

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 61.3 Traffic Citations. The OCDM has no objection to the policy as written.

We believe that Chapter 61.3 Traffic Citations, 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)
JUDE VOLEK, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)
SUNNI LEBEOUF, CITY ATTORNEY (VIA ELECTRONIC MAIL)
SMRH:225829293.7



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 61.3

TITLE: TRAFFIC CITATIONS

EFFECTIVE:

REVISED: (Conversion Replaces P/PR516)

PURPOSE

This Chapter outlines the responsibility for traffic citations, the collection of data, and the procedure for dismissal, correction and voiding of traffic citations

POLICY STATEMENT

1. NOPD officers shall be fair, impartial, and courteous during traffic violation stops and take the necessary action, including de-escalation, in a professional and positive manner.
2. Officers citing a person for a traffic violation **shall check** the violator through all available databases for warrants or bulletins and take appropriate action if an arrest warrant was issued and found to be current and verified through the NOPD N.C.I.C. Unit.
3. As important as the enforcement of traffic regulations is to the safety of individual drivers and the community, officers shall exercise good judgement and sound discretion when evaluating all circumstances involved in determining the best action to take that does not unnecessarily embarrass, demean, cause collateral harm to all parties involved, or present a public safety risk.
4. In the enforcement of traffic regulations, an arrest is not required for traffic violations if the person or operator lawfully possesses a valid driver's license. (See also: La. R.S. 32-411 and Sec. 154-136).

CITATION BOOKS AND CITATION COPIES - RESPONSIBILITIES

5. The SOD—Traffic Section commander shall be responsible for collecting all department traffic citations, including electronic tickets, in accordance with state law (R.S. 32:398.1).
6. The MSB—Facilities Support – Supply Unit shall be responsible for the supply and accounting of all traffic citations books issued to units of this department. Citations will be kept in a secure location. Unit representatives shall sign for the citation books when issued (R.S. 32:398.1(B)).
7. Members shall return to his/her Unit supervisor a copy of all citations that have been (R.S. 32:398.2(D)):

- (a) Issued to an alleged violator of a traffic law or ordinance.
 - (b) Spoiled or on which any entry has been made but not issued to an alleged violator.
8. Upon separation from service with this department, all members who were issued traffic citation books shall return any unused citations to his/her Unit supervisor (R.S. 32:398.2(C)).
9. The Unit supervisor shall return the unused or used traffic citation books turned in to him/her by members to the MSB – Facilities Support – Supply Unit and obtain receipt for them.

VOIDING TRAFFIC CITATIONS

10. Employees of this department do not have the authority to cancel or dismiss a citation once it has been issued (R.S. 32:398.3(A)). Only the court or prosecuting attorney has the authority to dismiss a citation that has been issued (R.S. 32:398.2(F)).
11. Voiding an incomplete traffic citation may occur when a traffic citation has:
- (a) Not been completed; or
 - (b) Where it is completed but not issued.
12. Any request from the issuing employee to void/alter/accept with error or duplicate an issued citation requires completion and submission of a **Form 40 - Request to Void Parking / Moving Citation**.
13. All copies of the voided citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the SOD - Traffic Section (R.S. 32:398.2(D)).
14. Employees shall only dispose of or destroy a traffic citation, or copies thereof, or of the record of the issuance of the citation, in a manner specified in this Chapter and consistent with state law (R.S. 32:398.2(C)).
15. All recipients of traffic citations whose request for voiding has been denied shall be referred to the appropriate court for adjudication of the citation.

CORRECTION OF TRAFFIC CITATIONS

16. When a traffic citation is issued and in need of correction, the employee issuing the citation shall submit the citation and a Form 40 requesting a specific correction to his/her immediate supervisor. The citation and Form 40 shall then be forwarded to the Traffic Court.
17. Three alternatives are possible on the Form 40:
- (a) **Voiding Citations**—Citations can be voided for serious errors. Examples are the violator signed the citation in the wrong location, an incorrect ordinance number was written, or the location of the violation is incorrect.
 - (b) **Reissuing Citations**—A citation shall be reissued if the issuing officer misplaces the citation.
 - (c) **Citations Processed As Is**—Citations shall be processed "as is" for minor errors on the citation. Examples would be transposed numbers in the arrest credit or officer's unit number.

