

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



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June 7, 2018

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 74.3.2 - Protective Orders. The OCDM has no objection to the policy as amended.

We believe that the amended Chapter 74.3.2 - Protective Orders, 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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WASHINGTON, DC 20006

CC: HONORABLE SUSIE MORGAN (VIA ELECTRONIC MAIL)
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 74.3.2

TITLE: PROTECTIVE ORDERS

EFFECTIVE:

REVISED:

PURPOSE

This Chapter provides guidance on the enforcement of protective orders in accordance with law.

DEFINITIONS

Full Faith and Credit—The requirement by the U.S. Code title 18 section 2265 that jurisdictions honor the terms and conditions of a protective order issued by another jurisdiction.

Protective Order—Any civil or criminal restraining order, injunction, bail or release order, probation condition and all other orders for protection issued to protect victims of domestic violence, sexual assault, dating violence or stalking or to deter offenders from further violence or abuse [. . .including] protections contained in support, child custody, and visitation orders and protective directives in other court orders. 18 U.S.C. § 2266(5). Emergency, ex parte, temporary, and final orders are subject to full faith and credit under VAWA.

Respondent—The person alleged in a petition for a protective order to have abused another.

Violation of Protection Order—Violation of a protective order is the willful disobedience of a preliminary or permanent injunction issued after a contradictory court hearing, or any ex parte protective order if the defendant has been given notice of the order through a contradictory hearing or service of process (La. R.S. 14:79).

Willful—An act or failure to act that is done intentionally, knowingly and purposefully, without justifiable excuse. The person(s) to whom the order is directed must be aware of the duty to obey the order and manifest an intent to disregard that duty or defy the authority of the court.

ENFORCING PROTECTIVE ORDERS

1. In enforcing protective orders, officers' primary responsibility is to ensure the safety of the petitioner. An officer **SHALL ARREST** a suspect when there is probable cause to believe that the offender has willfully violated a protective order or the violation of the protective order constitutes a crime under La. R.S. 14:79.
2. Officers shall use every reasonable means to enforce a protective order, including, but not limited to, the immediate arrest of the violator.

3. Officers must verify a protective order is in place. If officers are able to verify the order is in place, they must then enforce the order.
4. If the order cannot be enforced because it has not been served, officers who have been called to the scene where the respondent (defendant) named in the protective order is present, shall attempt to serve the order pursuant to RS 14:79 (A) (1) (b). Service of a previously issued temporary restraining order or ex parte protective order, if noted in the police report shall be deemed sufficient evidence of service of process and admissible in any civil or criminal proceeding.

VERIFYING PROTECTIVE ORDERS

5. If there is a paper copy of the order available, an officer shall enforce the order if it is authentic on its face. No other verification is required. A protective order does not need to be registered in order to be enforced.
6. Officers shall presume an order is authentic on its face and legible if:
 - (a) The order gives the names of the parties;
 - (b) The order contains the dates it was issued;
 - (c) It has not expired (orders do not need an expiration date to be valid);
 - (d) It contains the name of the issuing court;
 - (e) There is an indication the order was issued by a judicial officer or other appropriate authority, which could be indicated by various methods, including a stamp, signature or seal; and
 - (f) The order specifies the terms and conditions against the offender.
7. If the victim does not have a copy of the order or if the officer cannot determine whether the order is authentic on its face and legible, the officer shall:
 - (a) Check the name of the individual against who is the subject of the protective order. If the individual has a Protective Order on file, it is presumptively valid on its face in the system and does not need verification. The Protective Order may have dates when it is in effect, but if it does not, the Protective Order is considered permanent. Protective Orders in the Registry are self-extracting from the Registry when they expire.
 - (b) Contact NOPD - NCIC if the officer needs a copy of the Protective Order for his/her incident report. NOPD-NCIC will contact the Louisiana Supreme Court Registry and obtain a fax copy for the requesting officer.
 - (c) Draw upon personal knowledge of the officer or information obtained through an interview.
8. An officer shall enforce a protective order according to this chapter, whether or not the victim has a copy of the protective order, if the officer is able to verify the existence of the order.

SERVING PROTECTIVE ORDERS

9. Officers cannot serve all legal process but can serve valid protective orders under the authority of RS 14:79. Officers shall enforce legal protective orders.
10. Officers shall inform victims that a copy of their police report can serve as proof that the defendant was served and that the order can now be enforced for any future violations.

ENFORCEMENT OF FOREIGN ORDERS

11. Officers shall enforce protective orders that are authentic on its face and legible from an

issuing foreign jurisdiction as if they were orders of Louisiana, whether or not the order has been registered (18 U.S.C. § 2265).

12. Officers shall enforce foreign orders as written, even if the order offers protection not offered in Louisiana.
13. Violating an order from another state is a crime under La. R.S. 14:79.
14. Orders from another state are entitled to full faith and credit if:
 - (a) The court that issued the order had personal jurisdiction over the parties and subject matter jurisdiction over the case; and
 - (b) The person against whom the order was issued must have had notice and an opportunity to be heard related to the allegations of abuse and the relief sought, or opportunity to be heard will be granted within a reasonable amount of time.

(See “Enforcing Foreign Protective Orders” in the Resource Folder on nopd.org)