

# NOPD CONSENT DECREE MONITOR NEW ORLEANS, LOUISIANA



January 15, 2019

202.747.1904 direct

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 Chapter 61.15.1 Vehicle Checkpoints. The OCDM has no objection to the policy as written.

We believe that Chapter 61.15.1 Vehicle Checkpoints, 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  
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# NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

## CHAPTER: 61.15.1

### TITLE: VEHICLE CHECKPOINTS

#### EFFECTIVE:

**REVISED: (Conversion Replaces P/PR503)**

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#### PURPOSE

The purpose of this Chapter is to set forth guidelines for conducting vehicle checkpoints by commissioned members of the New Orleans Police Department.

#### POLICY STATEMENT

1. It is the policy of the New Orleans Police Department to conduct roadway safety and sobriety checkpoints as needed to maintain traffic safety.
2. The purpose of a seat belt, motor vehicle inspection, or motor vehicle liability security checkpoint is to ensure that motorists are licensed and carefully operating their vehicles and that their vehicles are fit for safe operation.
3. The purpose of a sobriety checkpoint is to reduce the number of persons who drive while impaired or intoxicated.
4. A checkpoint may not be used for suspicion-less criminal investigations. However, this does not preclude the use of appropriately tailored checkpoints in response to exigent circumstances. In the event of a situation involving exigent circumstances (e.g., a missing child, identifying witnesses to a crime, or a search for a murder suspect) where a checkpoint may be determined by a supervisor to be necessary, the checkpoint procedures outlined below should be followed, if possible. However, each event must be evaluated based on the facts presented and appropriate action taken.
5. Roadside Safety Checkpoints and Sobriety Checkpoints shall be consistent with the principles of public safety, minimal intrusion and inconvenience to motorists, and protection of the rights of the individuals affected.
6. To ensure standardization, a clear and concise set of written guidelines has been developed governing the operation of checkpoints throughout the state (R.S. 32:295.4). NOPD shall implement this Chapter consistent with federal, state, and local requirements.

#### DEFINITIONS

**Roadside safety checkpoint**—A checkpoint, established by a law enforcement agency

primarily for the inspection of seat belt usage, motor vehicle inspections, and/or motor vehicle liability security in conformity with Louisiana RS 32:295.4. Roadside safety checkpoints are not synonymous with a sobriety checkpoint.

**Sobriety checkpoint**—A checkpoint, established by a law enforcement agency primarily for the detection of impaired drivers who may be in violation of Louisiana RS 14:98 – Operating a vehicle while intoxicated or the municipal equivalent (MCS Section 154-381 for 1<sup>st</sup> and 2<sup>nd</sup> offense DWI arrests).

### COMMON FACTORS FOR ALL VEHICLE CHECKPOINTS

7. Checkpoints may be established on any public highway as defined in LRS 32:1 et seq. and subject to the conditions of this Chapter. Locations for checkpoints will be selected which permit the safe flow of traffic through the checkpoint, and consideration should be given to:
  - (a) Posted speed limits, traffic volume and visibility.
  - (b) Ensure that sufficient adjoining space is available to relocate detained vehicles safely off the travel portion of the roadway.
  - (c) Consider other conditions such as weather, time of day, or distractions that may pose a hazard to officers and detained motorists.
8. Checkpoints shall be designed to ensure the safety of the motoring public as well as law enforcement officers involved.
9. Officers shall utilize all issued and/or available safety equipment when conducting a checkpoint. Departmentally approved reflective safety vests shall be worn at all times when conducting a checkpoint. Use of police emergency lights are authorized but must not be positioned or used in a manner to impede observation of officers, vehicles or persons on the scene. Officers should utilize checkpoint construction diagrams to assist with placement of safety devices.
10. All Department vehicles used to conduct vehicle checkpoints shall be equipped with operable, emergency lights and sirens. Marked patrol units should be positioned in such a way as to provide maximum visibility.
11. The Traffic Section Commander or assigned Traffic Section supervisor shall establish and provide the location, time, and duration for all checkpoints in written form. The location shall be selected by Traffic Section supervisory or other administrative personnel rather than the field officers or supervisors of the District in which the checkpoint takes place, using objective criteria based on relevant data. Relevant data may include:
  - (a) Unusual incidence of alcohol/drug related crashes;
  - (b) Alcohol/drug impaired driving violations;
  - (c) Unusual number of nighttime single vehicle crashes; or
  - (d) Any other documented alcohol/drug related vehicular incidents.
12. The location to be used shall fulfill certain minimum requirements:
  - (a) A secondary screening is free from business and residential driveways, alleys and intersecting streets or highways.
  - (b) Well-drained, all-weather roadways and parking areas.
  - (c) Reduced opportunity for avoiding or escaping the checkpoint site.
13. The site should have maximum visibility from every direction and sufficient illumination. If permanent lighting is unavailable, ensure that lighting is provided with the use of portable lighting or the use of spotlights or vehicle headlights.