DISPOSITION OF TRAFFIC CITATIONS

18. The court and file copies of all traffic citations issued by members of this department shall be:
- (a) Forwarded to the employee's immediate supervisor for review; and
 - (b) After review, then to the Traffic Section, which will deposit the citation with the court having jurisdiction over the alleged offense or with the appropriate traffic violations bureau.

GENERAL

19. Traffic citations issued by members of this department are processed by traffic court as follows:
- (a) The violator pleads not guilty and receives a court date.
 - (b) The violator opts to either:
 - i. Report to the Violations Bureau;
 - ii. Mail a payment; or
 - iii. Go on the CNO Website and pays a fine.
 - (c) The violator is ordered to appear in court with a stepped up trial date.
 - (d) The violator is physically arrested for the offense and the affidavit is processed by the Sherriff at the booking facility.
20. A member of the Department may, when appropriate or directed by a supervisor, use his/her discretion and issue a verbal warning to a driver observed violating a traffic law provided:
- (a) The violation is not serious in nature;
 - (b) The violation is not part of a crash investigation;
 - (c) The driver and vehicle do not pose an immediate danger to the public; and
 - (d) The officer believes a warning sufficient to correct the observed violation.
21. The traffic citation form has three copies.
- (a) The original is white.
 - (b) The second copy is a blue non-perforated copy and remains in the ticket book as the officer's copy.
 - (c) The third copy is a hard white copy, given to the violator.
22. An officer can write remarks about the traffic stop on the back of the white copy, below the judge's signature line.
23. The issuing officer can write up to four observed violations on one traffic affidavit. Each violation listed counts as a citation issued.

TRAFFIC LAWS

24. Laws governing drivers and equipment on public roads are generally contained in the Municipal Code and Louisiana Revised Statutes (Chapter 32). Some state criminal statutes also apply to motor vehicle incidents whether they occur on water, public roads or on private property. Examples include:
- (a) R.S. 14:32.1 - Vehicular Homicide;
 - (b) R.S. 14:39.1 - Vehicular Negligent Injuring;
 - (c) R.S. 14:98 (et seq) - Operating a Vehicle While Intoxicated;
 - (d) R.S. 14:99 - Reckless Operation of a Vehicle; and
 - (e) R.S. 14:100 - Hit-and-Run Driving.
25. Operators charged with the below violations (State or Municipal equivalent) shall be

arrested and processed in accordance with La. R.S. 32:57 (Penalties, Alternatives to Citation) and La. R.S. 32:411 (Deposit of License in Lieu of Security Upon Arrest):

- (a) All Title 14 traffic-related offenses; i.e., R.S. 14:98 (DWI), R.S. 14:99 (Reckless Operation), R.S. 14:100 (Hit and Run Driving); or
 - (b) Driving with a suspended, revoked, or canceled operator's license.
26. Agreements with Traffic Court, the City Attorney's Office and the Office of the Orleans Parish District Attorney have defined when certain violations must be charged under Revised Statute Title 32 rather than Municipal charges. Appendix A – Enumerated State Traffic Charges lists the correct charge that officers shall use for the enumerated offenses.

TRAFFIC ARREST CASES

27. Officers shall print "ARRESTED" in the area of the affidavit form (printed or electronic) for the court appearance date/time if the suspect was arrested and booked. No date or time shall be set.

