



**NOPD RESPONSE
TO THE
2023 QUARTER ONE REPORT**

May 17, 2023

Introduction to NOPD's response to the Monitoring Team's 2023 First Quarter Report

NOPD welcomes the monitoring team's publishing of this quarterly report as it is their obligation to do so as defined in Consent Decree paragraph 457. This is the first quarterly report published by the monitoring team since 2017 and the first under Superintendent Michelle Woodfork's administration. The NOPD believes these reports are intended to give NOPD specific guidance on what information or steps are necessary for NOPD to demonstrate compliance with the Consent Decree.

The NOPD received this report on May 2, 2023. Per the consent decree NOPD has 10 days to provide the monitoring team with a response to this report.¹ For clarity, this document will only address areas of the monitoring team's report which require a response.

The monitoring team's reports are only as good as the underlying data which supports their conclusions. As such, NOPD is unable to address conclusions reached by the monitoring team where the underlying data was not identified or provided to NOPD. The NOPD, in conjunction with the Office of Consent Decree Monitor ("OCDM") and Department of Justice ("DOJ"), has developed robust auditing protocols which allow it to measure NOPD's application of the approved policies in actual practice. NOPD's data supporting its internal audits are often reviewed by the Monitoring Team as a quality control mechanism. NOPD welcomes these reviews and is proactively transparent as we work to demonstrate compliance with the Consent Decree. For these reasons, NOPD objects to the use of anecdotal evidence as it only serves to obscure the department's path forward and ultimately the public's understanding of the NOPD's reform efforts. This response will serve to provide critical context to information provided in the Monitoring Team's report. It is the NOPD's hope that future reports are more grounded in accepted compliance measurements such as the established audit protocols.

¹ The monitoring team has elected to not include NOPD's full response in their previously filed reports. NOPD has elected, therefore, to respond to the monitoring team's report by filing this response into the record and posting it to <https://nola.gov/nopd/nopd-consent-decree/>.

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 2 of 11

VI. SUMMARY OF FIRST QUARTER MONITORING ACTIVITIES**A. Neck Holds**

In the monitoring team's report, there are four use of force incidents described by OCDM to support the quarterly report's argument that NOPD's Force Investigation Team ("FIT") did not properly investigate.² However, not only does the OCDM report omit pertinent facts, it also provides incorrect information regarding the incidents themselves. Those incidents, as described in the OCDM report, are discussed in the following paragraphs.

The first alleged incident, discussed on page 12 of the report, claims the NOPD's Use of Force Review Board ("UFRB") did not consider the fact that a neck hold may have occurred, stating, "It did not inquire about the neck hold during the UFRB hearing, even after the Monitoring Team raised it on the record."³ This is false. NOPD was the first to raise the issue of a potential neck hold, both in the investigative report, as well as during the review board.⁴ The investigation, as well as the review board members, determined there was not enough evidence to make a finding that a neck hold occurred. OCDM took issue with what NOPD agreed should have been a more thorough investigation, and noted the issue at the UFRB, after NOPD had already pointed to the issue. Despite this, NOPD's Use of Force Review Board still took action, finding the officer's use of force was not within department policy, and recommended discipline in addition to training. The recommended disposition of a disciplinary investigation was the officer should be found in violation of an unauthorized level 4 use of force. For clarity, the penalty for such a violation is a minimum of 60 unpaid suspension days up to dismissal.

In the second incident, OCDM recognizes in a footnote of their report that, despite multiple levels of review by subject matter experts, they disagree with an NOPD determination that a "neck hold" did not occur, without having an understanding of why the determination was made.⁵ In response to OCDM's disagreement, NOPD agreed to document the incident as if it were a serious use of force, to ensure all of OCDM's concerns were answered. Not because a serious use of force occurred, as OCDM alleges, but to help OCDM better understand how NOPD use of force incidents are classified by OCDM approved NOPD policy. This willingness on the part of NOPD to reinvestigate a matter to ensure OCDM's concerns are addressed should have

² OCDM Quarterly Report for Q1 – 2023 at page 12, "During our routine monitoring of the PIB Force Investigation Team (FIT), the Monitoring Team identified four separate incidents involving neck holds that were not properly investigated by FIT."

³ OCDM Q1 2023 report at page 12.

⁴ A review of recordings and minutes of the Use of Force Review Board on March 9, 2023, provides information that the possibility of a neck hold, and other issues, were raised by NOPD prior to OCDM speaking at the board.

⁵ OCDM Q1 2023 Report at page 13, footnote 3.

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 3 of 11

merited recognition on the part of OCDM at NOPD's commitment to sustained reforms. Instead, it was used to criticize NOPD for being responsive to the Monitoring Team's concerns.

A third incident the report uses to support the claim NOPD's FIT is not adequately investigating serious use of force incidents is one they recognize may not have been a "neck hold" in their own report. Footnote number 4 on page 13 of the report states:

"We recognize this may or may not have been a "neck hold" as defined by NOPD policy. That being said, the reason it is difficult to reach a conclusion here is that the FIT investigator did not properly investigate the potential neck hold and ultimately classified the force such that the case was not heard by the UFRB."

This determination that the incident was a serious use of force by OCDM comes through their own finding that the investigation may not have adequately addressed the questions needed to reach that conclusion. NOPD acknowledged to OCDM that the investigation could have probed further and provided OCDM with corrective actions taken to ensure the thoroughness of FIT investigations. OCDM omits this information from their report.⁶

The fourth incident discussed in the OCDM report occurred on February 17, 2023, during the height of the Mardi Gras season, and is currently under investigation by the FIT. A disciplinary investigation has been initiated by FIT in response to what was discovered by NOPD in their review of the incident.

