- Forcible Rape
- Simple Rape
- Sexual Battery
- Oral Sexual Battery
- Intentional Exposure to AIDS Virus
- Incest
- Crime Against Nature
- Felony Carnal Knowledge/Juvenile
- Indecent Behavior w/Juvenile
- Mingling Harmful Substances
- Aggravated Kidnapping
- Second Degree Kidnapping
- Simple Kidnapping
- Aggravated Burglary
- Aggravated Criminal Damage to Property
- Armed Robbery
- 1st Degree Robbery
- Simple Robbery
- Purse Snatching
- Crime Against Nature
- Stalking
- Vehicular Negligent Injury
- 1st Degree Vehicle Negligent Injury
- Any "offense against the person" committed against a family or household member as defined in La. R.S. 46:2132 (4) or dating partner as defined in La. R.S. 46:2151 (B).