



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 22.12

TITLE: SUPERVISORY REFERRALS FOR MANDATORY PSYCHOLOGICAL EVALUATIONS

EFFECTIVE: 04/28/2019

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PURPOSE

The purpose of this policy is to set guidelines for supervisory referrals and psychological evaluations.

DEFINITIONS

Fit for duty – An evaluation by a licensed psychologist outside of NOPD that determines an employee is able and willing to perform their assigned duties in a safe, effective, and reliable manner.

Unfit for duty— An evaluation performed by a licensed psychologist outside of NOPD which determined an employee is unable to perform their duties, the employee is unfit for duty.

Police Psychologist—A licensed mental health professional who is retained and paid by NOPD, but is not an employee of NOPD and is outside of the NOPD chain of command, and to whom NOPD shall refer officers for fitness-for-duty evaluations.

POLICY STATEMENT

1. Supervisory referrals and psychological evaluations will utilize the assistance of the Officer Assistance Program (OAP) when recommending psychological evaluations. However, nothing in this chapter shall prevent a supervisor from taking immediate steps to intervene during a situation a supervisor reasonably believes immediate action is required to address or prevent harm or potential criminal and/or administrative violations.
2. The Officer Assistance Program is not a substitute for close and effective supervision, but may provide an avenue for assistance and intervention, voluntarily, prior to supervisory action becoming a necessity (See also: **Chapter 22.2.7 – Officer Assistance Program Traumatic Incident Stress**, **Chapter 22.2.6 – Officer Assistance Program Member Mental Health Service** and **Chapter 22.2.8 – New Orleans Police Peer Assistance**).

3. Employees who seek or obtain assistance through the Officer Assistance Program or through any other licensed mental health professional, shall be afforded the privileges and confidentiality provided by law, including any and all information, reports, records, or communications, whether oral, written, or electronic, that are made, generated, received, or maintained by or in connection with a peer support program or session, are considered privileged and confidential and shall not be considered public records for the purposes of the Public Records Law, R.S. 44:1 et seq. The rules of privilege and confidentiality are extended to communications with all trained peer support employees in accordance with LA R.S. 40:2411.
4. The exceptions to confidentiality for the Officer Assistance Program imposed by law or by professional regulation on all psychologists, psychiatrists, family therapists, and psychotherapists include:
 - (a) **Threats of physical harm**—If any individual in counseling threatens to harm another person, the mental health professional is required by law and professional regulation to notify the threatened person and the Police Department.
 - (b) **Suicide**—Any mental health professional who reasonably believes that a client is at serious risk of suicide is required to do everything possible to prevent such an attempt, including making whatever notifications are necessary to stop the attempted suicide.
 - (c) **Child, domestic, individual with disability, and elder abuse**—If a client discloses participation in abuse of a child, domestic partner, a person with a disability, or an elderly person, the therapist must notify the appropriate agency of such abuse.
 - (d) **Malpractice**—A therapist may use counseling material in defense of malpractice allegations.
5. Nothing in this Chapter shall be construed as relieving supervisors from taking disciplinary action when necessary. The Officer Assistance Program and the supervisory referral process are not a substitute for any disciplinary action necessitated by an employee's behavior.

SUPERVISORY REFERRAL FOR MANDATORY PSYCHOLOGICAL EVALUATION

6. The dual purpose of the psychological evaluation is to assist the employee and to provide a safeguard for the Department and the public.
7. A supervisor shall refer a subordinate employee for a psychological evaluation when there is reason to believe:
 - (a) The employee exhibits violent behavior, including, but not limited to, spousal or child abuse, or repeated use of excessive force;
 - (b) The employee is abusing alcohol, prescription or non-prescription drugs, or intoxicating substances; or
 - (c) The employee's performance or behavior raises serious questions concerning the employee's emotional stability or ability to perform police work.
8. Any commissioned or non-commissioned employee who observes another employee display one of the behaviors listed above shall report the behavior directly to the observed employee's immediate supervisor. The supervisor shall contact OAP and arrange for OAP to meet with the employee.
9. The identity of the individual who is the source of the information shall be provided to OAP and kept in the OAP file in the event such information is needed at a later date for disciplinary and/or criminal investigations.

10. OAP will meet with and evaluate whether or not the employee needs a mandatory psychological evaluation or another approach, and whether the situation merits reassignment. OAP personnel shall determine if the employee should be required to relinquish their firearm based on the situation, taking into account facts such as the presence of a threat of harm to the employee or others.
 11. OAP may consult with any additional resources when making a determination.
 12. Commissioned OAP personnel will be authorized to take control of the employee's firearm for safe keeping until a determination has been made regarding the treatment of the employee. OAP shall ensure the firearm is securely stored, unloaded, and will maintain a record of all firearms received and stored by OAP until a determination has been made.
 13. If OAP determines the employee does not need a mandatory psychological evaluation, but may need temporary reassignment to ensure their needs are met, the Captain of the division shall defer to OAP's recommendations.
 14. If, during the meeting, OAP personnel determine the employee should undergo a mandatory psychological evaluation, OAP personnel will notify the Captain of the Division/District explaining their reasoning for the required evaluation.
 15. The District/Division Captain shall immediately place the employee on administrative duty in their place of assignment. Within 24 hours of notification from OAP, the Captain of the employee's District/Division shall prepare a confidential interoffice correspondence to the Deputy Chief of the employee's Bureau.
 16. The confidential interoffice correspondence shall contain the following information:
 - (a) The rationale provided by OAP for recommending the employee for a psychological evaluation.
 - (b) Recommend an appropriate disciplinary process or reassignment, if applicable.
- Upon receipt of the confidential interoffice correspondence, the Bureau Deputy Chief shall approve or disapprove the recommendation for a psychological evaluation. The Bureau Deputy Chief shall then forward the correspondence to the Superintendent of Police with his/her recommendation noted.
17. The Bureau Deputy Chief shall also forward a copy of the report to the Deputy Chief of the Professional Standards and Accountability Bureau and consult the Deputy Chief of the Public Integrity Bureau to ensure there are no ongoing investigations related to the employee. This consult must remain strictly confidential at all times and ensure fairness and impartiality in the treatment of all employees who may need assistance.
 18. Recommendations for reassignment will not include review by PIB unless there is an allegation of misconduct involved in the reason for reassignment. If an allegation of misconduct is present, the confidential interoffice correspondence from the District/Division Captain shall be sent to the Deputy Chief of the Bureau and the Deputy Chief of PIB. If needed, the immediate supervisor will initiate the appropriate corrective action upon initial notification of the incident or issue, in addition to notifying OAP.
 19. Upon approval of the recommendation(s), the Superintendent, or his/her designee, shall immediately notify the employee and OAP, in person and in writing that they are being ordered to schedule a psychological evaluation within 72 hours.