The information provided in the OCDM report would lead readers to believe NOPD is incapable of adequately investigating serious use of force incidents, or classifying them, through their incomplete reporting of the facts and circumstances surrounding the investigations. In reality, each of the incidents used to allege NOPD investigative failures in OCDM's report, were discovered and addressed by NOPD.

The OCDM report uses these four incidents to allege there may be a larger pattern, concerning training and FIT investigations. NOPD documented 490 reportable use of force incidents, wherein 24 were classified as level 4 use of force incidents in the year 2022, and has already documented 220 use of force incidents with 5 being level 4 use of force incidents in the year 2023. Three of the OCDM's four examples are from 2022 and one is from 2023. OCDM alleges a larger pattern concerning training and FIT investigations, however, they allege this

⁶ The investigator assigned this case was counseled/disciplined through the use of the NOPD's Supervisor Feedback Log, and additional training was provided to the investigator, who completed a Federal Law Enforcement Training Center Use of Force Instructor Training program after the deficiencies in the investigation were discovered.

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 4 of 11

through examination of only 0.56% of all NOPD use of force incidents, and 13.7% of all level 4 investigations handled by the FIT in 2022 and year to date 2023.

B. Vehicle Pursuits

The OCDM report states they discovered multiple deficiencies with vehicle pursuits and provided an assessment and findings which indicated they have not received any response from NOPD. OCDM omits from their report the work that has been done through 2022 and the corrective actions taken by NOPD, prior to OCDM's January memo regarding vehicle pursuits. OCDM's claims regarding vehicle pursuit deficiencies also lack context and are an example of relying on anecdotal evidence rather than established audit protocols.

In October 2022, OCDM attended NOPD use of force review boards in which vehicle pursuits were discussed and was provided with information that the NOPD policies governing vehicle pursuits were in the process of being revised because of several incidents involving vehicle pursuits which had been reviewed by the Use of Force Review Board. OCDM was provided with a draft revision of NOPD's vehicle pursuit policy on November 29, 2022, and has still not provided NOPD with any feedback regarding NOPD's proposed policy changes. NOPD also provided updates to OCDM on January 19, 2023, concerning vehicle pursuits. This update included an email containing a detailed breakdown of what NOPD was proposing. In the email, NOPD outlined the review process for vehicle pursuits had been updated in the policy to allow for more efficiency for faster training, policy, or discipline as a result of the reviews. On January 20, 2023, NOPD received a statement from OCDM saying it would take time for them to evaluate the proposed changes. NOPD has not heard any further from OCDM regarding the proposed changes by NOPD, which were taken to address the very issues OCDM claims to have brought up and infers that NOPD has not addressed.

OCDM, in their report, raised concerns to the NOPD regarding supervisory reviews of pursuits and the systems which exist for such. NOPD has listened to these concerns and reviewed its protocols. In March 2023, while still waiting for OCDM review and input of the previously proposed policy changes, NOPD's PSAB unit took the responsibility of primary pursuit reviews of district commander's critiques to ensure the reviews were occurring in a timely manner. Previously Field Operation Bureau ("FOB") has been doing this task.

After receiving the monitor's draft report, NOPD, OCDM, and DOJ had a meeting in which they discussed historic, current, and potential systems for tracking vehicle pursuits as well as the accompanying supervisor's reports. NOPD believes this meeting was productive in that it gave all parties a better understanding of the challenges regarding documentation in the past as well

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 5 of 11

as a path forward for ensuring systems were being developed to ensure the vital functions surrounding pursuit reviews are being met.

The monitoring team's quarterly report also noted a memorandum they sent in January 2023 requesting feedback related to five pursuits they reviewed⁷. In this review the monitoring team did not cite problematic pursuits, but rather delays in administrative reviews of cases. As discussed above, NOPD has taken steps to address these delays. NOPD includes the monitoring team's memorandum as a point of reference regarding their claim of "multiple deficiencies with the vehicle pursuit investigations."

C. Taser Deployments

OCDM, once again, misstates facts which lead to the impression that NOPD is not meeting certain requirements of the Consent Decree. Page 16 of the OCDM report provides, "The disciplinary committee's rationale is that some taser cycles will not count as a use of force if one of the Taser's barbs does not make a connection."⁸ This is an absolutely incorrect statement.

OCDM references two prior disciplinary hearings as their support for this conclusion, and states, "The Monitoring Team will review the two prior Disciplinary Hearings to determine the specifics of the Disciplinary Board's decisions. . ."⁹ This statement begs the question, if the monitoring team has not reviewed the decisions, why is the unverified information being included in a public quarterly report meant to report facts, and not prejudice NOPD's compliance status?

NOPD initiated disciplinary investigations in both cases referenced by the monitor¹⁰. These investigations involved allegations of unauthorized uses of force, which were found by the NOPD disciplinary board to be SUSTAINED violations of NOPD Conducted Energy Weapon ("CEW") (taser) use of force requirements. OCDM may be confused by NOPD's discussion at the board that a level 4 use of force requires the "application" of a CEW. NOPD policy¹¹, approved by OCDM, describes a level 4 CEW use as "more than two applications of a CEW on an individual during a single interaction." "Application" is the actual delivery of electricity, as defined by the policy. If the multiple CEW deployments miss, the incident is classified as a level 2 use of force, not a level 4, since there is no application, which requires at least one probe to make contact. A

⁷ See OCDM Assessment of NOPD police pursuits memo, appendix A.

