1. In order to ensure uniformed members of the service comply with the Department’s policy regarding the use of force and to ensure the use of force is properly reported, documented, and investigated, a new procedure and new Department forms entitled, “THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)” and “T.R.I. INCIDENT – INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT (PD370-154A)” have been established. In addition, a new poster entitled, “DATA ENTRY GUIDE FOR THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (SP542)” has been established in order to assist members of the service in preparing the THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET.

2. Therefore, effective 0001 hours, June 1, 2016, when a uniformed member of the service uses any “Level of Force” or a person sustains any injury in connection with police action as outlined in this procedure, the following new Patrol Guide procedure 221-03, “Reporting and Investigation of Force Incident or Injury to Persons During Police Action” will be complied with:

**PURPOSE**
To report and/or investigate use of force, allegation of force, or injury that resulted from police action.

**SCOPE**
This procedure applies to the use of force against subjects, as well as to incidents in which injuries are sustained to any person in connection with police action. This includes, but is not limited to:

- Subjects who sustain self-inflicted injury or are injured by another person while in police custody or during apprehension
- Prisoners who commit suicide or attempt suicide
- Any non-member of the service sustains a physical injury during a police action.

Supervisors on scene are required to make a prompt assessment of the circumstances and to categorize the level of force and/or injury for the purposes of appropriate reporting and/or investigation. The initial determination by the appropriate supervising or investigating authority may change as additional information becomes known to the Department.

**DEFINITIONS**

**SUBJECT** - A subject of police action is usually a suspect, perpetrator, or prisoner, but may also include any person that a member is attempting to direct or maintain custody or control over (i.e., disorderly person/group, emotionally disturbed person, etc.).

**CIVILIAN/NON-MEMBER/BYSTANDER** - Any non-employee of the Department who is not the intended subject of police action but is inadvertently injured by the actions of the police.
LEVELS OF FORCE

LEVEL 1 – PHYSICAL FORCE/LESS LETHAL DEVICE - This level of force is defined by the use of hand strikes, foot strikes, forcible take-downs, the wrestling of the subject to the ground, the discharge of Oleoresin Capsicum (O.C.) pepper spray, the deployment of a Conducted Electrical Weapon (CEW) in “cartridge mode” or the use of a mesh restraining blanket to secure a subject.

NOTE

For the purposes of this procedure, ordering a person to lay on the ground (or guiding them to the ground in a controlled manner) or the use of Velcro straps or a polycarbonate shield to restrain a subject is not a reportable use of force.

LEVEL 2 - USE OF IMPACT WEAPON/CANINE/LESS LETHAL DEVICE - This level of force is defined by the intentional striking of a person with any object (e.g., baton, other equipment, etc.), a police canine bite, the use of a CEW in “drive stun mode.”

LEVEL 3 - USE OF DEADLY PHYSICAL FORCE - This level of force is defined by the use of physical force that is readily capable of causing death or serious physical injury and includes the discharge of a firearm.

TYPES OF INJURY OR ILLNESS

PHYSICAL INJURY - Impairment of physical condition and/or substantial protracted pain. For the purposes of this procedure, the following examples constitute a physical injury:

a. Minor swelling, contusions, lacerations, and/or abrasions
b. Complaint of substantial protracted pain.

SUBSTANTIAL PHYSICAL INJURY OR ILLNESS - Any substantial impairment of physical condition. For the purposes of this procedure, the following are examples of substantial physical injury:

a. Significant contusion(s)
b. Laceration(s) requiring suture(s)
c. Any injury or condition, that resulted from police contact or action, requiring treatment at a hospital emergency room.

NOTE

A subject or prisoner with a pre-existing illness or injury that requires transport to a hospital emergency room shall be recorded as per P.G. 210-04, “Prisoners Requiring Medical/Psychiatric Treatment.” A THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154) will not be prepared.