20. Immediately after official notification or order to the employee, OAP personnel shall notify the Police Psychologist, or a designated licensed mental health provider external to NOPD, that the employee has been ordered to report for evaluation. A copy of the confidential interoffice correspondence documenting the reasons for the referral shall be given to the provider. OAP shall ensure the employee is informed of any changes in providers, and the contact information for the provider.
21. The employee's timely attendance and full cooperation in the psychological evaluation shall be mandatory. Failure to comply with the reporting requirements or to cooperate in the evaluation process may be grounds for discipline up to and including termination.
22. The Superintendent of Police will determine the administrative consequences for an employee who refuses to participate in the psychological evaluation, taking into account any information provided from the licensed psychologist or licensed mental health provider.
23. Employees who are ordered to be evaluated shall be scheduled for the evaluation during their regular working hours when possible and carried as regular working in the ADP payroll system by his/her unit of assignment.
24. The psychological evaluation shall be conducted as soon as possible by an independent psychologist, psychiatrist, neurologist, or other licensed mental health provider.
25. The psychological evaluation may consist of interviews, psychological tests, and/or medical tests as determined by the provider.
26. The provider shall discuss the evaluation results with the employee.
27. Based upon the results of the interviews and any tests performed, the evaluation of the designated provider shall recommend to the Superintendent of Police, where warranted:
 - (a) If medical and/or psychological treatment is required;
 - (b) The appropriate treatment needed; and
 - (c) If the employee should be decommissioned and/or reassigned.
28. Treatment may be an option for substance use (i.e., substance abuse such as alcoholism or dependency upon legally prescribed drugs). In accordance with CAO Policy Memorandum No. 89, Section VIII (D-F), treatment may not be an option for commissioned personnel of the Police Department who engage in the use of illegal or unauthorized drugs, controlled substances, or drug-related paraphernalia.
29. Recommended treatment shall accord with the following guidelines:
 - (a) Inpatient, chemical-dependency treatment at a center certified by the Joint Commission;
 - (b) Inpatient psychiatric treatment at a hospital certified by the Joint Commission;
 - (c) Outpatient psychiatric treatment by a licensed psychiatrist in the State of Louisiana; or
 - (d) Outpatient treatment by a licensed mental health professional in the State of Louisiana.
30. Upon the Department's receipt and acceptance of a written recommendation for the employee's treatment by the Police Psychologist or designated medical provider, the employee will be instructed to report immediately to OAP.
31. The OAP personnel shall inform the employee, in writing, of the Psychologist's evaluation and recommendation.

32. The employee will then have a reasonable amount of time, as determined by OAP, within which to enroll in the appropriate treatment program designated by the recommendation.
33. The employee shall be responsible for all expenses of treatment not covered by the employee's health insurance plan.
34. The employee shall be relieved of duty upon receipt of the written notification of treatment order. The employee may also be decommissioned by the Superintendent.
35. Employees will be carried sick, furlough, or leave without pay during treatment.
36. The employee may be restored to duty when the Superintendent receives written notification from the Police Psychologist or designated licensed mental health provider that the employee has completed sufficient treatment and is able to return to duty. The return to duty may be full or limited duty at the discretion of the Superintendent, taking into account the recommendation of the licensed healthcare provider.
37. Any employee failing to obtain and maintain treatment as ordered within the specified time shall be decommissioned, relieved of duty, and face other administrative consequences up to and including termination.
38. The New Orleans Police Department is a client during this type of psychological evaluation. A consent form, executed by the Police Psychologist or designated licensed mental health provider prior to any evaluation, shall advise the employee in writing that anything said in the interviews, as well as any test results or treatment, will be included in the evaluation report to the Superintendent and the OAP. The evaluation results will remain in the possession of the Superintendent, OAP, and the Police Psychologist or designated licensed mental health provider, but will not become a part of the employee's personnel record.
39. In cases where the employee has been referred to another outside professional or treatment center, the OAP shall monitor the progress of the employee and report his/her findings to the Superintendent of Police.
40. In cases where an employee is allowed to continue working while under treatment, OAP personnel shall inform the employee's Bureau Deputy Chief as to the progress of the employee under treatment.
41. The Bureau Deputy Chief shall keep the employee's District/Division Captain notified as to the progress of the employee as it relates to his/her fitness for duty only.
42. The dissemination of personal and confidential information, relative to an employee's treatment, shall include only those elements necessary for proper supervision and monitoring, and only as needed.
43. An employee who feels he/she is being referred to the Police Psychologist or medical provider unjustifiably may appeal the referral to his/her Bureau Deputy Superintendent through interoffice correspondence, addressed to the Deputy Superintendent of the employees Bureau.