⁸ See OCDM Q1 2023 Report at Page 16.

⁹ See OCDM Q1 2023 Report at Page 16.

¹⁰ For reference these cases are documented under NOPD Complaint Tracking Numbers 2021-0494-P and 2021-0235-R

¹¹ <https://nola.gov/getattachment/NOPD/Policies/Chapter-1-7-1-Conducted-Energy-Weapon-EFFECTIVE-12-6-20.pdf>

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 6 of 11

CEW deployment alone is and will continue to be considered a use of force, even by the disciplinary board's own discussion.

The statements by OCDM as to what the NOPD's disciplinary committee's rationale is, based on cases that OCDM stated they have yet to review, which were clearly considered uses of force by the board and policy, and were recommended to be SUSTAINED use of force violations by NOPD is, "in our view, contrary to common sense."¹²

VII. CONSENT DECREE REQUIREMENTS – COMPLIANCE STATUS

A. Policies

NOPD has a policy regarding cell phone usage¹³. The current policy has been in effect since 2017 and was reviewed, implemented, and approved by the monitoring as every policy has been since the implementation of the consent decree. NOPD is unsure why OCDM's report indicates NOPD is developing a policy governing cell phone usage as one exists and OCDM is aware of it.

The NOPD is crafting the annual review process after recently receiving feedback from the monitoring team. As this is an annual review process, the process will occur on an ongoing basis. NOPD expects to begin the process in June 2023 if the recently developed protocols are approved by the monitoring team. It should be noted, NOPD is awaiting OCDM's approval of these protocols and is not allowed to implement them without approval by both OCDM and DOJ.

C. Implementation

Throughout 2023, NOPD and the monitoring team have worked on a 1, 2, and 3, system. This Excel spreadsheet, developed by the monitoring team, tracked the compliance of each paragraph of the consent decree by using a green (1); yellow (2); and red (3) classification system. Prior to 2023 consent decree trackers have used a 1-4 system, however the current tracker developed by OCDM is 1-3.

¹² See OCDM Q1 2023 Report at Page 16: "The disciplinary committee's rationale is that some taser cycles will not count as a use of force if one of the taser's barbs does not make a connection. This is contrary to NOPD policy, lesson plans, and training on use of tasers, as well as prior NOPD PIB Deputy Chief decisions regarding taser cycles. It is also, in our view, contrary to common sense."

¹³ <https://nola.gov/getattachment/NOPD/Policies/Chapter-41-3-4-Personal-Communication-Devices-EFFECTIVE-12-10-17.pdf/>

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 7 of 11

This quarterly report is the first time NOPD has learned OCDM is using a tracker with a rating of 1-4 in 2023. In the future should the monitoring team wish to revamp the classification system in which all parties are working from, they should consider doing so prior to issuing a report indicating such.

The monitoring team also makes the following observation, (the Excel spreadsheet) “provides a place for NOPD to state when it expects to accomplish the task (although, to date, NOPD has not provided this information).” On March 31, 2023, the last day of the quarter which the monitor’s report purportedly covers, Deputy Monitor Douglass sent NOPD an updated tracker. In his email he noted the following:

“To further allow NOPD to assume greater control over the sequencing and pacing of its progress toward compliance, we have added a target deadline column. We request NOPD supply the date it currently forecasts for completion of its outstanding tasks. We and DOJ will do the same for ours. Of course, we understand that the dates are a forecast. They can be adjusted as necessary. Our overall goal is to allow NOPD to take the lead in managing its compliance process.”

Notably this updated tracker also used the 1, 2, 3 compliance system previously discussed. The NOPD continues to work with the monitoring team to supply evidence of compliance for areas in which there is disagreement as to whether NOPD is complying¹⁴ with the consent decree. However, assigning timelines to tasks NOPD already believes it has achieved is not a priority to the Department. Furthermore, turning the Department’s attention to the areas where all sides agree there is work to be done is not realistic while the Department is still attempting to prove compliance regarding benchmarks it has already achieved.

VIII. Audits, Findings, and Recommendations

A. Use of force – Spot Check of the Canine Unit

The monitoring team was sent the referenced training and medical records on April 21, 2023. It should be noted this canine is a narcotics detection dog, not an apprehension dog. When one reads the paragraphs pertaining to canine dogs, it is clear these paragraphs are geared towards apprehension dogs. Their very existence in the Use of Force section also indicates such. The dog in question is a narcotics detections dog which does not participate in apprehensions or

¹⁴ NOPD acknowledges only Judge Morgan can determine compliance and she has elected to not do so until all areas of the consent decree are deemed compliance by the court.

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 8 of 11

use force against citizens. Furthermore, the canine in question was retired in August 2022. For reference the paragraphs cited by the monitoring team as deficient are:

48. NOPD agrees to establish and maintain a canine certification program that ensures that: (1) canines and their handlers demonstrate control and proficiency in specific, widely accepted obedience and criminal apprehension exercises; (2) canines and their handlers receive a minimum of 16 hours of training every four weeks; (3) the trainer keeps detailed records of whether each canine team has met specific control criteria for each control exercise, and what remedial training was given if a canine team was deficient in any area; and (4) the trainer reports all deficiencies to the unit supervisor. The program shall ensure that canines are certified annually by a nationally recognized trainer or organization, and that a canine is not deployed unless its certification is current. NOPD agrees to ensure that the certifying agency's standards are consistent with NOPD policy and standards.
50. NOPD agrees to centrally record and track each canine team's training records, certification records, and health records, regardless of whether individual handlers also maintain records.