The routine washing of a subject’s eyes subsequent to the discharge of O.C. pepper spray, or the removal of CEW darts and routine examination of a subject who received a CEW discharge at a hospital emergency room, shall not be classified as a “Substantial Physical Injury” in the context of this procedure.
SERIOUS PHYSICAL INJURY OR ILLNESS - Physical injury or illness which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ or limb. For the purposes of this procedure, the following are examples of serious physical injury or illness:

a. Broken/fractured bone(s)
b. Injury requiring hospital admission
c. Gunshot wound
d. Heart attack, stroke, or other life-threatening/serious illness/injury.

T.R.I. INCIDENT - INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT – a Department form that will only be prepared by the “investigating supervisor” as identified in the “USE OF FORCE – SUPERVISOR’S REPORTING GUIDE” (see “ADDITIONAL DATA”) when a Level 2 or Level 3 investigation is required.

THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET - a Department form that will be used to record all instances when:

a. A subject or any non-member sustains a physical injury or dies as a result of a police action or while in custody.
b. A member of the service sustains a physical injury or dies as a result of apprehending or attempting to apprehend a subject or control an individual or individuals.
c. A prisoner attempts or commits suicide.
d. Any level of force, as described in this procedure is used by a member of the service, whether or not an injury is sustained.
e. Any level of force, as described in this procedure is alleged or suspected, whether or not an injury is sustained.
f. Force, as described in P.G. 221-06, “Member of the Service Subjected to Force While Performing Lawful Duty,” is used against a member of the service, whether or not an injury is sustained.
g. A member of the service discharges OC pepper spray, a Conducted Electrical Weapon or firearm, regardless of whether an injury was caused. (i.e., includes accidental discharges, discharges against animals, etc.).

Each incident will be assigned one Threat, Resistance or Injury (T.R.I.) incident number in the FORMS – T.R.I. application, regardless of the number of members of the service involved, or the number of subjects or civilians involved.

Each member of the service who used force or whose actions caused an injury to a non-member, had force used against them, was injured attempting to apprehend a subject or control an individual or individuals, or was responsible for a prisoner who was injured or attempted/committed suicide must complete a separate THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET. For example, if a police officer is assaulted and three additional officers use force to effect the arrest, all four officers will prepare a separate WORKSHEET detailing the force used against them and the force used to effect the arrest, as well as any injuries sustained by all parties.
DEFINITIONS (continued) A member of the service may be required to complete more than one WORKSHEET. For example, if a member uses force against two separate individuals in the same incident, the member must complete two WORKSHEETS, one for each individual.

NOTE If video of the incident is identified, it should be retrieved and invoiced as investigatory evidence. If immediate/investigating supervisor identifies video evidence but is unable to retrieve without risk of corruption of the video, the supervisor should request the Borough Investigations Unit to assist in retrieving and invoicing the video.

In situations where a person makes an allegation of force but the member claims that no force was used or no member can be identified, the immediate supervisor of the member concerned will prepare PART A of the THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET.

PROCEDURE When a member of the service uses any level of force or a subject or civilian sustains any injury in connection with police action as outlined in “DEFINITIONS” above:

MEMBER OF THE SERVICE
2. Obtain medical attention for any person injured.
3. Notify immediate supervisor regarding the type of force used, the reason force was used, and injury to any person involved, if applicable.
5. Complete PART A of the THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET.

IMMEDIATE SUPERVISOR
7. Direct members involved to complete PART A of the THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET for every subject/civilian interaction being reported.
   a. If member is incapacitated, complete PART A of the WORKSHEET using information known at the time.
8. Question subject(s) regarding possible injuries.
   a. Ensure that subjects who appear ill, injured, or emotionally disturbed obtain appropriate medical/psychiatric attention as per P.G. 210-04, “Prisoners Requiring Medical/Psychiatric Treatment.”
   b. Take digital photographs of visible injuries (relative to the incident) to subjects or any location where an injury is claimed, but not visible.
      (1) Photos should be taken in a manner to maintain privacy, when appropriate (e.g., behind curtain, private room, etc.)
      (2) After THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET is entered into the FORMS – T.R.I. application, upload any digital photographs that were taken in connection to the WORKSHEET.
9. Interview witness(es), if available.
10. Question involved member(s) of the service regarding reason for using force and the type of force used.
   a. Take digital photographs of visible injuries to members of the service or any location where an injury is claimed, but not visible.