TRAFFIC CITATION (SUMMONS) CASES

28. Citation (summons and release) cases shall be set **ten (10) days** from the date of issuance, excluding Saturdays, Sundays, and holidays. Officers shall refer to the "**Traffic and Municipal Court Schedule**" for the current year in the Resource folder of NOPD.org for all court holidays. If the calculated date is on a date the court is "closed," it shall be set for the next available court date.
29. Officers shall calculate the appearance date and write or type "**REPORT ON OR BEFORE MM/DD/YYYY.**"

CONFISCATION AND NON-CONFISCATION OF DRIVER'S LICENSE

30. An officer confiscating a violator's driver's license in lieu of posting a bond shall sign the citation in the appropriate blank and give the cited individual a temporary operator's license. A violator's license will be confiscated when he/she is cited for:
- (a) Driving while intoxicated (See **Chapter 61.5 - DWI Procedure**); or
 - (b) Failing to maintain compulsory security insurance. (See **Chapter 61.20 – Compulsory Motor Vehicle Liability Security**).
31. For all other violations, the operator can sign the citation as a guarantee he/she will appear in court in lieu of physical arrest. The operator maintains possession of his/her license. An officer shall not issue a temporary operator's license if the violator is accused of not having a valid operator's license, or operating a motor vehicle with a suspended or revoked license.
32. When issuing a citation for violations which do not result in the confiscation of the violator's license, the officer shall amend the traffic citation as follows:
- (a) The words "TEMPORARY OPERATOR'S LICENSE" shall be lined through;
 - (b) The words "VOLUNTARILY SURRENDERED MY DRIVERS LICENSE" shall be lined through and replaced with the words "SIGNED THIS CITATION"; and
 - (c) A violator refusing to sign the citation shall be arrested.

PHYSICAL DRIVER'S LICENSE / DIGITIZED DRIVER'S LICENSE

33. An operator must have his/her physical driver's license or a digitized driver's license in his/her immediate possession at all times while operating a motor vehicle and shall

display it upon demand of any police officer. (See La. R.S. 32-411).

34. The only official Louisiana Digital Driver's License is available through the "LA Wallet Application." An image of a driver's license not through this application does not meet the requirements of the law.
35. Officers shall avoid taking physical possession of the mobile device displaying the digital driver's license for verification purposes. The display of a digital driver's license shall not serve as consent or authorization to view or access any other data or application on the mobile device.

JUVENILE VIOLATORS

36. Juvenile violators will be notified of the date and time of their court appearance by a representative of Juvenile Court. The block "**to be notified**" shall be checked off on the citation. This procedure will also apply if there is a physical arrest. (See also: **Chapter 44.2 – Juveniles**).

COMPACT AND NON-COMPACT STATES

37. Drivers from Compact and Non-Compact States are issued citations in the same manner as Louisiana drivers as outlined in this Chapter.

IMMUNITY

38. Members of the Louisiana State Legislature and the Louisiana delegation to the United States Congress are immune from prosecution/arrest for traffic offenses while en route to or from legislative or congressional activities.
39. Certain foreign nationals are normally immune from criminal prosecution provided proper identification credentials issued by the State Department are presented to the investigating officer. See **Chapter 1.12 – Diplomatic Agents and Consul Officers**.

MILITARY PERSONNEL

40. Active duty U.S. military personnel are not required to have a current operator's license if he/she can present a current, valid military identification card. Officers shall process active duty members of the military in accordance with this Chapter.

OFFICER'S RESPONSIBILITIES

41. Officers shall make every effort, utilizing available police databases, to confirm the violator's operator's license is valid, and not revoked, suspended, or canceled.
42. Individuals operating a motor vehicle with an **expired operator's license** shall be issued a citation(s) with a trial date set for 10 (ten) calendar days. (See Sec. 154-304 – Unlawful Use of License).
43. If the **license is not in his/her possession**, the officer shall issue a citation to the violator for violation of RS 32:411 (F), No License in Immediate Possession.
44. If the violator was **not issued a valid operator's license**, the officer shall:
 - (a) Cite the violator and
 - (b) Issue a citation with an appearance date set **ten (10) days** from the date of issuance, excluding Saturdays, Sundays, and holidays. (Officers shall refer to the

“Traffic and Municipal Court Schedule “for the current year in the Resource folder of NOPD.org for all court holidays. If the calculated date is on a date the court is “closed”, it shall be set for the next available court date.