B. SSA Audit

The monitoring team references an audit they conducted surrounding Stop, Searches and Arrests; however, they elected to delay sharing it with the NOPD until May 8, 2023, after NOPD repeatedly requested it and five days after OCDM shared a draft of this quarterly report. This audit was also shared with NOPD after OCDM sought DOJ's review of the data. NOPD and OCDM made several attempts to have a meeting to resolve NOPD's concerns with the audit's accuracy. However, after several failed attempts, NOPD offered to send OCDM their concerns in writing. These concerns were transmitted to OCDM on May 11, 2023. Had OCDM shared the audit with NOPD in a timely manner, the concerns may have been addressed prior to this data appearing in a document which reported on January – March 2023.

The monitoring team noted their audit found 12% of the incidents reviewed during their audit were not in compliance with paragraphs 149 and 150. Put another way, their audit demonstrated 88% compliance with said paragraphs.

Despite not being given a draft of the audit until May 8, 2023, NOPD is prepared to comment on some of the recommendations the monitoring team documented in their report.

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 9 of 11

Monitor Finding: *The monitoring team will review incidents that involved non-compliance to determine what actions were taken by supervisors.*

- **NOPD Response:** NOPD found several of their examples of non-compliance were incorrect. NOPD awaits OCDM's response to the concerns it raised on May 11, 2023.

Monitor Finding: *NOPD should review its procedures on identification of passengers for whom reasonable articulable suspicion does not exist.*

- **NOPD Response:** NOPD policy 1.2.4.1¹⁵ paragraphs 16(a) and paragraph 19 give officers guidance on this matter.
 - NOPD's on-going training on these policies clearly trains to this standard. Found within the 2023 Core In-service Problem Based Learning activity on conducting vehicle stops are the following instructor guide expected performance outcomes¹⁶:
 - The reason for requesting identification of the passenger must be explained as only the driver committed a traffic violation which has no bearing on the passenger.
 - There is no justification for having the passenger produce identification when only the driver is responsible for the traffic violations.

Monitor Finding: *NOPD should ensure all stops are documented on FIC's. ("Field Interview Cards")*

- **NOPD Response:** The last audit conducted by NOPD demonstrated a 96% compliance rate regarding this metric¹⁷. NOPD believes the OCDM audit data regarding this recommendation relied on incorrect records. NOPD awaits OCDM's response to this matter.

Monitor Finding: *NOPD should ensure supervisory requirements are met (§151), including timeliness, as indicated in §§145-147 and 150.*

- **NOPD Response:** NOPD acknowledges the system for tracking Field Interview Cards does not include a robust auditing function which allows it to determine

¹⁵ <https://nola.gov/getattachment/NOPD/Policies/Chapter-1-2-4-1-Stops-EFFECTIVE-10-6-19.pdf/?lang=en-US>

¹⁶ See attached 2023 Problem Based Learning instructor guide on vehicle stops. Appendix B.

¹⁷ <https://nola.gov/nola/media/NOPD/Consent%20Decree/NOPD%20Audits/SSAPJ-Audit-Report-June-2022-Public.pdf> - Page 13.

NOPD RESPONSE TO THE 2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR

Page 10 of 11

when FIC's are reviewed by supervisors. Currently the system does not capture the first date of review. The new Hexagon system will address these deficiencies. However, NOPD's audits, which are based on protocols approved by OCDM and DOJ, do not find a pattern of unconstitutional stops, which is what the consent decree was crafted to address.

E. PIB Audit and The Monitoring Team's May 2023 Special PIB Report

NOPD sent OCDM a response to the same issues raised in their 2023 special PIB report which are rehashed within this section. This response was filed into the court record previously. In the interest of transparency, the NOPD has elected to publish many of these filings on its public facing website. The complete response can be found here:

<https://nola.gov/nola/media/NOPD/Consent%20Decree/NOPD-Response-to-OCDM-PIB-Rpt-May-2023.pdf>

G. Mobile Video Recording Equipment Audit

Within this audit, the monitoring team made three recommendations which NOPD believes are reasonable fixes to documentation issues. Given the goal of assigning take home units to all officers throughout 2023 these suggestions are especially timely.

Monitor Finding: *Ensure each district maintains a log of all vehicle repairs as the Monitoring Team has recommended multiple times in the past. The log should note the date the car was taken out of service due to an inoperable camera, when it was sent for repairs, the corrective action taken to repair the unit, and the date it was returned to service.*

- **NOPD Response:** NOPD is developing a centralized logbook system to track vehicle repairs to Mobile Video Unit ("MVU") equipment. These were previously tracked within NOPD's IT section, but within the last several years City Hall IT operations were centralized and repair requests are no longer logged and tracked by NOPD. This change necessitates a different tracking system for MVU repairs and NOPD appreciates the feedback. PSAB has created new electronic logs for these repairs and anticipates implementing this tracking system by the end of June 2023.

Monitor Finding: *Ensure vehicles that are not used for routine calls for service are listed on the district fleet log as administrative (or a similar category) rather than platoon since platoon vehicles are used for routine calls for service and administrative vehicles are not.*

**NOPD RESPONSE TO THE
2023 QUARTER ONE REPORT OF THE CONSENT DECREE MONITOR**

Page 11 of 11

- **NOPD Response:** NOPD agrees to implement this recommendation.