INTERIM ORDER NO. 36
IMMEDIATE SUPERVISOR (continued)

11. Make determination as to whether force is within guidelines or whether further investigation is necessary.

12. Make ACTIVITY LOG entry of detail of the incident including the Threat, Resistance or Injury (T.R.I.) number.

13. Notify the desk officer, precinct/PSA/transit district of occurrence and level of force used and/or type of injury or illness.

14. Complete PART B of the THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET.
   a. Staple all WORKSHEETS together and forward to desk officer for entry into the FORMS – T.R.I. application by the command clerk.

DESK OFFICER, PRECINCT/PSA/TRANSIT DISTRICT OF OCCURRENCE

15. Record details of incident in Command Log, including the Threat, Resistance or Injury (T.R.I.) incident number.

16. Notify the Patrol Borough Command, Operations Unit, and the Internal Affairs Bureau (obtain Internal Affairs Bureau log number), if a level 2 or 3 investigation is required.

NOTE

A Level 2 or Level 3 investigation is required for the following:

a. Level 2 or 3 force was used or suspected of being used
b. Subject or civilian sustained substantial or serious injury as a result of police action
c. Prisoner attempted or committed suicide
d. Suspected use of excessive force
e. Any person alleges that the force was excessive and a physical injury, substantial physical injury or serious physical injury was sustained.

INTERNAL AFFAIRS BUREAU, COMMAND CENTER SUPERVISOR

17. Designate and assign appropriate investigative response according to the “USE OF FORCE – REPORTING/INVESTIGATIVE RESPONSIBILITIES FOR SUPERVISORS” (see “ADDITIONAL DATA”).

INVESTIGATING SUPERVISOR

18. Conduct investigation of reported incident.
   a. Conduct canvass for witnesses and possible video recording of incident.
   b. Interview subject(s) and witness(es), if available.
   c. Interview involved uniformed members to assess whether use of force was necessary and reasonable, if applicable.
   d. Take digital photographs as necessary, including but not limited to, visible injuries or to the absence of injuries. Photos should be taken in a manner to maintain privacy, when appropriate (e.g., behind curtain, private room, etc.).
INVESTIGATING SUPERVISOR (continued)

(1) After THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET is entered into the FORMS – T.R.I. application, upload any digital photographs that were taken in connection to the WORKSHEET.

NOTE

In situations where a person makes an allegation of force but the member claims that no force was used or no member can be identified, the immediate supervisor of the member concerned will prepare PART A of the THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET.

20. Forward a copy of ASSESSMENT REPORT once FORMS generated incident number is obtained, to the First Deputy Commissioner and additional copies as follows:
   a. Chief of Department, (through channels)
   b. Deputy Commissioner, Internal Affairs
   c. Deputy Commissioner, Legal Matters
   d. Deputy Commissioner, Training
   e. Commanding Officer, Risk Management Bureau
   f. Commanding Officer, Office of Management Analysis and Planning
   g. Commanding Officer, member(s) involved.
21. Attach original ASSESSMENT REPORT to THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET(S).

NOTE

If the incident involves a firearm discharge by a uniformed member the service, the investigating supervisor will comply with the investigation and reporting requirements as outlined in P.G. 221-04, “Firearm Discharge by Uniformed Member of the Service.”

If a subject or civilian dies or is seriously injured and likely to die as a result of police action, the investigating supervisor will comply with the investigation and reporting requirements outlined in P.G. 221-05, “Person Dies or Sustains Injury and is Likely to Die in Police Custody or in Connection with Police Action.”

COMMAND CLERK
PRECINCT/PSA /TRANSIT DISTRICT OF OCCURRENCE

22. Enter details of THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET(S) into FORMS – T.R.I. application.
   a. Scan THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET(S) into FORMS – T.R.I. application using the scan feature.
23. Enter the FORMS generated incident number on each WORKSHEET and ASSESSMENT REPORT.

DESK OFFICER

24. File WORKSHEET(S) and T.R.I. INCIDENT – INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT (if completed) at command.

