



INTERIM ORDER

SUBJECT: PERSON DIES OR SUSTAINS A SERIOUS INJURY AND IS LIKELY TO DIE IN POLICE CUSTODY OR IN CONNECTION WITH POLICE ACTION		
DATE ISSUED:	REFERENCE:	NUMBER:
05-31-16	**P.G. 221-05, *212-53 AND P.G. 210-04	38

1. In order to ensure command responsibility and proper notification requirements are made when a person dies, is seriously injured and likely to die in police custody or immediately prior to custody, the Department has established a new procedure.

2. Therefore, effective 0001 hours, June 1, 2016, when a person dies, is seriously injured and likely to die in police custody or immediately prior to custody, the following new Patrol Guide procedure 221-05, "Person Dies or Sustains a Serious Injury and is Likely to Die in Police Custody or in Connection with Police Action" will be complied with:

PURPOSE To establish command responsibility and notification requirements when a person dies, is seriously injured and likely to die in police custody or immediately prior to custody.

DEFINITIONS POLICE IN-CUSTODY DEATH OR PERSON IS LIKELY TO DIE - Any death or serious injury and the person is likely to die while in police custody including the following:

- a. Police force or restraint may be a factor in death
- b. Suicide (e.g., prisoner commits suicide in holding cell)
- c. Accidental (e.g., drug overdose or reaction to medicine)
- d. Apparent natural causes (e.g., heart failure, asthma attack, or other natural causes).

POLICE PRE-CUSTODY DEATH OR PERSON IS LIKELY TO DIE - Any death or serious injury to a person who is likely to die that occurs immediately prior to or during apprehension, including the following:

- a. Police use of force or restraint (e.g., police firearms discharge, etc.)
- b. Suicide (e.g., barricaded subject commits suicide, etc.)
- c. Accidental (e.g., person falls from a building, killed in a vehicle accident while eluding police, etc.)
- d. Apparent natural causes (e.g., heart failure, asthma attack, or other natural causes).

NOTE *The above examples are not all-inclusive and only represent the common types of incidents that may occur which may result in a subject's death.*

- PROCEDURE** When a person dies or is seriously injured and likely to die while in police custody or immediately prior to police custody:
- UNIFORMED MEMBER OF THE SERVICE**
1. Obtain medical attention for any person injured.
 2. Safeguard possible crime scene.
 3. Immediately request the response of the patrol supervisor, precinct of occurrence.
 - a. Notify patrol supervisor regarding the type of force used, the reason force was used, and injury to any person involved, if applicable.
 4. If person dies, make every attempt to shield the body from public view, if feasible, and if it will not harm the integrity of the crime scene.
- PATROL SUPERVISOR**
5. Respond to scene and assess the situation.
 6. Notify the desk officer, precinct of occurrence.
 7. Establish crime scene as per *P.G. 212-04, "Crime Scene,"* if necessary.
 8. Perform duties of the "immediate supervisor" as per *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action."*
 - a. Ensure that a **THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)** is completed.
- DESK OFFICER**
9. Make the following notifications:
 - a. Patrol Borough Command
 - b. Operations Unit
 - c. Internal Affairs Bureau, Command Center
 - d. Detective squad.
 - e. Commanding officer/executive officer, if available.
- OPERATIONS UNIT**
10. Notify duty chief and First Deputy Commissioner's Force Investigation Division.
- PATROL BOROUGH COMMAND**
11. Notify duty inspector.
 12. Notify duty captain, if commanding officer/executive officer is not available.
- COMMANDING OFFICER/DUTY CAPTAIN/DUTY INSPECTOR**
13. Respond to the scene, confer with ranking member on scene and assume command.
 14. Confer with Force Investigation Division supervisor, Detective Bureau and Internal Affairs Bureau duty captain.
- DUTY CHIEF**
15. Respond to scene and assume command of scene.
 16. Confer with the Commanding Officer, Force Investigation Division, duty inspector, and commanding officer/duty captain.

**COMMANDING
OFFICER,
FORCE
INVESTIGATION
DIVISION**

17. Respond to scene and assume command of the investigation.
18. Confer with duty chief, duty inspector, and commanding officer/duty captain.
19. Conduct investigative debriefing with all investigative units on scene to:
 - a. Review investigative steps taken
 - b. Develop an investigative plan
 - c. Direct and coordinate all investigative activity.
20. Prepare a report of the preliminary investigation on **Typed Letterhead**, addressed to the First Deputy Commissioner, with additional copies for:
 - a. Police Commissioner
 - b. Chief of Department
 - c. Chief of Staff
 - d. Deputy Commissioner, Legal Matters
 - e. Deputy Commissioner, Intelligence and Counterterrorism
 - f. Deputy Commissioner, Internal Affairs
 - g. Chief of Detectives
 - h. Commanding Officer, Risk Management Bureau
 - i. Commanding Officer, Office of Management Analysis and Planning.
21. After preliminary investigation, evaluate member's duty status.
22. Conduct full investigative briefing for the Police Commissioner within seventy-two hours of the incident.

NOTIFICATION TO NEXT OF KIN WHEN A PERSON DIES IN CONNECTION WITH POLICE ACTION

**PATROL
BOROUGH
COMMANDER/
DESIGNEE**

23. Confer with involved Commanding Officer, Force Investigation Division prior to contacting next of kin.
24. Ensure timely notification to next of kin in cases where a person dies in police custody.
 - a. Have a member of the Community Affairs Bureau assist with the notification, if appropriate.
 - (1) Notification should be made by a member in the rank of lieutenant or above.
 - b. Have an investigator accompany the member making the notification unless it is deemed inappropriate by the patrol borough commander/designee and Commanding Officer, Force Investigation Division.
 - (1) Notification will not be delayed an inordinate period of time pending availability of investigator.