Monitor Finding: *Test each MVR at least weekly, especially if a vehicle is assigned to a specific officer or supervisor. Weekly tests would ensure the MVR is working and would provide evidence of compliance for future audits.*

- **NOPD Response:** This is the guidance NOPD gives district fleet personnel. NOPD will be looking into why this was not done and considering developing new protocols to ensure compliance.

H. Review of Misconduct Complaints Related to Sexual and Domestic Violence

On December 8, 2022, the Monitor tendered four audit reports related to Sex Crimes, Domestic Violence, and Child Abuse. The audits results showed:

- Domestic Violence Unit Detective was 100% Compliant with Consent Decree.
- NOPD DV Patrol 98% Compliant with Consent Decree.
- Child Abuse cases investigated by Child Abuse detectives were 100% Compliant with Consent Decree.
- SVD Sex Crimes was 100% Compliant with Consent Decree.

NOPD is aware OCDM is conducting a review of randomly sampled cases to determine whether the department's response to "police sexual violence" is appropriate. NOPD eagerly awaits the findings of this review. NOPD is hopeful the data can be shared with the department to avoid unnecessary delay.

OCDM Assessment of NOPD Police Pursuits

1. Item # C-34307-22

Date of Pursuit: March 24, 2022
Captain Roberts Memo Report to Chief Goodly: May 5, 2022

- This incident involved the Traffic Unit conducting a traffic detail and checking speed of autos. An auto is motioned over to the side of the road and the driver is not obeying the instructions of the officer. The officer is positioned in the street and directly in front of the auto. The officer does not have a visible reflective vest on when he is motioning to the driver. The driver of the auto continues go at a slow speed and ignoring the officer. The finally moves out the way and the auto takes off from the area.
- The supervisor indicated in their report they could not determine/ come to a conclusion if a pursuit occurred? The supervisory report was sent to Captain Roberts who had a differing finding.
- In-car camera not activated
- Captain Roberts letter to Chief Goodly indicates several issues and an unauthorized pursuit involving Officer's Campbell, Hunter, and McFarland.
- A complaint investigation was initiated under CTN 2022-0158-R.
- Do we know if the complaint investigation involves the supervisor who could not determine/ come to a conclusion if a pursuit occurred? Can we get a status of this investigation?

2. Item # A-19774-22

Date of Pursuit: January 23, 2022
Date of Captain Stamps Memo to Chief Goodly: February 16, 2022

- An auto was suspect in a recent murder incident. An officer observed bullet holes in the rear of the auto and the vehicle had no rear license plate.
- The officer requested to pursue the auto and a supervisor approved the pursuit. The officer lost sight of the auto as it got off of the highway.

3. Item # B-12773-22

Date of Incident: February 10, 2022
Letter from Captain Stamp to Chief Goodly: March 15, 2022

- An officer observed an auto, which he believed was involved in an attempted armed robbery. The officer attempted to conduct a traffic stop on the auto, but the driver would not stop.
- The officer requested permission to pursue the auto and a supervisor granted permission.
- The auto came to a stop and during the interview with the driver, it was determined the driver and occupants were not involved in the attempted armed robbery.

**4. Item # A-20563-22
A-21910-22**

Date of Incident: January 19, 2022
Captain Bax Memo to Chief Goodly: January 28, 2022

- The incident involved an auto being involved in an armed robbery.
- The pursuing officer received approval to pursue
- The memo indicates Officer Stewart disobeyed a traffic light prior to the incident.
- Officer Stewart was counseled over the incident (SFL dated October 24, 2022).

Why did it take October 24, 2022 for the SFL? The incident occurred on January 19, 2022. The PSAB reviewed the pursuit package on October 6, 2022. Why did it take 9-months for the review?

5. Item # A-02111-22

Date of Incident: January 2, 2022
Captain Stamp Memo to Chief Goodly: June 2, 2022

- This incident involved an armed robbery. The involved officer located the auto/ driver of the armed robbery suspect.
- An assessment was made of Officer Rayche Wiley's BWC and ICC.

- Information was provided over the radio of the armed robbery suspect and the Wiley videos indicate the officer going to the area of the suspect auto. It could not be determined if the suspect auto was in front of the officer.
- At one point, it is determined that the officers lost sight of the suspect auto.
- The video provides several officers involved in attempting to locate the suspect auto, but the pursuit assessment does not address all of the involved officers.
- At one point, you can hear an officer mention the auto is going 110 m.p.h.
- It appears the involved officers are driving extremely fast and attempting to locate the lost suspect auto.
- Why did it take approximately 5 months for Captain Stamps to send the pursuit memo to Chief Goodly?

NEW ORLEANS POLICE DEPARTMENT

Education and Training Division

2023 Officer Core In-Service Training Program

Instructor Guide

“Conducting Vehicle Stops”

This course will utilize a PBL activity to appraise the elements necessary for initiating a vehicle stop for traffic violations and/or reasonable suspicion that its occupants are involved in criminal activity. Situations will be offered where officers will be required to clearly articulate the supporting reasons for requiring the driver or the occupants to exit the vehicle, the nexus to a pat down or handcuffing based on threat or safety fear, and if the occupants should be requested to produce identification. A scenario will examine the principles of exigent circumstances and how these are applied in warrantless search situations. A review of bias free interaction with LGBTQT citizens will be included. This course will evaluate vehicle stop FICs for compliance with the intent of the “Stops”, “Pat Downs” and “Search” audit scorecards. The primary objectives are to ensure that officers can adequately articulate the reasonable suspicion factors for the initial stop, the application of procedural justice in the conduct of that investigation, and the elements leading to a pat-down or search of a person or vehicle.