45. When issuing a traffic citation, officers shall advise a traffic violator of the following:
- (a) The court arraignment date located at the bottom of the citation.
 - (b) That he/she must appear at the Traffic Court Violations Bureau to:
 - Pay the fine, or
 - Enter a plea of not guilty and receive a trial date on or before the arraignment date set by the issuing officer.
 - If the offense requires a mandatory arraignment or
 - If the citation can be paid by mail or online (i.e., 154:383 Careless Operation; 154:534 in excess of 20 mph in a school zone).
 - (c) The Traffic Court Violations Bureau telephone number located on the back of the violators copy.
 - (d) That questions on court procedures can be answered by a court representative or going to the website printed on the rear of the citation.
46. In instances where a mandatory court appearance must be made by the violator, the officer will take the operator's license and issue a temporary license at the bottom of the citation. The operator's license of the violator will be attached to the citation prior to submission to a supervisor. (See Municipal Ordinance Sec. 154-136).

COMPLETING THE CITATION

47. The citation shall be completed using black or blue ink with a ball point pen.
48. Sufficient pressure should be applied to print on all carbon copies.
49. All entries must be legible.
50. Citations containing errors, omissions, or write-overs shall be returned by the Ticket Processing Unit to the issuing unit for correction and/or voiding.
51. The issuing officer shall complete all citations if more than one citation is used. The issuing officer shall enter his/her first and last name. Officers who are witnesses shall be listed on the rear of the court copy.
52. All blanks on a traffic citation shall be filled in.
53. The below standard abbreviations for race shall be used on all traffic citations:
- (a) W - White
 - (b) B - Black
 - (c) H - Hispanic
 - (d) A - Asian/Pacific Islander
 - (e) I - American Indian/Alaskan Native
 - (f) U - Unknown
54. Officers shall print the words "**none required**" in the "Operator's License Number" section of the form if the violator is a passenger or if the observed violation does not require the violator to have an operator's license.
55. Officers shall enter item numbers in the appropriate location on the citation, if one was assigned.
56. Officers shall ask the violator if he/she is in possession of a citation previously issued to

- him/her and if an appearance date was issued in Orleans Parish. If so, the officer shall:
- (a) Record the previous ticket number in the appropriate location on the new citation; and
 - (b) Use the same court appearance date for the new citation.

CITATION PROCESSING PROCEDURE

57. Officers shall present traffic citations for processing at the end of their tour of duty.
58. The issuing officer's supervisor shall:
 - (a) Check the citation for correctness;
 - (b) Administer an oath; and
 - (c) Instruct the issuing officer to sign and date the citation above the printed entry "**Signature of Officer Administering Oath.**"
59. Bureaus/Divisions/Sections/Units serviced by the ticket processor shall have the citations and receipts (**Form 130**) completed in accordance with a schedule established by the ticket processor.
60. Bureaus/Divisions/Sections/Units not serviced by the ticket processor shall forward the citations and receipts to the Commander of the SOD – Traffic Section – Ticket Processing Unit on a daily basis.
61. Form 130 shall be completed as follows:
 - (a) Each classification of offense shall have a separate receipt;
 - (b) Adult moving citation receipts shall be listed on a receipt separate from juvenile moving citation receipts, etc.;
 - (c) Only one category of the four separate classifications for traffic violations will be checked off per page; and
 - (d) All entries on the top of the form shall be printed, with the completing officer supplying his/her badge number.
62. Officers shall issue a new citation to replace a citation that is returned because of an omission, legibility, or other correction.
63. A citation shall not be edited once the violator received the summons portion of the affidavit.