27. Prepare a report to the borough/bureau commander at the beginning of each month detailing all incidents involving members of command that resulted in the preparation of a THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET.

28. Review all incidents submitted by sub-unit commanding officers each month and submit a quarterly report detailing incidents to the First Deputy Commissioner (through channels).

**ADDITIONAL DATA**

**USE OF FORCE – REPORTING/INVESTIGATIVE RESPONSIBILITIES FOR SUPERVISORS**

**Level 1**

The member’s **immediate supervisor** will respond, gather information, and report on the following:

a. Level 1 force
b. Police action resulting in physical injury to any person
c. Allegations of excessive Level 1 force with no injury
d. Use of Conducted Electrical Weapon in CARTRIDGE mode.

In incidents that involve the discharge of a Conducted Electrical Weapon, the immediate/investigating supervisor must be in the rank of Lieutenant or above. Only Emergency Service Unit personnel will have their discharges documented by their immediate supervisor (rank of Sergeant or above).

**Level 2**

The **commanding officer/executive officer/duty captain** must respond and investigate the following – unless superseded by the authority of the Internal Affairs Bureau (IAB) or Force Investigation Division (FID):

a. Level 2 force
b. Any substantial physical injury to any person, which resulted from police action
c. Allegations or suspected excessive force resulting in a physical injury or substantial physical injury
d. Attempted suicide by prisoner
e. Use of Conducted Electrical Weapon in DRIVE STUN mode.

The commanding officer/executive officer/duty captain may utilize the Patrol Borough Investigations Unit to assist with the investigation, when appropriate.

**Level 3**

**Internal Affairs Bureau** investigators must respond and conduct investigation and complete required reports for the following – unless superseded by the investigative authority of the FID:

a. Level 3 force (except firearm discharge)
b. Allegations or suspected excessive force resulting in serious physical injury
c. Any serious physical injury to any person, which resulted from police action
d. Attempted suicide by prisoner resulting in serious physical injury.
The Force Investigation Division must respond and conduct investigations and complete required reports for the following:

a. All firearm discharges by uniformed members of the service
b. All incidents in which a subject of police action is seriously injured and likely to die or dies while in police custody, during apprehension, or immediately prior to police custody.

In addition, the FID has the sole discretion to assume the investigative lead of any use of force incident or any other matter or unusual circumstance deemed appropriate by the First Deputy Commissioner.

The Force Investigation Division or the Internal Affairs Bureau may respond to any force incident or subject injury and may assume responsibility of the investigation based on the circumstances of the incident.

Any questions regarding the level of force or injury, or investigative responsibilities, will be directed to a supervisor at the Internal Affairs Bureau Command Center. Immediate/investigating supervisors may call the Command Center 24 hours/7 days a week and request to speak to a supervisor regarding a possible force incident. Immediate/investigating supervisors will be guided by the Internal Affairs supervisor’s assessment and recommendations.

If one incident contains multiple members using varying levels of force or non-members sustaining varying levels of injury, the investigating supervisor responsible for the highest level of force/injury will conduct the entire investigation. For example, if an officer uses level 1 force but causes a substantial physical injury, the commanding officer/duty captain will conduct the investigation.

USE OF FORCE – SUPERVISOR’S REPORTING GUIDE

<table>
<thead>
<tr>
<th>LEVEL OF FORCE</th>
<th>OR</th>
<th>TYPE OF INJURY</th>
<th>SUPERVISOR</th>
<th>METHOD OF REPORTING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1</td>
<td>OR</td>
<td>Physical Injury Only</td>
<td>Immediate Supervisor, CEW=Lt or above (except ESU - Sgt or above)</td>
<td>Threat, Resistance or Injury Worksheet</td>
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<td>Level 2</td>
<td>OR</td>
<td>Substantial Physical Injury</td>
<td>C.O./X.O./Duty Captain and Borough Investigations</td>
<td>Threat, Resistance or Injury Worksheet and Assessment Report</td>
</tr>
<tr>
<td>Level 3</td>
<td>OR</td>
<td>Serious Physical Injury</td>
<td>Internal Affairs Bureau</td>
<td>Threat, Resistance or Injury Worksheet and Assessment Report</td>
</tr>
<tr>
<td>Firearm Discharge</td>
<td>OR</td>
<td>Person Dies or Seriously Injured and Likely To Die</td>
<td>Force Investigation Division</td>
<td>Threat, Resistance or Injury Worksheet and Typed Letterhead</td>
</tr>
</tbody>
</table>
ADDITIONAL DATA (continued)