New Orleans Police Department – Education and Training Division

2023 Core In-Service

PROBLEM BASED LEARNING ACTIVITY

“Conducting Vehicle Stops”

Instructor Version

Developed by:

CHIEF DUANE D. JOHNSON (Retired)
Curriculum Director – NOPD Academy
November 7, 2022

Structure:

The officer core in-service class will be divided into cohort learning groups. The number of teams (suggested 1-8) will be determined by total student enrollment, with each learning group typically consisting of five participants. The classroom will be assembled in a pod configuration to foster these team-based activities throughout the in-service program week. The time allotted to this exercise is 1.5 hours.

Premise: The groups will be challenged with a problem scenario, developed from key learning objectives identified in the 2023 Training Needs Assessment process. Objectives will target opportunities for performance improvement in the fulfillment of Department strategic initiatives, policy compliance, and community concerns. The intent is to stimulate interactive discussion in team problem solving, and to apply the student’s knowledge and experience into creative solutions for real-life situations. The problem is not easily solved and is designed to encompass multiple relational issues. Thus, many different possible proposals are expected, each of which could support a viable outcome. Effective problem-solving will require officers to consider a variety of responses in completing their group assignment. Action plans are not only oriented towards problem resolution, but group collaboration and initiative as well.

Each table will be assigned to complete all rubric tasks within this scenario, requiring the reference and application of resource materials that will be included within the Student Activity Guide. The lead facilitator will organize each group to include a variety of specialized positions: detectives, or other special operations personnel (as available). Using group dynamics, the team should identify leadership responsibility, with ensuing delegation of timekeeping, research, charts/notetaking, and presentation duties. The instructor(s) will facilitate discussion and evaluate responses as each group presents their respective task assignments. Upon completion of all presentations a collective and shared problem-oriented solution will result.

Resource Materials:

The Student Activity Guide will provide reference materials needed in the problem-solving process. Officers will discover what resources they need to know and are applicable in their task. Facilitators will offer guidance and support, suggesting those areas of learning that the group may overlook. As many of these documents are lengthy, key content sections will be highlighted. These areas will be required pre-reading before initiating the group activity.

- Chapter 41.2 Field Interview Cards
- Chapter 1.3.1.1 Handcuffing and Restraint Devices
- Chapter 41.13.1 Interactions with LGBTQ persons
- Chapter 41.5 Vehicle Pursuits

Evaluation Rubric:

The rubric is comprised of the targeted performance objectives to be evaluated in the group presentations:

- A. Using the Stops Scorecard for FIC#1 identify what information is missing and articulate the exact narrative detail that should be included**
- B. Identify the NOPD “procedural justice” deficiencies in the officer’s conduct**
- C. Identify the missteps in the interaction and communication with the LGBTQ occupants**
- D. In Vehicle Stop #2, discuss the justification for having the occupants exit the vehicle and the initial handcuffing and pat down of these persons, while being detained for investigation and not yet under arrest**
- E. Relate the justification, including any exigent circumstances, that would support the entry and search of the vehicle**
- F. Using the Stops Scorecard for FIC#2 identify what information is missing and articulate the exact narrative detail that should be included**
- G. Explain the protocol for engaging in a vehicle pursuit and address any conflicts in this incident**
- H. Discuss the interview of the suspect and the timing of the Miranda Warnings**

Problem Scenario

(40 minutes group work time – 5-minute presentation each team)

Situation:

You and Officer Bradley Webber are assigned to a District uniformed patrol unit on the 2nd watch. At roll call your team received information towards a series of auto burglaries occurring at downtown commercial parking lots and garages over the last week in afternoon and nighttime hours. The suspects have been observed on private security cameras entering the garages in a light grey or silver 2021 Dodge Charger with black feature trim and heavily tinted windows. The two suspects back the vehicle into a nearby parking spot leaving the engine running and proceed to pull door handles on nearby victim's vehicles. If unsuccessful, they then break the passenger side passenger windows with a punch tool. Both suspects typically wear dark clothing with hooded sweatshirts covering most of their face along with COVID black face masks. The offenders have targeted firearms and small valuables, and on one occasion they located a valet key and stole a 2022 Jeep Wagoneer which to date has not been recovered.

A check of the most recent "Violent Crime Vehicle Hot Sheet" revealed that a light grey 2021 Dodge Charger with Alabama license plates had been reported stolen ten days ago and has not been recovered. The stolen vehicle was customized with black trim and tinted windows. The victim reported that she was sitting inside of her vehicle awaiting her son to leave work from the Commerce Building in the Central Business District when 2 unknown males in dark clothing approached the passenger side of her vehicle and pulled on the door handle. The victim immediately exited the vehicle and fled. The two unknown subjects entered the Charger and fled the location. The subjects did not say anything to the victim as they approached her vehicle.

VEHICLE STOP #1

At about 7PM while patrolling the commercial areas where these offenses had been occurring, you and your partner notice a 2021 silver Dodge Charger with black rims and a temporary plate not readily visible due to heavily tinted windows, stopped for a red light at the intersection of Poydras and Loyola. The vehicle was believed occupied by two individuals and made a right turn from Poydras on red, failing to yield to some pedestrians who were midway through the crosswalk. You

activated your blue lights to pull the car over, however the driver continued making a quick right turn at Girod Street. The Charger finally came to a stop in front of the parking garage across from the Post Office.

