



INTERIM ORDER

SUBJECT: MEMBER OF THE SERVICE SUBJECTED TO FORCE WHILE PERFORMING LAWFUL DUTY		
DATE ISSUED:	REFERENCE:	NUMBER:
05-31-16	**P.G. 221-06, P.G.*212-30 AND P.G. 208-03	39

1. In order to record and evaluate incidents when a member of the service is subjected to force while performing lawful duty, or to injury while attempting to apprehend a subject or control an individual or individuals, either on or off-duty, the Department has established a new procedure.

2. Therefore, effective 0001 hours, June 1, 2016, when a member of the service is subjected to force while performing lawful duty, or to injury while attempting to apprehend a subject or control an individual or individuals, either on or off-duty, the following new Patrol Guide procedure 221-06, "Member of the Service Subjected to Force While Performing Lawful Duty" will be complied with:

PURPOSE To record and evaluate incidents when a member of the service is the subjected to force while performing lawful duty, either on or off-duty.

DEFINITIONS FORCE - When used against a member of the service, for the purpose of this procedure, is defined as any physical harassment, assault, reckless endangerment, or menacing, including shots fired at a member, the brandishing of a weapon directed at a member, throwing of items at members of the service, and physical harassment or assault to a member whether or not it resulted in injury.

PROCEDURE When a member of the service is subjected to force while performing lawful duty, or to injury while attempting to apprehend a subject or control an individual or individuals, either on or off-duty:

MEMBER OF THE SERVICE

1. Take appropriate action to stabilize situation and/or apprehend perpetrators.
2. Obtain medical attention for any person injured.
3. Request response of immediate supervisor.
4. Make appropriate entry in **ACTIVITY LOG (PD112-145)**.

IMMEDIATE SUPERVISOR

5. Respond to scene and conduct preliminary investigation.
6. Notify desk officer of facts.
 - a. If member is seriously injured or dies, or removed to a hospital for medical treatment, request the desk officer to notify the commanding officer/executive officer or the patrol borough command to request the duty captain to respond, if commanding officer/executive officer is not available.
7. Notify the precinct detective squad to respond and investigate if there are any outstanding suspects or further investigation is required.
8. Ensure **COMPLAINT REPORT (PD313-152)** prepared for offense committed against member and/or additional charge is added to an arrested subject's **ON-LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)**.

IMMEDIATE SUPERVISOR (continued)

9. Ensure that the **LINE OF DUTY INJURY REPORT (PD429-154)** is completed by designated supervisor(s) and ensure duties are performed as per *P.G. 205-05, "Line of Duty Injury or Death Occurring Within City"* or *P.G. 205-06, "Line of Duty Injury or Death Outside City in Residence Counties,"* if necessary.
10. Perform duties of "immediate supervisor" as per *P.G. 221-03, "Reporting and Investigations of Force Incident or Injury to Persons During Police Action,"* if force was used and/or subject or other non-members of the service sustained a physical injury.
11. Instruct members involved to complete **PART A** of the **THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)** for every subject/civilian interaction being reported.
 - a. If member is incapacitated, complete **PART A** of the **WORKSHEET** using information known at the time.
12. Complete **PART B** of the **THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET** and recommend appropriate follow-up, as necessary.
13. Make an **ACTIVITY LOG** entry of details of the incident including the Threat, Resistance or Injury (T.R.I.) number (once obtained).
14. Staple all **WORKSHEETS** together and forward to the command clerk for entry into the FORMS – T.R.I. application.

DESK OFFICER

15. Ensure arresting officer charges defendant with Assault, Resisting Arrest, and/or Obstructing Governmental Administration, when appropriate.
16. Ensure a criminal history check is completed for every prisoner arrested for Resisting Arrest (Section 205.30, Penal Law), Assault 2nd degree (Section 120.05, Penal Law, sub.3), or Assault on a Peace Officer, Police Officer, Fireman, or Emergency Medical Services Professional (Section 120.08, Penal Law).
 - a. If prisoner has been arrested for Resisting Arrest (Section 205.30, Penal Law), Assault 2nd degree (Section 120.05, Penal Law, sub.3), or Assault on a Peace Officer, Police Officer, Fireman, or Emergency Medical Services Professional (Section 120.08, Penal Law) two or more times within the past five years, the prisoner shall be deemed a 'Resisting Recidivist.'
17. If defendant is charged with Assault, request detective squad supervisor to enhance arrest, interview subjects, and canvas for video and witnesses.
18. If member is seriously injured, or removed to a hospital for medical treatment, notify commanding officer/duty captain, Operations Unit, and patrol borough command, without waiting for details.

DETECTIVE SQUAD SUPERVISOR

19. Ensure detective squad members are performing duties related to enhancing arrests, interviewing subjects, and canvassing for video and witnesses.
 - a. Ensure all arrests involving a 'Resisting Recidivist' are enhanced by the precinct detective squad and that all District Attorney's Office puts forth all efforts towards a successful prosecution.

DESK OFFICER 20. If member of the service is removed to a hospital for medical treatment, is seriously injured or dies, notify the duty captain.