RESPONSIBILITY TO REVIEW

The commanding officer (in the rank of Captain or above) will review all incidents in which a member of their command completed a THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET and will report findings to the Bureau/Borough Commanding Officer on a monthly basis.

The Bureau/Borough Commanding Officer will assess all incidents reviewed by a sub-unit commanding officer and will report findings to the First Deputy Commissioner on a quarterly basis.

The Use of Force Review Board is responsible for reviewing all cases for which a member of IAB or the FID is the investigating supervisor.

The Risk Management Bureau is responsible for analyzing all reported incidents to identify any trends or risk indicators and submit a quarterly and annual report to the Police Commissioner.

RELATED PROCEDURES

Prisoners Requiring Medical/Psychiatric Treatment (P.G. 210-04)
Force Guidelines (P.G. 221-01)
Use of Force (P.G. 221-02)
Member of the Service Subjected to Force While Preforming Lawful Duty (P.G. 221-06)

FORMS AND REPORTS

THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
T.R.I. INCIDENT - INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT (PD370-154A)
ACTIVITY LOG (PD112-145)
Typed Letterhead

3. Effective 0001 hours, June 1, 2016, Patrol Guide 221-18, “Use of Department Canine Teams” is amended as follows:

a. **REVISE** step “6,” opposite actor “PATROL SUPERVISOR,” on page “1” to read:

**PATROL SUPERVISOR**

   a. Comply with P.G. 221-03, ‘Reporting and Investigation of Force Incident or Injury to Persons During Police Action’;

b. **REVISE** step “8,” opposite actor “PRECINCT COMMANDER/DUTY CAPTAIN CONCERNED,” on page “2” to read:

**PRECINCT COMMANDER/DUTY CAPTAIN CONCERNED**

8. Investigate any incident of physical injury caused by canine.
   a. Comply with P.G. 221-03, ‘Reporting and Investigation of Force Incident or Injury to Persons During Police Action’;

c. **ADD** “RELATED PROCEDURES,” on page “3” to read:

**RELATED PROCEDURES**

Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)"
d. **ADD** “FORMS AND REPORTS,” on page “3” to read:

**“FORMS AND REPORTS**

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Typed Letterhead
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4. Effective 0001 hours, June 1, 2016, Department forms “THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)” and “T.R.I. INCIDENT – INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT (PD370-154A)” will be available on the Department’s Intranet as form-fillable PDFs and printable for immediate use.

5. Department forms “THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154),” “T.R.I. INCIDENT – INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT (PD370-154A) and the DATA ENTRY GUIDE FOR THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET poster will be available for requisition through the Quartermaster Section using the following information:

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<tr>
<th>INDEX</th>
<th>PD NUMBER</th>
<th>TITLE</th>
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<tbody>
<tr>
<td>2256</td>
<td>370-154</td>
<td>THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET</td>
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<tr>
<td>2257</td>
<td>370-154A</td>
<td>T.R.I. INCIDENT – INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT</td>
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<td>2258</td>
<td></td>
<td>DATA ENTRY GUIDE FOR THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (SP542)</td>
</tr>
</tbody>
</table>

6. The DATA ENTRY GUIDE FOR THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET poster must be conspicuously displayed in the complaint room and arrest processing areas of all enforcement commands.

7. Effective 0001 hours, June 1, 2016, this Interim Order will be incorporated into the On-Line Patrol Guide.

8. Any provisions of the Department Manual or any other Department directive in conflict with the contents of this Order are suspended.

**BY DIRECTION OF THE POLICE COMMISSIONER**

**DISTRIBUTION**

All Commands

**INTERIM ORDER NO. 36**