You approached from the driver's side while your partner maintained a cover position on the right rear. The driver and the passenger were directed to exit their vehicle to which they both complied. Upon viewing the driver, you noted that this person appeared to be a transgender female who immediately complained they were targeted and stopped for no valid reason. You explained it was failure to yield to pedestrians at Poydras Street.

The two individuals were directed to stand near the rear of their car. Off. Webber asked for identification from the driver and the male passenger. Both handed over their driver's license, however the driver was visibly upset arguing that they were being harassed and humiliated in public by being ordered out of their car like common criminals. Off. Webber upon viewing the license provided by the driver, shrugged his shoulders, and smiled while handing you the license stating, "here run a name check on him and the other guy". Upon completing the name and license checks, you returned to the front of the police unit and handed the identifications to Off. Webber.

The driver's license indicated the name Joshua Burns, and your partner calmly stated, "Mr. Burns sir, please calm down, we checked your names and are only going to issue you a warning to you and your buddy, y'all will be free to go." The driver angrily replied, "My name is Bridgette, and I am not a mister, and Jackie is not my buddy, she is my partner." Officer Webber then handed the licenses back and said, "OK Josh have a nice day."

VEHICLE STOP #2

About an hour later into the shift, a light grey Dodge R/T Charger with black rims and trim detail hastily exited a parking garage directly in front of your passing patrol unit in the 700 block of Baronne St. The driver spun his wheels upon leaving the driveway and then sped up considerably when you activated your unit's blue lights. Although the windows were tinted, at least two additional subjects were observed inside the vehicle, both wearing dark sweatshirts with hoods pulled over their heads. The driver ignored your signals continuing onto Howard Ave. recklessly entering oncoming traffic and weaving throughout lanes to avoid the

officers. Officer Webber called in to the dispatcher that they were following the fleeing suspect vehicle continuing northbound onto Loyola Ave. When the driver quickly reached the first intersection at Julia Street however, he was caught in three lanes of stalled traffic due to road construction. You were then able to reach the Charger, directing the driver by PA to pull over to the parking lane, and the vehicle pulled over.

You and your partner remained near your unit in a cover position and ordered all occupants to exit the vehicle, extend their hands and place them onto the roof, to which they obeyed. You then directed all three to walk towards the front of the police unit with their open hands raised, where they were immediately handcuffed and patted down. The driver asked why they were being arrested, "All I did was drive a little fast after picking up my brother's car from his job. You know, it's built for speed, and I didn't want to get a ticket". You replied the handcuffs were for their own safety.

The passengers were 15- and 16-year-old juveniles, and the driver, identified as Lester Cox, was determined to be age 18. During the pat down your partner felt a tubular metal object in the front pants pocket of the rear seat passenger. Upon retrieving same, it was an auto window emergency punch tool combined with a seat belt cutting edge. Name checks on all three revealed minor arrest records.

Off. Webber then checked the Louisiana License plate on the Charger which came back registered to a 2017 Chevrolet Suburban. The VIN# on the dashboard was covered over with an advertisement mail-out card. Off. Webber then opened the driver's side door, reached in, and removed the obstruction. The now visible VIN# came back as reported stolen in the offense occurring at the Commerce Building. On the rear floor of the car a woman's open purse with its contents recently scattered about was observed. An employee ID from a downtown insurance company with the name Cynthia Lewis was partially visible. Suspecting that these items were recently stolen, and that the recovered stolen vehicle would be impounded, Officer Weber retrieved the items for further investigation.

You then told the driver, "The story about your brother was a crock, you're in a stolen car wanted for multiple hits. Why don't you start by telling me what you were doing in the parking garage?" Lester Cox replied, "we ain't did no car jackings man, we were just driving through, doing donuts in all the ramps for fun,

you know practicing for street stunts.” You continued, “OK so who does the stuff in the back belong to?” Cox replied, “Don’t know, that purse and the Apple were in there when we borrowed the car from a dude named Slim in Hollygrove.” The three individuals were placed under arrest for Possession of a Stolen Auto and advised of their Miranda Rights.

FIELD INTERVIEW CARD NARRATIVE – VEHICLE STOP #1

Officers _____ and Bradley Webber were on routine patrol at about 7PM when they observed a Dodge Charger commit a traffic violation at Poydras and Loyola. The driver and passenger were directed to exit the vehicle for the officer’s safety. The driver, Joshua Burns, was given a verbal warning for failure to yield to pedestrians.

FIELD INTERVIEW CARD NARRATIVE – VEHICLE STOP #2

Officers _____ and Bradley Webber were on routine patrol at about 8PM when they observed a Dodge Charger speed out of a parking garage in the 700 block of Baronne Street. Suspecting criminal activity, the officers activated their blue lights to stop the vehicle, however the driver and the two passengers disobeyed the signals and fled in a reckless fashion onto Howard Ave. The officers were able to catch up to the vehicle when the driver was stuck in traffic at Julia and Loyola. The suspects were ordered out of the vehicle and handcuffed for the officer’s safety. During a pat down Off. Conn located a burglary tool in the front pants pocket of the juvenile _____. The license plate on the Dodge Charger did not match the vehicle and the car was verified as stolen. All three subjects were arrested for Possession of Stolen Property valued at \$35,000.