14. NOPD shall provide advance warning to the approaching motorists with signs, flares, and other indications to warn motorists of an impending stop and to provide indication of its official nature as a police checkpoint. The initial sign advising motorists of the establishment of a checkpoint shall be placed at least 500 feet prior to the beginning of the checkpoint.
15. The Traffic Supervisor and all other personnel and equipment shall be in the proper place and operational before the first subject vehicle is stopped.
16. Motorists who wish to avoid the checkpoint by turning before entering the checkpoint area may do so, though if an officer observes a traffic violation or has probable cause to take other action, the officer may stop the motorist.
17. Checkpoints should be highly publicized by the NOPD Public Information Office. The specific location and duration of the checkpoint shall be given at the discretion of the Traffic Section Commander.
18. Traffic Supervisors shall ensure that a sufficient number of officers are scheduled to safely perform a checkpoint. A Traffic supervisor shall be present on the scene at all times to guide operations. Should it be necessary for the Traffic Supervisor to leave the scene, an acting supervisor shall be appointed.
19. Commissioned officers from other Districts and Bureaus may participate in checkpoints established by the Traffic Section. If the officer is to interact directly with the driver of the vehicle, he/she must be SFST (Standardized Field Sobriety Test) trained and certified.
20. The Traffic Section supervisor in charge of the checkpoint shall ensure that NOPD personnel and all assisting officers conduct themselves in a professional manner and conform to the NOPD checkpoint procedures established by law and this Chapter.
21. Prior to conducting a checkpoint, the Traffic Section checkpoint supervisor shall discuss and thoroughly explain to all officers participating in the checkpoint operation the following items:
  - (a) The goals of the checkpoint.
  - (b) The checkpoint location and the statistical data supporting the chosen checkpoint site.
  - (c) The need for safety for both the officers and motorists.
  - (d) The placement of personnel and traffic control devices which shall be in conformance with checkpoint guidelines.
  - (e) A systematic approach to stopping the vehicles as they enter the checkpoint location.
  - (f) The supervisor should ensure that the sequence of vehicles being stopped is explained to and understood by all participating officers.
22. While conducting a checkpoint, NOPD will use systematic, nonrandom criteria for stopping motorists. The selection sequence of the vehicles to be stopped shall be prescribed and uniformly applied. No random stopping of vehicles will be allowed or tolerated. The Traffic Section commander or the Traffic Section supervisor in command of the checkpoint shall determine the systematic selection process.
23. Officers shall explain the purpose of the checkpoint to the motorist upon his/her initial approach to the vehicle.
24. Motorists shall not be detained except as provided herein unless there is articulable

probable cause or reasonable suspicion sufficient to justify a belief in the existence of another offense and shall be detained only as long as reasonably necessary. Vehicles and persons detained for suspected violations of DWI laws shall be processed in accordance with **Chapter 61.1.11 – D.W.I. Procedures.**