**NOTIFYING
MEMBER**

25. Notify next of kin upon approval from involved Patrol Borough Commander and Commanding Officer, Force Investigation Division.
 - a. Notification should be made within a reasonable amount of time.
26. Notify the Office of the First Deputy Commissioner and the Chief of Department upon successful notification and provide the following details:
 - a. Time of notification
 - b. Location of notification

INTERIM ORDER NO. 38

**NOTIFYING
MEMBER
(continued)**

- c. Name of person notified
 - d. All members of the service present
 - e. Any other pertinent information.
27. Enter details of notification in Command Log.

**ADDITIONAL
DATA**

DEPARTMENT POLICY

The Force Investigation Division is responsible for all investigations when a person dies or is likely to die while in police custody or immediately prior to police custody.

The Commanding Officer, Force Investigation Division may utilize investigators from other bureaus (i.e., Detective Bureau, Internal Affairs Bureau, etc.) to assist in the investigation (e.g., canvass interviews, etc.), as necessary.

When, in the course of an investigation (i.e., investigate DOA), a member of the Detective Bureau becomes aware that a death or serious injury was or may have been in connection with a police action, the precinct/police service area/transit district commanding officer/duty captain, the Internal Affairs Bureau Command Center, and the Force Investigation Division will be immediately notified.

The New York State Correction Law Section 47(2) mandates that a report be made to the New York State Commission of Correction whenever a death occurs while a prisoner is in police custody while lodged in a detention or holding cell, being transported to the borough courthouse for arraignment after having been in a detention or holding cell, or at the hospital after having been lodged in a detention or holding cell. If a death occurs prior to a prisoner having been in a detention or holding cell a notification to the New York State Commission of Correction is not necessary.

*Whenever a reportable death occurs while in custody, the Commanding Officer, Force Investigation Division will ensure the form entitled, "**Report of Inmate Death to State Commission of Correction (SCOC M187)**" is prepared. Only items "one through thirty-six" will be completed on the form. Whenever a question does not apply or an answer is not available, the letters "DNA" will be entered in the allotted space on the form. The Force Investigation Supervisor will then fax the form directly to the New York State Commission of Correction within six hours of the death, and immediately follow-up with the New York State Commission of Correction to confirm receipt of the faxed copy of the **Report of Inmate Death to State Commission of Correction (SCOC M187)**. The Commanding Officer of the Force Investigation Division will ensure the form is also mailed within ten days of the death to the New York State Commission of Correction, Attention: Medical Review Board.*

The Criminal Justice Bureau acts as the liaison between this Department and the New York State Commission of Correction. This includes, but is not limited to:

1. *Providing requested documents regarding prisoner deaths in custody*
2. *Coordinating the inspections of detention cells, holding cells, and juvenile rooms by members of the New York State Commission of Correction.*

*All copies of documentation related to a prisoner death in custody, including the **Report of Inmate Death to State Commission of Correction (SCOC M187)**, will be forwarded to the Criminal Justice Bureau, upon request.*

Any questions regarding the State Commission of Correction should be directed to the Criminal Justice Bureau.

RELATED PROCEDURES *Crime Scene (P.G. 212-04)*
Use of Force (P.G. 221-02)
Force Guidelines (P.G. 221-01)
Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)
Interrogation of Members of the Service (P.G. 206-13)

FORMS AND REPORTS ***THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)***
Typed Letterhead
Report of Inmate Death to State Commission of Correction (SCOC M187)

3. Effective 0001 hours, June 1, 2016, Patrol Guide 210-04, “Prisoners Requiring Medical/Psychiatric Treatment” is amended as follows:

a. **DELETE** heading “UNUSUAL PRISONER OCCURRENCES,” and corresponding “ADDITIONAL DATA” statement, on page “7”.

b. **ADD** new paragraph to “ADDITIONAL DATA” statement, on page “8” to read:

“ADDITIONAL DATA *When a prisoner dies, is seriously injured in connection with a police action, or sustains an injury resulting from a police firearms discharge, the uniformed member of the service will immediately request the response of the patrol supervisor, safeguard the possible crime scene and provide and/or secure appropriate medical attention for the injured prisoner. The patrol supervisor will respond to the scene and comply with P.G. 221-05, ‘Person Dies or Sustains a Serious Injury and is Likely to Die in Police Custody or in Connection With Police Action’.*”

c. **REVISE** “RELATED PROCEDURES” on page “8” to read:

“RELATED PROCEDURES *Arrests - General Processing (P.G. 208-03)*
Desk Appearance Ticket - Hospitalized Prisoner (P.G. 208-30)
Hospitalized Prisoners (P.G. 210-02)
Bedside Arraignment (P.G. 210-05)
Mentally Ill or Emotionally Disturbed Persons (P.G. 221-13)
Person Dies or Sustains a Serious Injury and is Likely to Die in Police Custody or in Connection With Police Action (P.G. 221-05)”

4. Effective 0001 hours, June 1, 2016, Patrol Guide 212-53, “Command Responsibilities When a Person Dies or Sustains a Serious Injury in Connection With a Police Activity” is OBSOLETE and hereby **REVOKED**.

5. Effective 0001 hours, June 1, 2016, **REVISE** references to Patrol Guide 212-53, “Command Responsibilities When a Person Dies or Sustains a Serious Injury in Connection With a Police Activity” wherever they appear in the Department Manual to read:

“**Patrol Guide 221-05, ‘Person Dies or Sustains a Serious Injury and is Likely to Die in Police Custody or in Connection with Police Action’**”

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

INTERIM ORDER NO. 38