CO/XO/ DUTY CAPTAIN 21. Respond and conduct an investigation, if member is seriously injured or dies.

NOTE *If the member of the service's injury or death is related to a force incident, as per P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action," the investigating supervisor," as defined in that procedure, will conduct the investigation into the member's injury in concert with the force investigation.*

CO/XO/DUTY CAPTAIN 22. Ensure **THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET** and **LINE OF DUTY INJURY REPORT** are properly prepared.

23. Ensure detective squad members are performing duties related to enhancing arrests, interviewing subjects, and canvassing for video and witnesses.

DESK OFFICER 24. If Assistant District Attorney refuses to charge the defendant as determined by the investigation, notify the commanding officer/executive officer/duty captain.

CO/XO/DUTY CAPTAIN 25. Confer with desk officer/immediate supervisor.

a. If not satisfied with resolution of the matter, notify the Deputy Commissioner, Legal Matters.

(1) The Deputy Commissioner, Legal Matters may be contacted directly Monday through Friday, 0700 x 2300.

(2) During midnight tours and on the weekends, the Deputy Commissioner, Legal Matters may be contacted through the Operations Division.

b. Document all conferrals in Telephone Record.

26. If member is seriously injured or dies, prepare report on **Typed Letterhead** addressed to First Deputy Commissioner, including the nature of injury and charges filed, if any.

a. Forward copies of report, through channels.

b. Forward copies of report to the involved member's commanding officer.

NOTE *If force was used and/or subject or other non-members of the service sustained a physical injury in connection to member's injury/death, then facts of incident will be reported on a **T.R.I. INCIDENT – INVESTIGATING SUPERVISOR'S ASSESSMENT REPORT (PD370-154A)**.*

IF MEMBER OF THE SERVICE WAS ASSAULTED

COMMANDING OFFICER OF ARRESTING OFFICER 27. Follow-up with the arresting officer and Assistant District Attorney regarding the status of the case.

28. If the District Attorney's Office inappropriately declines to prosecute the charges or the charges are reduced or the dismissed inappropriately at subsequent hearings:

a. Confer with a supervisory District Attorney regarding the matter.

b. Ensure a notification is made to the Deputy Commissioner, Legal Matters.

**ADDITIONAL
DATA**

*The **THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET** is the primary method used by the Department to gather intelligence information regarding incidents which are life threatening for members of the service. The effectiveness of tactics training in identifying dangerous new criminal practices and in promoting best practices by members depends upon the accuracy and completeness of these reports.*

**RELATED
PROCEDURES**

*Line of Duty Injury or Death Occurring Within City (P.G. 205-05)
Line of Duty Injury or Death Outside City in Residence Counties (P.G. 205-06)
Arrests – General Processing (P.G.208-03)
Force Guidelines (P.G. 221-01)
Use of Force (P.G. 221-02)
Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)*

**FORMS AND
REPORTS**

ACTIVITY LOG (PD112-145)
ON-LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-159)
COMPLAINT REPORT (PD313-152)
LINE OF DUTY INJURY REPORT (PD429-154)
THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
T.R.I. INCIDENT – INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT (PD370-154A)
Typed Letterhead

3. Effective 0001 hours, June 1, 2016, Patrol Guide 208-03, “Arrests – General Processing” is amended as follows:

- a. **ADD** new subdivision “c.” following step “3.” opposite actor “DESK OFFICER” on page “2.” to read:

- “DESK OFFICER** **c.** **Ensure a criminal history check is completed for every prisoner arrested for Resisting Arrest (Section 205.30, Penal Law), Assault 2nd degree (Section 120.05, Penal Law, sub. 3), or Assault on a Peace Officer, Police Officer, Fireman, or Emergency Medical Services Professional (Section 120.08, Penal Law).**
- (1) If prisoner has been arrested for Resisting Arrest (Section 205.30, Penal Law), Assault 2nd degree (Section 120.05, Penal Law, sub. 3), or Assault on a Peace Officer, Police Officer, Fireman, or Emergency Medical Services Professional (Section 120.08, Penal Law) two or more times within the past five years, the prisoner shall be deemed a ‘Resisting Recidivist.’**
- (2) Ensure all arrests involving a Resisting Recidivist are enhanced by the precinct detective squad and that the District Attorney’s Office puts forth all efforts towards a successful prosecution.”**

4. Effective 0001 hours, June 1, 2016, Patrol Guide 212-30, “Uniformed Member of the Service Fired Upon, Subject of Assault, Harassment, Menacing or Reckless Endangerment, While Performing Lawful Duty” is OBSOLETE and hereby **REVOKED**.

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5. Effective 0001 hours, June 1, 2016, **REVISE** references to Patrol Guide 212-30, “Uniformed Member of the Service Fired Upon, Subject of Assault, Harassment, Menacing or Reckless Endangerment, While Performing Lawful Duty” wherever they appear in the Department Manual to read:

“Patrol Guide 221-06, ‘Member of the Service Subjected to Force While Performing Lawful Duty’ ”

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

7. 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

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