25. All drivers stopped at a checkpoint shall have their operator's license, vehicle registration papers and proof of insurance requested and checked for validity.
26. NOPD shall insure the detention of motorists at a checkpoint is for a minimal length of time.
27. The Traffic Section supervisor shall gauge whether anxiety of motorists, average length of detention, or safety considerations necessitate the cancellation or modification of the checkpoint order. The Traffic supervisor must provide full documentation of any deviation from the predetermined plan in the respective Checkpoint Report.
28. NOPD shall use a systematic procedure for data collection to monitor and ensure the standardization and consistency of the checkpoint program.
29. The supervisor authorizing the checkpoint shall designate one of the Traffic Section supervisors present during the checkpoint event to complete an incident report on the matter utilizing signal 21. The report should include, at least, the following information:
  - (a) The purpose, location, time, and actual duration of the checkpoint;
  - (b) How specific instructions regarding the operation of the checkpoint were executed;
  - (c) The methodology used to stop vehicles in a systematic, non-random manner;
  - (d) The number of vehicles checked and the officer doing the counting;
  - (e) The number of citations issued;
  - (f) The number of arrests, if any, the associated item number(s), if any, and respective signals resulting from the operation of the checkpoint; and
  - (g) Objectively outline criteria utilized in the site selection process for all checkpoints.
30. NOPD shall periodically assess the data collected during checkpoints to ensure that checkpoints are not being deployed in a manner that discriminates on the basis of protected categories, such as race (see **Chapter 41.13 – Bias Free Policing**), and that chosen locations are supported by objective data. If NOPD discovers that checkpoints are having a disparate impact, NOPD shall assess whether alternative strategies resulting in less disparate impact could achieve the same aims.
31. Checkpoint supervisors shall have participating officers explain the purpose of the checkpoint to the motorists as they approach the vehicle.
32. For a checkpoint other than a sobriety checkpoint, officers should use a uniform statement/question to the driver. For example, the officer could state, "**Good evening. You have been stopped at an NOPD Safety checkpoint. We are utilizing checkpoints in an effort to ensure that motorists are licensed and carefully operating their vehicles and that their vehicles are fit for safe operation.**"
33. For a sobriety checkpoint, officers should follow these guidelines:
  - (a) Use a uniform statement/question to the driver. For example, officers could state, "Good evening. You have been stopped at an NOPD sobriety checkpoint. We are utilizing checkpoints in an effort to detect and deter the impaired driver. Have you consumed any alcohol or controlled dangerous substances today?"
  - (b) Officers should observe the driver for the smell of alcoholic beverages or other drugs, bloodshot eyes, fumbling fingers, slurred speech, admission of drinking or

drug use, abusive language, inconsistent responses, etc. Be observant of the interior of the vehicle for alcoholic beverage containers, drug paraphernalia or other contraband that are in plain view.

- (c) If the driver's response is "**no**" and there is no other legal basis to support continued detention of the vehicle, the officer should permit the motorist to proceed.
  - (d) If the driver's response is "**yes**", ask "**how much and when.**" Depending on the answers and other observable evidence or officer observations as described herein, the officer should determine if further investigation is warranted. If so, direct the driver to safely exit the vehicle and escort him/her to the designated area for further investigation. If not, permit the driver to proceed. At no time should a suspected impaired driver be allowed to operate his vehicle or remove it from the inspection location.
34. Those persons stopped at a checkpoint who are suspected of impairment should be subjected to the battery of Standardized Field Sobriety Tests (SFST) and processed according to **Chapter 61.1.11 – D.W.I. Procedures.**

### **TRAINING**

35. The Traffic Section commander shall ensure that appropriate training is provided for officers participating in traffic checkpoints.
36. The Traffic Section commander should relate any training issues as they become apparent that are relevant to improving the department's operations to the Education & Training Division.