PROBLEM BASED LEARNING ACTIVITY

2023 Core In-Service

“Conducting Vehicle Stops”

Instructor Guide – Expected Performance Outcomes

Facilitation:

This guide will qualify both the desired responses which are most essential to the training objectives, and other potential discussion points that may be offered. Key objective areas should be stimulated by the facilitator during the interactive walk-around and monitoring of the group activities. These areas must be exposed during the group presentation. Facilitators may elect to solicit desired responses from the audience as well.

A. Using the Stops Scorecard for FIC#1 identify what information is missing and articulate the exact narrative detail that should be included

- Poor sentence construction in that the Dodge Charger committed the traffic violation
- The actual traffic violation(s) should be listed – failure to yield, illegal window tinting
- The description of the vehicle matched that of a stolen vehicle used in auto burglaries
- The reason for the occupants to be directed out of the vehicle must be explained
- “Officer safety” is boilerplate language, the heavy window tinting may have contributed to the justification
- The reason for requesting identification of the passenger must be explained as only the driver committed a traffic violation which has no bearing on the passenger
- There is no justification for having the passenger produce identification when only the driver is responsible for the traffic violations
- The FIC refers to the male name and should also indicate the female transgender preference

B. Identify the NOPD “procedural justice” deficiencies in the officer’s conduct

- Failure to introduce themselves
- Failure to identify the reason for the stop initially
- Failure to answer the questions of the driver and responding in a professional manner
- Failure to bring the stop to a successful conclusion explaining the officer’s actions

C. Identify the missteps in the interaction and communication with the LGBTQ occupants

- The driver asserted they were targeted and this with the driver’s appearance should have alerted the officers to be sensitive to the situation
- The use of the pronoun “him” and referring to the passenger as “the other guy” was offensive

- The officer utilized the legal male name on the license without asking the driver how the person wanted to be referenced
- The officer compounded the error by utilizing the term Mr. and then called the passenger a “buddy” which is typically a male term
- The officers should have inquired with the passenger as to how this person wanted to be referenced
- The officer closed the stop again using the male name in a sarcastic fashion
- The FIC refers to the male name and should also indicate the female transgender preference

D. In Vehicle Stop #2, discuss the justification for having the occupants exit the vehicle and the initial handcuffing and pat down of these persons, while being detained for investigation and not yet under arrest

- Any one of three conditions are required: a) reasonable suspicion the person(s) will flee; b) immediate threat of serious physical injury; or c) the persons are physically uncooperative and impeding the investigation
- b) could be offered as there was a potential of an immediate threat of physical harm to the officers based on the hurried and questionable actions of the subjects
- Reasonable suspicion that a crime had occurred based on the vehicle description and their avoidance of police signals
- Exiting the vehicle was necessary to control the actions of three individuals: only one officer covering three suspects, while the other proceeds with an active investigation
- Articulate support for the pat down is weak, as there are no visible indications of a weapon present

E. Relate the justification, including any exigent circumstances, that would support the entry and search of the vehicle

- The removal of the card obstructing the VIN could be justified under reasonable suspicion to verify the vehicle identity as the license plate did not match (*NY v. Class*).
- As the vehicle is readily mobile, the loss of potential evidence (purse) could qualify under the “automobile exception” to the warrant requirement, but if suspected in violent crime Officers should get a warrant.
- As the suspects were detained and no longer had access to the vehicle, justification for “search incident to arrest” would not be applicable (to prevent destruction of evidence and to prevent access to a weapon in the areas of immediate control from where the person was arrested)
- The officers conducted an “inventory search” as the vehicle would be impounded for follow-up recovery to the victim
- The vehicle was an active crime scene and follow-up scientific processing was necessary

- Secure a search warrant is the best response, negating all the above attempts to justify the removal of the purse and computer
- F. Using the Stops Scorecard for FIC#2 identify what information is missing and articulate the exact narrative detail that should be included**
- Describe the justification for the original attempt to stop the vehicle, including the totality of circumstances leading to reasonable suspicion that potential criminal conduct was occurring:
 - The vehicle fit the description of one utilized in recent area commercial parking garage auto burglaries
 - The vehicle fit the description of a vehicle stolen in a carjacking offense
 - The traffic violations and escape actions of the driver and passengers caused alarm that a crime had been committed at the garage
 - The physical clothing descriptions of the occupants matched the suspects in the commercial parking garage burglaries
 - The FIC should indicate whether a traffic citation was issued to the driver
 - Boilerplate language should be detailed for the “burglary tool”
 - Justification for the initial handcuffing and pat down (See D)
 - Justification for the search and recovery of evidence (See E)
 - All of the subjects should be FIC’d as reasonable suspicion (and PC) existed for their detention
- G. Explain the protocol for engaging in a vehicle pursuit and address any conflicts in this incident**
- The suspect’s actions initially were viewed as traffic violations only prohibiting a pursuit
 - The description of the vehicle and its occupants matched that of a vehicle on the “Violent Crime Vehicle Hot Sheet”, however the circumstances of the original robbery may not reach that of violence by Chapter restrictions
 - The property crime offense of auto burglary would also not satisfy the chase threshold
 - The officers indicated they were “following” the suspects rather than a pursuit, however they did not indicate a speed or notify their supervisor
 - If there was reasonable suspicion for a carjacking there may have been enough for a vehicle pursuit, however, if the vehicle traveled against traffic the officers should have strongly considered the decision to terminate.
- H. Discuss the interview of the suspect and the timing of the Miranda Warnings**
- The officer should have advised of the Miranda Warnings once the vehicle was established as being stolen
 - The questioning as to the suspect’s actions and his replies would be useful in the prosecution, however, would be probably ruled inadmissible due to Miranda failure