IMPAIRED AND INCOMPENTENT DRIVERS

64. Officers who suspect the condition of an operator of a motor vehicle might prevent him/her from exercising reasonable and ordinary care while operating a motor vehicle shall complete **DPSMV 3005 (R 8/95) "Report of Driver Condition or Behavior"** and transport the driver to a safe location.
65. The officer can also contact a concerned party to provide transportation and make arrangements to pick up the vehicle.
66. The vehicle shall be impounded if there are no other reasonable alternatives.

NOTE: THIS SECTION DOES NOT APPLY TO DRIVERS SUSPECTED OF DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. (See: Chapter 61.5 – DWI).

67. The issuing officer's Commander or his/her designee shall forward the completed DPSMV 3005 report to the MSB - Records Section.

68. The MSB - Records Section is responsible for forwarding the forms to the Louisiana Department of Public Safety and Corrections - Office of Motor Vehicles.

CONSULTING WITH THE CITY ATTORNEY

69. If an officer consults with the City Attorney, the officer shall:
- (a) Obtain permission from his/her supervisor after a review of the reason for the consult request.
 - (b) See the clerk in one of the sections of Traffic Court.
 - (c) Complete the affidavit in the presence of the City Attorney if advised by the City Attorney to do so.
 - (d) Present the citation to the City Attorney for signature.
 - (e) Present the completed and signed affidavit to the section clerk of traffic court for processing.

Note: Officers shall not use this procedure in lieu of reissuing citations because they have to be returned for errors and/or corrections.

CITATIONS ISSUED FOR INSURANCE VIOLATIONS OR NO LICENSE PLATE

70. Officers shall include the entire VIN number in the space provided so the Judge/Court can confirm the vehicle is properly insured.
71. The violation for no proof of insurance shall be written in the violation section. Example: R.S. 32:863.1 - No Proof of Insurance, VIN #654321 (indicating last six numbers of the vehicle being operated without insurance).
72. The citing officer will enter the entire Vehicle Identification Number on the citation, after the vehicle has been checked for warrants/stolen and the driver cannot provide a license plate for the vehicle. Example: 154-307 No license place, VIN #123BN567BA123456.
73. An officer who verifies through NOPD N.C.I.C. Unit a person is wanted by Orleans Parish Municipal or Traffic Court shall follow the policy guidelines contained in **Chapter 41.9 - Failure to Appear**.

E-CITATION PROCESS

74. Officers who have access to the digiTICKET or eCitation application found on the NOPD Web Applications page and have been trained in the use of the application, may utilize this process for the issuance of traffic citations.
75. Officers who have conducted a criminal history / warrant check on the driver being cited and who have found warrants for failure to appear in Traffic or Municipal Court shall include those charges (FTA) on the eCitation. Up to six charges, including failure to appear warrants, may be documented on one eCitation form. (See: **Chapter 74.3.1 – Failure to Appear**).
76. Officers completing eCitations shall contact his/her supervisor upon completion on the primary radio talk group for the District or unit and advise the supervisor of the issuance.
77. Once notified by an officer that an eCitation has been issued by a subordinate officer, the supervisor shall access the program through the NOPD Web Application to review and approve the citation.

78. Once approved by a supervisor, the eCitation is automatically forwarded to the Court for processing.

APPENDIX A – Enumerated State Traffic Charges

Operators found in violation of the following offenses shall be cited using Title 32 - Motor Vehicles and Traffic Regulation of the Louisiana Highway Regulatory Act.

Violation	State Reference
Unlawful use of a Driver's License	R.S. 32:414.1
License Plates Displayed	R.S. 32:53(A)
Brake Tag	R.S. 32:53(D)
Careless Operation, Reasonable Vigilance	R.S. 32:58
Driver' License Not on Person	R.S. 411.1
Disregard Red Light	R.S. 32:232
General Speeding	R.S. 32:63
Following Too Close	R.S. 32:81
Improper Turns	R.S. 32:101
Improper Lane Use	R.S. 32:79
Yield Right of Way	R.S. 32:121
Lamps & Other Lighting Equipment	Varies [R.S. 32:301A et seq]